

**CANADIAN
HUMAN RIGHTS
TRIBUNAL**



**TRIBUNAL CANADIEN
DES DROITS
DE LA PERSONNE**

BETWEEN/ENTRE:

RICHARD WARMAN

Complainant

and/et

CANADIAN HUMAN RIGHTS COMMISSION

Commission

and/et

ALEXAN KULBASHIAN, JAMES SCOTT RICHARDSON,
TRI-CITY SKINS.COM, CANADIAN ETHNIC CLEANSING TEAM and
AFFORDABLESPACE.COM

Respondents

BEFORE/DEVANT:

ATHANASIOS HADJIS

THE CHAIRPERSON/
LE PRÉSIDENT

ROCH LEVAC

THE REGISTRAR/
LE GREFFIER

FILE NO./N^o CAUSE.:

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CANADIAN HUMAN RIGHTS TRIBUNAL/TRIBUNAL CANADIEN
DES DROITS DE LA PERSONNE

SITTING IN THE ARGUS ROOM, HOLIDAY INN OAKVILLE - CENTRE
590 ARGUS ROAD, OAKVILLE, ONTARIO ON
THURSDAY, NOVEMBER 11, 2004, AT 1:15 P.M. LOCAL TIME

CASE FOR HEARING/CAUSE DEVANT ÊTRE ENTENDUE

IN THE MATTER of a complaint filed by Richard Warman dated February 5, 2002 pursuant to section 13, subsection 1 of the Canadian Human Rights Act against Alexian Kulbashian, James Scott Richardson, Tri-CitySkins.com, Canadian Ethnic Cleansing Team and AffordableSpace.com. Complainant alleges that the respondents have engaged in a discriminatory practice on the grounds of religion, race and national and ethnic origin in the matter related to the usage of a telecommunication undertaking.

APPEARANCES/COMPARUTIONS

Monette Maillet	on behalf of the Canadian Human Rights Commission
Richard Warman	on his own behalf
Vahe Kulbashian	on behalf of Alexian Kulbashian
Alexian Kulbashian	on his own behalf
James Scott Richardson	on his own behalf

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1 Oakville, Ontario

2 --- Upon resuming on Thursday, November 11, 2004

3 at 1:15 p.m.

4 REGISTRY OFFICER: All rise.

5 THE CHAIRPERSON: Good afternoon.

6 REGISTRY OFFICER: Please be seated.

7 THE CHAIRPERSON: Yes. Well, are you
8 ready to proceed with your witness?

9 MS MAILLET: Yes, we are, sir.

10 Our next witness is Dr. Frances
11 Henry.

12 MR. ALEXAN KULBASHIAN: I just have
13 two preliminary issues.

14 First of all, just about tomorrow. I
15 have an exam tomorrow at four o'clock, 4:00 to 6:00.
16 It's every Friday I have an exam at school, which is
17 the reason why I was talking about the date issues.

18 I would have to be leaving at one
19 o'clock to be able to get down, because I have to go to
20 Toronto and then downtown Toronto to be at Ryerson.

21 THE CHAIRPERSON: How do you propose
22 to complete your cross-examination then?

23 MR. ALEXAN KULBASHIAN: Well, that's
24 the issue, like I can't be here, I can't miss this
25 exam, because I have already delayed two exams from

1 Monday and Tuesday for next week.

2 THE CHAIRPERSON: If you had told me
3 this yesterday, I mean, maybe we could have done
4 something different this morning.

5 MR. ALEXAN KULBASHIAN: I have put an
6 application to have my exam delayed, but I have an exam
7 every Friday and I have had one since the beginning of
8 October.

9 So, I won't be able to be here.

10 THE CHAIRPERSON: Well, I hope we're
11 able to finish with the evidence of this witness by
12 then.

13 Look, I am not going to change
14 things, we have moved too many dates around, all right.

15 My understanding is the witness was
16 available for today and tomorrow; right?

17 MS MAILLET: Yes, she is. She was
18 available actually --

19 THE CHAIRPERSON: Will Mr. Richardson
20 be here to tomorrow?

21 MR. ALEXAN KULBASHIAN: Most
22 probably. The witness is only available here for today
23 and tomorrow, is that --

24 THE CHAIRPERSON: That's what I
25 understood.

1 MS MAILLET: That's correct.

2 MR. ALEXAN KULBASHIAN: Is she
3 available next week?

4 MS MAILLET: Mr. Chair, why don't we
5 cross that bridge when we come to it. We may finish
6 quite quickly here.

7 THE CHAIRPERSON: Quite quickly.
8 Okay. We'll see how we do.

9 MR. ALEXAN KULBASHIAN: I have
10 another issue. If I could actually ask the witness to
11 leave the room, because I have another issue to bring
12 up about the technicalities of this case.

13 THE CHAIRPERSON: All right. Please
14 step out.

15 Thank you.

16 I will call you right back.

17 ---(witness stands down)

18 THE CHAIRPERSON: Yes, Mr.
19 Kulbashian.

20 MR. ALEXAN KULBASHIAN: Okay. I'm
21 putting in an objection from now on for any testimony
22 from this witness on Vinland Voice because Vinland
23 Voice is not outlined in the complaint in front of the
24 Tribunal, it's only Tri-City Skins, AffordableSpace and
25 the Canadian Ethnic Cleansing Team.

1 There has been no testimony to try to
2 link Vinland Voice to C.E.C.T. and, in fact, yesterday
3 the witness -- the day before yesterday, Mr. Wilson
4 stated that they were two different sites with two
5 different URLs.

6 MS MAILLET: Mr. Chair, if I may
7 address that?

8 THE CHAIRPERSON: Yes.

9 MS MAILLET: The Vinland Voice
10 documents were found as a link on the Canadian Ethnic
11 Cleansing Team website.

12 The Vinland Voice is not a separate
13 respondent. The Vinland Voice was the material that
14 we're alleging was communicated or caused to be
15 communicated by Mr. Richardson, Mr. Kulbashian and
16 through the Canadian Ethnic Cleansing Team website.

17 THE CHAIRPERSON: And located on the
18 server operated by AffordableSpace.com?

19 MS MAILLET: That's correct.

20 MR. ALEXAN KULBASHIAN: In that case,
21 just like they had included Tri-City Skins where they
22 had testified there was a link from Tri-City Skins
23 to -- from the C.E.C.T. site to the Tri-City Skins,
24 they had gone the step to include Tri-City Skins
25 separately and, in this case, they should have also

1 included Vinland Voice separately.

2 THE CHAIRPERSON: No, that's not
3 necessarily the case.

4 I mean, you know, they can choose
5 whichever respondents they want.

6 Let's be clear. I think the key
7 respondents in this file are you and Mr. Richardson. I
8 mean the websites - I don't even know how they exist, I
9 don't have any evidence on their corporate existence as
10 such, so I don't know why they appear as respondents,
11 to be honest with you.

12 What is clear is that the linkage is
13 being made to you, the two individuals.

14 And the suggestion is that you, as
15 the operator of AffordableSpace.com, are responsible
16 under section 13 for the operation of these other
17 websites through your, at least it's one of the
18 allegations, as I understand it, through your
19 enterprise of AffordableSpace.com.

20 So, to that extent, whether or not
21 they appear as respondents--

22 MS MAILLET: And, Mr. Chair, the
23 evidence has gone in with respect to the material that
24 was found on the Vinland Voice.

25 If there was an objection to that

1 being presented as evidence, it should have been done
2 at that time.

3 MR. ALEXAN KULBASHIAN: The reason
4 why we didn't bring this issue up before is because we
5 were expecting, at least at some point, for the
6 witnesses to be asked about any kind of linkage between
7 C.E.C.T. and Vinland Voice, and there was no evidence
8 submitted, neither in the initial examination or the
9 re-direct.

10 MS MAILLET: Sir, but the evidence
11 was complete.

12 MR. ALEXAN KULBASHIAN: I'm not
13 finished yet.

14 Neither in the initial evidence or in
15 the re-direct to try to create a link, in fact in the
16 cross-examination the link was broken when I asked the
17 Detective whether or not they were two different sites,
18 and it wasn't obtain an issue, he stated there were two
19 different sites and that they had two different URLs.

20 THE CHAIRPERSON: Are they not both
21 found on the AffordableSpace.com website?

22 MR. ALEXAN KULBASHIAN: The server?
23 I'm not sure.

24 THE CHAIRPERSON: Well, I don't know.
25 You see, this sounds like argument to me and at a

1 preliminary stage I'm not prepared to exclude evidence
2 on what sounds to me like something that goes to the
3 very merits of this case.

4 MR. ALEXAN KULBASHIAN: That's the
5 issue. If it was at the very merits of the case, then
6 there should have been an inclusion of vinlandvoice.com
7 in the complaint at the start.

8 THE CHAIRPERSON: I'm trying to
9 explain to you why I don't think it's necessary to
10 include it.

11 MS MAILLET: And, sir, it was clear
12 in the evidence of both Mr. Warman and Mr. Wilson that
13 by going into the Canadian Ethnic Cleansing Team
14 website they were able to have access to the Vinland
15 Voice newsletter through that website.

16 THE CHAIRPERSON: In and of itself
17 that creates the linkage, Mr. Kulbashian.

18 MR. ALEXAN KULBASHIAN: By going into
19 Google and searching Vinland Voice, you can also get
20 access to the Vinland Voice site, that would not create
21 a link directly.

22 In this situation --

23 THE CHAIRPERSON: I don't think
24 there's a distinction to be made between what you've
25 just described as going through a search engine and

1 actually going through a site connected to another one.

2 MR. ALEXAN KULBASHIAN: There were
3 also links to vinlandvoice.com on several anti-racist
4 sites, which would mean that they would be also
5 included?

6 THE CHAIRPERSON: No, it's the host
7 that -- in any event, Mr. Kulbashian, this is legal
8 submissions, this is legal argument.

9 I'm not prepared to exclude evidence
10 with respect to Vinland Voice at a preliminary stage.

11 That's at.

12 MR. ALEXAN KULBASHIAN: I just have
13 one more issue to bring up. My worry is that this will
14 be prejudicial to the rest of the case.

15 THE CHAIRPERSON: Why?

16 MR. ALEXAN KULBASHIAN: Because of
17 the fact that there has been no efforts to actually
18 establish Vinland Voice and C.E.C.T. to be the same,
19 there was no -- I'm not sure if there was even any
20 evidence given that Vinland Voice could be accessed
21 from the C.E.C.T. site. This is something that's being
22 brought up right now.

23 MS MAILLET: That's not the case.

24 THE CHAIRPERSON: No, that's not -- I
25 recall the evidence of the access, of the

1 affordability.

2 But, furthermore, this goes to
3 further argument. It will not prejudice the case, in
4 my opinion, to hear any evidence.

5 If you can establish afterwards that
6 all the evidence related to -- based on all of the
7 evidence - and it's been made clear, I should point
8 out, in much of the jurisprudence, including mine, from
9 this Tribunal that all of the evidence of the case,
10 does not just include the evidence of that the
11 Commission and complainant file, but the respondent
12 evidence.

13 Quite often the respondent evidence
14 helps to form the entire picture.

15 And the case is not closed yet, I
16 have not heard all the evidence, but there is enough
17 certainly there for the Vinland Voice to be included in
18 the discussion of what may or may not have transpired
19 in terms of the complaint that has been filed.

20 And, as for the issue of whether it
21 may be prejudicial, I think the relevance is sufficient
22 and certainly outweighs the possible prejudicial
23 effect, if any at all, in hearing what evidence may or
24 may not come in with respect to the Vinland Voice, any
25 further evidence, we've certainly heard extensive

1 evidence already.

2 Any possible prejudicial effect can
3 be dealt with in final submissions. The Tribunal is
4 well able to disassociate evidence that is found to be
5 unproven from other evidence that may or may not be
6 proven.

7 So, I really do not see an issue
8 there.

9 MR. ALEXAN KULBASHIAN: All right.
10 Then I just wanted to note that --

11 THE CHAIRPERSON: I don't even
12 know -- the other problem is that you're making a
13 preliminary motion.

14 I haven't heard the evidence of this
15 expert witness yet, I don't know what area we're going
16 into.

17 But certainly I will say this much,
18 that the issue of Vinland Voice has been dealt with
19 extensively to this point, by both sides, and I'm not
20 in a position now to exclude any further evidence on
21 the Vinland Voice issue because the totality of the
22 evidence isn't in.

23 This is something that should be left
24 to final submissions at this point.

25 MR. ALEXAN KULBASHIAN: All right.

1 Thank you very much.

2 ---(witness resumes stand)

3 THE CHAIRPERSON: Now, as the witness
4 is entering back into the box, I do want to advise the
5 respondents, to this extent, that there is a process
6 that is formally followed with respect to expert
7 evidence, that you may or may not be aware, where the
8 expertise is established by the person who is leading
9 that witness.

10 And there is sort of an initial stage
11 in which the expertise is examined through questions
12 that are led by the Commission/complainant and through
13 a specific cross-examination that occurs on this
14 preliminary question from the respondent.

15 At which point the Commission -- the
16 person who is introducing the witness, who in this
17 case, I gather, is the Commission -- will suggest what
18 expertise, under the guise of what expert
19 qualifications this witness will testify.

20 And then I can hear from the
21 respondents, if there is any issue.

22 MR. ALEXAN KULBASHIAN: Thank you
23 very much.

24 DR. FRANCES HENRY, Affirmed:

25 THE CHAIRPERSON: One moment, please.

1 EXAMINATION BY MS MAILLET:

2 MS MAILLET: Good afternoon, Dr.
3 Henry.

4 DR. HENRY: Good afternoon.

5 MS MAILLET: I understand that you
6 were retained to provide an expert opinion in this case
7 in the area of racism, which includes hate propaganda;
8 is that right?

9 DR. HENRY: That's correct.

10 MS MAILLET: And I understand that
11 you reviewed the material that's provided in Exhibit
12 HR-1, that was provided to you by the Commission in
13 coming to that opinion; is that correct?

14 DR. HENRY: That's correct.

15 MS MAILLET: Mr. Chair, I will be
16 going through tab 63 with Dr. Henry, which is her
17 curriculum vitae.

18 THE CHAIRPERSON: Okay. So, for the
19 purposes of identification, this is your curriculum
20 vitae?

21 DR. HENRY: Yes, it is.

22 THE CHAIRPERSON: You've reviewed it
23 and prepared it?

24 DR. HENRY: Yes.

25 THE CHAIRPERSON: I consider this

1 document produced.

2 EXHIBIT NO. HR-1 (Tab 63):
3 Curriculum Vitae of Dr. Frances
4 Henry.

5 MS MAILLET: Dr. Henry, could you
6 please state to the Tribunal what your education is?

7 DR. HENRY: My Ph.D. is in sociology
8 and anthropology from Ohio State University.

9 My Masters is in the same field and
10 from the same University, and my undergraduate degree
11 was actually in history from Brooklyn College in New
12 York.

13 MS MAILLET: And I understand that
14 you have done some work since your doctorate and work
15 in the area of racism; is that correct?

16 DR. HENRY: Yes, that's correct.

17 One of my specialities in the social
18 sciences, in general, has been the study of race,
19 racism and associated dimensions of racism, which
20 includes anti-Semitism, hate propaganda and the like,
21 particularly in regard to Canadian society.

22 MS MAILLET: Now, in looking at your
23 curriculum vitae, I can see that you have published
24 quite a bit.

25 If you could turn to page 5 of your

1 CV. The third book indicated The Colour of Democracy -
2 in the list of your published reports - Racism in
3 Canadian Society.

4 THE CHAIRPERSON: Yes, I see it.

5 MS MAILLET: Do you have that?

6 How does that relate; is there
7 anything in that book that may relate to hate messages
8 or hate propaganda?

9 DR. HENRY: Yes, there is, there is a
10 section -- well, I should begin by saying The Colour of
11 Democracy Racism in Canadian Society is an overall text
12 on all dimensions of racism in Canada.

13 It's a text that is now - I cite the
14 second edition, but the third edition is actually in
15 press as we speak - and it is a book that has been used
16 as a text in almost all the major universities in
17 Canada in this field. It's a very widely used book.

18 There is a section on it on hate
19 crime, hate messages and hate propaganda.

20 MS MAILLET: And the No. 7 in the
21 list of your published reports is entitled Holocaust
22 Denial Bigotry in the Guise of Scholarship.

23 THE CHAIRPERSON: Where is that?

24 MS MAILLET: That's at page 6.

25 Does that deal with racism and hate,

1 I guess?

2 DR. HENRY: Yes it does, because it
3 is essentially a review of materials that have been
4 written on the issue of Holocaust denial and it raises
5 the whole issue of revisionist history.

6 MS MAILLET: Now, I understand as
7 well that you have been qualified by the Canadian Human
8 Rights Tribunal as an expert in racism; is that
9 correct?

10 DR. HENRY: That's correct.

11 MS MAILLET: And, specifically, in
12 the 1992 case of League for Human Rights and Manitoba
13 Knights of the Ku Klux Klan.

14 It's my understanding that you were,
15 in fact, qualified as an expert to give an opinion as
16 to whether or not the material is likely to expose
17 persons to hatred or contempt; is that right?

18 DR. HENRY: Yes, that's right.

19 THE CHAIRPERSON: Did you refer to a
20 particular page in the CV?

21 MS MAILLET: The reference in the CV
22 under, is at page 3, expert witness testimony, and the
23 Winnipeg Ku Klux Klan case is the one that I'm
24 referring to.

25 THE CHAIRPERSON: Okay.

1 MS MAILLET: I also see from your CV
2 that you have received an award as a Fellow from the
3 Royal Society of Canada in February of 1989.

4 Could you advise the Tribunal what
5 that award is about?

6 DR. HENRY: Well, it's not really an
7 award. It is, I was elected by my peers, that is,
8 other scientists in Canada, to membership, or
9 fellowship as it is called, in the Royal Society of
10 Canada.

11 The Royal Society of Canada is the
12 most prestigious body to which academics - although it
13 also includes artists and writers of distinction - but
14 to which academics in physical and social sciences get
15 elected to as a result of eminence in their particular
16 fields of expertise and research.

17 It's considered probably the highest
18 honour that a Canadian scholar can receive, short of
19 the Nobel Prize, of course.

20 MS MAILLET: Thank you.

21 Sir, it's our application that Dr.
22 Henry be tendered as an expert in the area of racism--

23 THE CHAIRPERSON: I want to be very
24 specific. So, take it slowly.

25 MS MAILLET: Yes. Racism and hate

1 propaganda.

2 And what we're seeking is her opinion
3 with respect to whether or not the material that she
4 has analyzed is likely to expose persons to hatred or
5 contempt.

6 THE CHAIRPERSON: Which is the
7 Statute itself?

8 MS MAILLET: That's correct. She has
9 been qualified as an expert by the Tribunal before in
10 that, to give an opinion on that particular question.

11 I recognize, sir, that --

12 THE CHAIRPERSON: You are going to
13 the ultimate question.

14 MS MAILLET: That is the question
15 that you must determine; however, her analysis of the
16 material, in terms of the racist content of the
17 material and the hate propaganda, I think, will be
18 helpful to the Tribunal in determining that question.

19 THE CHAIRPERSON: Well, I'll allow
20 the cross-examination to begin.

21 Mindful, Mr. Kulbashian, we're
22 talking about on the issue of expertise only right now,
23 her qualifications, not the actual expert opinion yet,
24 it's whether the individual is qualified in the manner
25 proposed by the Commission.

1 MR. ALEXAN KULBASHIAN: Okay.

2 THE CHAIRPERSON: I want to be clear
3 on this, just so I'm -- you did add that area about
4 what her opinion is being sought for, but the expertise
5 that you're actually seeking to put forth is in racism
6 and hate propaganda; correct?

7 MS MAILLET: That's correct, that's
8 correct.

9 And to qualifying the material and an
10 analysis of the material with respect to its racist
11 content and the hate propaganda itself.

12 THE CHAIRPERSON: Well, Let be
13 specific.

14 So, it's an analysis of...?

15 MS MAILLET: Of the material.

16 THE CHAIRPERSON: Mm-hmm.

17 MS MAILLET: And with respect to
18 racist ideologies and, of course, the effect that that
19 material would have on society is, of course, part of
20 her analysis.

21 THE CHAIRPERSON: So, you're putting
22 her forth as an expert in the area of racism and hate
23 propaganda --

24 MS MAILLET: That's correct.

25 THE CHAIRPERSON: --in order to

1 conduct an analysis of the material with respect to
2 racist ideologies and the effect that the material
3 would have on society.

