

Transcript, day 01

Tuesday, January 11, 2000, Court 37, Royal Courts of Justice

Opening statements define the dispute. Irving represents himself; Rampton says the defence will prove that he deliberately distorted the historical record to exonerate Hitler.

Court overcrowding and the trial-structure dispute

L0001 **Mr Justice Gray** Mr Irving and Mr Rampton, I am conscious that this court is not capable of accommodating all who would like to be here.

L0002 **Mr Rampton** Including counsel, my Lord!

L0003 **Mr Justice Gray** Including counsel -- you have rather more space than some of the people at the back. All I can say is that we have done our best to find a court that can accommodate the technology and is physically big enough to cope with all the bundles.

I would like to be able to say that we could try to find another court where everybody could be found a place to sit down, but I just do not think it is possible. I will make enquiries, but it is very desirable that everybody who wants to be here should be here and I am afraid they are not. So I will make enquiries, but I think we will probably have to stay here, so I hope everyone will put up with the discomfort and I am sorry about it.

Mr Irving, I have a copy of your opening

statement. Are there any other preliminary matters that need to be discussed and decided before you embark on it?

L0004 **Mr Irving** My Lord, I did address a letter to you within the last few days recommending that before I embark on my opening statement, with your Lordship's permission, we address one or two procedural matters ----

L0005 **Mr Justice Gray** Yes, I thought there might be.

L0006 **Mr Irving** --- covering the opening phase and also how, with the agreement of the Defendants, we propose to structure the hearing of this action.

L0007 **Mr Justice Gray** Yes.

L0008 **Mr Irving** The most interesting part of the action in the light of history is, undoubtedly, the Holocaust and Auschwitz and is also, I think we all apprehend, the most complicated to prepare. By agreement between the parties, we propose to divide the action into these two phases, but basically all the rest followed by Auschwitz, if I have understood the proposals also made by the Defendants in this connection?

L0009 **Mr Rampton** I think that is a misunderstanding. I had supposed that we were going to do Auschwitz first, and if that causes Mr Irving a difficulty -- I am not saying whose fault the understanding is, but misunderstanding, however, it undoubtedly is -- we have scheduled our Auschwitz expert, Professor van Pelt, it to be here for the last week in January which is about when I expected to start my cross-examination.

L0010 **Mr Justice Gray** So what is being proposed, that the whole case should be divided, as it were, into two?

L0011 **Mr Rampton** No, I do not think so -- well, in two, yes. What is proposed by us (and which Mr Irving has agreed to, though it appears there is a misunderstanding about the timing of it) was that Auschwitz should be dealt with as a discrete or separate topic.

L0012 **Mr Justice Gray** With the Claimant's evidence and then the Defendants' evidence.

L0013 **Mr Rampton** The Claimant gives his evidence, I would then cross-examine him and immediately following that or his own re-examination, I would call the Auschwitz expert for the Defence, Professor van Pelt, who can be cross-examined by Mr Irving.

I had expected that process to start at the end of this month. From what Mr Irving has just said, it now appears that he has thought that Auschwitz would come at the end of the case which is contrary to my understanding.

L0014 **Mr Justice Gray** I am a bit surprised that there should be such a fundamental disagreement.

L0015 **Mr Rampton** I hear it now for the first time with surprise. I utter no word or criticism or blame. I do not know how it comes about. It may be that I should have when I have found out what has happened. But it is extremely inconvenient from our expert's point of view and he is not resident in this country. He is in Canada.

L0016 **Mr Justice Gray** On the other hand, Mr Irving must really be free as Claimant to take his own course, unless agreement can be reached to some other effect.

L0017 **Mr Rampton** I do not know there is much to be gained by having a discussion about that particular topic in front of your Lordship now. It seems to me we have to go back to the drawing board and work out a schedule which suits both sides. But, as matters presently stand, it would cause us a great deal of difficulty as we thought we had an agreement that we could start that topic first, but there it is.

L0018 **Mr Justice Gray** Mr Irving, I think it is right that we do want to spend time discussing this in open court unless and until it proves to be necessary. Do you agree with that?

L0019 **Mr Irving** I agree, my Lord, except that I would remark that I received on Friday evening after close of business about 6,000 pages of document relating to van Pelt's evidence, though I am surprised that they would imagine they could launch straight into the preparation of the Auschwitz section of the hearing without not giving us time to examine each and every one of these documents and have them examined.

On the other hand, I agree, we do not have to discuss it in open court. I am perfectly prepared to have Professor van Pelt come over in the middle of whatever else is going on and we can take him as a separate entirety. He is certainly an extremely interesting witness to be heard.

L0020 **Mr Justice Gray** My view really is this at the moment, that you are the Claimant, you have a right to take the case all in one bite or in two bites, whichever you like, and if it is to be two bites, then the parties will have to try to reach agreement and, if necessary, I can decide it.

L0021 **Mr Irving** My Lord, we will try to reach an agreement behind the scenes with the Defendants in this matter.

L0022 **Mr Justice Gray** Will you try? I do realize you are wrestling with a pretty enormous burden as a litigant in person.

L0023 **Mr Rampton** That I entirely understand and it gives rise again in an entirely neutral way to this small problem: my cross-examination of Mr Irving will consist in some considerable degree of reference to Professor van Pelt's report and underlying documents, particularly the blueprints and the contemporaneous journal. I cannot judge when Mr Irving will finish his evidence-in-chief, but as soon as he does, then (as with him) I must be free, I believe, to cross-examine in whichever order I see fit.

L0024 **Mr Justice Gray** Of course.

L0025 **Mr Rampton** Therefore, as I say, I expected him to finish his evidence-in-chief probably towards the end of January by which time I would start straightaway with Auschwitz.

L0026 **Mr Justice Gray** What I would like to do at some stage (and I think now is not the right time) is to work out an anticipated programme. I am not going to say anything about time limits at the moment, but this is the kind of case where it may become necessary to keep the thing within sensible bounds.

L0027 **Mr Rampton** Absolutely, yes.

L0028 **Mr Justice Gray** But I do not think now is the time because I have not the feel for how it is going to go and I do not think it is right to ask Mr Irving to estimate anything at the moment.

- L0029 **Mr Irving** We all have constraints imposed on us, my Lord, by the fact that we have witnesses coming from overseas who have to fit in their visits here with their own academic time-tables. For this reason, I am showing a great degree of flexibility over the timetable and i am sure the Defendants will show the same courtesy.
- L0030 **Mr Justice Gray** In a day or two's time, I think, if we spend half an hour -- perhaps if you would both like to think about it before then -- trying to work out how we hope we will make progress, and then do our level best to stick whatever programme we have decided on.
- L0031 **Mr Irving** Very well, my Lord.
- L0032 **Mr Justice Gray** I think that would be sensible.
- L0033 **Mr Irving** I think that is probably the only advance procedural matter which I wished to address at this stage, my Lord, and with your Lordship's permission, I will now commence with my opening statement.
- L0034 **Mr Justice Gray** Can I just raise one small topic with you, which is that you wrote, I think, that you are intending to show a couple of video clips.
- L0035 **Mr Irving** I do not think we will get to that today, my Lord.
- L0036 **Mr Justice Gray** Right. I was not clear why they should form part of your opening. That is the only...
- L0037 **Mr Irving** They do not form part of the opening, my Lord. There are immediately following it.
- L0038 **Mr Justice Gray** Right. If there is no objection, there is no objection. There is not.
- L0039 **Mr Irving** One of the video clips I wish to show largely because it contains about 20 minutes of the Second Defendant talking on television and, as I understand, the Second Defendant will probably not be giving evidence in person, and I thought it was fair that we should hear her in her own words explaining her position
- L0040 **Mr Justice Gray** Yes.

Irving's opening statement

- L0041 **Mr Rampton** My Lord, before Mr Irving opens his case, can I say this in advance? I say it now and I hope I will not need to say it again. So far as the introduction of evidence by Mr Irving is concerned, there will be only two grounds on which I shall ever object, since this is a case which is being tried without a jury; the first is that it is a waste of time and the second is that it is designed to catch the public eye and is not relevant to the case. My Lord, those are the only two matters, otherwise I am happy to leave it to your Lordship. There may be whole areas which are not really much to do with the case, but if Mr Irving wants to go down those roads, then subject to case management, I have no objection.

- L0042 **Mr Justice Gray** It appeared to me, having now spent quite a lot of time with the papers, in a curious way it is a case that does not depend to a very great extent on the oral evidence which is an unusual feature of a case of this length.
- L0043 **Mr Irving** My Lord, in this particular video which I wish to show, there are passages which show the Second Defendant making certain statements on which I wish to rely and also Professor van Pelt standing in a certain position in the site of Auschwitz making certain statements upon which I wish also to rely.
- L0044 **Mr Justice Gray** There is no objection taken, so I would not dream of preventing you doing it.
- L0045 **Mr Irving** Yes, and that is the reason why I wish particularly to show those videos. I know videos are a sore point between us because we discussed this at the pretrial hearing. Your Lordship will remember that I am concerned about the state of commercially edited videos where there have been cross-cuttings ----
- L0046 **Mr Justice Gray** Yes.
- L0047 **Mr Irving** --- and things cut out, and so on.
- L0048 **Mr Justice Gray** Yes. Now do open the case.

L0049 **Mr Irving** May it please your Lordship, this is my opening statement in the matter of David Irving v. Penguin Books and Deborah Lipstadt. I appear as a litigant in person and the Defendants are represented by Richard Rampton and Miss Rogers of counsel and by Mr Anthony Julius.

My Lord, there were originally three other Defendants as well who can be characterised here as booksellers, which your Lordship will observe that they no longer figure in this action, a settlement having been reached.

This is an action in libel arising from the publication by the First Defendant of a book entitled "Denying the Holocaust" written by the Second Defendant, Professor Lipstadt.

As your Lordship is aware, the work complained of has attracted considerable attention, both in this country and in the United States and elsewhere since it was first published in 1993. Your Lordship will have before you my Statement of Claim in which I set out the grounds for my complaint, the consequence of which I am asking that the Defendants be ordered to pay damages of an amount which I will venture to suggest, and I will invite your Lordship to issue an injunction against further publication of this work and also order that the Defendants should make the usual undertakings.

My Lord, it is almost 30 years to the day since I last set foot in these Law Courts, and I trust that your Lordship will allow me to digress for two or three minutes, being (in my submission) something of an historian, on the history of those events because there are not without relevance to the proceedings upon which we are about to embark.

The occasion of that visit to this building was an action heard before Lawton J, which became well-known to law students as *Cassell v. Broome & Another*. It too was a libel action and I am ashamed to admit that I was the "Another", having written a book on a naval operation, "The Destruction of Convoy PQ17". That was the only actively fought libel action in which I became engaged in 30 years of writing. There were two reasons for this abstinence; my Lord, first, I became more prudent about how I wrote and, second, I was taught to turn the other cheek.

The man who taught me the latter lesson was my first publisher. He had signed up my first book, "The Destruction of Dresden" which was eventually published in 1963. I had been approached in about 1961 by this gentleman, a well-known English publisher, Mr William Kimber. When I visited him in his offices (which were on a site which has long since been built over, buried by a luxury hotel, the Berkeley in Belgravia) I found him surrounded by files and documents, rather as we all are in this courtroom today, my Lord, and he wore an air of exhaustion.

Your Lordship may remember that Mr Kimber and his author, Mr Leon Uris, had become involved through a book which Mr Uris had written, entitled "Exodus", in a libel action brought by a London doctor who had been obliged to serve at Auschwitz. That case was also heard before Lawton J. There was

one other similarity that closes this particular circle of coincidence: like me now, Mr Kimber was, in consequence, also obliged to spend two or three years of his life wading, as he put it, "knee deep" through the most appalling stories of atrocities and human delegation.

That day he advised me never, ever, to become involved in libel litigation. I might add that, with one exception that I shall later mention, I have heeded his advice.

There have since been one or two minor legal skirmishes which have not involved much "bloodshed". There was an action against an author which I foolishly started at the same time as the PQ17 case and, having lost the latter, I was obliged for evident reasons to abandon it on relatively painless conditions; and a more recent action against a major London newspaper who put into my mouth, no doubt inadvertently, some particularly offensive words which had, in fact, been uttered by Adolf Hitler. That newspaper settled out of court with me on terms that were eminently acceptable, my Lord.

I have often thought of Mr Kimber's predicament since the 1960s and, more particularly, the last three years. I have been plunged into precisely the same "knee deep" position ever since I issued the originating writs in this action in September 1996.

My Lord, by the way, does your Lordship actually require to see the writs today?

L0050 **Mr Justice Gray** No, not at all; if I need to look at any document, I will just mention that I would like to look at it -- certainly not the writs. Thank you.

L0051 **Mr Irving** If I am late with the bundles and papers upon which this court relies, I can only plead this in mitigation, knee deep.

I have never held myself out to be a Holocaust expert, nor have I written books about what is now called the Holocaust. If I am an expert in anything at all, I may be so immodest to submit that it is in the role that Adolf Hitler played in the propagation of World War II, and in the decisions which he made and the knowledge on which he based those decisions.

As a peripheral matter to that topic on which I have written a number of books, I inevitably investigated the extent to which Hitler participated in or had cognisance of the Holocaust. That was the sum total of my involvement as a book author up to the launching of these writs.

Since then, because of the tactics chosen by the Defendants, my Lord, I have been obliged willy-nilly to become something of an expert through no desire of my own. To my utmost distaste, it has become evident that it is no longer possible to write pure history, untrammelled and uninfluenced by politics, once one ventures into this unpleasant field.