4 MS MAILLET: Yes, and on the persons
5 that are identified -- in the identifiable groups.

6 THE CHAIRPERSON: In the identifiable
7 groups?

8 MS MAILLET: That's correct.

9 THE CHAIRPERSON: All right. Is that
10 it?

11 MS MAILLET: That's it. I see Mr.
12 Warman...

13 Just to clarify. I mean, when we use
14 the word racism, when we deal with hate propaganda, I
15 don't want to specify it just to racist beliefs, it's
16 also beliefs that are hateful towards religions, and so
17 the word--

18 THE CHAIRPERSON: You used the word
19 racism at the beginning.

20 MS MAILLET: --racism is very broad,
21 but I just don't want her to be limited to simply the
22 race.

23 THE CHAIRPERSON: And hate propaganda
24 against the designated groups under the Statute?

25 MS MAILLET: That's correct. Well,

1 as stated in Mr. Warman's complaint and our letter of
2 particulars.

3 So, that included race, religion --

4 THE CHAIRPERSON: So, against the
5 designated groups identified in the complaint.

6 MS MAILLET: That's correct.

7 THE CHAIRPERSON: Would that be
8 correct?

9 MS MAILLET: Yes.

10 THE CHAIRPERSON: So, I will
11 summarize again.

12 As an expert in the area of racism
13 and hate propaganda against the designated groups
14 identified in the complaint, and an analysis of the
15 material with respect to racist ideologies and the
16 effect that the material would have on society and on
17 the identified groups.

18 And I'm mindful, the word racism is
19 used in the broad sense to include ethnic, religious
20 racism.

21 MS MAILLET: That's right.

22 THE CHAIRPERSON: It's not racism but
23 discrimination of that sort.

24 MS MAILLET: That's right.

25 THE CHAIRPERSON: Okay. I think it's

1 sufficiently clear to understand your proposition.

2 MS MAILLET: Thank you.

3 MR. ALEXAN KULBASHIAN: I have a few
4 questions, just to clarify.

5 THE CHAIRPERSON: Could you put the
6 microphone --

7 MR. ALEXAN KULBASHIAN: Oh, sorry.

8 I have never dealt with an expert
9 witness before, so I just have to clarify a few things.

10 THE CHAIRPERSON: Okay.

11 MR. ALEXAN KULBASHIAN: Can I
12 question her specifically on what was just brought up,
13 or also in general, let's say, views or sort of like
14 that?

15 This is without the content, without
16 looking at the content in her --

17 THE CHAIRPERSON: Without looking at
18 the content. What we're dealing with is the CV that's
19 before us here, the curriculum vitae and her
20 experience.

21 MR. ALEXAN KULBASHIAN: And her
22 experience in general as well as, like, about herself,
23 I guess.

24 Like I mean, like, opinions, et
25 cetera, like that? I'm not talking specifically about

1 the content.

2 THE CHAIRPERSON: Well, you can
3 certainly enter into that later on if she is qualified
4 as an expert in terms of--

5 MR. ALEXAN KULBASHIAN: Because I'm
6 not exactly sure what this stage is.

7 THE CHAIRPERSON: --things like bias
8 and so on. That's something that can be dealt with in
9 the context of general cross-examination.

10 What we're dealing with here is
11 specifically her qualifications, is the person
12 qualified to be an expert in the areas proposed.

13 MR. ALEXAN KULBASHIAN: How about is
14 the person qualified to be an expert in this case,
15 specifically?

16 THE CHAIRPERSON: Well, that sounds,
17 the way you're presenting that, is something which
18 would go more to the merits of her expertise, which I
19 haven't looked at that yet.

20 MR. ALEXAN KULBASHIAN: Okay.

21 THE CHAIRPERSON: I mean, the expert
22 report. What we're dealing with here is the
23 qualifications only.

24 Let me give you another analogy.

25 Someone shows up to be an expert in,

1 you know, engineering. So, if what's presented is that
2 the person has a degree in psychology, say, he's not an
3 engineer, you would cross-examine to what knowledge of
4 engineering the person has and put into question
5 whether the person is qualified to be an expert on
6 engineering.

7 But then, once the person is
8 determined to have a degree in engineering and so on,
9 then you can start asking how much experience do you
10 have with electrical engineering.

11 You know, in the course of the
12 cross-examination on the expert report, if the person
13 then prepared an expert report and makes some comments
14 about engineering.

15 Go ahead.

16 MR. ALEXAN KULBASHIAN: So, like,
17 just an example, just because you gave me that example.

18 Let's say somebody was an expert on,
19 say, structural engineering but a situation that arose
20 would be a situation about both structural and civil
21 engineering, if they came to testify on the --

22 THE CHAIRPERSON: On both.

23 MR. ALEXAN KULBASHIAN: Like, if they
24 came to testify on one aspect but the case involves
25 both aspects, what would I do?

1 Because would I challenge whether or
2 not they should be allowed, let's say, to testify in
3 the case based on the fact that they don't have
4 expertise in both aspects?

5 Let's say a bias towards one aspect.

6 THE CHAIRPERSON: What we're trying
7 to establish here is what the person's expertise is and
8 if it matches what's being suggested.

9 MR. ALEXAN KULBASHIAN: Oh, if it
10 matches what's being suggested, yes.

11 THE CHAIRPERSON: And then, if it
12 does match what is being suggested, then when you get
13 into the actual evidence and you see there's areas that
14 go beyond the scope of the person's expertise, then you
15 can bring all those questions in cross-examination of
16 that witness.

17 MR. ALEXAN KULBASHIAN: Okay.

18 THE CHAIRPERSON: And argue it later
19 on, as well.

20 So, you'll say, well, this person
21 tried to testify in an area that they have no knowledge
22 of, they went beyond the scope of their expertise.

23 MR. ALEXAN KULBASHIAN: Okay, thank
24 you.

25 If I ask a question that would be

1 maybe --

2 THE CHAIRPERSON: I will give you
3 some latitude. Just start and we'll see.

4 MR. ALEXAN KULBASHIAN: Okay.

5 THE CHAIRPERSON: Actually, to be
6 fair to you, it happens quite often that lawyers who
7 cross-examine at this stage do go a bit more into the
8 other areas.

9 MR. ALEXAN KULBASHIAN: I'm not
10 exactly sure.

11 THE CHAIRPERSON: But, ultimately,
12 the issue that's before us right now is whether this
13 individual is qualified in the area that's being
14 proposed.

15 MR. ALEXAN KULBASHIAN: Okay. Just
16 let me know if I'm going over the line.

17 THE CHAIRPERSON: We might get an
18 objection.

19 MR. ALEXAN KULBASHIAN: Okay.

20 EXAMINATION BY MR. ALEXAN KULBASHIAN:

21 MR. ALEXAN KULBASHIAN:

22 All right. Good afternoon.

23 DR. HENRY: Good afternoon.

24 MR. ALEXAN KULBASHIAN: Okay. You
25 stated you have a degree in sociology. Can you

1 actually expand on what sociology is?

2 DR. HENRY: No, my degree -- my Ph.D.
3 degree is in sociology and anthropology and the
4 emphasis is really on the anthropology part.

5 Both sociology and anthropology are
6 social science disciplines.

7 Sociology refers generally to the
8 study of society. Very often, but not exclusively,
9 sociology refers to the study of one's own society and
10 its social relations and its institutions.

11 Anthropology, on the other hand, has
12 had a traditional history of studying society and
13 culture in the entire world and throughout history.
14 So, it is a broader and more encompassing discipline.

15 In recent years the distinctions
16 between sociology and anthropology have diminished, and
17 particularly with respect to issues that face
18 contemporary societies.

19 Both sociologists and anthropologists
20 are now studying, more or less, the same kinds of
21 phenomenon.

22 For example, to be more specific on
23 my area of expertise, which is racism, racism is a
24 field that is almost entirely multi-disciplinary; that
25 is, it cuts across sociology, anthropology, psychology,

1 the law, history, economics, et cetera, so...

2 And my expertise, therefore, is
3 broadly speaking in the social sciences, but with
4 particular reference to sociology and especially to
5 anthropology.

6 MR. ALEXAN KULBASHIAN: So, okay,
7 thank you very much.

8 Also, what's your heritage?

9 MR. WARMAN: Objection.

10 MS MAILLET: What's the relevance?

11 MR. ALEXAN KULBASHIAN: Okay. Well,
12 it could be relevant in the sense of bias or...

13 THE CHAIRPERSON: Yes?

14 MR. WARMAN: No other witness would
15 face a question like that in terms of what their
16 background was.

17 MR. ALEXAN KULBASHIAN: It could be
18 highly -- like, it could be highly, I guess, related to
19 the case based on, you know, case to case basis.

20 MR. WARMAN: Objection. That goes to
21 the question of bias, it alleges that the witness,
22 because of a certain background, would be biased prima
23 facie because of that background, which clearly goes
24 against the whole meaning of the Canadian Human Rights
25 Act.

1 I mean, it's implying that the
2 person's background "x" is biased and, therefore,
3 should not -- or their testimony should be given lesser
4 weight.

5 MR. ALEXAN KULBASHIAN: However,
6 since we are questioning her, I guess -- since your
7 application is that she be tendered as an expert in the
8 area of racism and hate propaganda and, you know, on a
9 general scale she did testify that racism now is a
10 multi-disciplinary field, it would be economic,
11 societal, law, et cetera, and I'm trying to see if
12 there would be any specific angle she would be coming
13 from when she viewed certain articles.

14 THE CHAIRPERSON: You can go into
15 political or other views, but you don't necessarily
16 have to go into the person's background for that.

17 MR. ALEXAN KULBASHIAN: Okay.

18 THE CHAIRPERSON: Those types of
19 questions are asked, but you can ask the person what
20 positions they've adopted, whom they've represented, on
21 which side of the debate they may have stood, but to go
22 beyond that is to actually engage in the type of
23 activity that is proscribed by the Statute.

24 MR. ALEXAN KULBASHIAN: Okay.

25 So, do you have any expertise in

1 politics?

2 DR. HENRY: Not specifically.

3 MR. ALEXAN KULBASHIAN: On a scale
4 from 1 to 10, I guess, how would you rate yourself in
5 the field of politics?

6 DR. HENRY: I'm a very politically
7 aware person, I follow politics, I am politically
8 committed and engaged, I know a considerable amount
9 about the field of political science, which is the
10 study of politics, I've read some material in that
11 discipline.

12 MR. ALEXAN KULBASHIAN: But would you
13 consider yourself an expert in politics?

14 DR. HENRY: No.

15 MR. ALEXAN KULBASHIAN: Okay, thank
16 you.

17 Are there any groups that you
18 associate with on a general -- like, on a regular
19 basis, say, Anti-Racist Action or any other groups that
20 fight racism?

DR. HENRY: Yes. I was at one time,
21 I am no longer, but I was at one time a member of the
22 Urban Alliance on Race Relations in Toronto.

23 THE CHAIRPERSON: Urban...?

24 DR. HENRY: Alliance on Race
25 Relations.

1 THE CHAIRPERSON: Could you
2 elaborate. I'm not aware of that organization. What
3 does it do?

4 DR. HENRY: It's still alive, but it
5 has a very low profile at the moment. Some 15 or so
6 years ago it was very much more active.

7 It's a group of academics, ordinary
8 citizens, if you will, professionals, people who have
9 been victimized by racism.

10 It's a very mixed group of people who
11 are committed to the battle for equity and equality for
12 all members of our society.

13 MR. ALEXAN KULBASHIAN: Have you ever
14 been involved with or affiliated with Anti-Racist
15 Action?

16 DR. HENRY: No.

17 MR. ALEXAN KULBASHIAN: Ever spoken
18 for the Anti-Racist Action?

19 DR. HENRY: No.

20 THE CHAIRPERSON: That's the actual
21 group?

22 MR. ALEXAN KULBASHIAN: The group
23 called Anti-Racist Action.

24 THE CHAIRPERSON: As opposed to
25 general anti-racist groups. Okay.

1 MR. ALEXAN KULBASHIAN: Are there any
2 other groups you've been affiliated with?

3 DR. HENRY: When you say other
4 groups...?

5 MR. ALEXAN KULBASHIAN: Any other --
6 oh, sorry, any other...

7 THE CHAIRPERSON: Just in general.

8 MR. ALEXAN KULBASHIAN: Yeah, that's
9 too general a question.

10 Like, any other groups that work to
11 combat racism that you have been affiliated with?

12 DR. HENRY: No, the Urban Alliance is
13 the only one.

14 MR. ALEXAN KULBASHIAN: Have you been
15 affiliated with, say, the B'Nai Brith or the Canadian
16 Jewish Congress?

17 DR. HENRY: Not in the sense of
18 belonging or being a member, no.

19 MR. ALEXAN KULBASHIAN: In the sense
20 of affiliation though, association?

21 DR. HENRY: I'm not sure what you
22 mean by affiliation or association.

23 MR. ALEXAN KULBASHIAN: Spoke at, I
24 guess, conferences for them, associated yourself with
25 any of the members?

1 DR. HENRY: Oh, I may have. I have
2 spoken to hundreds of community organizations in the
3 country, so I may very well have spoken to them, yes.

4 MR. ALEXAN KULBASHIAN: Would you
5 remember if you had?

6 DR. HENRY: Not specifically I'm
7 afraid, no.

8 MR. ALEXAN KULBASHIAN: Okay. Just
9 getting back to one of the books that Ms Maillet had
10 referred to, the Holocaust Denial book?

11 DR. HENRY: Yes.

12 MR. ALEXAN KULBASHIAN: I'm not sure
13 if that was the one No. 7; is that right?

14 MS MAILLET: That's correct.

15 THE CHAIRPERSON: Just a second.

16 Yes, No. 7. Okay.

17 MR. ALEXAN KULBASHIAN: Do you know
18 of any other Holocausts in the 20th century?

19 DR. HENRY: I don't think I can
20 really answer that because the term Holocaust, for some
21 people, now has a very generalized kind of meaning.

22 I'm usually of the view that the term
23 Holocaust refers to the one that was perpetrated by
24 Adolf Hitler, and I'm aware of many genocides and other
25 transgressions against human rights in other areas of

1 the world, but I tend to restrict the use of the term
2 Holocaust to that particular one.

3 MR. ALEXAN KULBASHIAN: Can you
4 define the word Holocaust?

5 DR. HENRY: Holocaust is the
6 annihilation of a group.

7 MR. ALEXAN KULBASHIAN: And on the
8 meaning of the word Holocaust, can you name any other
9 Holocausts throughout -- in the 20th century?

10 DR. HENRY: I can name many of the
11 wars of inequality in the 20th century.

12 MR. ALEXAN KULBASHIAN: If you could
13 name any Holocausts in the 20th century.

14 DR. HENRY: No, I think I've already
15 answered that.

16 I prefer to use the term --

17 Q. Well --

18 THE CHAIRPERSON: Mr. Kulbashian, her
19 answer previously was that, as far as she defines the
20 term, the term is specific to the genocide in the --

21 MR. ALEXAN KULBASHIAN: 1945.

22 THE CHAIRPERSON: 1940s, make it
23 clear, 1945.

24 So, and she has acknowledged, if I
25 understood correctly, that there have been other

1 genocides but she doesn't associate the term.

2 Are you referring to genocide when
3 you ask that question?

4 MR. ALEXAN KULBASHIAN: My question
5 is in the way that she described Holocaust, in the real
6 term of the word -- in the real meaning of the word, do
7 you know -- can you name any other Holocausts in the
8 20th century?

9 THE CHAIRPERSON: The annihilation of
10 a group.

11 DR. HENRY: I can name other
12 genocides, yes.

13 MR. ALEXAN KULBASHIAN: My question
14 was any other Holocausts?

15 DR. HENRY: No.

16 MR. WARMAN: Objection.

17 MR. ALEXAN KULBASHIAN: My question
18 was straight forward, it was very straight forward
19 she --

20 THE CHAIRPERSON: She already
21 answered it.

22 MR. ALEXAN KULBASHIAN: She did
23 define Holocaust as --

24 THE CHAIRPERSON: As the annihilation
25 of a specific group.

1 MR. ALEXAN KULBASHIAN: I'm not
2 asking her to change the question, I'm asking her just
3 answer straight forward, if she can define any other --
4 if she can list any other Holocausts in the 20th
5 century.

6 THE CHAIRPERSON: Which is defined as
7 the annihilation of a specific group, according to this
8 witness.

9 MR. ALEXAN KULBASHIAN: However, I
10 reserve this question --

11 THE CHAIRPERSON: You may argue all
12 you want, sir, but I want my answer, I want an answer
13 from this witness, I don't want you to keep
14 interrupting her answers.

15 So, let's hear her answer.

16 Your question was, having defined
17 Holocaust as the annihilation of a specific group, have
18 any others occurred in this century?

19 MR. ALEXAN KULBASHIAN: Well, 20th
20 century.

21 THE CHAIRPERSON: 20th century,
22 right.

23 DR. HENRY: Well, I'm certainly aware
24 of the annihilation of other groups, other populations
25 that have occurred in the 20th century.

1 There is the genocide against the
2 Armenian people, there is genocide against Africans in
3 Rwanda.

4 There are quite a number of episodes
5 of genocide, of killing, if not the entire group, many,
6 many, many members of a specific group.

7 MR. ALEXAN KULBASHIAN: Would you
8 know of any genocides other than that in the First
9 World War other than the Armenian one?

10 DR. HENRY: That's all I can think of
11 at the moment.

12 MR. ALEXAN KULBASHIAN: Have you
13 studied genocides?

14 DR. HENRY: Not specifically.

15 MR. ALEXAN KULBASHIAN: And under
16 definition of the -- one second, I just want to write
17 this down.

18 What does genocide mean to you?

19 DR. HENRY: I think it's very similar
20 to the definition of Holocaust. It means violence or
21 annihilation of a people.

22 MR. ALEXAN KULBASHIAN: So, would you
23 classify the Armenian and Rwandan genocides as
24 Holocausts?

25 DR. HENRY: No, I would not.

1 MR. ALEXAN KULBASHIAN: Would that be
2 a bias that you would have towards the 1945 --

3 MR. WARMAN: Objection.

4 MR. ALEXAN KULBASHIAN: That's a very
5 fair question.

6 THE CHAIRPERSON: I still haven't
7 heard the question yet, Mr. Warman.

8 MR. WARMAN: The objection is that
9 she's already stated that when she uses the term
10 Holocaust she means it to refer to the destruction of
11 the Jews and others during World War II
12 by the Lucerian regime. She stated that.

13 THE CHAIRPERSON: That may -- I
14 understand that, but --

15 MR. WARMAN: May I finish my whole
16 objection, please?

17 And that genocide refers to the
18 destruction or violence, annihilation of other groups,
19 and that there are numerous examples of that within the
20 20th century.

21 And I think we're getting into
22 semantical arguments about Holocaust versus genocide
23 when she's already defined what she means by the two
24 terms.

25 THE CHAIRPERSON: We've been through

1 that point, but I don't think his question was going in
2 that direction.

3 MR. ALEXAN KULBASHIAN: My question
4 wasn't going in that direction actually.

5 THE CHAIRPERSON: Go ahead.

6 MR. ALEXAN KULBASHIAN: And I did
7 say -- I stated as Holocausts, I didn't state as the
8 Holocaust, just because, like, she might be referring
9 it to as the Holocaust.

10 THE CHAIRPERSON: Why don't you ask
11 your question again.

12 MR. ALEXAN KULBASHIAN: Okay. Would
13 that be any kind of bias towards the 1945 attempted
14 extermination of Jews that would make you not refer to
15 any other genocides as Holocausts?

16 DR. HENRY: No.

17 MR. ALEXAN KULBASHIAN: And so, is
18 there any other reason why the technical term, you
19 would say, would not apply to any other genocides?

20 DR. HENRY: I think it's the belief
21 of many people, not only myself, that that particular
22 terminology, or that particular term is reserved for
23 the period that I specified, and I happen to agree with
24 that.

25 MR. ALEXAN KULBASHIAN: And why would

1 you say it was reserved for the specific actions during
2 World War II?

3 DR. HENRY: Because it is the term
4 that was most widely used to describe the annihilation
5 of people during that period.

6 MR. ALEXAN KULBASHIAN: But would
7 that mean that it would be reserved, or it would be
8 more like coined towards?

9 DR. HENRY: I really don't know what
10 the difference between those two terms would be, so I'm
11 afraid I can't answer that.

12 But I think the term Holocaust is
13 symbolic now, it has a symbolic meaning, a symbolic
14 significance that is associated with the Nazi period.

15 MR. ALEXAN KULBASHIAN: So, would you
16 consider the events during the Nazi period to be more
17 important than the other genocides in history?

18 DR. HENRY: Not necessarily.

19 MR. ALEXAN KULBASHIAN: Yes or no?

20 DR. HENRY: No.

21 MR. ALEXAN KULBASHIAN: Would you
22 happen to know anything about the Armenian genocide and
23 what year it was, roughly?

24 DR. HENRY: Not in any detail, no.

25 MR. ALEXAN KULBASHIAN: Would you

1 happen to know how many people died during that
2 genocide?

3 DR. HENRY: No.

4 MR. WARMAN: Objection. Just curious
5 about the relevance of the Armenian genocide versus the
6 examples that's she's been tendered as an expert for,
7 specifically when she's not being referenced as an
8 expert in genocide.

9 THE CHAIRPERSON: Please reply.

10 MR. ALEXAN KULBASHIAN: Okay. Should
11 I continue the questions?

12 THE CHAIRPERSON: Reply to the
13 objection.

14 MR. ALEXAN KULBASHIAN: Oh, I should
15 reply to the objection.

16 Well, the book was brought up as one
17 of her fields of expertise, and I will be trying to use
18 that, since we are addressing her CV; am I right?

19 THE CHAIRPERSON: Yes.

20 MR. ALEXAN KULBASHIAN: So, I will be
21 addressing the points in her CV through my questions,
22 and I have not gone outside that realm, as of yet.
23 That's what I feel.

24 THE CHAIRPERSON: While it may be
25 near the edge, I will allow this line of questioning.

1 MR. ALEXAN KULBASHIAN: Okay. Would
2 you know a lot about the Holocaust?

3 DR. HENRY: I know a fair amount
4 about it, yes.

5 MR. ALEXAN KULBASHIAN: Would it be
6 safe to say that you studied in more detail about the
7 Holocaust than about any other genocide?

8 DR. HENRY: That's correct.

9 MR. ALEXAN KULBASHIAN: Would it be
10 safe to say that you didn't make an extra effort to
11 study about any other genocide?

12 DR. HENRY: No.

13 THE CHAIRPERSON: I'm not quite sure
14 I understood the 'no' to that, because the question
15 came in the negative.

16 So, you have not made any extra
17 efforts to study other genocides; is that what your
18 answer means?

19 DR. HENRY: No, I don't think that's
20 what he asked.

21 MR. ALEXAN KULBASHIAN: That's my
22 question. That was my question though.

23 DR. HENRY: Would you repeat it?

24 THE CHAIRPERSON: The question was in
25 the negative and then I got a double negative.

1 DR. HENRY: So, we're all confused
2 now.

3 MR. ALEXAN KULBASHIAN: Did you make
4 any other efforts to study any other genocides?

5 THE CHAIRPERSON: Did you make any
6 other efforts--

7 DR. HENRY: Any other.

8 THE CHAIRPERSON: --to study other
9 genocides?

10 DR. HENRY: No, not in specific.

11 MR. ALEXAN KULBASHIAN: The book
12 called Holocaust Denial, the book that we're referring
13 to here, which specific genocide would that be looking
14 at?

15 DR. HENRY: The Nazi one.

16 MR. ALEXAN KULBASHIAN: Okay. Would
17 it make any references to any other genocides that
18 occurred?

19 DR. HENRY: I think it did, yes.

20 MR. ALEXAN KULBASHIAN: Which ones?

21 DR. HENRY: I'm afraid I don't
22 remember. That book is very old and it's only a little
23 booklet, I wouldn't even call it a book.

24 MR. ALEXAN KULBASHIAN: By old, do
25 you mean 1994? Okay, yes 1994, sorry.

1 What year was that book printed?

2 I'm just putting it through because I
3 can't testify, so I'm just asking her.

4 THE CHAIRPERSON: When is it 1994,
5 No. 7?

6 MR. ALEXAN KULBASHIAN: I'm asking
7 her.

8 DR. HENRY: 1994.

9 MR. ALEXAN KULBASHIAN: Okay.

10 THE CHAIRPERSON: It was printed in
11 the same year as indicated in the CV?

12 MR. ALEXAN KULBASHIAN: That's right.
13 I just had to ask because I made a comment to it, so...

14 THE CHAIRPERSON: Go ahead.

15 MR. ALEXAN KULBASHIAN: Would you
16 happen to know anything about the genocide of Greeks by
17 Turks?

18 DR. HENRY: A little bit, but not in
19 any great detail.

20 MR. ALEXAN KULBASHIAN: Would you
21 happen to know anything about the Rwandan genocide in
22 detail?

23 DR. HENRY: What I've read in
24 newspapers and the like.

25 MR. ALEXAN KULBASHIAN: Would you

1 consider yourself an expert in genocides?

2 DR. HENRY: No.

3 MR. ALEXAN KULBASHIAN: Would you
4 consider genocide to be one of the key issues of racism
5 at its extreme?

6 DR. HENRY: Yes.

7 Q. And would you consider that to be
8 something that you should have looked into?

9 DR. HENRY: Not any more than I have
10 in the course of my many researches and writings.

11 MR. ALEXAN KULBASHIAN: In passing,
12 do you mean?

13 DR. HENRY: No.

14 Q. Would you consider somebody who
15 was against, I guess, the Jewish occupation of
16 Palestine to be racist?

17 DR. HENRY: Not necessarily.

18 MR. ALEXAN KULBASHIAN: Would you
19 consider that to be a key issue of politics?

20 DR. HENRY: It is at the moment, yes.

21 MR. ALEXAN KULBASHIAN: Would you
22 consider that to have been a key issue of politics from
23 1970?

24 MS MAILLET: Sir, I have an
25 objection, and it's just that the line of questioning,

1 I think, is not necessarily going towards her
2 qualification as an expert in racism, but possibly
3 cross-examination of maybe her report or --

4 THE CHAIRPERSON: It certainly is an
5 acceptable question, I don't know if it's into this
6 area right now.

7 MR. ALEXAN KULBASHIAN: Well, the
8 question itself would be basically, because when
9 somebody takes a view as to what is racist -- because
10 if she's going to be, like, an expert in racism and
11 hate propaganda, all right, if somebody is going to be
12 taking a view on racism and hate propaganda I believe
13 they must have, like, maybe to a certain extent, some
14 level of general knowledge or competence in politics.

15 THE CHAIRPERSON: Well, you have
16 asked a series of questions on that.

17 If it stays that way, if it's going
18 to the issue of bias, which I told you is a valid point
19 to be raised, but that should be done in the context of
20 the cross-examination on her report.

21 MR. ALEXAN KULBASHIAN: Okay. Okay,
22 that's a good idea.

23 THE CHAIRPERSON: I'm not saying you
24 can't enter this area, but the suggestion is that you
25 do it later.

1 MR. ALEXAN KULBASHIAN: Okay, that's
2 fine.

3 THE CHAIRPERSON: But you have
4 certainly asked questions about the witness' knowledge
5 of politics. If you want to explore that more, I think
6 that's permissible.

7 MR. ALEXAN KULBASHIAN: All right, I
8 understand.

9 I would just, like, thank you for
10 letting me know. That's why I was asking you, like, if
11 I did cross the line, if you would let me know. So,
12 thank you.

13 I'll go to a different question.

14 THE CHAIRPERSON: Well, I won't
15 intervene unless I hear an objection.

16 MR. ALEXAN KULBASHIAN: Okay, I'll go
17 to a different question.

18 Have you ever been to Palestine?

19 DR. HENRY: I've been to Israel, yes.

20 MR. ALEXAN KULBASHIAN: My question
21 was, have you ever been to Palestine?

22 DR. HENRY: Yes.

23 MR. ALEXAN KULBASHIAN: Okay. Would
24 you believe that -- so would you believe -- do you have
25 any kind of formal education in political science?

1 DR. HENRY: No.

2 THE CHAIRPERSON: I think I've had an
3 answer to that.

4 MR. ALEXAN KULBASHIAN: Oh no, I
5 didn't mean as an expert in political science, any
6 formal education, that was my question. That was a
7 different question.

8 THE CHAIRPERSON: So, you mean as in
9 a degree in political science?

10 MR. ALEXAN KULBASHIAN: Oh, no, just
11 any formal education in political science?

12 THE CHAIRPERSON: Your answer is no
13 to that?

14 DR. HENRY: Oh, I've had courses in
15 political science many years ago, of course, and I've
16 read a great deal of political science, but I don't
17 have a degree in political science.

18 MR. ALEXAN KULBASHIAN: Okay. My
19 question was whether or not it was any formal
20 education.

21 THE CHAIRPERSON: So, you have had
22 courses in the area?

23 DR. HENRY: Yes.

24 MR. ALEXAN KULBASHIAN: Okay, sorry,
25 about that.

1 Somebody who's not an expert in
2 political science as -- or in politics in general --
3 first of all, let me go back to one question.

4 Would you believe that politics plays
5 a big role in racism?

6 THE CHAIRPERSON: Slowly, please.

7 MR. ALEXAN KULBASHIAN: Would you
8 believe politics plays a big role in racism?

9 DR. HENRY: Everything plays a role
10 in racism.

11 MR. ALEXAN KULBASHIAN: Well, would
12 you be able to differentiate politics from racism?

13 DR. HENRY: I'm not sure how you use
14 the term politics, so I'm afraid I can't answer the
15 question.

16 MR. ALEXAN KULBASHIAN: Okay. Let's
17 say, would you think that your evidence could be biased
18 based on the possibility that you would not be able to
19 differentiate politics from racism, maybe like, maybe
20 your expertise might cause you to lean towards
21 providing evidence that any political article might be
22 racist?

23 DR. HENRY: Any political article?

24 MR. ALEXAN KULBASHIAN: Yes. So,
25 let's say you were reading a political article, your

1 field of expertise would be racism; am I correct?

2 DR. HENRY: Yes.

3 MR. ALEXAN KULBASHIAN: So, would you
4 possibly, in reading an article that would be
5 political, lean towards interpreting it as racism as
6 opposed to political?

7 DR. HENRY: I'm afraid I can't answer
8 that question because I don't know what it means.

9 MR. ALEXAN KULBASHIAN: Okay. Do you
10 think you would have -- do you think you would have a
11 bias that would make you lean towards interpreting an
12 article as racism, even if it was purely political?

13 That's a straight forward question.

14 DR. HENRY: Again, I --

15 THE CHAIRPERSON: Perhaps if I
16 possibly could interpret the question.

17 Have you ever noted in some way in
18 your experience when reviewing an expression of opinion
19 that you find yourself more likely to interpret it as
20 being of a racial nature as opposed to an expression of
21 a political opinion?

22 DR. HENRY: Well, I suppose so, but,
23 I mean, it's an area that I find very difficult to
24 differentiate.

25 MR. ALEXAN KULBASHIAN: I didn't

1 exactly get the question and the answer. Just, I got
2 confused by the answer.

3 THE CHAIRPERSON: Would you pay
4 attention when I'm talking.

5 MR. ALEXAN KULBASHIAN: I was paying
6 attention, actually. I just got confused because of
7 the way she answered, like suppose so, because I was
8 asking for --

9 THE CHAIRPERSON: I asked her if she
10 had occasion to see herself as viewing an expression of
11 opinion more as possibly being racial in nature as
12 opposed to an expression of a political opinion.

13 MR. ALEXAN KULBASHIAN: Okay.

14 THE CHAIRPERSON: Something along
15 those lines. I would urge you to pay attention, Mr.
16 Kulbashian.

17 MR. ALEXAN KULBASHIAN: I did, it's
18 just because she said I suppose so, and then she
19 continued on.

20 THE CHAIRPERSON: In answer to my
21 question.

22 MR. ALEXAN KULBASHIAN: Are you an
23 opinionated person?

24 DR. HENRY: Again, I --

25 MR. ALEXAN KULBASHIAN: Mr. Chair,

1 I'm going to the question.

2 DR. HENRY: I have opinions. Every
3 human being has opinions.

4 MR. ALEXAN KULBASHIAN: Would you be
5 able to look at issues of racial -- I guess biases in
6 racism in an objective light or in a subjective light?

7 DR. HENRY: One of the things that
8 social science teaches us is not to make binary
9 distinctions such as: Yes and no, objective and
10 subjective, light and dark, black and white, if you
11 will.

12 Human behaviour is far too complex to
13 be expressed in an either/or sense.

14 So, again, I have difficulty with a
15 question like that.

16 As a scientist, I strive in my work
17 to be as objective as any human being possibly can be.

18 MR. ALEXAN KULBASHIAN: Would you
19 consider yourself to be biased?

20 DR. HENRY: Biased in what? I like
21 red better than green.

22 MR. ALEXAN KULBASHIAN: Would you
23 consider yourself to be racially biased?

24 DR. HENRY: No.

25 THE CHAIRPERSON: What does that

1 mean?

2 DR. HENRY: I don't think so.

3 MR. ALEXAN KULBASHIAN: Would she
4 consider herself to have racial biases.

5 THE CHAIRPERSON: Against one group?

6 MR. ALEXAN KULBASHIAN: Against any
7 group.

8 DR. HENRY: No.

9 MR. ALEXAN KULBASHIAN: Would you
10 consider yourself to have religious biases?

11 DR. HENRY: No.

12 MR. ALEXAN KULBASHIAN: Would you
13 consider yourself to have biases of, like, I guess, I
14 don't know how to -- toward nationalities?

15 DR. HENRY: No.

16 MR. ALEXAN KULBASHIAN: Towards
17 countries?

18 DR. HENRY: No.

19 MR. ALEXAN KULBASHIAN: Have you
20 formed any opinion on the Palestinian situation?

21 DR. HENRY: I think that situation is
22 so extraordinarily complex that, I mean, obviously I
23 have opinions, but they are merely opinions, they are
24 not based on any degree of expertise.

25 So, I don't see how this is relevant.

1 MR. ALEXAN KULBASHIAN: Would you say
2 you have -- you lean towards one side or the other on
3 the Palestinian question?

4 MS MAILLET: Sir, I'm going to object
5 to this line of questioning. Again, it's not relevant
6 to her expertise.

7 What we're asking for her to be an
8 expert on here is the material that is before us.
9 Racism and hate propaganda has nothing to do with the
10 Israeli -- the conflict in the Middle East.

11 THE CHAIRPERSON: You know what,
12 you've gone beyond the area.

13 MR. ALEXAN KULBASHIAN: It might be a
14 question for later on.

15 THE CHAIRPERSON: You could, but then
16 it would still have to be relevant to the expert
17 opinion that is expressed in the report, okay.

18 MR. ALEXAN KULBASHIAN: I guess,
19 yeah.

20 THE CHAIRPERSON: I mean. But, no,
21 at this time I don't think that it assists in
22 determining whether she's an expert or not.

23 MR. ALEXAN KULBASHIAN: Okay.

24 Now, my question would be -- would I
25 be able -- okay, maybe I'll ask the question and you

1 can let me know if it's across the line into the next
2 stage. It's not going to be, like, specific.

3 Have you had a lot of, I guess,
4 dealings with Mr. Warman?

5 DR. HENRY: With Mr. Warman?

6 MR. ALEXAN KULBASHIAN: That's right.

7 DR. HENRY: No. Today is only the
8 second time I have ever met him.

9 MR. ALEXAN KULBASHIAN: Have you
10 heard of Mr. Warman before?

11 DR. HENRY: I met him when I was
12 supposed to testify a couple of months ago.

13 MR. ALEXAN KULBASHIAN: As somebody
14 in the field of, I guess, racism and racial
15 interaction, would you have heard of Mr. Warman without
16 seeing him?

17 DR. HENRY: No.

18 MR. ALEXAN KULBASHIAN: And so, you
19 say that you've never heard of Mr. Warman before this
20 case or --

21 DR. HENRY: That's correct, yes.

22 MR. ALEXAN KULBASHIAN: Did you just
23 testify that you saw Mr. Warman earlier on, before this
24 case?

25 DR. HENRY: No, no, no.

1 THE CHAIRPERSON: She testified that
2 she met him the day that we ran long and she was
3 outside in the hallway.

4 MR. ALEXAN KULBASHIAN: Okay. So,
5 have you ever heard of anything Mr. Warman has
6 accomplished?

7 DR. HENRY: No.

8 MR. ALEXAN KULBASHIAN: Wouldn't that
9 be within your field of interest?

10 DR. HENRY: Pardon?

11 MR. ALEXAN KULBASHIAN: Would that be
12 within your field of interests?

13 MS MAILLET: He just reworded the
14 question. What is the field of interest?

15 MR. ALEXAN KULBASHIAN: Field of
16 interest, sorry, racism and racial interaction would be
17 pretty much what it is.

18 THE CHAIRPERSON: I think he meant to
19 say, would that not be --

20 MR. ALEXAN KULBASHIAN: Would knowing
21 what Mr. Warman does, like, knowing him as a person,
22 his accomplishments, be in the area of racism or hate
23 propaganda?

24 THE CHAIRPERSON: That does sound a
25 bit like something that you would raise in your

1 argument.

2 I mean, she has testified that she
3 does not know of Mr. Warman before, so...

4 MR. ALEXAN KULBASHIAN: Okay.

5 Were you trained as to what to
6 testify to by either the complainant or Ms Maillet
7 before this case?

8 THE CHAIRPERSON: Trained?

9 MR. ALEXAN KULBASHIAN: Trained,
10 coached, given pointers.

11 DR. HENRY: No.

12 MR. ALEXAN KULBASHIAN: Were you
13 trained -- do you have any formal training not to be
14 biased, as in, following the same way that maybe judges
15 would take, some kind of formal training?

16 DR. HENRY: I think social scientists
17 receive the same kinds of training.

18 MR. ALEXAN KULBASHIAN: And would
19 that include special training not to be biased?

20 DR. HENRY: Special training, I
21 don't --

22 MR. ALEXAN KULBASHIAN: Or would that
23 be, like, any specific training as in through courses,
24 through any kind of --

25 THE CHAIRPERSON: Do you mean things

1 like cross-cultural sensitization training?

2 MR. ALEXAN KULBASHIAN: Yeah, I
3 guess, in a way, or bias in general in your decisions
4 or how you would writ?

5 DR. HENRY: I teach courses like
6 that.

7 MR. ALEXAN KULBASHIAN: Okay.

8 THE CHAIRPERSON: So, you're on the
9 other end of it.

10 MR. ALEXAN KULBASHIAN: Have you ever
11 studied the field of reverse discrimination?

12 DR. HENRY: I'm not aware that
13 reverse discrimination is a field.

14 MR. ALEXAN KULBASHIAN: Have you ever
15 studied about reverse discrimination?

16 DR. HENRY: Yes.

17 MR. ALEXAN KULBASHIAN: Would you
18 consider reverse discrimination to be a form of racism?

19 DR. HENRY: In certain instances it
20 might be.

21 MR. ALEXAN KULBASHIAN: How do you
22 define reverse discrimination?

23 DR. HENRY: It's not a term that I
24 particularly use. I'm familiar with it and I know it
25 has been used, but it's not one that I particularly

1 give much credence to.

2 MR. ALEXAN KULBASHIAN: How would you
3 define it though?

4 Is there another word that you would
5 rather use to describe it?

6 DR. HENRY: Well, reverse
7 discrimination usually refers -- is meant to refer to
8 people who think that they have been discriminated
9 against as a result of equity and equality measures
10 targeting other people.

11 MR. ALEXAN KULBASHIAN: Have you ever
12 had any -- have you done any research into
13 discrimination against whites by anybody who would,
14 say, non-whites by your definition?

15 DR. HENRY: I have not done research,
16 no.

17 MR. ALEXAN KULBASHIAN: Is your field
18 of research for racism, I guess, specifically, I guess,
19 concentrated more on discrimination that would be as a
20 result of anti-Semitism?

21 DR. HENRY: No.

22 MR. ALEXAN KULBASHIAN: How do you
23 define Semitic?

24 DR. HENRY: How do I define what?

25 MR. ALEXAN KULBASHIAN: Semitic, the

1 word Semitic.

2 DR. HENRY: Semitic has to do with
3 anything that deals with the Semitic origin, so that
4 the term anti-Semitic, for example, is a misnomer, it
5 really should be anti-Jewish or anti-Zionist because
6 Semites are also people who are not necessarily Jewish.

7 MR. ALEXAN KULBASHIAN: So...

8 THE CHAIRPERSON: Do you understand.
9 This witness confirms what I told you the other day.

10 MR. ALEXAN KULBASHIAN: Thank you. I
11 needed this to go on.

12 THE CHAIRPERSON: Okay.

13 MR. ALEXAN KULBASHIAN: How would you
14 define Zionism then?

15 DR. HENRY: Zionism, in my --

16 MR. WARMAN: Objection. I'm just
17 curious as to what the relevance is to her specific
18 qualification as an expert in racism and hate
19 propaganda.