I have done my best to prepare the case that follows, but I respectfully submit that I do not have any duty to become an expert on the Holocaust, my Lord. It is not saying anything unknown to this court. I remind those present that, the Defendants having pleaded justification, as they have, it is not incumbent upon me, as the Claimant, to prove the wrongness of what they have published; it is for them to prove that what they wrote was true.

I intend to show that far from being a "Holocaust denier" -- the phrase in the title of the book -- I have repeatedly draw attention to major aspects of the Holocaust and I have described them and I have provided historical documents, both to the community of scholars and to the general public of which they were completely unaware before I discovered these documents, and published them and translated them.

It will be found that I selflessly provided copies of the documents, that I had at great expense myself unearthed foreign archives even to my rival historians, as I felt that it was important in the interests of general historical research that they should be aware of these documents. I am referring, for example, to the Bruns Report, my Lord, which we will shall shortly hear -- it is the document which I provided to you separately -- and to the dossier on Kurt Aumeier in British files, a dossier which even the Defence experts admit is one of the most important historical finds since the writings of Rudolph Hoss, the commandant of Auschwitz, were published after the war.

My Lord, that actual document I quote all the relevant parts in the opening statement, but I have submitted the document to your Lordship as a courtesy.

L0052 **Mr Justice Gray** Thank you very much.

L0053 **Mr Irving** There is one essential plea that I wish to make of this court: I am aware that the Defendants have expended a considerable sum of money in researching all over again the harrowing story of what actually happened in what they call the Holocaust.

I submit that, harsh though it may seem, the court should take no interest in that tragedy. The court may well disagree with me, and show a profound interest in it, but, in my submission, we have to avoid the temptations of raking over the history of what happened in Poland or in Russia 50 years ago. What is moot here is not what happened in those sites of atrocities, but what happened over the last 32 years on my writing desk in my apartment off Grosvenor Square. That is what is at stake here.

To justify her allegations of manipulation and distortion, it will not suffice for Professor Lipstadt to show, if she can, that I misrepresented what happened, but that I knew what happened and that I perversely and deliberately, for whatever purpose, portrayed it differently from how I knew it to have happened.

That is what manipulation and distortion means, and the other, though fundamental, story of what actually happened is neither here nor there. In effect, this enquiry should not leave the four walls of my study, my Lord. It should look at the papers that lay before me and not before some other magnificently funded research or scholar, and at the manuscript that I then produced on the basis of my own limited sources.

My Lord, if we were to seek a title for this libel action, I would venture to suggest "Pictures at an execution" -- my execution.

Your Lordship may or not be aware that I have had a reputation as an historian and as an investigative writer arising from the 30 or so works which I have published in English and other languages over the years since 1961. I am the author of many scores of articles in serious and respected newspapers, including over the years in this country, The Daily Telegraph, The Sunday Telegraph, the Jewish Chronicle, the Sunday Express, the Evening Standard, Encounter and publications of similar repute in Germany. My articles have appeared in newspapers ranging from Die Welt, Die Welt am Sonntag, and magazines and journals like Stern, Der Spiegel, Neue Illustrierte, Quick.

My books have appeared between hard covers under the imprint of the finest publishing houses. I might mention in this country the imprints of William Kimber Ltd, Cassell & Company Ltd, Macmillan Limited, Hodder & Stoughton, Penguin -- Penguin, the First Defendants in this action -- and Allen Lane and others. As the Second Defendant is, I understand, an American citizen, it might be meritorious for me to add that my works have also been published by her country's leading publishing houses too, including the Viking Press, Little, Brown, Simon & Schuster, Holt, Reinhardt, Winston, St Martin's Press and a score of no less reputable paperback publishing houses.

Each of those published works by me contained in or near the title page a list of my previous publications and frequently a sample of the accolades bestowed on my works by the leading names of literature and historiography on both sides of the Atlantic.

This happy situation, namely having my works published in the leading publishing houses of the world, ended a year ago, a year or two ago, under circumstance which I shall venture, if your Lordship permits, to set out later in my remarks. Suffice it to say that this very day, during the night, the Australia/Israel Review has published in Sydney, Australia, a presumably well-informed article (of which I have provided a copy to your Lordship; I have marked the sentence on which I rely) coming as it does from their corner, which provides one missing link in the circumstances under which St Martin's Press finally terminated their contract to publish my book, "Goebbels. Mastermind of the Third Reich". I quote:

"... One of the catalysts for the case was Irving's", they are talking about this action today, "experience with American publisher, St Martin's Press, which, after being warned by Lipstadt and others about Irving's approach to history, then cancelled its agreement to publish Irving's book 'Goebbels. Mastermind of the Third Reich' in the United States."

So these Defendants have done very real damage to my professional existence. May I, first of all, set out the very real pecuniary damage which can be done to an author in general terms, my Lord, by an attack on his reputation. It is not merely that he suffers injury and hurt to his feelings from unjustified attacks, whatever their nature; an author, by virtue of his trade, lives a precarious financial existence. A tenured professor or other scholar can look forward to a brief career, lengthy vacations, high rewards and eventually a pension. Perhaps some members of the legal profession enjoy the same fortunate expectations.

A writer leads a much lonelier and more hazardous existence. When he first embarks on his career he may write a string of works that are never published. I was fortunate in this respect. When I first started advertising in The Times in 1961, inviting British airmen who had taken part in the principal operations of Royal Air Force Bomber Command to come forward, among those who contacted me was Mr William Kimber, a publisher of great repute, who himself felt deeply about the ethical questions raised by these saturation bombing operations.

I, therefore, did not have the usual problem that faces most first time authors, namely that of crossing the difficult threshold from being an unpublished to a published author. My first book, "The Destruction of Dresden" was serialised by The Sunday Telegraph and attracted much critical acclaim. It was only then that I took the perhaps fateful decision to become a writer.

If I may now advance rapidly some 20 or 30 years (and I sense the court's relief) I would repeat a brief conversation I had with my accountant at a time when I was earning more than £100,000 a year. My accountant, no doubt with his eye on the

commission involved, asked what steps I had taken in anticipation of retirement. My immodest reply was that I did not intend to retire, and when he murmured something about pensions, I replied that my books were my pension fund.

If I may explain that remark? If an author has written a good book, it will be published and republished, and on each occasion a fresh ripple of royalties reaches the author's bank account. Admittedly, the ripples become smaller as the years progress, as the years recede, but if he has written enough books in his 30 or 40 years of creativity, then the ripples together make waves large enough to sustain him into and beyond the years of retirement. Indeed, they should also provide something of a legacy for his children of whom I still have four.

That situation no longer obtains, my Lord. By virtue of the activities of the Defendants, in particular of the Second Defendant, and of those who funded her and guided her hand, I have since 1996 seen one fearful publisher after another falling away from me, declining to reprint my works, refusing to accept new commissions and turning their backs on me when I approach.

In private, the senior editors at those publishing houses still welcome me warmly as a friend and they invite me to lunch in expensive New York restaurants, and then lament that if they were to sign a contract with me on a new book, there would always be somebody in their publishing house who would object; such is the nature of the odium that has been generated by the waves of hatred recklessly propagated against me by the Defendants.

In short, my "pension" has vanished, as assuredly as if I had been employed by one of those companies taken over by the late Mr Robert Maxwell.

I am not submitting that it is these Defendants alone who have single handedly wrought this disaster upon me. I am not even denying that I may have been partly to blame for it myself.

Had I written books about the Zulu Wars, as the Air Ministry earnestly advised me back in 1963, when my book "The Destruction of Dresden" was first published, I would, no doubt, not have faced this hatred.

Unfortunately, World War II became my area of expertise. I generated a personal archive of documents, a network of sources and contacts, a language ability, a facility to research in foreign archives and eventually a constituency of readers who expected and wanted me to write only about the Third Reich and its criminal leadership.

What obliges me to make these sweeping opening remarks is that I shall maintain that the Defendants did not act alone in their determination to destroy my career and to vandalise my legitimacy as an historian. That is a phrase that I would ask your Lordship to bear in mind.

They were part of an organized international endeavour at achieving precisely that. I have seen the papers. I have copies of the documents. I shall show them to this court. I know they did it and I now know why.

Nearly all of these villains acted beyond the jurisdiction of these courts. Some of them, however, acted within, and I have on one disastrous occasion tried to proceed against them too.

I mention here (and only in a few words) that one example: as the court will, no doubt, hear, I was expelled in the most demeaning circumstances from Canada in November 1992. I need not go into the background of that event here, but I shall certainly do so later if in their attempts to blacken my name further the Defendants indulge in that exercise in this court.

Seeking to establish why Canada, a friendly government of a country which I had entered unhindered for 30 years or more, should suddenly round upon me as savagely as a rottweiler, I used all the appliances of Canadian law to establish what had gone on behind closed doors.

I discovered in the files of the Canadian Government, using that country's Access to Information Act, a mysterious and anonymous document blackening my name had been planted there for the purpose of procuring precisely the ugly consequence that had flowed from it in 1992.

Stupid lies, among the stupid lies that this anonymous document contained about me was the suggestion that I had married my first wife because she was "the daughter of one of General Francisco Franco's top generals" in order to ingratiate myself with the Spanish fascist regime. Another suggestion was that I lived too well for an author -- I have lived for 32 years, over 32 years, in the same house off Grosvenor Square, my Lord -- and that to sustain such a level of living purely from my income as an author was impossible; the implication being that I was receiving secret cheques from Nazi fugitives in South America.

I telephoned my first wife to ask her what her father had been. She reminded me that he was an industrial chemist, a dedicated enemy of the regime after two of his brothers had been shot by Franco's men. So that was the true story.

It took over a year to establish beyond a doubt who was the author of this infamous document. It turned out to have been provided secretly to the Canadian Government by an unofficial body based in London whose name I do not propose to state in this court here, my Lord, as they are not formally represented in this action.

Suffice it to say that when I applied to a judge in chambers for leave to take libel action out of time, the culprits made no attempt to justify their libels, but pleaded that the Statute of Limitations had run, which plea was allowed, though I maintain with regret, by Toulson J. The mendacious body concerned then had the temerity to pursue me to the threshold of the Bankruptcy Court for the legal costs it had incurred in that one day hearing, amounting to over £7,500. It is a rough life, being an independent author, my Lord.

This brings us to the present case. In 1993, the First Defendant (as they allow in their witness statements) published "Denying the Holocaust", the work complained of, within the jurisdiction, written by the Second Defendant.

The book purports to be a scholarly investigation of the operations of an international network or conspiracy of people whom the Second Defendant has dubbed "Holocaust Deniers". It is not. The phrase itself, which the Second Defendant prides herself on having coined and crafted, appears repeatedly throughout the work and it has subsequently become embedded in the vernacular of a certain kind of journalist who wishes to blacken the name of some person, where the more usual rhetoric of neo-Nazi, Nazi or racist and other similar epithets is no longer deemed adequate. Indeed, the phrase appears over 300 times in just one of the Defendants' experts reports, "Holocaust denier", 300 times in one report, my Lord.

It has become one of the most potent phrases in the arsenal of insult, replacing the N-word, the F-word and a whole alphabet of other slurs. If an American politician, like Mr Patrick Mr Buchanan, is branded even briefly a "Holocaust denier", his career can well be said to be in ruins. If a writer, no matter how well reviewed and received until then, has that phrase stuck to him, then he too can regard his career as rumbling off the edge of a precipice.

As a phrase, it is of itself quite meaningless. The word "Holocaust" is an artificial label commonly attached to one of the greatest and still most unexplained tragedies of this century.

The word "denier" is particularly evil because no person in full command of his mental faculties, and with even the slightest understanding of what happened in World War II, can deny that the tragedy actually happened, however much we dissident historians may wish to quibble about the means, the scale, the dates and the other minutia.

Yet meaningless though it is, the phrase has become a part of the English language. It is a poison to which there is virtually no anti-dote, less lethal than a hypodermic with nerve gas jabbed in the neck, but deadly all the same. For the chosen victim, it is like being called a wife beater or a paedophile. It is enough for the label to be attached for the addressee to find himself designated as a pariah, an outcast from normal society. It is a verbal Yellow Star.

In many countries now where it was considered that the mere verbal labelling was not enough, governments have been prevailed upon to pass the most questionable laws, including some which can only be considered a total infringement of the normal rights of free speech, free opinion and freedom of assembly.

Germany has not had an enviable reputation in any of these freedoms over the last century, my Lord. True to form, in Germany it is now a criminal offence to question the mode, the scale, the system or even the statistics of the Holocaust. Criminal offence. No defence is allowed. Some good friends of mine, I have no hesitation in allowing to this court, are sitting at this very moment in German prisons for having ventured to voice such questions. One of them has been in prison for seven years.

In France, the situation is even more absurd. Any person found guilty in France under a new law aptly named an "amendment of the law on the freedom of the Press" finds himself fined or imprisoned or both. This law, passed in 1991, makes it a criminal offence in France to challenge (the French word is *contester*) any war crimes or crimes against humanity "as defined by the Nuremberg Statute" of 1945.

Fifty years on, it has become a criminal offence to question whether Nuremberg got it right. History is to be as defined by the four victorious powers in the Nuremberg trials of 1945 to 1946.

I respectfully submit and would, indeed, hope that your Lordship would find such laws if enacted in this country to be utterly repugnant. For that same reason I have no hesitation in saying that some more good friends of mine have been fined under precisely this French law. Indeed, in 1993 or 1994, I myself was fined the sum of £500 by a Paris court under this law.

I had given an interview to a French journalist in the study of my home in London. This interview was published in a reputable French journal. There were complaints in Paris and I was summoned before the French Magistrates and fined, along with the publisher, the editor and the journalist concerned for having given this interview. It is, indeed, a very sorry state of affairs.

My Lord, we may hear the word "conspiracy" uttered during the next few days and weeks. If there has been a conspiracy, it is a conspiracy against free speech.

I might mention that my father fought as an officer in the Royal Navy in both World Wars, both in the Battle of Jutland in 1916 and in the Arctic convoys of 1942. Both my brothers have served with the Royal Air Force. My father was an arctic explorer between the wars. Admiralty charts show two island points in the South Sandwich Islands named after him and his first officer, my uncle.

I come from a service family and I find it odious that at the end of the 20th century writers and historians going about their own respective businesses, writing books that may, indeed, have been completely wrong have found themselves suddenly and vicariously threatened with imprisonment or with crippling fines having expressed opinions on history which are at variance with these new freshly enacted laws, which have been introduced at the insistence of wealthy pressure groups and other enemies of the free speech for which we fought two World Wars in this country.

Your Lordship will undoubtedly hear from the Defendants that I was fined a very substantial sum of money by the Germany Government under these witless new laws. It is no matter of shame for me, although it has had catastrophic consequences, as it now makes me *de facto* a convict with a criminal record and, as such, liable to a concatenation of further indignities and sanctions in every foreign country which I now wish to visit.

The circumstances these are these. I may say here quite briefly that on April 21st 1990, nearly ten years ago, my Lord, I delivered an address, quite possibly ill-judged, to an audience at a hall in Munich. When one agrees to attend such

functions one has little way of knowing in advance what kind of audience one will be addressing, and has no control over the external appearance of the function. I make no complaint about that.

Your Lordship will hear no doubt that in the course of my speech, of which apparently no full transcript survives, I uttered the following remark:

"We now know that the gas chambers shown to the tourists in Auschwitz is a fake built by the Poles after the war, just like the one established by the Americans at Dachau." Those are two concentration camps, my Lord.

This may well raise eyebrows. It might be found to be offensive by sections of the community, and if they take such offence I can assure this court that I regret it and that such was not my intention. The fact remains that these remarks were true. The Poles admitted it in January 1995, and under English law truth has always been regarded as an absolute defence.

We shall hear, indeed, from the Defences' own expert witnesses, though perhaps the admission will have to be bludgeoned out of them, that the gas chamber shown to the tourists at Auschwitz was indeed built by the Polish communist three years after the war was over.

I think it is fair to note there that at this point Mr Rampton is shaking his head and I apologise if I have misunderstood the evidence given by their witnesses.

L0054 **Mr Justice Gray** You carry on with your speech.

L0055 **Mr Irving** I do not intend to go into the question of whether or not there were gas chambers at Birkenau, my Lord, some five miles from Auschwitz, in these opening remarks. By the time this trial is over we shall all be heartily sick of the debate which has little or no relevance, in my submission, to the issues that are pleaded.

So what are the issues that are pleaded and how do I propose to address those issues in opening this case? First let me emphasise that I also have no intentions, and neither is it the purpose of this trial, to refight World War II. I shall not argue and have never argued that the wrong side won the war, for example, or that the history of war needs to be grossly rewritten. I must confess that I am mystified at the broad thrust which the Defendants have taken in the vast body of documentation which they have served upon this court and myself, another 5,000 pages delivered to me on Friday evening and more last night. It is all something of an embarrassment to me and I am being forced into positions that I have not previously adopted. I have never claimed to be a Holocaust historian. As I have said, I have not written no book about the Holocaust. I have written no article about it. If I have spoken about it, it is usually because somebody has asked me a question, I have been questioned about it. On such occasions I have emphasised my lack of expertise and I have expatiated only upon those areas with which I am familiar. In doing so I have offended many of my friends who wish that history was different, but you cannot wish documents away, and it is in documents that I have always specialized as a writer.

Your Lordship will find upon reviewing my various printed works that I have very seldom used other people's books as sources. I found it otiose and tedious, not only because they are ill-written but because in reading other people's books you are liable to imbibe the errors and prejudices with which those books are beset. If, however, you go to the original documents you will often find to your joy that the weight of documents you have to read is pound for pound, or indeed ton for ton, less than the weight of books that you might otherwise have to read upon the same subject, and you are kilometres closer to the original real history.

As for the nature of documents, I remember that in 1969 I visited Professor Hugh Trevor Roper (now Lord Dacre who I am glad to say is still with us). He very kindly made available to me his considerable collection of several thousand original intelligence documents for my biography of Adolf Hitler, and in doing so he advised me as follows: When considering new documents you should ask yourself three questions. If I remember correctly, my Lord, those three criteria were as follows.

- 1) Is the document genuine? (Possibly in the light of the "Hitler Diaries" scandal, an unfortunate pre-requisite in this case).
- 2) Is the document written by a person in a position to know what he is talking about?

3) Why does this document exist?

The latter is quite interesting, as we have all experienced in the archives, coming across documents obviously written for window dressing or buck passing purposes.

It is documents in this case which I think the court will find most interesting and illuminating. By that I mean the documents at every level. The court will have to consider not only the documents originating in World War II on both sides, my Lord, but also the documents that have been generated by that painful process known as Discovery. It will not escape the court, my Lord, when the time comes that like many personalities I have kept the most voluminous records throughout my career as a writer and even before it. Along with my writing career I have kept a diary.

Sometimes I wondered why but I think the reason is basically this. If you are a writer, self-employed, you need the discipline that a diary imposes upon you, and you cannot in conscious enter in a diary at the end of the day: "I did nothing all day".

Your Lordship will be amused no doubt to hear that at one stage in the discovery process in this action at the request of Mr Julius, I readily agreed to make available to the Defence my entire diaries in so far as they still exist. A few pages are missing. Mr Julius only then learned that these diaries occupy a shelf eight feet long, and that in them there are approximately or probably 10 or 20 million words to be read. Mr Julius and his staff have, however, risen most nobly to challenge that these pages presented, and I am sure that over the next few days and weeks we shall be hearing more than one morsal that they have dredged out of the pages. They will hold it aloft, still dripping with something or other, read it to this court with a squeal of delight, proclaiming that this is the philosopher's stone that they needed to justify their client's libels all along. We shall see. That is not what this trial is all about. This trial is not really about what happened in the Holocaust or how many Jews and other persecuted minorities were tortured and put to death. The court will I hope agree with me when the time comes that the issue us is not what happened but how I treated it in my works of history.

It may be that I was totally ignorant on some aspects of World War II, and I hasten to say that I do not believe I was, but to be accused of deliberate manipulation and distorting, and mistranslating is perverse. The Defendants must show, in my humble submission, first that a particular thing happened or existed; second that I was aware of that particular thing as it happened or existed, at the time that I wrote about it from the records then before me; third, that I then wilfully manipulated the text or mistranslated or distorted it for the purposes that they imply.

I will submit that in no instance can they prove this to be the case. They have certainly not done so in the documents so far pleaded.

I readily concede that what I have read of the reports submitted by the Defendants' experts, particularly those of the historians, is of the utmost interest. I have to congratulate Professor Jan van Pelt for the literary quality of his lengthy report on Auschwitz, which will no doubt eventually see general circulation in the bookstores. Indeed, I congratulated him three years ago already on the first book that he published on this topic.

I admit too that there are documents contained in the expertise of Professor Browning of which I was not aware, and which have my own perception of some aspects of the Nazi atrocities on the Eastern front. For example, I was not aware that the SS Obergruppenfuhrer Reinhard Heydrich had issued instructions to his commanders in the Baltic States after Operation Barbarossa began, the invasion of Russia, in June 1941, not only to turn a blind eye -- this was his instructions -- on the anti-Jewish programs started by the local population in those countries, but also actively to initiate them and to provide assistance. That was unknown to me.

This document, however, emerged only recently from the Russian archives and there can surely be no reproach against me for not having known that when I wrote my biography of Hitler, published in 1977, or in my later works. That cannot be branded as manipulation or distortion, just by way of example.

What is manipulation or distortion of history would be this, in my submission: for example, knowing of the existence of a key document and then ignoring it or suppressing it entirely, without even a mention.

If, for example, it should turn out and be proven in this very courtroom that in the spring of 1942 the Nazi leader, Adolf Hitler, was quoted by a senior Reich Minister in writing as repeatedly saying that he "wanted the final solution of the Jewish problem postponed until the war is over"; and if the document recording those remarkable words has been found in the German archives, it would surely be classifiable as manipulation or distortion if an historian were to attempt to write the history of the Holocaust without even mentioning the document's existence, would it not, my Lord?

The Defendants have, as said, arbitrarily and recklessly decided to label me a "Holocaust denier". Their motivation for doing so we shall shortly hear about.

My Lord, before I continue to address the court on this point in my opening statement, may I take this opportunity to read to the court, with your Lordship's permission, and into the record, a two-page document which I shall refer to over the coming weeks as the Walter Bruns interrogation?

L0056 **Mr Justice Gray** Yes, I do not see why you should not; I have not read it myself. This is the document you handed in?

L0057 **Mr Irving** It is the document I gave you, my Lord. It is an eye witness description. I do so because perceptions matter. I want at this late hour to leave a firm perception in the minds of all those present about where I stand. It is a document which first came into my hands some time before 1985.

I should say, my Lord, by way of introduction, that this document (which is in my discovery) was originally a British top Secret document. Top Secret is only one rung lower than Ultra-secret; some several steps above Secret and Most Secret, in other words. It is the classification given to the British decoded intercepts. It was top Secret because it is the record of an interrogation which was obtained by methods that were illegal, I understand, under the Conventions.

Enemy prisoners of war (in this case German) were brought into British prison camps, treated lavishly, well-fed, reassured by their relaxed surroundings, and gradually led into conversation, unaware that in every fitting and appliance in the room were hidden microphones capable of picking up everything. (That was the illegality; you are not allowed to do that under the Conventions).

Released to the British archives only a few years ago were all of these reports, but I had already obtained several hundred of them 15 or 20 years earlier. I consider these transcripts to be an historical source which, if properly used and if certain criteria are applied, can be regarded as part of the bedrock of Real History.

I would say further by way of preamble, my Lord, that the speaker whose recorded voice we are about to hear, as reproduced in this typescript, was on November 30th 1941, the day of the episode he narrates, a Colonel in the German Army Engineers Force (the sappers or Pioniere). He was commanding a unit based at Riga, the capital of Latvia. He had learned to his vexation that it was intended by the local SS unit to round up all the local Jews, including "his Jews" in the next day or two and to liquidate them.

I read from this document before I do so, my Lord, it is of interest to see that, purely by coincidence and chance, Mr Rampton has picked on precisely the same day in the statement which I understand that he is to make following upon mine.

L0058 **Mr Justice Gray** I am not quite following. Picked on the same day as being what?

L0059 **Mr Irving** The same episode and the same day as an example of my treatment of documents, so it is a very interesting case.

I read from the document itself. It is headed: "Top secret. CSDIC (UK)" which is Combined Services Detailed Interrogation Centre UK". "GG Report. If the information contained in this report is required for distribution, it should be paraphrased so that no mention is made of the prisoners' names, nor of the methods by which the information has been obtained" because, of course, it was illegal.

"The following conversation took place between General-Major Bruns", his full name was Walter Bruns. At this time he was at the Heeres-Waffenmeisterschule which was an army school, an armament school, in Berlin, "captured at Gottingen on April 8th 1945, and other Senior Officer Prisoners of War whose voices could not be identified". In other words, it is a conversation between this General and various other prisoners overheard by hidden microphones on April 25th 1945. "Information received: 25 April 1945", in other words, the war is still running.

"Translation: Bruns: As soon as I heard those Jews were to be shot on Friday, I went to a 21 year old boy and said that they had made themselves very useful in the area under my command, besides which the Army MT park had employed 1500 and the 'Heeresgruppe' 800 women to make underclothes of the stores we captured in Riga; besides which about 1200 women in the neighbourhood of Riga were turning millions of captured sheepskins into articles we urgently required: ear protectors, fur caps, fur waistcoats, etc. Nothing had been proved, as of course the Russian campaign was known to have come to a victorious end in October 1941!" Sarcasm there. "In short, all those women were employed in a useful capacity. I tried to save them. I told that fellow Altenmeyer(?) whose name I shall always remember and who will be added to the list of war criminals: 'Listen to me, they represent valuable manpower!' 'Do you call Jews valuable human beings, sir?'" That was the answer. "I said: 'Listen to me properly, I said valuable manpower. I didn't mention their value as human beings'. He said: 'Well, they're to be shot in accordance with the Fuhrer's orders!' I said: 'Fuhrer's orders?' 'Yes', whereupon he showed me his orders. This happened at Skiotawa(?) eight kilometres from Riga, between Siaulai and Jelgava, where 5,000 Berlin Jews were suddenly taken off the train and shot. I didn't see that myself, but what happened at Skiotawa(?) - to cut a long story short, I argued with the fellow and telephoned to the General at HQ, to Jakobs and Aberger(?) and to a Dr Schultz who was attached to the Engineer General, on behalf of these people". It is a bit incoherent the way that people talk when they are gossiping with each other. "I told him: 'Granting that the Jews have committed a crime against the other peoples of the world, at least let them do the drudgery; send them to throw earth on the roads to prevent our heavy lorries skidding'. 'Then I'd have to feed them!' I said: 'The little amount of food they receive, let's assume 2 million Jews - they got 125 grammes of bread a day - we can't even

manage that, the sooner we end the war the better'. Then I telephoned, thinking it would take some time. At any rate, on Sunday morning", that is November 30th 1941, "I heard that they had already started on it. The Ghetto was cleared. They were told: 'You're being transferred: take along your essential things.' Incidentally, it was a happy release for those people, as their life in the Ghetto was a martyrdom. I wouldn't believe it and drove there to have a look".