20 THE CHAIRPERSON: I think it might go
21 to the other area, so unless you have something to --

22 MR. ALEXAN KULBASHIAN: It might
23 not -- actually, I guess, from the perspective of
24 whether or not Zionism is racism.

25 THE CHAIRPERSON: You're at the line

1 again.

2 MR. ALEXAN KULBASHIAN: This goes
3 specifically to racism and hate propaganda.

4 THE CHAIRPERSON: I'll allow it.
5 Your understanding of the term Zionism?

6 DR. HENRY: Zionism, as I understand
7 it, relates primarily to the belief that Jews have a
8 claim to a certain homeland, that homeland being in the
9 disputed areas of Israel and Palestine.

10 MR. ALEXAN KULBASHIAN: And would you
11 consider Zionism as, I guess, a racist movement?

12 DR. HENRY: Again, I don't think I
13 can answer that because the relationship between
14 Zionism and racism, again, is extremely complex, hotly
15 contested and really very difficult to understand.

16 I, quite frankly and very honestly,
17 have not made up my mind on that.

18 MR. ALEXAN KULBASHIAN: Have you done
19 any research on Zionism?

20 DR. HENRY: No.

21 MR. ALEXAN KULBASHIAN: Would it be
22 fair to say you haven't made up your mind on it because
23 you haven't done research on Zionism?

24 DR. HENRY: No. It's simply because
25 the relationship is too complex and I have many, many

1 time commitments and priorities.

2 MR. ALEXAN KULBASHIAN: So, would you
3 say that you try not to delve into complex issues
4 because of your commitments and priorities?

5 DR. HENRY: No, I would not say that.

6 MR. ALEXAN KULBASHIAN: Any other
7 complex issues you say you've delved in?

8 DR. HENRY: I think racism itself is
9 one of the most complex of all human behaviours.

10 MR. ALEXAN KULBASHIAN: Thank you.
11 And any reason -- have you ever read anything about
12 Zionism or any, I guess, loose research, I would say,
13 like, not formal research?

14 DR. HENRY: I've done reading in the
15 area of Zionist thought, yes.

16 MR. ALEXAN KULBASHIAN: And do you
17 have any opinion on whether or not it could equate to
18 racism?

19 THE CHAIRPERSON: She already
20 answered that question.

21 MR. ALEXAN KULBASHIAN: I said
22 opinion, I'm not saying, like, whether or not she
23 believes it is.

24 THE CHAIRPERSON: Oh, you're making a
25 distinction between --

1 MR. ALEXAN KULBASHIAN: Is an
2 opinion. Because, as an expert witness she will
3 testifying to things as saying it is this and it is
4 that.

5 THE CHAIRPERSON: No, I'm saying
6 you've asked the question before. I see here the
7 answer.

8 She said that she couldn't define if
9 it was racism or not.

10 MR. ALEXAN KULBASHIAN: That was a
11 definition, now, I'm saying opinion.

12 Because as an expert witness it would
13 be more, an expert witness has a difference, in a
14 sense, that they testify to things that's fact as
15 opposed to opinion.

16 THE CHAIRPERSON: In your opinion, is
17 Zionism equated with racism?

18 DR. HENRY: Again, I've have to
19 answer the same way. It's simply too complex to say
20 even that I hold that opinion.

21 I reserve judgment on it because I
22 don't really think that I have made up my mind on an
23 issue that is simply too complex.

24 MR. ALEXAN KULBASHIAN: Do you
25 believe the issue of Zionism is more complex than the

1 issue of racism?

2 DR. HENRY: Not necessarily, but
3 one's time and commitment has to be very carefully
4 guarded. You don't have time to do everything.

5 My area of specialization has to do
6 with research on racism and anti-racism of some very
7 specific kinds and that's what I spend my time and
8 energy on.

9 MR. ALEXAN KULBASHIAN: So, is it
10 safe to say that you've pretty much concentrated on one
11 form of racism from one direction towards the other as
12 opposed to racism as a general picture?

13 DR. HENRY: I have tended to
14 concentrate on racism as it is directed towards people
15 of colour.

16 MR. ALEXAN KULBASHIAN: And people of
17 Jewish descent?

18 DR. HENRY: No, not necessarily at
19 all.

20 MR. ALEXAN KULBASHIAN: So, writing
21 about Holocaust denial would not be concentrating on
22 racism?

23 DR. HENRY: I've written about 12
24 books and something like 50 articles or more. I cover
25 a wide range of subject matter.

1 This is one of the things that I've
2 written about.

3 But if you look carefully at my range
4 of publications on the race and anti-racism side in
5 Canada, it is very much, the majority of them are with
6 respect to people of colour.

7 MR. ALEXAN KULBASHIAN: Looking at a
8 book here, I see so far -- if you could read the title
9 of book No. 7 in the list of books and reports.

10 DR. HENRY: Mm-hmm.

11 MR. ALEXAN KULBASHIAN: If you could
12 read No. 7. Could you read the title?

13 DR. HENRY: Yes, we've discussed
14 that, it's Holocaust Denial.

15 MR. ALEXAN KULBASHIAN: Okay. Could
16 you read the title of No. 12?

17 DR. HENRY: Victims and Neighbours.

18 MR. ALEXAN KULBASHIAN: Could you
19 read -- turn to the next page and read the title of No.
20 8.

21 DR. HENRY: German Jewish Interaction
22 1920 to 1939.

23 MR. ALEXAN KULBASHIAN: Okay. Could
24 you read the title of No. 15.

25 DR. HENRY: The Legacy of the German

1 Jewish Spirit in North America.

2 MR. ALEXAN KULBASHIAN: Can you
3 turn -- just a second, I'm trying to find the next
4 book.

5 Could you turn to page 9 and read No.
6 15.

7 DR. HENRY: Heroes and Helpers in
8 Nazi Germany.

9 MR. ALEXAN KULBASHIAN: Can you read
10 No. 16?

11 DR. HENRY: Notes on the Bystander
12 Issue in Nazi Germany.

13 MR. ALEXAN KULBASHIAN: Could you
14 read No. 17 on the next page?

15 DR. HENRY: Yeah. Jews in the
16 Dominican Republic.

17 MR. ALEXAN KULBASHIAN: And would you
18 still state that you haven't done any form of research
19 or writing in the field of racism towards Jews?

20 DR. HENRY: I didn't say that.

21 MR. WARMAN: Objection, that's not
22 what she said.

23 THE CHAIRPERSON: That was not what
24 she said.

25 MR. ALEXAN KULBASHIAN: If you could

1 repeat that last answer she gave.

2 THE CHAIRPERSON: She said she has
3 tended to concentrate on racism against people of
4 colour, not so much on racism against Jews.

5 MR. ALEXAN KULBASHIAN: Would you
6 still state that you haven't concentrated so much on
7 racism towards Jews?

8 DR. HENRY: No, I haven't. The
9 majority of my writings, despite the ones you have
10 picked up, if you do a numerical count, there are more
11 on the area of colour than there are on religion.

12 THE CHAIRPERSON: To avoid any
13 further debate on this.

14 Mr. Kulbashian, you singled out - I
15 don't know - maybe half a dozen over five pages, and
16 there are at least 15 on each page.

17 MR. ALEXAN KULBASHIAN: That's true,
18 but the issue is some of the rest seem to be more of a
19 national and interaction related as opposed to
20 specifically anything against blacks or against --

21 THE CHAIRPERSON: Why don't you leave
22 that for argument sake.

23 MR. ALEXAN KULBASHIAN: Have you ever
24 done any research on racism against Arabs?

25 DR. HENRY: No.

1 MR. ALEXAN KULBASHIAN: So, pretty
2 much would you say you just concentrate on blacks?

3 DR. HENRY: People of colour.

4 MR. ALEXAN KULBASHIAN: People of
5 colour. How would you define people of colour?

6 DR. HENRY: Well, I suppose people
7 who are non-white.

8 MR. ALEXAN KULBASHIAN: Would you
9 consider Arabs to be non-white?

10 DR. HENRY: Technically speaking,
11 Arabs are white.

12 MR. ALEXAN KULBASHIAN: Technically
13 speaking?

14 DR. HENRY: According to racial
15 classifications of the 19th century, Arabs basically
16 are white.

17 MR. ALEXAN KULBASHIAN: How about the
18 20th century?

19 DR. HENRY: Racial classifications of
20 that kind really no longer very much currency.

21 MR. ALEXAN KULBASHIAN: Any research
22 on racism towards Pakistanis or Indians?

23 DR. HENRY: Yes.

24 MR. ALEXAN KULBASHIAN: Any research
25 on -- okay, just coming back to that last answer.

1 You stated classifications of the
2 19th century, would that extend into the 20th century?

3 DR. HENRY: Well, what I meant to
4 imply was that racial classifications, systems whereby
5 people are classified by race, no longer holds any
6 scientific currency, which is one of the reasons why,
7 For example, the term 'people of colour', which is
8 imprecise, but then all these terms are imprecise, has
9 come into being.

10 So that when you ask directly, are
11 Arabs white or non-white, well, according to the
12 classifications they're white; according to peoples'
13 perceptions, they're non-white.

14 So, in other words, what we're
15 dealing with is an enormous area of ambiguity, not only
16 in the way people define themselves, but the way in
17 which they are perceived by others.

18 MR. ALEXAN KULBASHIAN: Okay. Would
19 you consider Jews to be white?

20 DR. HENRY: Yes.

21 MR. ALEXAN KULBASHIAN: Okay. Now,
22 in your study of racism in society, would you be
23 looking at racial reactions, not like how people
24 technically view things as opposed to how people view
25 things internally or how they perceive things; am I

1 right?

2 THE CHAIRPERSON: I didn't understand
3 your question.

4 MR. ALEXAN KULBASHIAN: Oh, sorry.

5 In your study on racism and hate
6 propaganda, your studies, you would be looking more at
7 how people perceive things as opposed to how things
8 technically are; am I right?

9 DR. HENRY: You mean how perpetrators
10 and victims perceive events?

11 MR. ALEXAN KULBASHIAN: Okay. As an
12 example, you said that sociology was the study of
13 society; am I right?

14 DR. HENRY: (nodding)

15 MR. ALEXAN KULBASHIAN: And you
16 stated technically Arabs are white, however, society
17 views them as non-white?

18 DR. HENRY: Yes.

19 MR. ALEXAN KULBASHIAN: In your
20 research of society, would you be studying -- wouldn't
21 you be studying racism against Arabs because society
22 would view them as non-white?

23 DR. HENRY: Yes.

24 MR. ALEXAN KULBASHIAN: And did you
25 study or write books about Arabs, racism towards Arabs?

1 DR. HENRY: Yes, in the Colour of
2 Democracy, in the edition that's cited here, as well as
3 in the third edition which is in press, there is a
4 very, very significant section on anti-Arab and
5 anti-Muslim bias, particularly as a result of the
6 events of September 11th.

7 MR. ALEXAN KULBASHIAN: Now, I'm not
8 sure, were you watching TV on September 11th?

9 DR. HENRY: Yes, mm-hmm.

10 MR. ALEXAN KULBASHIAN: Did you
11 specifically blame anybody as soon as you realized
12 there was a terrorist attack on the U.S.?

13 DR. HENRY: I can't answer that.

14 MR. ALEXAN KULBASHIAN: Why not?

15 MS MAILLET: I just don't know,
16 again, why this is relevant to her qualifications.

17 We're dealing right now with
18 qualifying Dr. Henry as an expert in the field of
19 racism and hate propaganda.

20 How she interpreted her television
21 news broadcast of the events of September 11th is
22 completely irrelevant.

23 THE CHAIRPERSON: Mr. Kulbashian, I
24 think you've crossed over that line.

25 MR. ALEXAN KULBASHIAN: Okay. So,

1 that might be something for later on then.

2 THE CHAIRPERSON: But, stick to the
3 topic here and, you know, focus on it.

4 MR. ALEXAN KULBASHIAN: Okay. I'm
5 not sure if I can ask this question, but I'll ask and
6 you can let me know.

7 After reading information on this
8 case, this is not specifically -- I'm not going to be
9 referring to any specific information.

10 After reading so far what you were
11 given to evaluate on this case, would you consider
12 yourself to be qualified to comment or give expert
13 evidence on the information in this case?

14 MS MAILLET: Sir, I object to that
15 question. That is the question that the Tribunal has
16 to decide, whether or not Dr. Henry is qualified.

17 THE CHAIRPERSON: But certainly it's
18 an interesting question. What if the witness said she
19 wasn't.

20 MS MAILLET: It would be that she
21 wouldn't be here today, but...

22 THE CHAIRPERSON: I'm saying, in that
23 sense, it's not an inadmissible question.

24 Do you consider yourself qualified to
25 make the opinion that you've made?

1 DR. HENRY: Yes, I do.

2 MR. ALEXAN KULBASHIAN: My question
3 was, do you consider yourself qualified to be
4 testifying as an expert in this specific case?

5 DR. HENRY: Yes.

6 MR. ALEXAN KULBASHIAN: Would you
7 consider this case to involve politics and race-related
8 relations?

9 DR. HENRY: Oh, I'm sure it involves
10 politics, race, racism, religion, ethnicity,
11 nationality.

12 You name it, it's involved.

13 MR. ALEXAN KULBASHIAN: Would you
14 consider yourself to be qualified to give any expert
15 evidence on politics?

16 DR. HENRY: Yes.

17 MR. ALEXAN KULBASHIAN: Do you have
18 any expertise in politics?

19 MR. WARMAN: Objection. She's
20 already answered the question.

21 MR. ALEXAN KULBASHIAN: Okay. You
22 stated that you don't have expertise on politics, so
23 how would you say with any - I'm not done yet - how
24 would you say with any, I guess, how could you assert
25 that you would be able to comment on politics in this

1 case?

2 MR. WARMAN: Objection. Dr. Henry is
3 not being tendered as an expert on politics, she's
4 being tendered as an expert witness or proposed as an
5 expert witness on racism and hate propaganda.

6 MR. ALEXAN KULBASHIAN: She did just
7 state that she would be qualified to give expert
8 opinion on politics.

9 MR. WARMAN: Which is, of course, not
10 what she is being tendered as an expert witness for.

11 THE CHAIRPERSON: Well, it's true
12 that she's being tendered only as an expert on racism.

13 That's an example of what we spoke
14 about earlier. If she attempts to provide an opinion
15 in an area that is not in her field of expertise as
16 provided by the Commission, then an objection can be
17 raised.

18 MR. ALEXAN KULBASHIAN: Okay. Just
19 my question was -- because my question before was,
20 would you consider this case to involve politics and
21 race, and then after that my question was, would you
22 consider yourself to have -- to be able -- would you
23 consider yourself qualified to give expert opinion on
24 politics, she said yes, but previously she had also
25 stated that she was not an expert on politics.

1 THE CHAIRPERSON: That would be in
2 the record of the evidence .

3 MR. ALEXAN KULBASHIAN: All right,
4 thank you very much. One second.

5 Okay. Would you say that -- you did
6 state that as a person researching racism in society,
7 you would consider genocides to be the most aggravated
8 form of racism; am I right?

9 DR. HENRY: Correct.

10 MR. ALEXAN KULBASHIAN: Okay. And in
11 your research of genocides or any reading of genocides,
12 would you have tried to go to the roots to recognize
13 how, why or any of the details of genocides?

14 DR. HENRY: No.

15 MR. ALEXAN KULBASHIAN: Would you
16 have gone to the, let's say, gone to -- like, for
17 example, somebody who would be in computers, who would
18 be going into details of computers, would you think
19 that person would go to the first computer as some kind
20 of, like, symbolic research?

21 I'm not sure exactly how I'm going to
22 word that question.

23 Would you consider the first genocide
24 of the 20th century to be symbolic?

25 MR. WARMAN: Objection. I don't

1 understand the question.

2 THE CHAIRPERSON: I don't think the
3 question's clear.

4 MR. ALEXAN KULBASHIAN: That's my
5 question.

6 Okay. I just -- I got rid of that
7 last question.

8 Okay. So, would you consider the
9 first genocide of the 20th century to be symbolic?

10 MS MAILLET: You just asked that
11 question.

12 MR. ALEXAN KULBASHIAN: That's the
13 question.

14 THE CHAIRPERSON: Mr. Kulbashian, why
15 do you keep asking the same question?

16 MR. ALEXAN KULBASHIAN: Sorry, should
17 I reply?

18 Because I'm relating it to whether or
19 not she feels that it's related to the Holocaust, et
20 cetera, et cetera.

21 THE CHAIRPERSON: You've examined
22 this whole area, don't you feel, and I don't know what
23 you're driving at.

24 By the first genocide of the 20th
25 century, you mean the Armenian genocide; do you not?

1 MR. ALEXAN KULBASHIAN: Have you done
2 any research at all into racism from a federal, or I
3 guess, government level; racism at a government level?

4 DR. HENRY: Yes.

5 MR. ALEXAN KULBASHIAN: And would
6 that have been restricted to racism from a government
7 level in Nazi Germany?

8 DR. HENRY: No.

9 MR. ALEXAN KULBASHIAN: Would that be
10 the farthest back you looked about racism at a
11 government level?

12 DR. HENRY: By farthest back, you
13 mean...?

14 MR. ALEXAN KULBASHIAN: The farthest
15 back in history that you would have researched about --
16 like, I mean, if you look back in history, would you be
17 saying that the first incident of government level
18 racism you would be looking at would be the one in Nazi
19 Germany?

20 DR. HENRY: No.

21 MR. ALEXAN KULBASHIAN: How far back
22 did you go?

23 DR. HENRY: To the dawn of human
24 history.

25 MR. ALEXAN KULBASHIAN: Did you go to

1 any racism during World War I?

2 DR. HENRY: I don't really understand
3 the question because -

4 MR. ALEXAN KULBASHIAN: Okay. Would
5 you --

6 DR. HENRY: Just let me -- can I make
7 a comment, which perhaps might help you.

8 MR. ALEXAN KULBASHIAN: Oh, sure.

9 DR. HENRY: As you know from my CV, I
10 have a Ph.D., I have also been teaching in the social
11 science areas for almost 40 years.

12 My reading has been extremely wide on
13 a wide variety of subjects. I consider myself in
14 certain areas --

15 THE CHAIRPERSON: One moment.

16 Mr. Kulbashian?

17 MR. ALEXAN KULBASHIAN: Sorry.

18 THE CHAIRPERSON: It's troublesome to
19 constantly watch you talking back and forth to your
20 father while evidence is coming in and then you turn to
21 me and say you didn't understand what the answer was
22 because you weren't paying attention.

23 MR. ALEXAN KULBASHIAN: I'm sorry.

24 THE CHAIRPERSON: Pay attention,
25 please.

1 Go ahead. Please go ahead.

2 DR. HENRY: Yes. What I was about to
3 say that, in certain areas of human experience I
4 consider myself fairly well educated.

5 So, when you ask questions like, is
6 this the first of "x" that you've seen or researched
7 and so on, I have great difficulties with questions
8 like that.

9 My education, my training, my
10 reading, my knowledge runs over a lifetime of academic
11 research and teaching experience, so...

12 In other words, I have great
13 difficulty answering questions of that specific nature.

14 MR. ALEXAN KULBASHIAN: You stated
15 you did your Ph.D. at the University of Ohio State; am
16 I right?

17 DR. HENRY: Ohio State, yes.

18 MR. ALEXAN KULBASHIAN: Ohio State.
19 What was your Ph.D. work on, your thesis?

20 DR. HENRY: On an African religious
21 movement in Trinidad.

22 MR. ALEXAN KULBASHIAN: And what was
23 your work on for your Masters?

24 DR. HENRY: On a religious -- on a
25 church, on a Pentecostal Church in Columbus, Ohio.

1 MR. ALEXAN KULBASHIAN: Okay. Now,
2 this will probably, like, you know, I'm near the end.

3 Would you consider yourself qualified
4 to give expert opinion on the state of mind or on
5 articles written by, say, an individual who would have
6 either racial or cultural animosity with another
7 culture, if you knew nothing about either one of those
8 cultures or the history between -- the history on the
9 animosity?

10 DR. HENRY: If I understand you
11 correctly, I think you're asking whether without
12 knowledge of the two participants to a conflict, but
13 the writer is of the opinion that one is better than
14 the other, or one is not as good as the other, would I,
15 therefore, be able to form an opinion.

16 Is that the question?

17 MR. ALEXAN KULBASHIAN: Not only
18 without knowledge of the history of the participants in
19 the conflict or the history of the conflict, would you
20 be able to form any -- would you be able to say you'd
21 be able to form a valid opinion on whether or not
22 certain articles written back and forth would
23 constitute racism or would constitute anything other
24 than a cultural grudge?