The person he is talking to says: "Everyone abroad knew about it; only we Germans were kept in ignorance".

Bruns continues his narrative: "I'll tell you something: some of the details may have been correct, but it was remarkable that the firing squad detailed that morning - six men with tommy-guns posted at each pit; the pits were 24 meters in length and 3 metres in breadth - they had to lie down like sardines in a tin with their heads in the centre", like that in the pit.

"Above them were six men with tommy-guns who gave them the coup de grace", who shot them. "When I arrived those pits were so full that the living had to lie down on top of the dead; then they were shot and, in order to save room, they had to lie down neatly in layers. Before this, however, they were stripped of everything at one of the stations - here at the edge of the wood were the three pits they used that Sunday and here they stood in a queue one and-a-half kilometres long which they approached step by step - a queuing up for death. As they drew nearer they saw what was going on. About here they had to hand over their jewellery and suitcases. All good stuff was put into the suitcases and the remainder was thrown on a heap. This was to serve as clothing for our suffering population - and then a little further on they had to undress and, 500 metres in front of the wood, strip completely; they were only permitted to keep on a chemise or knickers. They were all women and small two-year old children. Then all those cynical remarks! If only I had seen those tommy-gunners, who were relieved every hour because of over-exertion, carry out their task with distaste, but no, nasty remarks like: 'Here comes a Jewish beauty!' I can still see it all in my memory: a pretty woman in a flame-coloured chemise. Talk about keeping the race pure: at RIGA they first slept with them and then shot them to prevent them from talking.

"Then I sent two officers out there, one of whom is still alive", in April 1945, "because I wanted eye-witnesses. I didn't tell them what was going on, but said: 'Go out to the forest of Skiotawa(?), see what's up there and send me a report'. I added a memorandum to their report and took it to Jakobs myself. He said: 'I have already two complaints sent me by Engineer "Bataillone" from the Ukraine'. There they shot them on the brink of large crevices and let them fall down into them; they nearly had an epidemic of plague, at any rate a pestilential smell. They thought they could break off the edges with picks, thus burying them. That loess there" -- that is a kind of ground -- "was so hard that two Engineer 'Bataillone' were required to dynamite the edges; those 'Bataillone' complained. Jakobs" -- he was the engineer general in charge of the pioneer corps -- "had received that complaint. He said: 'We didn't quite know how to tell the Fuhrer'", Adolf Hitler. "'We'd better do it through Canaris', the Chief of the German Intelligence.

"So Canaris had the unsavoury task of waiting for the favourable moment to give the Fuhrer certain gentle hints. A fortnight later I visited the Oberburgermeister, or whatever he was called then, concerning some over business. Altenmeyer(?)" who was the man on the spot "triumphantly showed me: 'Here is an order just issued, prohibiting mass shootings on that scale from taking place in future. They are to be carried out more discreetly'. From warnings given me recently, I knew that I was receiving still more attentions from spies".

Then his interlocutor says to him: "It's a wonder you're still alive". Bruns says: "At Gottingen, I expected to be arrested every day".

L0060 **Mr Justice Gray** Mr Irving, I see the time. I think probably we will adjourn. My recollection of this document is (which I have not seen as a document before) that it is relied on by the Defendants for the reference to the Fuhrer's orders on page 1, is that right?

L0061 **Mr Rampton** And also the one on page 2.

L0062 **Mr Justice Gray** Towards the end.

L0063 **Mr Irving** I have no objection to that, my Lord. The reason why I rely on it now will become plain as we continue after lunch.

L0064 **Mr Justice Gray** Of course. Yes, I am not stopping you; it is just that now it is after 1 o'clock. Yes, Mr Rampton?

L0065 **Mr Rampton** Can I ask your Lordship's indulgence? I too have written an opening statement. Your Lordship has not seen it. It is very short, comparatively speaking. Can I hand it up so that your Lordship can read it over the lunch?

L0066 **Mr Justice Gray** Yes. Mr Irving has had a copy?

L0067 **Mr Rampton** Yes. It is only by that route that the press can have copies of it.

L0068 **Mr Justice Gray** I do not know whether we are going to manage to get to your speech today in a way -- if we did, yes.

L0069 **Mr Rampton** That is why. Once this court has read it, then it is a public document.

L0070 **Mr Justice Gray** I will look at it over the adjournment.

L0071 **Mr Rampton** I am grateful.

L0072 **Mr Justice Gray** Yes, Mr Irving?

L0073 **Mr Irving** My Lord, when we adjourned I just completed reading out to what you I was calling the Bruns Report ----

L0074 **Mr Justice Gray** Yes.

L0075 **Mr Irving** --- which was an eyewitness account by a German General (unaware he was being overheard) of a mass shooting of Jewish civilians which he had witnessed in Riga on a particular Sunday which I maintain was November 30th 1941.

L0076 **Mr Justice Gray** Yes.

L0077 **Mr Irving** He had said, you will recall, that one of the gunmen had called out: "Here comes a Jewish beauty. I can see it all in my memory: a pretty woman in a flame coloured chemise." I understand Mr Rampton to say that he is going to rely on the last sentence which is a reference to the Fuhrer and the order.

I will now continue.

My Lord, permit me a word about the credentials of that particular document. It is authentic. It comes from the British archives. A copy can be found in the Public Record Office this very day, if anyone wishes to go and see it.

First: is the General describing something he had really seen? I mention this because later, on his sworn oath in the witness stand in Nuremberg, this same General claimed only to have heard of this atrocity; yet there can surely be no doubt of the verisimilitude. It does not take university level textual analysis to realize that if a General says: "I can see her in my mind's eye now, a girl in a flame-red dress", this is a man who has been there and seen it with his own eyes.

This document has, in my submission, considerable evidentiary value. It is not self-serving. The General is not testifying in his own interest. He is merely talking, probably in a muffled whisper, to fellow prisoners at a British interrogation centre, and he has no idea that in another room British experts are listening to and recording every word. We also have the original German text of this document, I might add, my Lord.

So to what purpose do I mention this? Well, firstly, because I shall later on in these proceedings add further unknown documents from the same superb British archives -- that is the Public Record Office -- documents that go to the events of this one day, November 30th 1941, documents which show Adolf Hitler taking a most remarkable stand on this atrocity.

But I also adduce this document for the following reason which is immediately of importance, given the title of the book: "Denying the Holocaust". I adduce this document for the following reason: if an historian repeatedly refers to this document, the Bruns Report; if he quotes from it; if he immediately writes as soon as he finds it showing it to fellow historians, both Jews and non-Jews alike, and in writing draws their attention to the existence of this document, and its fellow documents, all of which were hitherto unknown to them; if, moreover, that historian reads out this document in public, with its awful, infernal descriptions of the mass killings of Jews by the Nazis on the Eastern front on multiple speaking occasions; if this historian, speaking to audiences even of the most extreme hues of left and right, heedless as to their anger, insists on reading out the document in full, thus "rubbing their noses in it", so to speak; if continues to do so over a period of 15 years again and again right up to the present date, and if he quotes that document in the text and references that document in the footnotes of all his most recent works, beginning with the "Hitler's War", the

biography, the republication in 1991, through "Goebbels. Mastermind of the Third Reich" in 1996 and "Nuremberg, the Last Battle" in 1997, if all these things are true, then is it not a libel of the most grotesque and offensive nature to brand that same historian around the world as a "Holocaust denier" when he has not only discovered and found and propagated this document and brought it to the attention of both his colleagues and his rivals and his foes, regardless of their race or religion, and to countless audiences?

This is not an isolated example, my Lord. In Introduction to my biography of Adolf Hitler, "Hitler's War", which was published by The Viking Press in America and by Hodder & Stoughton in the United Kingdom and later by Macmillan, we shall find that I have drawn specific and repeated attention of the reader to the crimes that Adolf Hitler committed.

How did all this happen? I shall invite the court to hear expert evidence on the relationship between the world's Jewish communities and the rest of us, given by a professor of sociology at a leading American university who has published a number of book-length studies on the topic.

The Jewish community, their fame and fortunes, play a central role in these proceedings. It will not surprise the court, I suppose, that among the allegations levelled against me by the Defendants by their experts is the adjective of "anti-Semitic".

This adjective is both the most odious and the most overworked of epithets. Almost invariably it is wielded by members or representatives of that community to denigrate those outside their community in whom they find disfavour.

It does not matter that the person whom they label as anti-Semitic has conducted himself towards that community in an irreproachable manner until then; it does not matter that he has shown them the same favours that he has shown to others; it does not seem to matter either that that same community who thus labels him or her has conducted against him an international campaign of the most questionable character in an attempt to destroy his legitimacy, the economic existence upon which he and his family depends.

If he defends himself against these attacks, he is sooner or later bound to be described as anti-Semitic.

It has become a ritual. No doubt the English people, who in 1940 found it necessary to defend themselves against the Germans, would by the same token earn the title of anti-German. Is a person who defends himself ultimately and wearily and after turning the other cheek for 20 or 30 years ipso facto no better than the most incorrigible kind of ingrained anti-Semite with whom we are probably all familiar? I submit that he is not.

This court will find that, like most Englishmen, I have had dealings with both English and foreign Jews throughout my professional life.

There were, to my knowledge, no pupils of the Jewish faith at the minor Essex Public School that I attended (in common with our present Home Secretary) from 1947 to 1956. In fact, I was surprised when I recently heard the suggestion that there had been one.

I encountered many Jewish students when I attended London University, however. I would like to commemorate here the name of my flat mate at Imperial College, Mike Gorb, who died tragically in a mountaineering accident. I regarded as a good friend another senior student, Jon Bloc. There was one student, a Mr Peter L, who began agitating against me for the views that I profounded while at University, views I can no longer remember; and I have to confess that I found his agitation both perplexing and irritating because it all seemed rather petty and spiteful at the time.

As my own witness statement recalls, at the time of the Anglo-Israeli-French "police action" in Suez in 1956, I joined student demonstrations on behalf of the Israelis, though for the life of me now I cannot remember why. It is the kind of thing you do when you are a student.

My Lord, when my first book was published, "The Destruction of Dresden" in 1963, I became uncomfortably aware that I had somehow offended the Jewish community. I did not at the time realize why and I do not fully realise why even today. Whatever the reason, their journalists were in the spearhead of the attack on me. As other books appeared, this polarisation among the English critics became more pronounced. I remember the name of Mr Arthur Pottersman, writing for a tabloid newspaper -- the Daily Sketch -- as being one of the few vicious critics, not of Dresden book but of my person.

My publisher, Mr William Kimber, to whom I have earlier referred, recommended to me the services of his lawyer, Mr Michael Rubinstein, a name with which the older members of this court may perhaps be familiar -- a very well known lawyer at the time. Mr Kimber said to me in his drawling, affable voice: "You will like Michael. He is very Jewish but a very Christian kind of a Jew, rather like Jesus Christ". You remember that kind of thing. It is the kind of inexplicable sentence that one remembers even now, nearly 40 years on down the road. I found Michael an enormously capable, energetic and likeable person - indeed, very English, his advice always sound, and he stood by me as legal adviser for the next 20 years, two decades. He had a rhinoceros hide, as I remarked once in my diary -- a remark seized upon by the Defendants as evidence of my anti-Semitism.

I also form the long term friendship (which exists to this day) with well-known writers like the American David Kahn, an expert on code breaking. Being an author dealing with American and British publishers, I frequently came into contact with the Jewish members of the publishing profession.

The editor of "Hitler's War" for the Viking Press was Stan Hochman who became, as the correspondence and for all I know also my diaries show, a good friend; Peter Israel, who purchased "Uprising", which was my book on the 1956 Hungarian uprising, was editorial director at Putnam's, and so on.

The discovery documents, my Lord, show that there was also some kind of relationship between myself and our own George Weidenfeld which was the usual kind love/hate relationship that exists between authors and publishers. George published several of my books, including my biographies of top Nazis like Field Marshal Erhard Milch and Field Marshal Erwin Rommel, and I do not believe that he made a loss on those operations. But behind my back, I learned that he had made unhelpful remarks about me, and I had occasion to write him one or two terse letters about that. But I believe we are still friends and my relations with the present Managing Director of Weidenfeld & Nicholson are of the very best. But those are all individuals, my Lord.

Even as I speak of Weidenfeld, it reminds me that during the 1960s and 1970s I became vaguely aware of forces gathering to oppose me. George had originally bought the rights to publish my biography of "Hitler's War". At some stage Weidenfeld's repudiated the contract. Publishers can always find an excuse, a loophole to do so if they want, and I was not unhappy as it gave me the chance to offer it to an equally prestigious Publishing House, Messrs Hodder & Stoughton, for an even larger fee.