25 DR. HENRY: Speaking as a social

1 scientist, I would have a considerable degree of
2 difficulty in forming an opinion about something that I
3 knew very little about.

4 So, before forming that opinion I
5 would try to, you know, make myself a bit more
6 knowledgeable.

7 MR. ALEXAN KULBASHIAN: Did you try
8 to make yourself more knowledgeable of, say, my
9 background?

10 DR. HENRY: No, I have no idea of who
11 you are or what your background is.

12 MR. ALEXAN KULBASHIAN: My cultural
13 background?

14 DR. HENRY: None whatever.

15 MR. ALEXAN KULBASHIAN: Do you know
16 my last name?

17 DR. HENRY: Yes, I've seen it in the
18 documentation.

19 MR. ALEXAN KULBASHIAN: Does that
20 last name strike you as any last name of a specific
21 culture?

22 DR. HENRY: I'd be guessing if I
23 answered that.

24 MR. ALEXAN KULBASHIAN: Okay. Would
25 you consider, say - I don't know if I can use this

1 word - but diatribes against Nazis in World War II by
2 Jews to be a form of racism?

3 Do you understand what diatribes are?

4 DR. HENRY: I don't know how you're
5 using the term, no.

6 MR. ALEXAN KULBASHIAN: Okay, in that
7 case, would you consider any hatred expressed by Jews
8 toward Nazis during World War II, or even now, to be a
9 form of racism?

10 DR. HENRY: No, I would not.

11 MR. ALEXAN KULBASHIAN: Would you
12 consider it to be a form of racism during World War II
13 specifically?

14 DR. HENRY: During World War II?

15 MR. ALEXAN KULBASHIAN: Yes.

16 DR. HENRY: No.

17 MR. ALEXAN KULBASHIAN: And would you
18 consider that to be -- would you consider any form of
19 racism towards Germans by Jews during World War II to
20 be racism?

21 DR. HENRY: No.

22 THE CHAIRPERSON: In your question--

23 MR. ALEXAN KULBASHIAN: That's
24 actually Nazism.

25 THE CHAIRPERSON: --you're loading

1 your question, any form of racism against Germans to be
2 racism?

3 MR. ALEXAN KULBASHIAN: Okay, sorry,
4 you're right.

5 Any expression of hatred -- would you
6 consider any expression of hatred by Jews towards
7 Germans during World War II to be racism?

8 DR. HENRY: Not every expression, no.

9 MR. ALEXAN KULBASHIAN: Any
10 expression of hatred I mean?

11 DR. HENRY: Some, certainly.

12 MR. ALEXAN KULBASHIAN: Would there
13 be a difference between -- like, is there any
14 difference between --

15 DR. HENRY: Yes, there is a
16 difference, because I don't know how many Germans there
17 were, but many, many millions, not every single one of
18 them was a Nazi.

19 MR. ALEXAN KULBASHIAN: So, would
20 that mean that knowing as a majority that people are --
21 okay, I won't beat around the bush with this one.

22 THE CHAIRPERSON: That would help.

23 MR. ALEXAN KULBASHIAN: So, knowing
24 that the majority of Germans were Nazis, would it have
25 been racism to -- would it have been racism to make

1 hate messages towards Germans?

2 MR. WARMAN: Objection. I think Mr.
3 Kulbashian is testifying. He's saying, knowing that
4 the majority of Germans are Nazis. I don't believe
5 that is historically accurate.

6 THE CHAIRPERSON: On the assumption
7 that...

8 MR. ALEXAN KULBASHIAN: On the
9 assumption that the majority of Germans would have been
10 Nazis during World War II, would it have been a form of
11 racism to express hatred towards Germans?

12 DR. HENRY: I think in most
13 instances, yes.

14 MR. ALEXAN KULBASHIAN: And how is
15 that different from what you answered before?

16 DR. HENRY: Well, because the
17 evidence of what happened during that period is so
18 extreme that many Jews who survived would be of the
19 view that all Germans were Nazis and, therefore, all
20 are complicit with the destruction of six-million
21 people.

22 MR. ALEXAN KULBASHIAN: So, would you
23 consider that somebody who -- would you believe that
24 somebody who would consider that all Germans were Nazis
25 and would be complicit, would be justified in an

1 expression of "hate propaganda" or racism towards
2 those people?

3 MR. WARMAN: Objection. I simply
4 lost sort of where the train is going in terms of the
5 relevance to --

6 MR. ALEXAN KULBASHIAN: Actually I
7 can leave this one.

8 THE CHAIRPERSON: It's not really
9 relevant to the main issue.

10 Let's not forget --

11 MR. ALEXAN KULBASHIAN: Yeah, there's
12 more to it.

13 THE CHAIRPERSON: --they are putting
14 forth this individual as an expert in racism - and I
15 want to be clear - and hate propaganda against
16 designated groups identified in the complaint.

17 I don't know if going to those issues
18 is of any assistance.

19 MR. ALEXAN KULBASHIAN: Okay. Then I
20 guess one more question. So, I guess this would be my
21 last question.

22 How much politics would you say there
23 is involving this case you're testifying before right
24 now?

25 DR. HENRY: I think politics - and

1 politics defined very, very loosely - affects a great
2 deal of human behaviour.

3 MR. ALEXAN KULBASHIAN: And in this
4 specific Tribunal session that you are in front of
5 right now, how much politics would you say is involved
6 in?

7 DR. HENRY: Oh, there is some,
8 certainly.

9 MR. ALEXAN KULBASHIAN: On a scale
10 from - percentage wise, can you give a ballpark maybe
11 from what you've read?

12 MR. WARMAN: Objection. It's an
13 extremely vague question.

14 MR. ALEXAN KULBASHIAN: Okay. So...

15 THE CHAIRPERSON: I'm not even quite
16 sure what it means.

17 MR. ALEXAN KULBASHIAN: In that case,
18 maybe like we should just leave her answer right there.

19 Would you say there is -- would it be
20 like --

21 THE CHAIRPERSON: If you're trying to
22 get a percentage by using fractions....

23 MR. ALEXAN KULBASHIAN: No, not
24 necessarily, right, I could give her like a geiger
25 counter or something.

1 THE CHAIRPERSON: That's not a proper
2 way to go about it.

3 MR. ALEXAN KULBASHIAN: Sorry.

4 THE CHAIRPERSON: You know, I think I
5 see where you may be going with this.

6 I think it certainly is something you
7 can certainly raise in argument in terms of her ability
8 to have answered certain questions.

9 MR. ALEXAN KULBASHIAN: okay.

10 THE CHAIRPERSON: But right now I'm
11 not at that stage, I haven't even looked at the report.

12 MR. ALEXAN KULBASHIAN: Okay.

13 THE CHAIRPERSON: So, it's simply her
14 qualifications that are at issue here.

15 MR. ALEXAN KULBASHIAN: Okay. Then
16 my last question would be, just rephrasing that last
17 one, just so I don't have to, like, go into 10 other
18 questions and mix up the court.

19 Would you consider there to be a
20 considerable amount of politics in this case?

21 DR. HENRY: I said there is some
22 politics, yes.

23 THE CHAIRPERSON: I've heard her
24 answer.

25 MR. ALEXAN KULBASHIAN: Thank you.

1 That should be it. Thank you.

2 THE CHAIRPERSON: It bothers me when
3 you take the opportunity to ask the same question.

4 MR. ALEXAN KULBASHIAN: Well, I
5 didn't want to do that, just, like, I had so many
6 questions, I just wanted to reword it and just say
7 forget about it.

8 THE CHAIRPERSON: Why reword it when
9 I told you I don't want to hear the question, it's
10 inappropriate.

11 When I say it's inappropriate, it
12 doesn't mean go ahead and reword it.

13 MR. ALEXAN KULBASHIAN: Okay.

14 THE CHAIRPERSON: It wasn't the
15 proper time for that question.

16 MR. ALEXAN KULBASHIAN: Okay. I'm
17 done.

18 THE CHAIRPERSON: All right.
19 Re-examination, if any, on expertise.

20 MS MAILLET: I have no questions.
21 Mr. Warman may have, but I have no re-examination.

22 MR. WARMAN: No, I have no questions.

23 THE CHAIRPERSON: Argument.

24 Do you oppose her qualifications as
25 an expert in the areas of...

1 And perhaps it might be appropriate
2 to ask the witness to step out if we engage in this
3 discussion.

4 Would you please step out, Dr. Henry.
5 Is there any opposition to her?

6 MR. ALEXAN KULBASHIAN: Yes, there
7 is.

8 THE CHAIRPERSON: Okay. So, would
9 you please step out then.
10 ---(witness stands down)

11 THE CHAIRPERSON: Yes, Mr.
12 Kulbashian.

13 MR. ALEXAN KULBASHIAN: Yeah, I do
14 oppose her being found an expert in -- what I'm going
15 to do is I'm going to read - if this is the an
16 application:

17 "That she be tendered as an
18 expert in the area of racism and
19 hate propaganda, seeking her
20 opinion as to whether or not the
21 material she has analyzed is
22 likely to expose persons --"

23 THE CHAIRPERSON: If you're going to
24 read it, it has to be slow.

25 MR. ALEXAN KULBASHIAN: Oh, sorry.

1 THE CHAIRPERSON: She'll never keep
2 up with you, nor will I.

3 MR. ALEXAN KULBASHIAN: Application
4 made by the Commission would be:

5 "That she be tendered as an
6 expert in the area of racism and
7 hate propaganda."

8 Am I right?

9 THE CHAIRPERSON: Yes.

10 MR. ALEXAN KULBASHIAN: Okay, I
11 believe that she does not have -- that she, of her own
12 admission, dabbled in certain things and concentrated
13 mainly on a specific vein in the field of racism, as
14 opposed to getting a stronger general view of racism.

15 And I believe that from the testimony
16 we've got in this case so far and evidence presented,
17 that there is a much broader aspect -- issue in front
18 of the Tribunal today than she can testify to:

19 THE CHAIRPERSON: Yes, that certainly
20 can go to the arguments raised about, is she an expert
21 in racism and hate propaganda.

22 That's the question.

23 MR. ALEXAN KULBASHIAN: Okay. I
24 guess it would depend on how expert was defined.

25 THE CHAIRPERSON: Expert in racism or

1 hate propaganda.

2 MR. ALEXAN KULBASHIAN: That's the
3 definition?

4 THE CHAIRPERSON: Oh, a definition.

5 Well, I can pull out a decision of
6 the Supreme Court, if I have to:

7 "Someone who can provide
8 information which the Tribunal
9 is not able to have..."

10 Now I'm paraphrasing. If you like, I
11 have a decision here.

12 MR. ALEXAN KULBASHIAN: Oh, that
13 would be great, because this is the first time I'm
14 dealing with an expert witness, so I wouldn't know how
15 to --

16 THE CHAIRPERSON: Just give me a
17 moment.

18 Well, I'll say this much: There's a
19 leading case in this area from the Supreme Court of
20 Canada -- now I'm doing this, mindful that the
21 Commission and complainant can kick in later on or even
22 now if they object to what I'm going to present here -
23 just for the purposes of advancing this discussion.

24 One of the key cases in the area of
25 expert evidence is R v. Mohan, 1994 2SCR9, that was a

1 criminal case but it dealt with this issue.

2 Now, instead of actually going into
3 Mohan, what I'm going to do is read to you a ruling
4 that I issued in a similar type of situation, expert
5 being put forth in a previous case, that of Moran v.
6 The Attorney General of Canada.

7 The ruling was issued and it's put on
8 our website, the decision has been taken under
9 advisement by me, I haven't issued my final decision in
10 that case yet.

11 But there was an expert that was
12 tendered in that case -- actually, for the record I
13 should say that Dr. Henry testified in that case as
14 well as an expert, but there was another expert that
15 was tendered for which there was a debate and I did
16 issue a ruling, I actually excluded the evidence of
17 this other individual.

18 And, in summarizing what Mohan said,
19 it's basically one paragraph, it comes out to this:

20 "An analysis regarding the
21 admissibility of expert evidence
22 should be conducted in
23 accordance with the leading
24 decision of the Supreme Court of
25 Canada in Mohan."

1 And that's what I ruled that day when
2 I issued my ruling.

3 "The Court explained that the
4 admission of expert evidence
5 depends upon the application of
6 the following criteria:
7 relevance, necessity in
8 assisting the trier of fact, the
9 absence of any exclusionary
10 rule --"

11 MR. ALEXAN KULBASHIAN: Hold on.

12 THE CHAIRPERSON:

13 "...and a properly qualified
14 expert."

15 MR. ALEXAN KULBASHIAN: Sorry, if I
16 interrupt you. Can you define exclusionary rule?

17 THE CHAIRPERSON: I don't think any
18 would apply in this case.

19 MR. ALEXAN KULBASHIAN: If I can just
20 get the definition of what the word 'expert' means to
21 the Tribunal, as in how someone would be defined as an
22 expert in their field?

23 THE CHAIRPERSON: I'll tell you in a
24 second.

25 In the decision in Mohan the Court

1 referred back to another decision from the Supreme
2 Court of Canada R vs. Abbey from 1982, 2SCR24.

3 So, the Supreme Court said in the
4 Supreme Court - and, again, I will just take this
5 excerpt that I had referred to in my prior ruling in
6 Moran:

7 "An expert's function is
8 precisely this: to provide the
9 judge and jury with a ready made
10 inference which the judge and
11 jury, due to the technical
12 nature of the facts, are unable
13 to formulate.

14 An expert opinion is
15 admissible to furnish the court
16 with scientific information
17 which is likely to be outside
18 the experience and knowledge of
19 a judge or jury.

20 If, on the proven facts, a
21 judge or jury can form their own
22 conclusions without help, then
23 the opinion of the expert is
24 unnecessary."

25 MR. ALEXAN KULBASHIAN: Okay.

1 THE CHAIRPERSON: Now, the Supreme
2 Court in Mohan went on to say -- it took that principle
3 and sort of adjusted it a bit in Mohan, the Supreme
4 Court, and they said:

5 "This precondition is often
6 expressed in terms as to whether
7 the evidence would be helpful to
8 the trier of fact. The word
9 'helpful' is not quite
10 appropriate and sets too low a
11 standard; however, I would not
12 judge necessity by too strict a
13 standard. What is required is
14 that the opinion be necessary in
15 the sense that it provide
16 information which is probably
17 outside the experience and
18 knowledge of a judge or jury.

19 As stated by Justice Dickson
20 in Abbey, "the evidence must be
21 necessary to enable the trier of
22 fact to appreciate the matters
23 in issue due to their technical
24 nature".

25 Now, I have certainly ruled in some

1 cases, a technical nature does not just mean physical
2 sciences, one can consider statistics, one can consider
3 even sociology as being of a technical nature.

4 So, it is in that sense that a person
5 may testify.

6 But going back to the four elements
7 of the test: It has to be relevant, so if the evidence
8 is not relevant it should not be considered; necessary
9 in assisting the trier of fact, the absence of any
10 exclusionary rule - and I will get back to that for
11 you - and a properly qualified expert.

12 This is the stage we're at right now.

13 MR. ALEXAN KULBASHIAN: Okay.

14 THE CHAIRPERSON: We're dealing now
15 with the qualifications of the expert.

16 MR. ALEXAN KULBASHIAN: Right. Can
17 you just get back to the exclusionary rule one for a
18 second.

19 THE CHAIRPERSON: I'll see what I can
20 give you for that.

21 MR. ALEXAN KULBASHIAN: Thank you.

22 THE CHAIRPERSON: See, the
23 exclusionary rule, it's very particular to things like
24 criminal law.

25 The example cited by the Supreme

1 Court in Mohan was one where:

2 "The expert evidence was
3 excluded by reason of the rule
4 that prevents the crown from
5 adducing evidence of the
6 accused's disposition unless the
7 latter has placed his or her
8 character in issue."

9 There are principles of evidence that
10 may prevent certain evidence from coming forth, like
11 the evidence of a person's good character, for
12 instance.

13 MR. ALEXAN KULBASHIAN: Right.

14 THE CHAIRPERSON: So, that's not
15 really I think an issue here.

16 The stage we're at right here is the
17 fourth item, is the expert qualified.

18 MR. ALEXAN KULBASHIAN: I just -- see
19 the application was made that she be tendered as an
20 expert in the area of racism and propaganda.

21 Now, it's my admission --

22 THE CHAIRPERSON: On that point, let
23 me just read to you what the Supreme Court said about
24 that test, that element, the fourth element.

25 "The evidence must be given by a

1 witness who has shown to have
2 acquired special or peculiar
3 knowledge through study or
4 experience in respect of the
5 matters on which he or she
6 undertakes to testify."

7 MR. ALEXAN KULBASHIAN: That's
8 exactly my point.

9 THE CHAIRPERSON: Okay.

10 MR. ALEXAN KULBASHIAN: So basically,
11 first of all, excluding the issue of politics at the
12 moment.

13 She admitted -- first of all,
14 actually I will get into that first.

15 She admitted that racism also
16 included politics, also includes a whole bunch of
17 economic as well as national issues, et cetera.

18 THE CHAIRPERSON: What you're saying
19 that's part of racism?

20 MR. ALEXAN KULBASHIAN: That's part
21 of racism.

22 Second of all, I believe her
23 knowledge of racism, her expertise of racism is too
24 narrow to be able to testify in this case.

25 THE CHAIRPERSON: Narrow in what

1 sense?

2 MR. ALEXAN KULBASHIAN: Narrow in the
3 sense that, first of all, she cannot provide an opinion
4 on the Israeli/Palestinian issue when there was lots of
5 testimony brought up about the Israeli/Palestinian
6 issue.

7 Second of all, narrow in the sense
8 that she admitted to concentrating particularly on
9 issues with coloured people.

10 THE CHAIRPERSON: No, that's not the
11 word she used. Careful, you'll get yourself in
12 further trouble.

13 MR. ALEXAN KULBASHIAN: Oh, sorry.

14 THE CHAIRPERSON: People of colour.

15 MR. ALEXAN KULBASHIAN: Oh, sorry, I
16 didn't understand. People of colour.

17 And that's what she stated, that she
18 was particularly, like, interested in.

19 She also stated she had done some
20 extensive studies in the Holocaust, however, as
21 Holocaust specifically as opposed to any other
22 genocides.

23 She also got into an argument with me
24 as to whether or not anything else applies as a
25 Holocaust, which I believe to be a personal bias more

1 than an issue of technicality, because she did define
2 the word Holocaust as annihilation of a race.

3 So, I believe that both her knowledge
4 is too narrow in the field of racism, as well as her --
5 that she has some form of bias and some form of
6 sensitivity towards some of the issues that are here in
7 front of the court -- in front of the Tribunal, sorry.

8 THE CHAIRPERSON: I did inform you
9 that the issues of bias really go to credibility of the
10 witness.

11 MR. ALEXAN KULBASHIAN: In that
12 case --

13 THE CHAIRPERSON: In the
14 qualifications it's really not necessarily an issue.

15 MR. ALEXAN KULBASHIAN: I understand.

16 THE CHAIRPERSON: But you're saying
17 that the focus of her expertise, I think that's what it
18 boils down to, is that what you're saying?

19 MR. ALEXAN KULBASHIAN: Yes.

20 THE CHAIRPERSON: The focus of her
21 expertise is too narrow.

22 MR. ALEXAN KULBASHIAN: Is too
23 narrow.

24 THE CHAIRPERSON: And is limited to
25 discrimination against people of colour who are

1 minorities.

2 MR. ALEXAN KULBASHIAN: And there is
3 an issue in this case about discrimination against
4 Arabs and she did not state any previous study and
5 something that she admitted to recently going into
6 would not give her any level of expertise, because she
7 did state that these books are still about to be
8 published that would include something about Arabs or
9 Muslims.

10 MR. WARMAN: Sir, that's actually a
11 mischaracterization.

12 What she stated was that the earliest
13 version of it does include it and the upcoming version
14 includes more evidence of that factor.

15 THE CHAIRPERSON: At least the one
16 text.

17 MR. ALEXAN KULBASHIAN: At least the
18 one text. And which book did she refer to, if you
19 could just refresh my memory?

20 THE CHAIRPERSON: It was No. 7.

21 MR. ALEXAN KULBASHIAN: No. 7.

22 THE CHAIRPERSON: No, not No. 7, 3
23 The Colour of Democracy Racism in Canadian Society.

24 MR. ALEXAN KULBASHIAN: Okay.

25 THE CHAIRPERSON: Page 5, No. 3.

1 MR. ALEXAN KULBASHIAN: Page 5.

2 As you see here, like, there is three
3 other authors in this book as I see over here, there's
4 Taylor, Mattes and Reese, I believe, and there was no
5 indication about any level of knowledge, like you know,
6 that she testified to about Arab relations or racism
7 against Arabs or racism against Muslims.

8 Just because it is included in the
9 book does not mean that she has any expertise in that
10 field.

11 And she did not testify to either
12 writing, that she just did state that it was included
13 in the book that was being published or in this book
14 that was here right now.

15 THE CHAIRPERSON: Is that it?

16 MR. ALEXAN KULBASHIAN: Oh, this is
17 what specifically talking about the book, addressing
18 the objection from Mr. Warman.

19 THE CHAIRPERSON: Complete your
20 submissions on her qualifications.

21 MR. ALEXAN KULBASHIAN: Okay.
22 Another issue is that any field of expertise that she
23 does claim seemed to be limited to specific, either
24 instances.

25 For example, the book Holocaust

1 Denial, seems to be limited to the Holocaust itself as
2 opposed to other genocides that were committed during
3 the 20th century or even before.

4 And also, like for example, the
5 Armenians and Greeks which would have been the
6 template, according to a lot of scholars, the template
7 for the Holocaust in World War II.

8 And I believe that she did just
9 concentrate specifically in, like, specific veins of
10 the topic of racism and I don't believe that she should
11 be qualified as an expert in racism and hate
12 propaganda.

13 As she stated herself, the field is
14 too broad. Her perspective is racism, like you know,
15 by whites towards other individuals, as well she stated
16 that she has not formed any opinion on certain branches
17 of racism.

18 And I don't believe that there's any
19 way, like, I'm not going to necessarily like refer to
20 her -- the document that she submitted that we're going
21 to be addressing, but there is issues of -- well,
22 there's allegations of racism against Jews where in
23 order for her to comment on it, since there's always
24 the Jewish and Zionist issue, that she would have to
25 have some sort of expertise in that and she does not.

1 And, again, by her own admission, she doesn't have
2 expertise in racism against Arabs and Muslims.

3 That's fine.

4 THE CHAIRPERSON: I would turn to Mr.
5 Warman, but this witness is actually technically by the
6 Commission; correct?

7 MS MAILLET: That's correct, but...

8 THE CHAIRPERSON: I took a quick look
9 at the first page of the expertise and it says:

10 "I have been asked by Monette
11 Maillet, legal counsel of the
12 Commission to..."

13 MS MAILLET: That's correct. The
14 Commission retained Ms. Henry, however, Mr. Warman is
15 also a party and even though he hasn't --

16 THE CHAIRPERSON: But just so I
17 technically know who's witness this is.

18 MS MAILLET: Yes.

19 THE CHAIRPERSON: It is the
20 Commission's witness?

21 MS MAILLET: Yes.

22 MR. WARMAN: I'm pleased to consent
23 to the admission of her as an expert witness.

24 MS MAILLET: Sir, Mr. Kulbashian
25 appears to be concerned with racism against Arabs and

1 the political - I'm sure which will be part of his
2 defence - the political situation in the Middle East,
3 and his indication is that Ms. Henry is not qualified
4 to comment on racism against Arabs or the political
5 situation in the Middle East. He also indicated she
6 dabbled in racism.

7 If you take a look at her CV, it's my
8 position that she did more than dabble in racism.

9 MR. ALEXAN KULBASHIAN: My
10 submission--

11 THE CHAIRPERSON: No, no, no, one at
12 a time.

13 MR. ALEXAN KULBASHIAN: It's a
14 correct. It's my submission was not that she dabbled
15 in racism, I said that she concentrated on a specific
16 vein and she dabbled in others.

17 MS MAILLET: That wasn't what he
18 said. In any event, I won't argue.

19 MR. ALEXAN KULBASHIAN: That's what I
20 said.

21 THE CHAIRPERSON: Please, I don't
22 want a debate.

23 MS MAILLET: With respect to her
24 published reports, many of them deal with racism in
25 many different areas.

1 There are 17 published reports here.
2 With respect to chapters in books, we're looking at 25
3 different titles, most of which deal with racism in one
4 form or another:

5 The Racialization of Crime, Racist
6 Discourse in Canada, Colour of Democracy, and, again,
7 what we're qualifying her as is an expert in racism and
8 hate propaganda.

9 That book she indicated has a section
10 on hate messages, hate propaganda, hate crime.

11 The Colour of Democracy Racism in
12 Canadian Society, again, I think she's on the third
13 edition of that book.

14 She also indicated that the one
15 that's in press now deals specifically with a second on
16 Arabs and Muslims, and that she had studied Arabs and
17 Muslims as people of colour in her studies on racism.

18 Then we deal as well with, a lot of
19 her work deals with racism against Jewish people, and
20 we have to go back to the complaint before the
21 Tribunal.

22 The complaint before the Tribunal
23 deals with racism or discrimination against certain
24 religions, which include the Jewish religion, the
25 Muslim religion, and certain races, non-Caucasian,

1 non-Christian.

2 It is very broad, and for Mr.
3 Kulbashian to indicate that she hasn't written a book
4 with a specific title that says racism against Arabs,
5 or racism in the Middle East, it's my submissions that
6 that does not disqualify her as an expert in this case.

7 I don't know if Mr. Warman has any
8 submissions, but...

9 THE CHAIRPERSON: I'd like you to
10 comment on the other component that I discussed.

11 MS MAILLET: Yes, yes.

12 THE CHAIRPERSON: That's listed in --
13 because I asked particularly Mr. Kulbashian to focus on
14 the qualification of the expert, he did raise some of
15 the other issues as well.

16 MS MAILLET: Yes. It's okay.

17 THE CHAIRPERSON: I think it's
18 implicit in what he's saying that this witness cannot
19 provide any relevant information because her expertise
20 is not in the area that's being discussed.

21 And we'll leave No. 3, exclusionary
22 rule is not an issue here.

23 No. 2, the necessity in assisting the
24 trier of fact.

25 How necessary is it - and I haven't

1 looked at the report and maybe I should - how necessary
2 is it for me to have an expert to tell me what section
3 13, how section 13 would be applied?

4 MS MAILLET: Well, in terms of the
5 analysis of the material, I think Dr. Henry does give
6 evidence in her conclusion about the effect that that
7 type of material has on the victims or the people that
8 read this material, and as well for society as a whole.

9 And as she goes through each article,
10 or each tab that we have provided to her that's been
11 before the Tribunal, she does indicate what certain
12 stereotypes, she does indicate how stereotyping people,
13 and again, specific stereotypes - and there were things
14 that I learned in there that I wasn't aware of as
15 well - but certain stereotypes, certain ways that
16 racism is expressed in society and how the material
17 here typifies that type of racism.

18 She talks about actually a couple of
19 different types of racism and where it comes from,
20 which I think would be helpful to the Tribunal.

21 And, again, concludes all of that
22 with how this affects people.

23 And it's our submission that --

24 THE CHAIRPERSON: How it affects
25 which people?

1 MS MAILLET: The victims.

2 THE CHAIRPERSON: The victim...?

3 MS MAILLET: --of discrimination;
4 i.e., people of colour, Jewish people, Muslims, you
5 know, the people that were targeted in the material
6 that she was asked to analyze.

7 And, again, I believe --

8 THE CHAIRPERSON: Get into the
9 relevance then.

10 MS MAILLET: Yes.

11 THE CHAIRPERSON: Your last statement
12 there, the relevance to the case.

13 MS MAILLET: Yes, that the material
14 before the Tribunal is material that is, in our
15 submission, racist material that deals specifically
16 with her area of expertise.

17 The relevance to this case is that in
18 the Tribunal determining whether it's likely to expose
19 persons to hatred and contempt, a decision needs to be
20 made as to what effect this material has.

21 One effect it has is that it's likely
22 to expose people to hatred and contempt.

23 She also talks about other areas, but
24 that is one effect that it has.

25 THE CHAIRPERSON: Mr. Warman?

1 MR. WARMAN: I'd just like, if I
2 could, to make submissions on this point as well.

3 THE CHAIRPERSON: Well, you can make
4 all your submissions at once, unless Me Maillet -- I
5 don't want you to interrupt Me Maillet.

6 MR. WARMAN: Oh, sorry, I thought she
7 was completed.

8 MS MAILLET: So, in terms of the
9 relevance, that is how it is relevant, she does in her
10 conclusion indicate what effects material that she has
11 analyzed would have on society as a whole and on the
12 particular victims.

13 And I can refer to --

14 THE CHAIRPERSON: Where are the
15 conclusions?

16 MS MAILLET: And I can refer to her
17 report. I believe it's towards the end of her report
18 that she has a specific section that deals with that.

19 THE CHAIRPERSON: I see her
20 conclusion. This is the concern one often has with
21 these experts' reports, that there will be statement
22 that goes to the ultimate conclusion that has to be
23 made in the case.

24 I see a phrase here--

25 MS MAILLET: Yes.

1 THE CHAIRPERSON:

2 "which, in my opinion, expose
3 persons to hatred and contempt."

4 MS MAILLET: That's correct, and I
5 agree with you, that that is the ultimate question that
6 you must decide. I agree with you.

7 However, if you look to page 23 of
8 her report.

9 THE CHAIRPERSON: Yes.

10 MS MAILLET: It's my submission
11 that's only one of the effects that come out of her
12 conclusion.

13 THE CHAIRPERSON: It talks about the
14 effects -- I'm looking at it very quickly.

15 MS MAILLET: Yes.

16 THE CHAIRPERSON: The effect hate
17 messages to the stabilization of a democratic society
18 is what you're relying on?

19 MS MAILLET: That's right.

20 And I believe it provides a context
21 for the Tribunal how racism manifests itself in
22 society, what effect -- and, again, what effect it has
23 on people that read this.

24 You know, this material was on the
25 Internet, was for public viewing, and so it's our

1 submission that it's helpful to the Tribunal to have
2 this expert go through this and to talk about the
3 effects that that has.

4 THE CHAIRPERSON: Is my understanding
5 that Mohan and perhaps other decisions have indicated
6 that it is no longer a hard and fast rule that expert
7 opinions that go to the ultimate issue are
8 inadmissible, they are admitted by the courts with the
9 usual caveats.

10 MS MAILLET: I think so, yes, that's
11 correct.

12 Those are my submissions.

13 MR. WARMAN: Just a few points, I'd
14 like to follow up.

15 THE CHAIRPERSON: Yes.

16 MR. WARMAN: There are a number of
17 other issues that Dr. Henry looks at.

18 The first one in terms of relevance
19 to the Tribunal, the necessity, I would say, is the
20 analysis that is done on racist discourse within her
21 expert report.

22 THE CHAIRPERSON: On racist
23 discourse?

24 MR. WARMAN: Yes, in terms of the
25 forums, the language, how this fits within the

1 historical milieu of the expression of racism.

2 So, Dr. Henry examines the material
3 that is contained within -- or that is referenced
4 within the complaint that is before the Tribunal, and
5 then gives sort of a placement or an historical context
6 to how the material, in this case the present day
7 expressions of racism, fit within historical examples
8 of racist discourse and racist hate propaganda.

9 She also expresses an opinion, she
10 examines specific article that deals with racism within
11 the justice system, of which she has written
12 extensively about.

13 The next --

14 THE CHAIRPERSON: How is that one
15 relevant to the complaint?

16 MR. WARMAN: Sorry, within the
17 evidence before you there is an article written by
18 William Pierce that addresses specifically the question
19 of racism within the justice system and, therefore, I
20 believe that her historical experience and education
21 would be of assistance to the Tribunal.

22 THE CHAIRPERSON: Is this one of the
23 articles that was posted on the site?

24 MR. WARMAN: Yes, it is.

25 THE CHAIRPERSON: Okay.

1 MR. WARMAN: The next point is a
2 similar one. There are attacks, specific attacks in
3 specific articles that deal with multi-culturalism and
4 the perception that multi-culturalism is, in fact, an
5 evil within our society and should be fought at all
6 costs.

7 Dr. Henry has written extensively on
8 the question of multi-culturalism within Canadian and
9 western society.

10 And the last thing that I would
11 mention is that many of the articles consider the
12 question of stereotyping, many of the jokes, many of
13 the expressions of the racism within the material that
14 has been filed as evidence in this case go to questions
15 of stereotyping.

16 And Dr. Henry has also her experience
17 an education would be of assistance to the Tribunal in
18 that.

19 And, again, this comes back to the
20 question of racist discourse and how once going about
21 belittling, demeaning vilifying target groups within
22 hate propaganda and within racist expression.

23 THE CHAIRPERSON: Is that it?

24 MR. WARMAN: Yes, thank you.

25 THE CHAIRPERSON: Do you wish to

1 reply, Mr. Kulbashian.

2 MR. ALEXAN KULBASHIAN: Yes, actually
3 there's one interesting point -- I didn't realize I
4 could actually go into the report that she filed, I was
5 trying to stay away from the report.

6 THE CHAIRPERSON: Yes. I mean, in
7 the sense go into the issue that we speak about, the
8 relevance and necessity.

9 MR. ALEXAN KULBASHIAN: Okay.

10 THE CHAIRPERSON: I hesitate to get
11 very much into the report because I don't want to
12 contaminate our discussion on Dr. Henry's
13 qualifications, but certainly you can -- without
14 getting into the details.

15 MR. ALEXAN KULBASHIAN: In that case
16 then, I believe that it's possible that she might
17 have -- according to what Ms Maillet said where there
18 were comments on the effects of racism on people, et
19 cetera, et cetera, I feel that she might have gone
20 outside of her field of expertise and I feel that would
21 be in the field of psychology as opposed to the field
22 of sociology, and I believe that there was no evidence
23 put in front of us that she is an expert in psychology.

24 And, again, coming back to the issue
25 that just because she is an expert in some fields of

1 racism does not mean that since it comes down to
2 addressing -- let's say there was another expert here
3 that would be addressing other aspects or some expert
4 that would address politics, then her testimony might
5 be either seriously biased or inaccurate considering
6 the fact that there is some articles that she speaks of
7 that are not in her field of expertise, and also,
8 again, she never stated that she did write articles
9 about Arabs, she stated there were articles about
10 racism towards Arabs in some of the books, which as we
11 can see here, one of the books listed over here has
12 more than one author.

13 THE CHAIRPERSON: Yes.

14 MR. ALEXAN KULBASHIAN: So, that
15 comes back to whether or not, just because she was
16 involved in a book where there was discussion of racism
17 against Arabs, whether or not that makes her an expert
18 on racism against Arabs.

19 THE CHAIRPERSON: Right, but that's
20 only one aspect of the complaint that's been made
21 against you, that's what's being put forth here.

22 Wouldn't that go to your arguments
23 with respect to the validity, the value of her evidence
24 as opposed to whether she could testify?

25 If I can draw that analogy to you. I

1 mean, there have been cases that I have ruled upon
2 where I found a person was qualified as an expert but
3 then, in the course of cross-examination, the other
4 side has done a good job in demonstrating weaknesses in
5 the analysis that the expert has done and, in so doing,
6 when an argument is made thereafter that the expert
7 evidence is of no value, does not support the position
8 adopted by the person putting forth that expert and, in
9 the decision of the Tribunal ultimately, one sees the
10 expert evidence discounted and not considered.

11 So, that sounds -- these arguments of
12 yours seem to be of that nature when I hear your last
13 statement about bias and inaccuracies and so on in the
14 report itself.

15 Those are the kind of things where
16 you identify them in her report and point them out and
17 demonstrate that the report is inaccurate. That
18 doesn't really go to the core of her qualifications.

19 MR. ALEXAN KULBASHIAN: I'm not
20 identifying anything as an inaccuracy as of yet and we
21 haven't gone into her expert evidence yet, however, my
22 point is that if Ms Maillet stated that she would be --
23 by her own admission, racism is a general field that
24 would also include politics, and according to what Ms
25 Maillet said, should also include psychology obviously.

1 I don't think she's an expert in
2 either one, and by her own admission, she's not an
3 expert in politics and there's no evidence put before
4 us that she's an expert in psychology.

5 THE CHAIRPERSON: Right. The
6 complaint that's been made against you is more than
7 that. The complaint doesn't just include the one
8 letter that was the subject of the discussion with Mr.
9 Wilson in the last few days, the complaint that's been
10 made against you and Mr. Richardson - don't forget,
11 there's also Mr. Richardson involved in this file.

12 MR. ALEXAN KULBASHIAN: That's right.

13 THE CHAIRPERSON: And plus the
14 websites, and there are references here, if I recall,
15 to all sorts of groups, of minority groups.

16 So, it's not just about the
17 Israeli/Palestinian issue that's at issue here; right.

18 MR. ALEXAN KULBASHIAN: But my
19 submission is that we must be careful when someone gets
20 qualified as an expert in racism, it's like stating
21 that someone is an expert in computers and having
22 specific knowledge in one field of computers and then
23 having general knowledge or maybe, actually on and off
24 knowledge in other fields.

25 THE CHAIRPERSON: Precisely, and so

1 that is why the Tribunal should be very mindful of such
2 discrepancies.

3 But it does not discredit a person
4 from being the expert in the first area of computers
5 that you speak of; right?

6 MR. ALEXAN KULBASHIAN: But that
7 would not make him an expert in computers in general.

8 And over here the application is to
9 tender her as an expert in the area of racism and hate
10 propaganda.

11 THE CHAIRPERSON: Yes, racism and
12 hate propaganda. You're saying that...?

13 MR. ALEXAN KULBASHIAN: That one vein
14 of racism is not an expert in racism.

15 THE CHAIRPERSON: No, but that's not
16 what the evidence was in terms of what she testified
17 to.

18 She said that politics can form part
19 of racism, but I didn't understand to say that politics
20 is always involved in racism.

21 That's not what she said.

22 MR. ALEXAN KULBASHIAN: Well, I'm not
23 talking about politics, I'm talking about, even if we
24 take politics out of the issue of racism--

25 THE CHAIRPERSON: Yes.

1 MR. ALEXAN KULBASHIAN: --her
2 involvement, like, her expertise would be in people of
3 colour versus any other fields.

4 THE CHAIRPERSON: She said that was
5 her greater area of expertise.

6 MR. ALEXAN KULBASHIAN: That was her
7 greater area of expertise.

8 THE CHAIRPERSON: And I'm saying that
9 the complaint has a good measure of allegations
10 regarding that field.

11 MR. ALEXAN KULBASHIAN: That's true,
12 but then again, she also stated that she had a greater
13 area of expertise, but she never stated or never gave
14 evidence that there was any other fields of expertise
15 in racism that she did have aside from the issue of
16 people of colour.

17 And that would make it that she has
18 an expertise in a specific vein of racism as opposed to
19 all racism altogether, and since there is a lot more to
20 this issue than just one vein of racism, then it's
21 basically --

22 THE CHAIRPERSON: I think I've heard
23 your points on that, Mr. Kulbashian.

24 Thank you. I will take a small
25 recess at this time.

1 MR. ALEXAN KULBASHIAN: How long do
2 we have?

3 THE CHAIRPERSON: I will get back to
4 you in a minute.

5 Thank you.

6 ---Recess taken at 3:20 p.m.

7 ---On resuming at 3:55 p.m.

8 REGISTRY OFFICER: All rise.

9 Please be seated.

10 THE CHAIRPERSON: I will issue my
11 ruling.

12 RULING

13 The Canadian Human Rights Commission
14 seeks to call Dr. Frances Henry to testify as an expert
15 in racism and hate propaganda against the designated
16 groups cited in the complaint.

17 Commission counsel adds that her
18 expertise will consist of an analysis of the material
19 put into evidence with respect to racist ideologies and
20 the effect that the material would have on society and
21 the identified groups.

22 Dr. Henry has a Ph.D. in social
23 anthropology and a Masters in anthropology.

24 A review of her curriculum vitae
25 demonstrates, amongst other things, that she has

1 authored numerous text in the area of racism. She has
2 researched in various areas relating to race relations.
3 She currently holds a position of Professor Emerita in
4 the Department of Anthropology at York University.

5 In my opinion, the evidence is clear
6 that Dr. Henry has extensive expertise in racism and
7 the associated area of hate propaganda.

8 However, for an expert opinion to be
9 received in evidence in must also be relevant and
10 necessary in assisting the trier of fact, as I
11 explained before the break during our discussion with
12 respect to the Mohan decision before the Supreme Court.

13 Is her evidence relevant? Certainly
14 racism is an essential component to the allegations
15 made in the complaint.

16 The respondent, Mr. Kulbashian,
17 points out that Dr. Henry's expertise is grounded more
18 in the areas of race relations involving people of
19 colour, or to use the term more commonly found in
20 federal statutes, visible minorities.

21 Mr. Kulbashian contends that her
22 expertise is more limited with respect to some areas,
23 such as Arab Israeli relations.