At the Frankfurt book fair on October 13th 1973 -- my diary entry relates the whole of this -- George Weidenfeld sat next to me at dinner and lamented after a few cocktails his mistake in "tearing up" the contract for "Hitler's War". When I asked him why he had done so, he explained: "I had to do so. I came under pressure from three Embassies. One of them was a NATO power", which I took to be Germany, "one of them was France and the other was Israel".

It is right that I should state here, and the correspondence shows, that he later denied having said this, but I took a very detailed diary note that same night, which is in my discovery, the bundle of which -- it is marked "Global" -- we shall look at briefly over the next few days, if your Lordship pleases.

So it became gradually evident (and I have to emphasise that I cannot pin down any particular year in which I finally realized that I was being victimized by this hidden campaign) that I was the target of a hidden international attempt to exclude me, if it could be done, from publishing further works of history.

It did not affect my attitude towards the Jews in the way that people might expect it to. I did not go on the stump, up and down the land, vituperating against them.

I merely made a mental note that I had to be on the look-out for trouble. Such trouble had already begun in November 1963 when a three-man squad of burglars, evidently at the commission of the English body to whom I earlier made reference, my Lord, was caught red-handed by the police, whom I had alerted, as they raided my North London apartment, disguised as telephone engineers and equipped with stolen GPO passes. There is a reason why I mention this.

The leader of that gang (whose name I shall not mention as he is not represented in this court) told the police that he had hoped to find my secret correspondence with Hitler's henchman, Mr Martin Bormann! Perhaps I ought to add that there is no secret correspondence with Bormann.

I mention this episode for a reason, my Lord. This gentleman subsequently became editor of a left wing "Anti-Fascist" machine called "Searchlight", and he has made it his lifelong task over the intervening 30 years to take his malicious revenge upon me for the criminal conviction which he earned as a result of his felony.

His magazine repeatedly inveighed against me, reporting sometimes true, often part true, but usually totally fictitious rumours about my activities and alleged "Nazi" connections around the world in an attempt to blacken my name.

I will not say that the rumours are all untrue, my Lord. They never are. I believe Mr Winston Churchill once famously said: "The world is full of the most dreadful stories and rumours about me, and the damnable thing about them is that most of them are true!" At least, so rumour has it.

But the untrue ones about me are the ones that have a habit of surfacing again and again with their original polish undimmed. I mention this case, as the Defendants here seek to rely heavily on the outpouring of this troubled soul, the editor of "Searchlight".

The court might wonder why I took no action against this journal or, indeed, any of the other parties who had defamed me over the years. One of the things that Mr Rubinstein, like Mr Kimber, my publisher, dinned into me very early on was to avoid at all costs taking libel action.

My Lord, I am sure I do not need to labour the reasons why in this opening statement. Suffice it to say that I had already realized by 1970, at the time of the "Convoy PQ17" libel action -- that is Broome v. Cassell -- that libel actions are time consuming, costly and vexatious, and are indeed in the words of the cliché "to be avoided like the plague".

Besides, this particular magazine had no assets, so any type of litigation would have been quite pointless. I might add that only once in recent years have I been forced to take action in this jurisdiction under the Defamation Act against a major national newspaper four or five years ago, which resulted in an immediate settlement out of court which I can only describe as most satisfactory. The terms of this settlement are covered by the usual Court Order, though I fancy they are known to the Defendants here who asked for, and were given, full disclosure of the relevant papers.

It will become evident to this court from the evidence that I lead over the next few days, my Lord, that the international community started to intensify its campaign to destroy me and to truncate my career as an author either before or at about the same time as The Viking Press and other publishers published my well-known biography of Adolf Hitler, "Hitler's War", which was 1997.

The court will be shown at least one internal document, dated April 1977, which I have identified as emanating from the Washington files of the so-called Anti-Defamation League, a part of the B'nai Brith, in the United States, which reveals quite unabashedly how they tried to pressure television producers to cancel invitations to me to discuss "Hitler's War" book on their programmes. It failed. The programme in question went ahead and the ADL noted, aghast, in a secret memorandum that I was well versed in the matters of history, a formidable opponent who could not, however, be called anti-Semitic. I would have to be destroyed by other means.

This is a document in my discovery. By various entirely legal means, I obtained several such disturbing documents from within their files.

From them and, in particular, from their details registered out the Data Protection Act in this country, it appears that these bodies, which are also embedded in our society in Britain and elsewhere, have seen their task, unbidden, as being to spy upon members of our society, to maintain dossiers on us all, and to deploy those dossiers when necessary to smite those of us of whom they disapprove.

As the court will see, the dossiers are explicitly designed to hold such material on the subjects' personal lives, criminal records, credit delinquencies, marital difficulties, dietary habits and even sexual proclivities. That is what we know from their details of registration.

It is not anti-Semitic to reveal this. The spying and smearing by these bodies goes on against fellow Jew and non-Jew alike. The Jewish writer, Noam Chomsky, relates that he found, quite by chance, that they were "monitoring" (for that is the word they use) him too.

Several of our own most notable personalities have already commented on this unsavoury element of British life. In an article in a UK magazine, the writer, Mr Auberon Waugh, remarked upon how he too inadvertently found that such a file was being kept on him.

May I add that these "dossiers" provided by this London body to the Canadians, to the Anti-Defamation League, and to various similar bodies in Australia, South Africa and elsewhere, have been drawn upon heavily and without question by the Defendants in this action, which my justification, I submit, for drawing your Lordship's attention to this disturbing and sleazy background.

When I attempted to take the libel action against the London-based body that I have mentioned, its Director, Mr Michael Whine, admitted in an affidavit that his body had taken upon itself to "monitor" -- here is that word again -- my activities, as he called them, for many years. He also freely admitted that when secretly called upon by his Canadian associates in 1992 to provide them with a smear dossier for the purposes of destroying my presence in Canada by planting it in government files in Ottawa, he willingly agreed to do so.

This is how that file turned up in Canadian Government resources; which in turn is how it came into my hands, years later, through lengthy "Access to Information Act" procedures; otherwise I would never have known why I found myself being taken in handcuffs aboard an Air Canada flight in 1992, after 30 years as an honoured visitor in that country and deported, an event to which the Defendants make gleeful reference in their book "Denying the Holocaust".

I may be rather naive, but this kind of thing offends me as an Englishman, as no doubt the idea will offend many of those present in court 37 today. The notion that a non-Governmental body, unofficial body, equipped evidently with limitless financial resources, can take it upon itself to spy upon law-abiding members of the community for the purpose of destroying them is one that I find discomfiting.

I have never done it to my fellow human beings. I can think only of the wartime Gestapo and its offshoots in Nazi-occupied Europe as a body engaged in similar practices. It is an offensive and ugly comparison, I warrant, and one that I have never made before, but in a legal battle of this magnitude, I consider it necessary to use ammunition of the proper calibre.

My Lord, I will now come to the matter of the glass microfiche plates containing the diaries of the Nazi propaganda Minister, Dr Joseph Goebbels. Your Lordship will have seen from the Statement of Claim that the Defendants have accused me of having improperly obtained these glass plates from the Moscow -- it was in 1992 -- or damaged them.

May I set out some of the antecedents of this matter? Your Lordship will, perhaps, remember the widespread newspaper sensation that was caused by the revelation at the beginning of July 1992 that I had succeeded in retrieving from the former KGB archives in Moscow the long last diaries of Dr Joseph Goebbels, a close confidant of Adolf Hitler and his propaganda minister and, indeed, his successor as Reich Chancellor.

I may see here that scholars have been searching for a number of diaries ever since the end of World War II. I would mention here only the example of the diaries of Hitler's Intelligence Chief, Vice-Admiral Wilhelm Canaris, in the search for which I was concerned in the 1960s and 1970s. (The Canaris diaries offered to myself and Messrs William Collins Limited on that occasion turned out to be fake, which I established by the use of the appropriate forensic laboratory in the City of London, Messrs Hehner & Cox).

Forensic tests are to play quite a large part in these current proceedings too.

In writing my own biographies of the leading Nazis, I have attached importance to primary sources, like the original diaries which they wrote at the time. When I have found these documents, as many scholars know, I have invariably and without delay donated them (or copies of them) either to the German Federal Archives in Koblenz or to the Institute fur Zeitgeschichte, which is the Institute of Contemporary History in Munich. In the case of the Goebbels' diaries, after I retrieved them from Moscow, I

additionally gave a set of copies to the archives of Monchen-Gladbach, his home town, where they maintain a collection of Goebbels' documents, the municipal archives.

In fact, the only items which I consider to be of greater source value than diaries, which are always susceptible to faking or tampering, are private letters. In my experience, once a private letter has been posted by its writer, it is virtually impossible for him to retrieve it and to alter its content.

If I may take the liberty of enlightening the court at this point by way of an example, I would say that I had earlier also found the diaries of Field Marshal Rommel; some I retrieved in shorthand from the American archives and I had them transcribed. Those in typescript turned out to have been altered some months after one crucial battle ("Crusader") to eradicate a tactical error which the Field Marshal considered he had made in the Western desert. But the hundreds of letters he wrote to his wife were clearly above any kind of suspicion.

On a somewhat earthier plane, while the diaries of the Chief of the SS, Heinrich Himmler, which have in part been recently retrieved from the same archives in Moscow, yield little information by themselves, I have managed to locate in private hands in Chicago the 200 letters which this murderous Nazi wrote to his mistress, and these contain material of much larger historical importance.

Until my career was sabotaged, therefore, I had earned the reputation of being a person who was always digging up new historical evidence; that was until the countries and the archives of the world were prevailed upon, as we shall see, to close their doors to me!

After I procured these 600 pages of manuscripts written by Adolf Eichmann when I visited Argentina in October 1991, the German Federal Archives grudgingly referred to me in a press release as a Truffle-Schwein, which I hope is more flattering than it sounds.

We are concerned here, however, primarily with the diaries of Dr Joseph Goebbels of which the Defendants made mention in their book. This is the inside story on those.

I begun the search for these diaries, in fact, 30 years earlier. In my discovery are papers relating to the first search that I conducted for the very last diaries which Dr Goebbels dictated, in April 1945 -- right at the end of his life. Since there was no time for them to be typed up, Dr Goebbels had the spiral-bound shorthand pads buried in a glass conserving jar in a forest somewhere along the road between Hamburg and Berlin.

Chance provided me in about 1969 with the "treasure map" revealing the precise burial place of this glass jar, and with the permission of the Communist East German Government, I and a team of Oxford University experts, equipped with a kind of ground penetrating radar (in fact, a proton magnetometer) mounted a determined attempt to unearth it in the forest.

We never found that particular truffle. Unfortunate, the topography of such a forest changes considerably in 20 years or more and, despite our best efforts, aided by the East German Ministry of the Interior, Communist Ministry of the Interior, and a biologist whose task would be to assess the age of the fungi and other biological materials found in and around the jar, we came away empty-handed. This is nothing new. Field work often brings disappointments like that.

Twenty-five years later, however, now back in 1992, I had the conversation which was to lead to the retrieval of the Goebbels' diaries in Moscow, and indirectly to our presence here in these courts today.

In May 1992, I invited long time friend, a leading historian at the Institut fur Zeitgeschichte, to have lunch with me at a restaurant in Munich. We had been good friends since 1964, nearly 30 years, and she is still in the Institute's employ today. As my diaries show, this friend and colleague, Dr Elke Frohlich, had dropped several hints during the previous 12 months that she had traced the whereabouts of the missing Goebbels' diaries.

We all knew, my Lord, those of us who had engaged in research into Hitler, Goebbels and the Third Reich, that Dr Goebbels had placed these diaries on microfiches -- that is photographic glass plates -- in the closing months of the War to ensure that they were preserved for posterity. But they had vanished since then.

His Private Secretary, Dr Richard Otte, whom I had questioned over 20 years previously in connection with our search in the forest in East Germany, had told us about these glass plates. So we knew they existed. I should mention that he was actually one of the small burial party who had hidden the glass jar, but he was unable to accompany us as at that time he was still in West German government employment. We could only presume that the glass plate microfiches were either destroyed in Berlin in the last weeks of the war or that they had been seized by the Red Army.

During this lunch-time conversation in Munich in May 1992, Dr Elke Frohlich revealed to me that the latter supposition was correct. She had seen them herself a few weeks previously -- she had held them in her hands -- on a visit to the archives in Moscow. My Lord, you can imagine the thrill that kind of thing gives an historian to have something like that.

My recollection of the conversation at this point is that she continued by saying that the Institute's Directors were unwilling to fund a further expedition to procure these diaries.

Now that I have seen some of the documents provided to the Defendants in this action by the Russians and by the Institute, it is possible that my recollection on this point is wrong, namely, that the Institute were not willing to pay for it.

My recollection of the following is, however, secure. Dr Frohlich informed me that the Director of the Russian archives, the "trophy" archives, as they were known, Dr Bondarev, was in a serious predicament, as he was faced with the economic consequences of the collapse of the Soviet Empire; he had no longer the financial means necessary for the upkeep of the archives and the payment of his staff.

The plates, in my view, were seriously at risk. Dr. Frohlich indicated that if I were to take a sufficient sum of foreign currency to Moscow, I could purchase the glass plates from Dr Bondarev. It was clear from her remarks that Dr Bondarev had already discussed this prospect with her.

Dr Frohlich added that the glass plates were in fragile condition and needed to be rescued before they came to serious harm. I recall that she said: "If you are going to do this deal with the Russians, you will have to take a lot of silk paper with you from England to place between the glass plates. The plates are just packed into boxes with nothing between them". My Lord, when I provide you with bundles of photographs later on, there were photographs of the actual plates in the cardboard boxes.

I asked how much money we were talking about, and either she or I suggested a figure of US\$20,000. I immediately contacted my American publishers in New York who seemed the most immediate source of money. I informed them of this likely windfall and asked if we could increase the cash advance on my Goebbels' manuscript accordingly.

My manuscript of the Goebbels' biography was at that time complete and undergoing editing by myself. It was already ready for delivery to the publishers.

The American publisher responded enthusiastically at first, and upon my return from Munich to London I began negotiations through intermediaries with the Russian archivist, Dr Bondarev. (Dr Bondarev will not, unfortunately, be called by either party in this action as a witness. He seems to have vanished. He is certainly no longer employed by the "trophy" archives).

The first intermediary I used was a Russian-language specialist employed by Warburg's Bank in Moscow. He undertook the preliminary negotiations with Dr Bondarev. I instructed him to tell Bondarev as openly as was prudent of my intention to come and look at the glass plates, and also to make it quite plain that we were coming with a substantial sum of hard currency. Many American institutions were currently engaged in the same practice -- it is important I should say this -- as I knew from the newspapers.

At about this time, it became plain that the German Government was also keen to get its hands on these glass plates. Naturally, I desired to beat them to it, first, because of professional pride and the desire to have an historical scoop and, secondly, years of working with the German Government Archives had proven both to me and many scholars that as soon as high-grade documents like these dropped into their hands they vanished for many years while they were assessed, catalogued and indexed. Sometimes they were even squirreled away for later exploitation by the Chief Archivists themselves (the "Hossbach Papers" were a case in point).

These vital Nazi diaries would, therefore, vanish from the public gaze possibly for five or 10 years. My fears in this respect had been amply confirmed by events, I would submit, because many of those glass plates which I saw in Moscow in 1992 have since vanished into the maw of the German Government and the Munich Institut fur Zeitgeschichte, and they are still not available even now.

I considered, therefore, that I should be rendering to the historical community the best service by doing the utmost that I could to extract those glass plates or, failing that, copies of them or, failing that, copies of the maximum number of pages possible, by hook or by crook, from the KGB archives before a wind of change might suddenly result in the resealing of all these Soviet former archives (and once again this apprehension has been largely confirmed by the attitude of the Russian Archive Authorities, who have resealed numbers of these files and made them once again inaccessible to Western historians).

The second intermediary upon whom I relied was the former KGB Officer, Mr Lev Bezymenski. I have known Mr Bezymenski for many years, about 35 years, and over these years we have engaged in a fruitful exercise of exchanging of documents. I would hasten to add that the documents which I furnished to Mr Bezymenski were entirely of a public-domain nature.

Mr Bezymenski, however, in return extracted from secret Soviet archives for me vital collections of documents, for example, their diplomatic files on Sir Winston Churchill and the private papers of the Commander in Chief of the German Army, Colonel-General Werner von Fritsch. From the Russian archives I obtained, via Mr Bezymenski, Fritsch's personal writings during and about the "Bloomberg-Fritsch scandal" of 1938, which had historic consequences for Germany, for Hitler and, ultimately, for the whole world. I immediately donated a complete set of those Fritsch papers to the German Government archives where they can still be seen.

Dr Bezymenski, unfortunately, turned out to be something of a "double agent".

Fearing that Dr Bondarev was not properly getting my message, I asked Mr Bezymenski to approach him on my behalf and inform him that there were certain documents he held in which I was interested, and that I was coming as a representative of the Sunday Times, well armed with foreign currency. Mr Bezymenski enquired what those documents were. I refused to tell him and he replied: "You are referring to the Goebbels diaries I presume". This I affirmed and ten minutes after this phone call from me in London and Mr Bezymenski in Moscow, I receive a phone call from Dr Frohlich in Munich complaining bitterly that I revealed our intentions to Mr Bezymenski. Instead of acting as I had requested, my friend had immediately sent a fax to the Institut fur Zeitgeschichte to alert them to what I was "up to". This set the cat among the pigeons, and the Institut fur Zeitgeschichte left no stone unturned to prevent the Russians from providing me with diaries or other material, for reasons which this court can readily surmise.

I had in the meantime approached the Sunday Times after my American publishers got cold feet, and I succeeded in persuading a Mr Andrew Neil that I could obtain Goebbels Diaries from the Moscow archives, and that I was by chance one of the very few people capable of reading the handwriting.

Two years previously, in 1990, my Italian publisher, Mondadori, had commissioned me to transcribe the handwritten 1938 diary volume of Dr Goebbels, a copy of which they had purchased from a Russian source. So the diaries were in the process of being purchased. I was thus acquainted with the difficult handwriting of the Nazi propaganda Minister. At that time there were probably only three or four people in the world who were capable of deciphering it. The negotiations with Andrew Neil proceeded smoothly, that is between me and Mr Neil. He did express at one stage enough nervousness at the prospect of entering into another "Nazi diaries" deal. Your Lordship will remember that his newspaper group had been made to look foolish for the purchase and publication in 1983 of the Adolf Hitler diaries.

I pointed out that I had warned them writing once ahead in 1982 that the Hitler Diaries were fakes, and I added: "I am offering the Sunday Times the chance to rehabilitate itself".

Armed with the prestige and the superior financial resources of the Sunday Times, I went to Moscow in June 1992, and negotiated directly with Dr Bondarev and his superior, Professor Tarasov, who was at that time the overall head of the Russian Federation Archival System. Dr Bondarev expressed willingness to assist us, although there could no longer be any talk of the clandestine purchase of the plates which we had originally hoped for, since Mr Bezymenski let the cat out of the bag. I say "clandestine", but of course I understand that the same archives had sold off many other collections of papers, for example, to the Hoover Institution in California and US publishing houses, publishing giants, and to my colleague the late John Costello as well. My own little deal was not to be.

My Lord, professor Tarasov is to be one of the witnesses in this case called in question by the Defence. Your Lordship will be able to study the documents exhibited to his witness statement. I confess that I fail to see the relevance of very many of them, but no doubt we shall see that difficulty removed by Mr Rampton in due course.

The Moscow negotiations were not easy. We negotiated directly with Professor Tarasov for access to the glass plates. The negotiations were conducted in my presence by Mr Peter Miller, a freelance journalist working for the Sunday Times, who spoke Russian with a commendable fluency. He will also be giving evidence in this action on my behalf, my Lord. With my limited "O" level Russian I was able to follow the gist in conversation and also to intervene speaking German after it emerged that Professor Tarasov had studied and taught for many years at the famous Humboldt University in Communist Berlin.

By now both Dr Bondarev and Tarasov were aware, if they had not been aware previously, that these Goebbels Diaries were of commercial and historical value. The negotiations took far longer than I had expected. I produced to Professor Tarasov

copies of the Soviet editions of my books which had been published years earlier, and I donated to him as well as to the Archives staff later copies of my own edition of the biography of Hitler's War.

This established my credentials to their satisfaction, and Tarasov gave instructions that we were to be given access to the entire collection of Dr Goebbels Diaries. It was evident to me when I finally saw the glass plates that the diaries had hardly been examined at all. It seemed to me, for example, from the splinters of glass still trapped between the photographic plates, that there had been little movement in the boxes of plates for nearly 50 years. The boxes were the original boxes. The brown paper round them in some parts was still the original brown paper. The plates were in total disarray and no attempt had been made to sort them. I have seen no work of history, Soviet or otherwise, that is quoted from them before I got them. My Lord, my excitement as an historian getting my hands on original material like this can readily be imagined.

The moot point is that there is a dispute as to the nature of the Russian permission. This alleged agreement is one of the issues pleaded by the Defendants in this action. It is difficult for me to reconstruct seven years later precisely whether there was any verbal agreement exceeding a nod and a wink or what the terms were or how rigid an agreement may have been reached. There is no reference to such an agreement in my contemporary diaries. Certainly the Russians committed nothing to paper about such an agreement. Professor Tarasov's word was law, and he had just picked up the phone in our presence and spoken that word to Dr Bondarev.

My own recollection at the time was that the arrangement was of a very free-wheeling nature, with the Russians being very happy and indeed proud to help us in the spirit reigning at that time of Glasnost and Perestroika, and the extreme co-operativeness between West and East. They were keen to give us access to these plates which they had hitherto regarded as not being of much value.

Tarasov did mention that the German Government were also interested in these plates, and that they were coming shortly to conduct negotiations about them. I remember clearly, and I think this is also shown in the diary which I wrote on that date, that Dr Tarasov hesitated as to whether he should allow us access without first consulting the German authorities. I rather mischievously reminded Dr Tarasov of which side had won the war, and I expressed astonishment that the Russians were now intending to ask their defeated enemy for permission to show to a third party records which were in their own archives, and this unsubtle argument appears to have swayed him to grant us complete access without further misgivings.

There was no signed agreement either between the Russian authorities and us or at that time between the Russians and the German authorities, my Lord.

I would add here that I was never shown any agreement between the Russian and the German authorities, nor was I told any details of it, nor of course could it have been in any way binding upon me.

We returned to the archives the following morning, Mr Miller and I, to begin exploiting the diaries. Miller went off on his own devices. I had brought a German assistant with me to act as a scribe. My Lord, her diary is also in my discovery, and I admit that I have not yet found time to read it. I have got an odd aversion to reading other people's diaries, unless it is by way of my business. I must admit that I was rather perplexed by the chaotic conditions that I found there, that is in the Russian archives. There were no technical means whatever of reading the diaries, the glass plates. The Nazis had reduced them to the size of a small postage stamp on the glass plates. I should have photographs of them brought to you, my Lord.

Fortunately, Dr Frohlich had alerted me about this possibility, the lack of technical resources, and I had bought at Selfridges a 12-times magnifier, a little thing about the size of a nail clipper, with which by peering very hard I could just decipher the handwriting. It was even more alarming to someone accustomed to working in Western archives with very strict conditions on how to handle documents, and cleanliness and security, to see the way that the shelves and tables and chairs were littered with bundles of papers. At one stage the Archivist (I think it may be one of the ladies who is coming to give evidence for the Defendants) brought in bottles of red wine and loads of bread and cheese which was scattered among the priceless papers on the tables for us to celebrate at the end of the week. That would have been unthinkable in any Western archive building.

My German assistant had worked with me in the US National Archives previously. We spent the first day cataloguing and sifting through all the boxes of glass plates and identifying which plates were which, earmarking, figuratively speaking, the glass plates which were on my shopping list to be read copied. Very rapidly we began coming across glass plates of the most immense historical significance, sections of the diaries which I knew had never been seen by anybody else before. I was particularly interested in the Night of the Broken Glass, November 1938, the Night of the Long Knives, June 1934. I also found the glass plates containing the missing months leading up to the outbreak of World War II in 1939, diaries whose historical significance in short need not be emphasised here.

Given the chaotic conditions in the archives, I took the decision to borrow one of the plates overnight and bring it back the next day so that we could photograph its contents. I shall argue about the propriety of this action at a later date. I removed the plate. Its contents were printed that night by a photographer hired by the Sunday Times whose name was Sasha, and the glass plate was restored to its box the next morning without loss or damage.

The Sunday Times editor, Andrew Neil, was coincidentally in Moscow at this time, and I showed him one of the glass plates at his hotel, the Metropol. He stated: "We really need something spectacular to follow the Andrew Morton book on Princess Diana and this is it". The next day, Dr Bondarev formally authorized the borrowing of two more such plates anyway. So it was clear to me that nobody would have been offended by my earlier action.

I returned to London and over the next few days a contract was formalized by myself and the Sunday Times under which the newspaper was to pay me £75,000 net for procuring the diaries, transcribing them and writing three chapters based on the principal extracts from the Goebbels diaries. The contract with the Sunday Times contained the usual secrecy clauses. Nobody was to learn of the nature of the contract or its contents or the price or the existence of the diary.

For reasons beyond my knowledge, the Sunday Times when it came under extreme pressure from international and British Jewish organisations, subsequently put it about that I had only been hired to transcribe the diaries, with the implication that they had obtained them on their own initiative. I was not, however, just a hired help. This was my project. Which I took to them and which they purchased, as the documents before this court make plain.

It may be felt that £75,000 would have been a substantial reward for two weeks work. My response would be that it was for 30 years plus two weeks work. We are paid for our professional skills and expertise and experience and reputation, for our track record in short. I returned to London with arrangements to revisit Moscow in two or three weeks time.

My Lord, the court will find that I have stipulated, in what I believe is known in legal terms as an admission, that I carried with me two of the glass plates from the Moscow archives to the Sunday Times in London, informally borrowing them in the same manner as previously, namely those vital records containing the 1934, "Night of the Long Knives". The reasons for doing I have already hinted at earlier, the fear that they would either vanish into the maw of the German Government, or be resealed by the former Soviet Archives, or be sold off to some nameless American trophy hunter and thus never see the light of day again.

I took these two borrowed plates straight from Moscow to Munich to the Institute of History (the Institut für Zeitgeschichte), where I knew they had a microfiche printer and reading machine, together with the institute's Dr Zirngiebel who was an expert in the archives, we inserted the appropriate lenses in the microfiche printer for a microfiche of this magnification, and I printed out two copies of each of the 100 or so documents contained on the two microfiche.