24 In my opinion, these are certainly
25 arguments that can be raised by the respondents in

1 dealing with the value to be assigned to this witness'
2 testimony. These issues do not render her evidence
3 irrelevant to the complaint, especially when one
4 considers that the complaint raises and refers to
5 statements and declarations that relate to groups other
6 than Jews and Arabs and which include people of colour.

7 Is the evidence necessary.

8 The quick review of the report done
9 before the break by the Tribunal in the presence of
10 all, shows that, to some extent, Dr. Henry appears to
11 be answering the ultimate question that is before the
12 Tribunal.

13 However, she is also conducting an
14 analysis of the declarations in question to explain the
15 existent or not of stereotypical or racial components
16 in the language used and how such language may expose
17 individuals from these groups to hatred or contempt.

18 Indeed, the discriminatory or
19 rational implication of some of the terms used on these
20 websites may fall outside the experience or knowledge
21 of this Tribunal. As such, this opinion may assist the
22 Tribunal in reaching its own conclusion with respect to
23 the complaint filed pursuant to section 13 of the
24 Canadian Human Rights Act, and I underscore the word
25 its own conclusion.

1 I will, therefore, allow Dr. Frances
2 Henry to testify as an expert in racism and hate
3 propaganda.

4 But I also encourage the respondents
5 to take into consideration my comments about issues of
6 weight and value to her testimony.

7 And I forgot to note this afternoon
8 when we began that, that Mr. Richardson is not present
9 today. I don't think I mentioned that.

10 He did indicate yesterday he would
11 not be present.

12 MR. ALEXAN KULBASHIAN: He did.

13 THE CHAIRPERSON: He agreed that the
14 case proceed today, he waived any claim arising
15 therefrom, and Mr. Kulbashian undertook to inform him
16 of the nature of the proceedings today.

17 Right, Mr. Kulbashian?

18 MR. ALEXAN KULBASHIAN: That's right.
19 Thank you.

20 THE CHAIRPERSON: So now we will
21 bring back the witness.

22 Go off the record.

23 ---DISCUSSION OFF THE RECORD

24 ---(witness resumes stand)

25 THE CHAIRPERSON: All right. We will

1 proceed and advance as far as we can.

2 EXAMINATION BY MS MAILLET:

3 MS MAILLET: Thank you.

4 Dr. Henry, you have been qualified as
5 an expert in this proceeding, so we will continue with
6 your report that you submitted to me, and if you could
7 turn to tab 64, please, of HR-1.

8 Dr. Henry, is this the report that
9 you submitted to the Commission as a result of being
10 retained in this case?

11 DR. HENRY: Yes, it is.

12 MS MAILLET: If we could produce that
13 document.

14 THE CHAIRPERSON: Right. That's tab
15 64, right.

16 EXHIBIT NO. HR-1 (tab 64):

17 Report filed by Dr. Frances
18 Henry.

19 MS MAILLET: Dr. Henry, I understand
20 that you reviewed material in order to prepare this
21 report; is that right?

22 DR. HENRY: That's right.

23 MS MAILLET: And what was your
24 understanding of the material that was provided to you?

25 Do you have an understanding of where

1 it came from.

2 DR. HENRY: Yes, yes.

3 MS MAILLET: At page 2 of your
4 report, right in the introduction you indicate that you
5 reviewed material which was found on the Internet at
6 two website addresses.

7 DR. HENRY: Yes.

8 MS MAILLET: And that's
9 www.tri-cityskins.com and www.wpcect.com; is that
10 right?

11 DR. HENRY: Yes.

12 MS MAILLET: Now, I understand that
13 your report, and just for ease of the Tribunal in terms
14 of how the report is laid out, is that it's separated
15 into four sections; is that correct?

16 DR. HENRY: Yes.

17 Do you want me to talk about the
18 sections?

19 MS MAILLET: Sure.

20 THE CHAIRPERSON: I just have an
21 initial question.

22 MS MAILLET: Yes.

23 THE CHAIRPERSON: The material, is it
24 produced and annexed?

25 MS MAILLET: It is not. The material

1 will be identified as the tabs that were identified at
2 HR-1.

3 THE CHAIRPERSON: The witness will be
4 referring --

5 MS MAILLET: That's correct.

6 THE CHAIRPERSON: Okay.

7 DR. HENRY: Well, section 1 has a few
8 basic definitions of hate and the kind of racism that I
9 have observed in these materials.

10 Section 2 includes an analysis of
11 materials found on the Tri-City Skins website.

12 Section 3 includes analysis on
13 documents of the Canadian Ethnic Cleansing Team
14 website, and I've included in my analysis the broadcast
15 messages of Dr. Pierce, the newsletter Vinland Voice,
16 racial jokes and some of the graphics that were
17 supplied to me.

18 And section 4 discusses the impact of
19 these materials on readers, victims and society in
20 general.

21 MS MAILLET: Thank you. So, in terms
22 of background information for the Tribunal, what is
23 your understanding of hate speech?

24 DR. HENRY: I have defined hate
25 speech as, and I quote:

1 "Any form of expression directed
2 at objects of prejudice that
3 perpetrators use to wound and
4 denigrate its recipient. Hate
5 speech presents itself in many
6 different forms"

7 et cetera.

8 Another definition is that hate
9 speech is, (1) has a message of inferiority, (2) is
10 directed against a member or members of an historically
11 oppressed group, and (3) is persecutory hateful and
12 degrading.

13 MS MAILLET: Thank you. Now, you
14 also go into several different dimensions of racism or
15 different types of racism.

16 Could you just briefly outline what
17 you have done in your report in terms of separating --
18 I see that there is individual racism, strong racist
19 beliefs and biological racism.

20 DR. HENRY: What I have done in the
21 report, I mentioned very briefly in paragraph 2 on page
22 4, that there are several components of racism and that
23 it can be subdivided in terms of attitudes as well as
24 behaviour.

25 I have then moved to those components

1 of racism that I think are most evident in the
2 materials that I have reviewed.

3 So, for example, the other forms of
4 racism like institutional racism, cultural racism and
5 so on, I have not discussed because I wanted to focus
6 on those aspects that were most pertinent to the
7 material in this case.

8 So, these are individual racism and
9 strong racist beliefs and biological racism.

10 To begin with the first, I mean
11 individual racism is defined as attitude, belief or
12 opinion that one's own racial group has superior
13 values, customs and norms; and conversely, that other
14 racial groups possess inferior traits and attributes.

15 Racism is a form of prejudice, this
16 kind of racism is a form of prejudice which, in itself,
17 can be defined as an emotionally rigid attitude towards
18 a group of people involving pre-judgment and
19 misjudgment and so on.

20 Racist beliefs can be considered on a
21 continuum from weak to strong, so that a weak attitude
22 merely uses and identifies racial classifications, but
23 a strong racist belief has obviously some stronger
24 dimensions to it.

25 These are listed on page 5 at the

1 top.

2 They include, for example, the
3 precise details of how racists defer, an explanation
4 for the difference and so on.

5 All the way down to a prescription
6 for action that follows from the above beliefs, that
7 the superior race is entitled to more favourable
8 treatment than the inferior race.

9 So, all of these components would
10 make up an individual who would have very strong racist
11 beliefs and attitudes.

12 The next section deals with the form
13 of racism that I think most closely characterizes the
14 materials on the website, on both websites and, that
15 is, ideas that stem from 19th century notions of
16 biological racism and of the notion of racial purity.

17 This form of belief is based on the
18 belief, the conviction that the white race is the only
19 race that is capable of reaching levels of civilization
20 because of their superior intellect and so on, and
21 everybody else, other groups are thought to be inferior
22 biologically and, therefore, they exist at a lower
23 level of existence.

24 MS MAILLET: Now, by the white race,
25 sorry, I will just interrupt briefly, would you

1 characterize that as well as Caucasian?

2 DR. HENRY: Yes.

3 MS MAILLET: What we know as

4 Caucasian? DR. HENRY: Yes, yes.

5 One very important component point of
6 the belief in biological racism is the notion of
7 mongrelization, the notion that when people of
8 different racial classifications intermix the product
9 is a mongrel and is, therefore, inferior.

10 Very strong racists believe that
11 certain populations or groups are not even human
12 beings, are not even members of the human species.

13 Most of the material as I reviewed it
14 contains classical white supremacist beliefs. The
15 elements of very strong powerful individual racism is
16 informed by what I would call the classical mid-19th
17 century biological based racism.

18 Occasionally in some of the materials
19 there are some more subtle sort of statements, but
20 generally speaking, it's this strong notion of white
21 supremacy, of white purity, of the superiority of the
22 white or Caucasian race and the inferiority of
23 everybody else that is at the core of most of the
24 material on the websites.

25 MS MAILLET: Thank you. Now, if we

1 could just turn to the second section of your report
2 which deals with the website documents from the
3 Tri-City Skins website.

4 If you could turn to tab 14, please.
5 This is an article written by Dr. William Pierce.

6 Does this article look familiar to
7 you? DR. HENRY: Yes, mm-hmm.

8 MS MAILLET: And at page 6 of your
9 report where you address the broadcast of Dr. William
10 Pierce dated January 19th, 2002 entitled The Culture of
11 Lies, is this the document that you reviewed in order
12 to prepare this part of your report?

13 DR. HENRY: Yes, it is.

14 MS MAILLET: Have you heard of Dr.
15 William Pierce?

16 DR. HENRY: Yes. Dr. Pierce is very
17 well-known in right wing circles. He was a leader, I
18 think he died a year or two ago, but he was a leader of
19 a very powerful rightist white supremacist organization
20 in the United States called the National Alliance.
21 He's quite well-known in the movement, or was, I should
22 say.

23 MS MAILLET: Thank you, Now, could
24 you please highlight for the Tribunal - and, Mr. Chair,
25 I'm not going to have Dr. Henry read her report to the

1 Tribunal or to the parties, but I think I will just ask
2 her to highlight what you found in this report and if
3 you could just summarize what your analysis of this
4 article entails.

5 DR. HENRY: Yes. As you can see,
6 it's a very long article or broadcast, which is what I
7 think it originated as.

8 It contains several themes. One of
9 the first themes is that lying, Dr. Pierce notes that
10 lying has become acceptable in society today because of
11 the nature of political correctness.

12 He cites the example of the World
13 Trade Centre where a memorial has been erected and the
14 memorial shows:

15 "A negro fireman, one mestizo
16 fireman and one white fireman,
17 despite the fact that the three
18 who actually raised the flag
19 were all white firemen."

20 And this is done in the name of
21 political correctness, and then immediately introduces
22 the notion, his anti-Semitism because he says this was
23 done:

24 "not only media bosses and
25 politicians, but Jewish

1 complicity of white business with Jesse Jackson, and
2 Jackson is described in highly insulting terms.

3 And, again, he brings in stereotypes
4 about Jews, he identifies the Jewish media who
5 generally support Jesse Jackson's efforts, and he talks
6 about how white businessmen now have to hire black
7 executives, picture blacks in advertising, and so on
8 and so on, and all of this is really because whites are
9 pretending to like to do all of this in order to please
10 Jesse Jackson.

11 So, what is involved here is some
12 anti-black and anti-Semitic kinds of commentary.

13 But the real thrust comes a bit later
14 when the article goes into a very long discourse about
15 the second world war which provides Dr. Pierce with a
16 context for making a lot of anti-Semitic statements,
17 anti-Jewish statements, I should say.

18 He claims that Jews have a vested
19 interest in the fraudulent version of the war and the
20 Holocaust.

21 It's a kind of interesting to note
22 that his lack of belief in the Holocaust is immediately
23 brought to our attention because he puts the word in
24 quote marks.

25 He frequently uses a lot of strong

1 hyperbolic language.

2 He discusses, For example, Jewish
3 commissars in Russia and their role in sending Russians
4 and Ukrainians to death camps and how Jews turned on
5 the helpless gentiles under communist rule and
6 butchered them by the millions.

7 Again, this is a version of history
8 that is really rather interesting and there is really
9 no back-up or evidence to support some of these
10 comments.

11 He suggests, for example, that the
12 United States was, in effect, influenced at the behest
13 of Jews, he says, or hoping for an incident to wage war
14 against Germany.

15 So, he's suggesting here that the
16 Jewish influence is so great that they use that
17 influence to urge the United States to enter war into
18 Germany.

19 Again, a version of history, a
20 provocative thesis, but one that seems to be totally
21 unsupported by any evidence.

22 He talks about how all races are not
23 the same. He says, for example, there are profound
24 differences in mentality, psychology and so on. And he
25 does not mention that these so-called profound

1 differences have been entirely refuted by modern
2 science.

3 The remainder of the article
4 continues again on Jews and it uses all the well-known
5 stereotypes. He talks about an article in Playboy
6 Magazine, for example, and announces that:

7 "It's everyone to whom Jews have
8 a string tied and that means
9 most people."

10 He's again suggesting this web of
11 influence and interconnectiveness that Jews are
12 supposed to have.

13 He accuses them of controlling the
14 media, as well a common stereotype, and he compares
15 their role in pre-war Germany in publishing, banking,
16 show business and many other institutions in society.

17 And what he's doing here I think is
18 sending out a particularly insidious message, one for
19 example that states, that the controlling and the
20 dominant influence of Jews, as he understands it in the
21 United States, is the same as occurred in pre-war
22 Germany and that, as he says, Jews then as now are:

23 "promoting the same culture of
24 lies that they have been
25 promoting here."

1 And this is the crux of his argument
2 that American culture has been overtaken, swamped
3 essentially by a culture of lies in media, in the
4 explanation of history, in the deeds of politicians and
5 so on, all of which has been perpetrated by Jews.

6 So, it's a long and complex sort of
7 series of assertions. They are primarily stereotypic.
8 He discusses so-called historical events without
9 providing any real evidence or support for them, and in
10 general I think the bottom line is that he's trying to
11 warn the United States that what happened in Germany is
12 going to happen in the U.S.

13 MS MAILLET: Thank you. Now, if you
14 could turn to tab 11 of HR-1.

15 And looking at page 8, or the bottom
16 of page 8 of your report, the next article you analyze
17 is entitled: Broadcast of Dr. William Pierce dated
18 August 18th, 2001 entitled To Be or To Be Nice.

19 And again, at tab 11, is that the
20 same article which forms your analysis in your report?

21 DR. HENRY: Yes, it is.

22 MS MAILLET: And again, if you could
23 advise the Tribunal what analysis you were able to
24 provide in reading this article, again, of Dr. William
25 Pierce?

1 DR. HENRY: I think what one needs to
2 do is to begin with the very title of this broadcast:

3 "To Be or To Be Nice"

4 And what he's suggesting is that the
5 reader has a choice. To be nice is to let various
6 ethnic people live; whereas to be indicates that they
7 must be annihilated in order to allow the white race to
8 live.

9 So, he suggests that other groups
10 will take over the world from its white inhabitants and
11 this must not be allowed to happen. In other words,
12 other groups have to be annihilated in order for us
13 white people to be.

14 The piece is really an analysis of
15 political events in Zimbabwe and in South Africa and he
16 talks - again, there are many stereotypes now about
17 black people - but he is basically concerned with the
18 doctrine of white supremacy.

19 He notes that whatever black people
20 do to whites and if you complain about that you will be
21 accused of racism, and he calls attention to his own
22 organization, the National Alliance that distributes
23 material with a slogan, "Earth's Most Endangered
24 Species, The White Race, Help Preserve It", and so on.

25 He then reverts, again, even within

1 this context to the control of the media by Jews and
2 their control of the public agenda.

3 Going back to Zimbabwe, he notices
4 that both Zimbabwe and South Africa were inhabited by
5 white people, they were white countries inhabited by
6 better people, people who were both better racially and
7 genetically.

8 So, again, he's talking about the
9 doctrine of racial superiority and white supremacy.

10 And he says:

11 "Now that both countries have
12 been under the guidance and
13 state of blacks, both countries
14 are, therefore, sinking rapidly
15 into savagery and chaos."

16 Again, this links to classic 19th
17 century, racial inferiority is linked to cultural
18 savagery.

19 He advised South Africans to:

20 "Get rid of all the blacks and
21 other non-whites in your
22 country. Do whatever you must
23 do. Force them out, sterilize
24 them, kill them, otherwise you
25 will lose your country."

1 Now, what is interesting is that this
2 is the message to South Africa and Zimbabwe, but he's
3 also discussing this very issue with some American
4 southerners and he describes the shocked reaction of
5 visitors, American southerners with whom he's discussed
6 these issues, and he notes that none of them believed
7 blacks were equal to whites in intelligence or ability
8 to build a civilization but, Dr. Pierce, says they
9 could not quite bring themselves to regard blacks as
10 vermin to be eradicated.

11 This whole commentary contains a lot
12 of hyperbolic language and there is a call for violent
13 and murderous action.

14 The message ends, there is a
15 discussion about, as well, the scientist whose work he
16 relies on, that is Sir Arthur Keith, whose work on this
17 subject has been discredited by modern science.

18 The message ends with a call to kill,
19 to annihilate any and all competitors in order to
20 preserve the white race.

21 So that, in sort of a summary sense,
22 this message is filled with stereotypes with
23 assumptions, with erroneous statements, with reliance
24 on disreputable authorities and it presents, I think, a
25 very clear danger in its call for violent and murderous

1 action against non-white people.

2 MS MAILLET: Thank you. If you could
3 turn now to tab 15 of HR-1.

4 And, again, at page 10 of your
5 report, the third article, which you discuss for
6 analysis is entitled Broadcast of William Pierce dated
7 January 26th, 2002 entitled Multi-Cultural Justice.

8 DR. HENRY: Yes.

9 MS MAILLET: And I'm looking at tab
10 15. Is this the article which you analyzed?

11 DR. HENRY: Yes, it is.

12 MS MAILLET: Could you please, again,
13 explain to the Tribunal what the outcome of your
14 analysis was after reading this article?

15 DR. HENRY: This article begins with
16 a commentary about law Professor Allan Dershowitz and
17 Dr. Pierce begins the article by saying he's just
18 listened to Professor Dershowitz advocate a return to
19 the use of torture to extract information and
20 confessions from suspects during an interview that
21 Dershowitz had apparently on the CBS program 60
22 Minutes.

23 What is interesting about this is
24 that he immediately identifies Allan Dershowitz as
25 being what he calls appropriately Jewish.

1 He identifies both the interviewer,
2 the person who interviewed him, and the interviewee as
3 Jewish, as is the television network allegedly owned by
4 "the Jew Sumner Redstone".

5 Now, all of these identifications, I
6 think are meant communicate the message that all of
7 these people are advocating that the government should
8 use torture on suspects.

9 And this allows Dr. Pierce into his
10 main point that the State of Israel uses torture
11 against Palestinians.

12 Dershowitz and his accomplishments
13 are dismissed by Dr. Pierce who calls him simply an
14 apologist for Jewish interests.

15 And the sentence that really does it
16 is when he states that Dershowitz:

17 "is not a lawyer, nor an
18 American, nor even a fellow
19 human being, he is a Jew and
20 that says it all".

21 I think the profound anti-Jewish or
22 anti-Semitism attitude in this comment is fairly
23 obvious.

24 He discusses members of his own
25 National Alliance organization who were attacked while

1 demonstrating in front of the German Embassy in
2 Washington against the lack of freedom in contemporary
3 Germany.

4 The attackers were charged, he says,
5 and tried in Superior Court and he describes the people
6 who were in that Superior Court, where the judge was
7 black, two defence attorneys were black and an
8 assistant prosecutor was "a negress from Nigeria".

9 So, that is how Dr. Pierce describes
10 the justice system which he notes is:

11 "Now substantially polluted by a
12 heavy infusion of non-whites
13 including judges and
14 prosecutors."

15 He also talks the enormous presence
16 of illegal immigrants from Mexico, of course, they're
17 also inferior people, and he turns finally to his main
18 point again, is that Jewish infiltration of the mass
19 media which, among other things, paved the way for the
20 multi-cultural insanity that is destroying western
21 civilization.

22 So, again, the bottom line here seems
23 to be that all things that are wrong with western
24 civilization from its media, to its business
25 establishment, to its courts of justice, just about

1 everything in society, is insane and wrong and
2 destructive has been created by Jews.

3 MS MAILLET: Now, if you could turn
4 to tab 13 of HR-1.

5 And, again, looking at page 11 of
6 your report which states the Broadcast of Dr. William
7 Pierce What Is Moral dated January 12th, 2002.

8 Is the article at tab 13 that you
9 analyzed in order to write this part of your report?

10 DR. HENRY: Yes, it is.

11 MS MAILLET: And if you could, again,
12 indicate to the Tribunal what your analysis was of this
13 article?

14 I know it's a lengthy article.

15 DR. HENRY: Very, Yes.

16 MS MAILLET: So...

17 DR. HENRY: Well, I think the first
18 thing that strikes one is that Dr. Pierce is telling
19 reader or the listener that he's a very credible person
20 because a wide range of intellectuals and academics
21 seem to listen to him.