There was no secrecy about this. I at once sent two of those pages upstairs to the experts in the Institute of History itself, and two more to the German Federal Archives with the written request that they formally identify these pages as being in the handwriting of Dr Joseph Goebbels. This was a necessary part of the agreement with the Sunday Times who were being no less cautious than I.

The other principal reason that I borrowed these glass plates temporarily from the Russian Archives was in order to put them to London forensic experts for the purposes of authentication. I mentioned the use of forensic experts before. We are doing it again. In the same manner that others had tested the Adolf Hitler diaries and I had tested the Canaris diaries, the Sunday Times quite properly wished to

have final proof that the glass plates were indeed of wartime manufacture. We are dealing after all with the KGB archives. Namely, that the glass was wartime origin and that the photographic emulsion was of wartime chemicals.

My Lord, the court may marvel at these precautions that we as non-scholars took, but it seemed perfectly natural to me and to the officers of the Sunday Times. After all, not only were large sums of money involved, but the reputation of myself and the reputation of a major international newspaper group. We wished to be absolutely certain.

On my return from Moscow and Munich to London in June 1992, therefore, the two glass plates were sent their separate ways, heavily wrapped and protected; one to Agfa photographic laboratory which tested the age of the emulsion in a non-constructive manner, and the other to the Pilkington Glassworks whose laboratory specialists carried out similar tests on the age of the glass. Their reports are part of my discovery, and these confirmed that the tests were appropriate under the circumstances.

My Lord, if I may just anticipate by a few paragraphs what happened to those two glass plates subsequently. I returned to Moscow at the end of June. The glass plates were brought out to Moscow personally by a courier of the Sunday Times. As soon as the tests on them were complete and handed to me standing outside the archives building, as my diary records, and within three minutes I had taken them back into the archives building and replaced them in the box where they have been for the last 47 years. This is of course a matter that is very much in contention, my Lord. That is why I have gone into it in such detail.

What follows is not strictly relevant to the glass plates, but it is relevant to this case and is best inserted here because of its chronology. When I returned to London with the remaining diaries which the Sunday Times had requested, an awkward situation had developed. Our secrecy had been compromised by an astute reporter of The Independent, a Mr Peter Pringle, who was based in Moscow at the time I was using the archives. He too has submitted a written witness statement for the Defendants. He stalked me into the KGB archives, confronted me and learned from Dr Bondarev of my work on the Goebbels Diaries. The resulting scoop in The Independent sent the press world about its ears. Before I returned to London on July 4th 1992 the entire Fleet Street press and the broadcast media fell over themselves to print stories about the diaries and my own participation. In order to blacken the name of the Sunday Times and its somewhat unpopular editor, I was described with every possible epithet.

It is of relevance to this action, in my submission, my Lord, because the same organizations which had gone to great lengths to furnish the Defendants here with the materials they needed to blacken my name and the book "Denying the Holocaust", now applied heavy pressure to Andrew Neil and The Times Newspapers Limited to violate their contract with me and to pay me nothing of the moneys which were due to me under the contract. Under this pressure, which Mr Neil described to me at the time as the worst that he had experienced in his life, the Sunday Times

having in fact paid me the first installment welshed on the rest of the payments. I was forced to sue them in these same courts for breach of contract. The financial consequences of this violation of the contract, in round terms about £65,000, were serious for me.

When I reviewed all the clippings, when I read all the statements made by these various bodies and boards and campaigns and agencies and organizations attacking my name, both during my absence in Moscow and upon my return, I could only say, sadly, from a lengthening experience: "The gang's all here". The same gang whom I loosely describe as the traditional enemies of free speech, were to be seen in the following days behind the metal police barricades, police barricades thrown up outside my apartment, screaming abuse at me and other leaseholders in our building, spitting, harassing passers by, holding up offensive placards and slogans, including one reading in a most execrable taste, "Gas Irving". They can be seen in the newspaper photographs. From the photographs of this demonstration it appeared that representatives of every ethnic and other minority were present in these. It was the most disagreeable experience.

On my second visit to Moscow, as your Lordship will find from the relevant passages of my diary, I found frostier atmosphere. The boxes which I had so readily been provided with on my previous trip were said to be missing and not found. For three or four days I was unable to do anything and then one box was released to me which I devoured rapidly. On the last day but one it became plain that I had jealous and envious rivals in Munich to thank for the difficulties that the Russians were now making. Dr Bondarev's secretary came into the reading room and said there were allegations that I had stolen the glass plates. I assured her that while I borrowed some heavy glass plate which had been in my custody was at that time back in the archives and nothing was missing, which was true. I also voluntarily wrote a statement which was handed to Dr Bondarev.

Your Lordship will find this document in both Russian and English, in my handwriting, is in discovery both of myself and of the Defendants as an exhibit to the report by Professor Tarasov. Professor Tarasov is to be giving evidence before your Lordship, and I shall examine him with particular pleasure.

Dr Bondarev's secretary came back a few minutes later and said that this declaration was just what they required. She vouchsafed to me the information came from Munich.

Your Lordship will see from the information which came from Munich which is in the Defendants' discovery that the Institut fur Zeitgeschichte faxed to Moscow a particularly hateful letter about me in an attempt to destroy my relationship with the Russians. However, I already had all the documents that had been on my shopping list, either in long hand or by dictating them on to a hand-held dictate recorder or typed on to my portable typewriter, or as photocopies of a few pages of November 1938, or as photographic prints obtained from the glass microfiche. I have collected several hundred pages of the most important Goebbels Diaries entries that have been missing ever since the end of the war, and I see no reason not

to be proud of this achievement. It is indicative of the general attempt to blacken my name and to silence me, that when I spoke to a meeting organised by my private supporters' club, I suppose you would call it, the Clarendon Club, on evening of July 4th 1992, my return from Moscow that day, the hall in Great Portland Street was subjected to violent demonstrations outside which required a very large police presence to protect the members of my audience. This will be one of the photographs in the bundle I shall shortly be submitting to your Lordship. Later on that year when I addressed a third meeting at a West End hotel, there were even more violent demonstrations. Such demonstrations do not occur spontaneously. Somebody has to pay for the printing and the bill posting and the bus rentals. I might mention that on one of the days that followed I was violently attacked by three men who identified themselves to me as Jews when I was having a Sunday lunch at a public restaurant in Mayfair with my family. They had laid an ambush for me.

I only recently learned that on the Monday after my return from Moscow, my long time publishers, Macmillan Limited, seeing the clamour and coming under pressure from unnamed members of the Jewish community (I have the internal memorandum), panicked and issued secret instructions for the destruction of all remaining stocks of my books without ever informing me that they had done so.

This particularly repulsive act by a publisher, July 6th 1992, reminiscent of the Nazis in 1933, cost me of course many tens of thousands of pounds in lost royalties. At the same time as they were taking these secret decisions to destroy all of my books, at a cost to themselves of hundreds of thousands of pounds, my editor at Macmillan has continued to write ingratiating letters expressing interest in the early delivery of my Goebbels' biography. It was altogether a most unhappy period.

My Lord, I am coming towards the end as you can see. I can add one further brief example of how different is my attitude of such documents as the Goebbels Diaries from the attitude of my rivals and the scholars.

Dr Ralf Gunther Reuth approached me saying that he was preparing a five-volume abridged edition of the other Goebbels Diaries for Piper Verlag in Germany at this time and he had nothing for 1938. There were large gaps in the other years too. I foolishly allowed him to have photocopies of some of the most important passages which until that moment had been exclusive to myself and my, as yet, unpublished Goebbels' biography. The thanks that I received for this generous act were scant indeed. I provided copies to the German Federal Archives entirely of the entire Goebbels diary extracts that I brought back from Moscow. I did that on July 1st 1993. Ten minutes later the Director of the Archives informed me in extreme embarrassment that on the instructions of the German Federal Minister of the Interior I was permanently banned from the self-same archives forthwith and in perpetuity, which is to my knowledge the only time that such a sanction has ever been applied to an historian. He explained that this decision had been taken, "in the interests of the German people".

I mention these facts, my Lord, to show that it was not just one single action that has destroyed my career, but a cumulative, self-perpetuating, rolling onslaught from every side engineered by the same people who have propagated the book which is at the centre of the dispute, which is the subject of this action, my Lord.

L0078 **Mr Justice Gray** Thank you very much, Mr Irving. Can I before I ask Mr Rampton to open the Defendants' case just ask you to go back, if you would, to page 18 which is where you are dealing with what I think you accept is at the heart of the action, namely the accusation that you are a "Holocaust denier".

L0079 **Mr Irving** Yes.

L0080 **Mr Justice Gray** Towards the end of page 18, in fact perhaps one can pick it up at the beginning of that last paragraph, you say this: "This trial is not really about what happened in the Holocaust or how many Jews and other persecuted minorities were tortured and put to death". Certainly as I see it, and I believe as the Defendants see it, that is right. This trial is not concerned with making findings of historical fact. But you then go on to set out what you say the Defendants need to establish for the purposes of their plea of justification, and you say that they need to establish, first, that a particular thing happened or existed; secondly that you were aware of that particular thing as it happened or existed at the time that you wrote about it from the records then before me, and then that you wilfully manipulated the text.

There was just one thing I wanted to put to you so that one is clear about it. You are saying, are you, that it has to be shown that you had actual knowledge of the particular fact or event?

L0081 **Mr Irving** My Lord, I do not have an astute legal brain, but I am trying to make it easy for the court by establishing very early on what the ground rules are going to be.

L0082 **Mr Justice Gray** Yes, that is why I am raising this with because I think it is a very fundamental question.

L0083 **Mr Irving** It is a very fundamental point, my Lord, and I am indebted to you for having appeared to have grasped precisely the point I am trying to make.

L0084 **Mr Justice Gray** Can I just put to you this and then complete your answer. The Defendants may be saying that whether or not they can actually prove that you specifically knew of the particular fact, it was there available in the historical records. They may be saying, and I believe they are saying, that you shut your eyes to it.

L0085 **Mr Irving** That is a different allegation, I would respectfully submit, my Lord, by saying that what they are saying there is that I am a rotten historian or a lazy historian or an indolent historian or that I am lethargic. That is not the words they have used. They have said that I manipulated, that I distorted. That is why I think I am entitled to press for my narrower definition, my Lord.

L0086 **Mr Justice Gray** Yes. That puts it very clearly. Thank you very much indeed. That completes your opening?

L0087 **Mr Irving** That completes my opening statement, my Lord.

Rampton's opening statement

L0088 **Mr Rampton** My Lord, before I read what everybody has anyway, I might just respond to what your Lordship has just said to Mr Irving in this way, by saying your Lordship has it right. It is not that he is indolent. It is not that he falls into error. It is that he deliberately perverts the course of this particular episode in European history, including what happened at Auschwitz.

L0089 **Mr Justice Gray** So you are putting the case that Mr Irving not only ought to have known but did in fact know what the historic records showed?

L0090 **Mr Rampton** I do not know whether he did or whether he did not, but what is certain is that he leapt on to the sink of the Auschwitz battleship campaign without even opening the front of the fire.

L0091 **Mr Justice Gray** Yes.

L0092 **Mr Rampton** My Lord, Mr Irving calls himself an historian. The truth is, however, that he is not an historian at all but a falsifier of history. To put it bluntly, he is a liar. Lies may take various forms and may as often consist of suppression or omission as a direct falsehood or invention, but in the end all forms of lying converge into a single definition, wilful, deliberate misstatement of the facts. Mr Irving has used many different means to falsify history, invention, misquotation, suppression, distortion, manipulation and not least mistranslation, but those all these techniques have the same ultimate effect, falsification of the truth. Moreover, the lies which the Defendants in this case will show that Mr Irving has told, concern an area of history in which perhaps it behoves any writer or researcher to be particularly careful of the truth, the destruction of the Jews by the Nazis during World War II, the Holocaust, and Adolf Hitler's role in that human catastrophe, or, as Mr Irving would have it, alleged catastrophe, for Mr Irving is nowadays a Holocaust denier. By this I mean that he denies that the Nazis planned and carried out the systematic murder of millions Jews, in particular, though by no means exclusively, by the use of homicidal gas chambers, and in particular, though by no means exclusively, at Auschwitz in Southern Poland.

This was not, however, always so. In 1977 the first edition of Mr Irving's book *Hitler's War* was published. In that edition Mr Irving accepted that the Holocaust, as generally understood, had occurred. He was not willing, however, to accept that Adolf Hitler had any real or direct responsibility for what happened or that he knew anything very much about it until it was too late.

Mr Irving went to considerable lengths to achieve his exoneration of Hitler. At this stage I take but one example of many to illustrate Mr Irving's disreputable methods. In late November 1941 a train load of about a thousand Jews was deported from Berlin to Riga in Latvia, as part of a process which had been initiated earlier that year in accordance with Hitler's wishes to empty the Reich of its Jews.

On 30th November 1941, as his daily log records, Heinrich Himmler, the head of the SS, was at the Wolf's lair, Hitler's headquarters in East Prussia. Mr Irving's account of this visit, so far as it concerns the fate of the Jews, is as follows. This is in *Hitler's War* 1977 at page 332:

"On November 30th 1941 Himmler was summoned to the Wolf's lair for a secret conference with Hitler at which fate of Berlin's Jews was clearly raised. At 1.30 p.m. Himmler was obliged to telephone from Hitler's bunker to Heydrich the explicit order that Jews were", and this is in the author's italics, "not to be liquidated". The next day Himmler telephoned SS overall General Oswald Pohl, overall chief of the concentration camp system with the order: "Jews are to stay where they are". That is what Mr Irving wrote.

In the introduction to that edition of the book at page 14, anticipating what the reader would find in the text, Mr Irving wrote this:

"The incontrovertible evidence is that Hitler ordered on November 30th 1941 that there was to be "no liquidation" of the Jews (without much difficulty I", that is Mr Irving "found in Himmler's private files his own handwriting note on this)".

Thus the reader was led to believe, first, that as early as 30th November 1941 Hitler had issued an order, faithfully passed on by Himmler to the relevant authorities, that there was to be no liquidation of any Jews, and that all Jews were to stay wherever they happen to be; and second that there was incontrovertible evidence of this in handwritten notes by Himmler which Mr Irving had found in Himmler's private files. Mr Irving had evidently read Himmler's notes, and Mr Irving's German was then, as it is now, very good. So what did the notes actually say?

The relevant part of the note for 30th November 1941 reads as follows:

"Judentransport aus Berlin. Keine Liquidierung". That is the German entry by Himmler. The unambiguous meaning of those words in English is: "Jew transport" the word is singular, "Jew transport from Berlin no liquidation".

Thus so far from being a general prohibition against the liquidation of the Jews, it was merely an order from Himmler to Heydrich that the particular train load of Berlin Jews in question was not to be killed on arrival in Riga.

The matter gets worse. What was the evidence that Himmler's order to Heydrich was derived from instructions given to him by Hitler at a secret conference at which the fate of Berlin's Jews was clearly raised? The answer is none. This was pure invention by Mr Irving. Indeed, the fact is, as Mr Irving later discovered, that Himmler did not meet Hitler until an hour after he telephoned this order to Heydrich.

Thus the matter gets worse still. I repeat Mr Irving's words:

"And the next day Himmler telephoned SS General Oswald Pohl, overall chief of the concentration camp system, with the order 'Jews are to stay where they are'."

What does Himmler's note of his telephone call to General Pohl on 1st November 1941 actually say? It says this:

"Verwaltungsführer des SS haben zu bleiben".

Does this mean, as Mr Irving told his English readers, Jews are to stay where they are? No, it does not. It means administratively leaders of the SS are to stay where they are. Nor is there in this day's entry in the Himmler log any reference to the Jews whatsoever. I repeat, Mr Irving had, as he proudly announced, read the Himmler log and he has very good German.

One asks the question: Does not this single example condemn Mr Irving as a liar, whose utterances about this awful episode in European history can never be taken seriously? In fairness it should be pointed out that in the 1991 edition of Hitler's War Mr Irving corrected, though by implication only, the assertion that Himmler's order to Heydrich of 30th November 1941 "no liquidation" applied to Jews generally, and accepted that it applied only to a single trailer of Jews from Berlin. But did he

withdraw his imaginative assertion that Himmler's instruction to Heydrich was derived from an order given to him by Hitler, or that Himmler's log for 1st December 1941 read, "Jews are to stay where they are"? No he did not. He wrote on page 427:

"On November 30th 1941 Himmler was summoned to the Wolf's lair for a secret conference with Hitler at which the fate of a train load of Berlin Jews was clearly raised. At 1.30 p.m. Himmler was obliged to telephone from Hitler's bunker to Heydrich the explicit order that these Jews were not to be liquidated, and the next day Himmler telephoned SS General Oswald Pohl, overall chief of the concentration camp system, with the order, 'Jews are to stay where they are'."

Thus was repeated and preserved a monstrous distortion of the evidence in Mr Irving's own hands. It is true that he printed a facsimile of Himmler's log for 30th November 1941 in both editions of the book, but he never printed the entry for 1st December 1941, "administrative leaders of the SS are to stay where they are." One wonders rhetorically why not?

So, my Lord, I pass on to Mr Irving and Holocaust denial. Between the publication of the first edition of *Hitler's War* in 1977 and its second edition in 1991, Mr Irving's views about the Holocaust underwent a sea change. In the 1977 edition he accepted it as an historical truth in all its essentials, systematic mass murder of Jews in purpose built extermination factories, but in the 1991 edition all trace of the Holocaust in this sense has disappeared. Auschwitz, for example, has been transformed from a monstrous killing machine into a mere slave labour camp.

What are the reasons for this astounding volte-face? The principal reason can be expressed in one word Leuchter. In 1988 a man of German origin, Ernst Zundel, was put on trial in Canada for publishing material which, amongst other things, denied the existence of homicidal gas chambers at Auschwitz. In defence of this charge Mr Zundel's lawyers recruited a man called Fred Leuchter who seems to have made his living as some kind of consultant in the design of execution facilities in the USA. Mr Leuchter was duly despatched to Auschwitz to seek evidence of the use, or otherwise, of homicidal gas chambers. He took some samples from various parts of the remains of Auschwitz which he later had analysed in America and then wrote a report describing his findings and summarizing his conclusions. These were that there were never any homicidal gas chambers at Auschwitz.

Unfortunately for Mr Zundel, Mr Leuchter's report was declared inadmissible by the Canadian judge on the grounds that Mr Leuchter had no relevant expertise.

Now it happens that Mr Irving also gave evidence for Mr Zundel at that trial. In the course of that visit he had read the Leuchter report. Shortly thereafter he declared himself convinced that Leuchter was right and that there never any homicidal gas chambers at Auschwitz. So enthused was he by the Leuchter report that he published it himself in this country, with an appreciative forward written by him and introduced it to the public at a press conference in London, at which he declared that the validity of Leuchter's laboratory reports was unchallengeable.

So it was that the Leuchter report became the main weapon in Mr Irving's campaign to "sink the battleship Auschwitz", as he calls it. The essence of this campaign is that the Holocaust symbolized by Auschwitz is a myth legend or lie, deployed by Jews to blackmail the German people into paying vast sums in reparations to supposed victims of the Holocaust.

According to Mr Irving, the Leuchter report is "the biggest calibre shell that has yet hit the battleship Auschwitz" and has "totally exploded the legend". Unfortunately for Mr Irving, the Leuchter report is bunk and he knows it. It was comprehensively debunked in court in Canada. It has been comprehensively demolished since by people who have written to Mr Irving, and perhaps not least by Professor van Pelt in his report made for the purposes of this case. This is not the moment to describe all the many means by which the Leuchter report is demolished, but one simple example can be given because it is derived from the internal evidence of the Leuchter report itself, and must have been apparent to anyone with an open and thoughtful mind.

One of the main reasons that Mr Leuchter advanced in his report for his conclusion that there were no homicidal gas chambers at Auschwitz, was that it was to be expected that any residual traces of hydrogen cyanide, the killing agent in the Zyklon B pellets used by the SS, should be very much higher in those parts of the remains of Auschwitz which were identified as gas chambers for killing people than in those parts which are known to have been used for killing lice.

Leuchter's report recorded very small traces of hydrogen cyanide in the gas chamber remains and relatively large traces in the delicing remains. Therefore, said Mr Leuchter, the alleged gas chamber remains could obviously never have been gas chambers at all. But the report itself contained the seeds of its own destruction, for it revealed that concentration of hydrogen cyanide required to kill humans was approximately 22 times lower than that required to kill lice, 300 parts per million as against 6,666 parts per million for lice. This was internal evidence obvious to any interested reader, which Mr Irving certainly was, that the Leuchter report was rubbish.

So why did Mr Irving ignore this and all other stupidities in the Leuchter report? Why did he embrace it with such wholehearted enthusiasm? The answer must be that he wanted it to be true. After all, if the Holocaust never happened, then Hitler cannot have ordered it or known about it. Thus, as Mr Irving himself said of the second edition of Hitler's War, "You won't find the Holocaust mentioned in one line, not even in a footnote. Why should you? If something didn't happen, then you don't even dignify it with a footnote."

So, finally, my Lord, why has Mr Irving resorted to these lies, distortions and misrepresentations and deceptions in pursuit of his exoneration of Adolf Hitler and his denial of the Holocaust? One can often derive a fair picture of a man's true attitudes and motives from what he says and from the kind of people he associates with and speaks to. Mr Irving has done a lot of public speaking over the years. The evidence for the Defendants in this case will show that his audiences will often

consist of radical right-wing neo-facist, neo-Nazi groups of people, groups like the National Alliance, a neo-Nazi, white supremacist organisation in the USA, the DVU, perhaps the most radical right-wing party in Germany, gatherings of so-called revisionists, in truth largely Holocaust deniers, the extreme right-wing British National Party and so on.

What sorts of things has Mr Irving said on these occasions which might be thought to betray his underlying motives and attitudes? It is not possible in a relatively short statement of this kind to catalogue all the most telling instances of this kind, but it is perhaps possible to give the flavour of some of Mr Irving's thinking by reference to two short examples from the same speech.

In September 1991 Mr Irving spoke to an audience in Calgary, Alberto. He complained about pressure from Jewish people and Jewish bodies designed to prevent him from speaking. He said:

"And it's happening now. They're zeroing in on the university, 'Nazism not welcome here, self-professed moderate facist'". Mr Irving went on: "I strongly object to that word 'moderate'. That remarked provoked some laughter and it may be that it was not meant to be entirely serious.

On the same occasion, however, he said something which, though somewhat facetiously worded, conveys a message about his true views and attitudes which can only be taken seriously. It was this:

"I don't see any reason to be tasteful about Auschwitz. It's baloney. It's a legend. Once we admit the fact that it was a brutal slave labour camp and large numbers of people did die, as large numbers of innocent people died elsewhere in the war, why believe the rest of the baloney? I say quite tastelessly in fact that more women died on the back seat of Edward Kennedy's car at Chappaquiddick than ever died in a gas chamber in Auschwitz. Oh, you think that's tasteless. How about this. There are so many Auschwitz survivors going around, in fact the number increases as the years go past which is biologically very odd to say the least, because I am going to form an Association of Auschwitz survivors, survivors of the Holocaust and other liars for the A-S-S-H-O-L-S", pronounced no doubt "asshols".

This last inspiration was also greeted by laughter, but it was laughter of an altogether different kind. It was the laughter of mockery, mockery of the suffering of others, people whom on this and other occasions Mr Irving has accused of lying about their Holocaust experiences, of forging Auschwitz tattoos on their arms, of deserving both contempt and the attention of psychiatrists.

My Lord, this is obviously an important case, but that is not however because it is primarily concerned with whether or not the Holocaust took place or the degree of Hitler's responsibility for it. On the contrary, the essence of the case is Mr Irving's honesty and integrity of as a chronicler -- I shy away from the word "historian" -- of these matters, for if it be right that Mr Irving, driven by his extremist views and sympathies, has devoted his energies to the deliberate falsification of this tragic episode in history, then by exposing that dangerous fraud in this court the

Defendants may properly be applauded for having performed a significant public service not just in this country, but in all those places in the world where anti-Semitism is waiting to be fed.

Adjournment and scheduling

- L0093 **Mr Justice Gray** Mr Irving, I would have suggested -- that is the opening statements out of the way, as it were -- I would have suggested we might viewed those two videos but we do not have the equipment.
- L0094 **Mr Irving** We do not have the equipment unfortunately. I think we will have the equipment first thing tomorrow.
- L0095 **Mr Justice Gray** Whenever. The fact is we cannot do it now.
- L0096 **Mr Rampton** No, we cannot, my Lord.
- L0097 **Mr Justice Gray** I am just wondering where we go immediately.
- L0098 **Mr Rampton** Perhaps the answer might be home.
- L0099 **Mr Justice Gray** If needs be, yes. It seems to me rather difficult to start on the evidence without knowing whether we are taking Auschwitz separately and first, or whether it is going to be the other way round. You have not obviously resolved that.
- L0100 **Mr Rampton** Can we usefully, and I mean usefully, use a little bit of time now, perhaps your Lordship would adjourn until tomorrow. We can then try to work out something a little less jelly like than we offered your Lordship this morning so far as scheduling is concerned.
- L0101 **Mr Justice Gray** Certainly.
- L0102 **Mr Rampton** And give a report tomorrow morning?
- L0103 **Mr Justice Gray** Yes. I have a fairly short statement from you, Mr Irving.
- L0104 **Mr Irving** As required under the new rules.
- L0105 **Mr Justice Gray** Yes. We will have to discuss how far one needs to deal with all the issues in oral evidence. I hope not by any means all of them. I think I am right in saying that really I perhaps know rather less of your specific answers to some of the specific criticisms than I would like and at some stage I would like to be provided with the answers.
- L0106 **Mr Irving** I appreciate that, my Lord, and I know that -- I intend not to offer very much answer to the name calling.
- L0107 **Mr Justice Gray** No, I agree with you about that. What is at the heart of the case is the manipulation allegation and that involves looking, to a degree anyway, at what the historical documents actually say and mean.
- L0108 **Mr Irving** I am grateful, my Lord. Our documentation on both sides is very extensive.

- L0109 **Mr Justice Gray** Yes. If there is nothing else we need to do now, then perhaps it would be sensible to adjourn. If you could let me know through the usual channels what you have decided, that would help me, if you reach agreement.
- L0110 **Mr Rampton** I know it would. At the moment I do not see a problem with the existing plan which is to bring Professor van Pelt over for the beginning of the last week in January.
- L0111 **Mr Irving** There is a problem, my Lord, and that is we have also arranged for our gentleman to come from California. We will have to iron that one out.
- L0112 **Mr Justice Gray** This cannot be done in open court. So I will leave it to you and we will resume at 10.30.
- L0113 **Mr Irving** Thank you very much, my Lord.