22 He answers his critics, some of whom
23 maintain that his views are un-Christian which is also
24 fairly interesting, because he replies to this notion
25 by saying that the role of bomber pilots who bombed

1 European cities, including those in Germany during
2 World War II, were probably also caring people and
3 Christian believers but they have, nevertheless, shown
4 themselves capable of doing atrocious and bloody
5 things.

6 His main argument here is that it's
7 not just about causes but what is socially acceptable
8 to one's peers.

9 He also identifies himself in this
10 article as a former university professor and one who
11 has a socially acceptable public demeanour, which is
12 presumably why he has the influence that he claims to
13 have.

14 He believes that the threat of being
15 overwhelmed, that is overwhelming non-whites is no
16 longer and threatening. More people today feel
17 themselves threatened and, therefore, his message has
18 become more acceptable even among professionals.

19 He discusses, for example, how our
20 European ancestors, that is America's European
21 ancestors, annihilated the Indians because their choice
22 was clear, either get rid of the Indians or give up and
23 go back to Europe.

24 So morality has nothing to do with
25 this sort of choice.

1 He claims that anti-Semitism is on
2 the rise, even in polite societies in European
3 countries and so on, but people are afraid to really
4 speak out about it.

5 Again, many of his statements here
6 have no real evidence; in other words, he just makes
7 allegations without any particular backing.

8 He uses a lot of linguistic
9 techniques, that is, arguing without presentation of
10 evidence and the intense use of common stereotypes over
11 and over again.

12 His prejudice is against certainly
13 against Jews, it against blacks, it is against gays,
14 and even occasionally Asians are mentioned.

15 In concluding this broadcast it seems
16 quite clear that Dr. Pierce has a very strongly
17 virulent attitude of racism against people of colour,
18 especially black and he is virulently anti-Jewish or
19 anti-Semitic to use the common parlance.

20 He uses an argument which has been
21 called in the literature the invalidation argument;
22 that is, he uses ideologies or spurious theories
23 designed to give credibility to myths by providing
24 alleged evidence for them.

25 Most of the arguments are based

1 scientifically rejected and unsupportable assumptions
2 about differences in human characteristics among
3 diverse populations.

4 In other words, he accepts almost all
5 the common myths about differences in the human species
6 which science has, for a long, time rejected.

7 The final comment I made about that
8 here is that the notion of equality of the human
9 species is now widely accepted by physical, natural and
10 social sciences.

11 MS MAILLET: Thank you. Now, you
12 also indicate at the bottom of page 13 that hate
13 propaganda is in fact a form of racism.

14 DR. HENRY: Yes.

15 MS MAILLET: Could you just talk to
16 us a little bit about that.

17 DR. HENRY: Hate propaganda of this
18 kind thrives on the notion that human beings can be
19 divided and categorized according to moral, cultural,
20 intellectual, social traits and so on.

21 It thrives on the notion that people
22 are substandard or that certain people are substandard,
23 but at the same time it defines such people as
24 threatening and dangerous to society because as they
25 multiply they are going to take it over and swamp white

1 Caucasoid people and their culture.

2 Pierce, in particular, uses a lot of
3 examples from African society to make this point. And
4 his -- also his repeated anti-Semitic, anti-Jewish
5 references are meant to suggest that Jews have such a
6 degree of control that they present a clear and present
7 danger to whites.

8 Finally, this sort of propaganda that
9 Dr. Pierce and his followers seem to -- well, do
10 advocate, is very similar to Adolf Hitler. In other
11 words, the bottom line here is that there is only one
12 solution, and that is annihilation of the perceived
13 threat.

14 So, in so doing, he promotes
15 apprehension and fear for the reader or the listeners.
16 The targeted groups are presented as threats, as
17 dangerous and people are urged -- readers or listeners
18 are urged, therefore, to take action to be make sure
19 that this alleged take over of themselves and their
20 culture does not happen.

21 And in the final analysis he says, if
22 nothing else works, annihilate them.

23 MS MAILLET: Thank you.

24 Now, if you could turn to tab 6 of
25 HR-1.

1 You refer, again, to this section
2 starting at page 14 of your report under The Jokes.

3 Looking at tab 6, is this one of the
4 pieces of material that you looked at in your analysis?

5 DR. HENRY: Yes, it is.

6 MS MAILLET: And could you just
7 please talk to us briefly about the themes at tab 6 and
8 your analysis of what is before you?

9 DR. HENRY: What I've provided, I
10 mean I haven't cited every single joke because it's
11 pages and pages and pages of them.

12 But what I've done is sort of try to
13 put them together in sort of thematic categories.

14 And I have suggested that the first
15 one, one of the most obvious ones, is criminality, the
16 theme of criminality, because there are a lot of jokes
17 that deal with the alleged criminal behaviour of black
18 people, and I've cited them.

19 For example:

20 "What did the little nigger kid
21 get for his birthday?

22 Your new bike."

23 "Why can't white people jump?

24 Because black people steal their
25 shoes."

1 MR. ALEXAN KULBASHIAN: I'm sorry
2 I think she read the joke wrong because it says, "for
3 your birthday".

4 DR. HENRY: Pardon?

5 MR. ALEXAN KULBASHIAN: In the joke
6 it says, "for your birthday".

7 THE CHAIRPERSON: You mean in the
8 actual joke?

9 MR. ALEXAN KULBASHIAN: In the
10 actual --

11 THE CHAIRPERSON: In the actual
12 website.

13 MR. ALEXAN KULBASHIAN: In the actual
14 print-out it says, "for your birthday", not "for his".

15 THE CHAIRPERSON: All right. Just
16 for the record --

17 MS MAILLET: So, it appears there may
18 be a typographical error.

19 THE CHAIRPERSON: "For your
20 birthday", is that what it says?

21 MR. ALEXAN KULBASHIAN: That's
22 exactly what it says.

23 DR. HENRY: Yes, that's correct.

24 THE CHAIRPERSON: I will just modify
25 it.

1 DR. HENRY: But the answer is the
2 same, "Your new bike."
3 MS MAILLET: That's right.
4 DR. HENRY: And so on.
5 Another dominant theme is stupidity.
6 Black people, of course, according to the stereotype
7 are stupid. For example:
8 "What is 8 miles long and has an
9 IQ of 68?"
10 Which is a low IQ figure.
11 "The Martin Luther King, Jr. Day
12 Parade."
13 And so on.
14 Another theme that is hinted at,
15 although slightly more subtly in the jokes, is a theme
16 of sexuality.
17 For example:
18 "Why do black girls dye their
19 hair blond and wear blue
20 contacts?"
21 And the answer is:
22 "So black men will date them."
23 And there's several that deal with
24 sexual subject matter.
25 MS MAILLET: And by dealing with

1 sexuality, how does that contribute to a certain
2 stereotype?

3 DR. HENRY: Well, the stereotype, one
4 of the stereotypes about black people, and particularly
5 black men is that they are sexually promiscuous and, in
6 fact, that there is an element of promiscuity in black
7 culture.

8 And, secondly, this joke I believe
9 refers specifically to the common assertion that black
10 men prefer white women and, therefore, the only way
11 that black women can attract the attention of black men
12 is to make themselves look white.

13 Others, eating habits, again, common
14 stereotypes:

15 "How do you know that Adam and
16 Eve were not black?
17 Ever try to take a rib away from
18 a nigger.".

19 And so on.

20 Another theme is sort of an
21 inter-ethnic theme. These speak to intra-ethnic
22 relations between Jews/blacks, blacks and whites,
23 blacks and other groups and so on.

24 And the main point I think on these
25 inter-ethnic jokes is that all of the jokes come from

1 and uses ethnic stereotypes.

2 There are quite a number of jokes
3 that refer -- Jewish jokes that refer to the Holocaust.

4 MS MAILLET: And if I could just stop
5 you for a moment. If you could turn to tab 7 of HR-1.

6 Were these some of the jokes that you
7 looked at?

8 DR. HENRY: Yes, yes.

9 MS MAILLET: Okay, thank you.

10 DR. HENRY: And what they seem to be
11 doing is trivializing and minimizing the horror and the
12 terror of the Holocaust, and I have provided a number
13 of examples listed here.

14 "What did the German kid get for
15 Christmas?

16 GI Jew and an Easy Bake Oven."

17 And so on.

18 "What's the difference between a
19 Jew and apple pie?

20 Apple pie doesn't scream when
21 you put it in the oven."

22 And so on.

23 Another theme relates to the common
24 stereotype of money and the so-called avariciousness of
25 the Jews.

1 There is a very long joke that I
2 didn't quote because it really takes up too much space,
3 but it ends up with:

4 "You Jews always thinking about
5 money."

6 MS MAILLET: And just for the Chair's
7 a information, that one is specifically at tab 6 which
8 we have already looked at, but...

9 THE CHAIRPERSON: Tab 6.

10 MS MAILLET: Yes.

11 THE CHAIRPERSON: So, HR-1, tab 6.

12 MS MAILLET: Yes.

13 DR. HENRY: Then there are a set of
14 Jewish jokes which are supposedly true personal ads,
15 advertisements that appeared, I guess, in personal
16 columns in Israeli phrases and many of them include
17 inadvertent phrases and incongruities which just make
18 the ad sound ridiculous and make it sound silly.

19 The jokes rely really on stereotypes.
20 I mean most of these jokes contain well-known
21 stereotypes about blacks, Jews and, to a limited
22 extent, other ethnic groups.

23 And the danger, and I've written at
24 some length about what stereotyping is about and what
25 it means, but what it really leads to and what these

1 jokes reinforce is an us and them kind of we and they,
2 a kind of othering, making people who are not like us
3 the other.

4 It creates dichotomies and it creates
5 various vicious ethnic hierarchies of those people who
6 are us and those people who are not.

7 The jokes themselves, in my opinion
8 are certainly offensive, but the main racist element or
9 the main racism in them is that they play on and
10 reinforce stereotypes of ethnic groups in society and,
11 as such, they reinforce racism and prejudicial
12 attitudes.

13 MS MAILLET: Now, if you can just
14 turn to tab 5, and at page 15 of your report you deal
15 with the Muslim Sikh images..

16 MR. ALEXAN KULBASHIAN: Tab 5. Oh,
17 sorry.

18 MS MAILLET: And it's the second page
19 of tab 5.

20 DR. HENRY: Yes.

21 MS MAILLET: And is that the image
22 that you looked at in that analysis?

23 DR. HENRY: Yes it is, mm-hmm.

24 THE CHAIRPERSON: Did we ever get a
25 clean image of those photos? I have a different

1 photocopy here, but it's still not very clean.

2 MS MAILLET: I believe there was
3 something submitted in September, I believe so.

4 THE CHAIRPERSON: Mr. Levac?

5 MR. WARMAN: Yes.

6 THE CHAIRPERSON: One was?

7 MR. WARMAN: Yes.

8 THE CHAIRPERSON: I will check with
9 him later and see if it was in the original of the
10 document.

11 My copy here is not very clear right
12 now, but I have to check. But the same picture was
13 included in the complaint; was it not?

14 MS MAILLET: That's correct. And
15 this image as well was referred to by Mr. Warman and I
16 think it's at that time that --

17 THE CHAIRPERSON: Maybe the complaint
18 was cleaned up.

19 It might be even worse. I will check
20 with Mr. Levac. I do want to have a clean copy. Go
21 ahead.

22 MS MAILLET: Again, Dr. Henry, it
23 speaks for itself, but if you could just indicate what
24 your analysis was of that?

25 DR. HENRY: Well, what it seems to

1 depict is a bearded Sikh on the left-hand side and
2 there's an arrow saying this is a Sikh and on the
3 right-hand side is a Muslim and it says this is a
4 Muslim, and he appears to be a tribesman of some sort
5 because he appears to be dressed in tribal clothing and
6 he's carrying a goat or what looked to me like a goat
7 around his neck, and the caption reads:

8 "please beat accordingly"

9 The image I think is somewhat, in my
10 view was somewhat ambiguous, but one of its meanings is
11 that both people can be or should be beaten.

12 So, it seems to carry an anti-Sikh,
13 anti-Muslim kind of message, but that seems to be
14 mitigated by an attempt at humour because down in the
15 small type it says:

16 "Don't beat a Sikh Foundation."

17 So, this seems to involve some sort
18 of humour or attempt at humour, but again, it looks to
19 me like the basic message is an anti-Muslim anti-Sikh
20 kind of message.

21 MS MAILLET: Now, at the bottom of
22 page 1 of your report you were just wrapping up the
23 commentary with respect to the anti-Semitic jokes and
24 the effects that that may have -- that those jokes may
25 have.

1 DR. HENRY: Wait, we have to go back
2 I think a bit.

3 MS MAILLET: The paragraph is:
4 "One further comment must be
5 made."

6 DR. HENRY: Yes.

7 I seemed to have lost my place here.

8 MS MAILLET: If I could assist the
9 witness.

10 THE CHAIRPERSON: Go ahead.

11 MR. ALEXAN KULBASHIAN: Side note we
12 have five minutes more.

13 THE CHAIRPERSON: For your
14 information, I can see the clock at the Shred It
15 factory next door, so I'm mindful of the time.

16 It's 4:53 and the temperature is 3
17 degrees, by the way.

18 DR. HENRY: Yes.

19 The final comment that I've made, and
20 it's on page 16, with regard to the anti-Jewish jokes,
21 is that -- because many of them deal with the Holocaust
22 experience, I've suggested that these jokes deal sort
23 of less with stereotypes and more with the defamation
24 of memory.

25 They assault and defile the victims

1 of the Holocaust and by implication, the lives and
2 experiences of all Jews.

3 THE CHAIRPERSON: I see the reference
4 there is Henry and Taylor at the bottom of this
5 document. Is that text by you?

6 DR. HENRY: Yes, that's the book --
7 the little booklet on Holocaust Denial.

8 THE CHAIRPERSON: Okay. The one we
9 saw?

10 DR. HENRY: Yes.

11 MS MAILLET: Thank you.

12 Perhaps before we get into the next
13 section of her report, Mr. Chair, I don't know, maybe
14 is this a good time to break?

15 THE CHAIRPERSON: Yes, it's 4:54 now.

16 MS MAILLET: Mr. Chair, before we
17 leave for the day, there were some parts of her report
18 that dealt with material that was found in the CD which
19 was produced at tab 49, and we have printed out the
20 specific portions, again, of the material that she had
21 looked at and we have made copies, so we will give
22 those copies to the respondents.

23 THE CHAIRPERSON: But they are true
24 copies, genuine copies from what's on the CD?

25 MS MAILLET: That's correct.

1 THE CHAIRPERSON: They're referenced
2 to the areas of the CD where they can be verified by
3 the respondents?.

4 MS MAILLET: Yes, absolutely.

5 THE CHAIRPERSON: Have you provided
6 them yet?

7 MS MAILLET: We're about to do that
8 right now, so that they'll have the night to --

9 THE CHAIRPERSON: Please do so.
10 Mr. Kulbashian, if you could take a
11 look.

12 MR. ALEXAN KULBASHIAN: Of course.

13 THE CHAIRPERSON: Not now but
14 overnight and verify if there's any issue by the
15 morning -- oh yes, to the Tribunal too.

16 MR. WARMAN: No, no, that's for sure.
17 I'm just wondering if I can provide the copy for Mr.
18 Richardson or we should hold onto that.

19 THE CHAIRPERSON: You are not going
20 to be seeing Mr. Richardson; will you?

21 MR. ALEXAN KULBASHIAN: No. We'll
22 see him tomorrow morning. He's in Hamilton, we're in
23 Toronto.

24 THE CHAIRPERSON: As soon as Mr.
25 Richardson comes in tomorrow, outside, just give it to

1 him please, okay.

2 I'm speaking right now for the
3 record.

4 MS MAILLET: Yes.

5 THE CHAIRPERSON: Anything else?

6 MS MAILLET: No.

7 THE CHAIRPERSON: And I see how
8 you're progressing in the evidence, you're essentially
9 following the text of the report?

10 MS MAILLET: Yes, we're going through
11 her report.

12 THE CHAIRPERSON: And we're at page
13 16 now. I see 31 pages, we're halfway through, that
14 was in about an hour.

15 MS MAILLET: It won't be long.

16 THE CHAIRPERSON: By the same
17 estimation, about an hour or so?

18 MS MAILLET: Yes.

19 THE CHAIRPERSON: So, Mr. Kulbashian,
20 it looks like maybe an hour or hour and a half tomorrow
21 we'll be done with evidence-in-chief with the witness,
22 so it will give you and Mr. Richardson the rest of the
23 day to cross-examine.

24 Hopefully it will be enough.

25 MR. ALEXAN KULBASHIAN: It might not.

1 THE CHAIRPERSON: Well, let's cross
2 every that bridge as it comes. I'd like to know as we
3 go along. I realize it's difficult for you at this
4 time to estimate.

5 MR. ALEXAN KULBASHIAN: Yeah, it is,
6 the witness is not finished yet and I don't even know
7 if Mr. Warman intends to question her also.

8 MR. WARMAN: If I do, it would be
9 very minimal.

10 MR. ALEXAN KULBASHIAN: Okay, just
11 making sure. So once -- I wouldn't be able to say
12 anything.

13 THE CHAIRPERSON: Again, I don't like
14 to interrupt the evidence of witnesses. We're doing it
15 tonight, but I don't want to keep it going.

16 MR. ALEXAN KULBASHIAN: Yeah, but I
17 wouldn't have any idea how long it's going to take me
18 because we haven't gotten to any of the content
19 yet.

20 THE CHAIRPERSON: Okay, the content
21 is more -- is different, the upcoming content?

22 MR. ALEXAN KULBASHIAN: That's right.

23 THE CHAIRPERSON: Okay. What is the
24 availability of Dr. Henry next week. Are you
25 available?

1 DR. HENRY: Only Monday, not Tuesday.

2 THE CHAIRPERSON: Well, I would guess
3 Monday is the day we're talking about.

4 We're booked for Monday, we're
5 supposed to be --

6 MR. ALEXAN KULBASHIAN: We're booked
7 all week.

8 THE CHAIRPERSON: Let's take it one
9 step at a time.

10 MR. ALEXAN KULBASHIAN: I wish I
11 could give you some idea --.

12 THE CHAIRPERSON: I mean I trust you
13 and Mr. Richardson will work in good faith to not
14 unnecessarily extend the cross-examination, not
15 limiting the scope of what you need to ask.

16 MR. ALEXAN KULBASHIAN: Not
17 necessarily.

18 The problem is, like, I can't give
19 you any idea how long it would take right now.

20 THE CHAIRPERSON: I understand.

21 MR. ALEXAN KULBASHIAN: Also, the
22 issue of the subpoena, I'm not sure if you had --

23 THE CHAIRPERSON: Oh, I have some
24 information for you essentially from the court
25 reporter, that it appears that by Sunday we may be able

1 to provide you with the transcripts.

2 MR. ALEXAN KULBASHIAN: Yes.

3 THE CHAIRPERSON: Until Wednesday,
4 that is to say the evidence of Mr. Wilson. You already
5 have the evidence of the previous.

6 MR. VAHE KULBASHIAN: Yes.

7 MR. ALEXAN KULBASHIAN: Yes.

8 THE CHAIRPERSON: So, Mr. Wilson's
9 evidence, everything that occurred up until Wednesday
10 will be made available to you by Sunday.

11 MR. ALEXAN KULBASHIAN: We were
12 notified by Mr. Levac.

13 THE CHAIRPERSON: Oh, Mr. Levac

14 MR. ALEXAN KULBASHIAN: Thank you.

15 THE CHAIRPERSON: Do you want to deal
16 with the subpoena as well?

17 MR. ALEXAN KULBASHIAN: That way I
18 won't have to worry about tomorrow.

19 THE CHAIRPERSON: Mr. Kulbashian, I'm
20 signing the subpoena for you right now.

21 MR. ALEXAN KULBASHIAN: Thank you
22 very much.

23 THE CHAIRPERSON: I'm putting the
24 date as Monday. Mr. Levac will help you with the rest.

25 MR. ALEXAN KULBASHIAN: Thank you.

1 THE CHAIRPERSON: So tomorrow.
2 That's it for today.

3 REGISTRY OFFICER: All rise.
4 --- Whereupon the hearing adjourned to Friday,
5 November 12th, 2004 at 9:30 a.m.

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I HEREBY CERTIFY THAT the
foregoing is a true and accurate
transcript of the proceedings to
the best of my skill and
ability.

Beverley Dillabough, C.S.R.