

**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<sup>o</sup> 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  
MONDAY, NOVEMBER 15, 2004, AT 9:30 A.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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EXHIBIT	DESCRIPTION	PAGE
R-9	Excerpt of newspaper article as previously described, from the North Shore News dated July 27, 1998.	2702

1 Oakville, Ontario

2 --- Upon resuming on Monday, November 15, 2004

3 at 9:30 a.m.

4 REGISTRY OFFICER: Good morning. All  
5 rise.

6 Please be seated.

7 THE CHAIRPERSON: Hi.

8 DR. HENRY: Hello.

9 THE CHAIRPERSON: Are you ready to  
10 proceed?

11 MR. A. KULBASHIAN: Yes, I am.

12 MS MAILLET: Mr. Hadjis, before we  
13 begin.

14 THE CHAIRPERSON: Yes.

15 MS MAILLET: If I could ask maybe at  
16 the break Mr. Kulbashian to go to the other podium.

17 I find it awkward to stand up to  
18 object and, as well, taking notes and he's over my  
19 shoulder.

20 And so, if that would be possible, I  
21 would appreciate that.

22 THE CHAIRPERSON: Do you have any  
23 objection?

24 MR. A. KULBASHIAN: Just that the  
25 issue is that, because I refer to a lot of things over

1 here and it's just the layout.

2 THE CHAIRPERSON: Would you like to  
3 perhaps sit next to Mr. Warman or...

4 MS MAILLET: It's the same issue. I  
5 mean, we need to --

6 THE CHAIRPERSON: Let's find a way to  
7 accommodate. I also indicated to you, if you wanted,  
8 you can remain seated at your computer.

9 MR. A. KULBASHIAN: It's just that  
10 the thing is I need a lot of space at this point  
11 because there is the binder and there's a lot of pages  
12 I will be taking out as well as my lap top and the  
13 notes that I take.

14 THE CHAIRPERSON: Well, maybe you can  
15 discuss it with Mr. Levac during a break and see if you  
16 can work something out. I don't want to get into that  
17 right now.

18 Mr. Kulbashian, whenever you are  
19 ready.

20 MR. A. KULBASHIAN: Yes, here we go.

21 DR. FRANCES HENRY, Resumed:

22 CROSS-EXAMINATION BY MR. A. KULBASHIAN (Cont'd):

23 MR. A. KULBASHIAN: Good morning,  
24 Doctor.

25 DR. HENRY: Good morning.

1 MR. A. KULBASHIAN: I'm just going to  
2 ask a few preliminary questions which I got side  
3 tracked from.

4 Coming back to social anthropology.  
5 You said you considered it a science. Would that  
6 happen to be because -- I guess, because of the  
7 requirements of the field, or would it have to be the  
8 way the courses are designed or the way the concepts  
9 are designed?

10 I mean, what would you say is the  
11 science about social anthropology?

12 DR. HENRY: Social anthropology is a  
13 social science, as are the other disciplines as I  
14 mentioned in previous testimony.

15 MR. A. KULBASHIAN: And the fact that  
16 it is called social science, like the word "science" in  
17 that name, would make it a science or are there any  
18 other factors?

19 DR. HENRY: No, there are no other  
20 factors.

21 MR. A. KULBASHIAN: So, have you ever  
22 heard of the term "sanitary engineering"?

23 DR. HENRY: No, I haven't.

24 MR. A. KULBASHIAN: Have you ever  
25 heard of the janitorial service being called sanitary

1 engineering, as like more of, I guess, like a  
2 euphemism?

3 DR. HENRY: Personally I haven't, no.

4 MR. A. KULBASHIAN: Would you  
5 consider sanitary engineering to be an engineering  
6 field?

7 DR. HENRY: I don't really know.

8 MS MAILLET: Mr. Chairman, I object  
9 to the line of questioning. He is making a proposition  
10 that social science isn't a science and that perhaps  
11 that's not...

12 THE CHAIRPERSON: Go straight to the  
13 point.

14 What is it that makes social science  
15 a science as opposed to -- let's take an obvious other  
16 range, art?

17 DR. HENRY: It is a social science in  
18 the sense that it differentiates from physical sciences  
19 such as chemistry, physics and so on.

20 The social part refers to the fact  
21 that it deals with human beings, their life experiences  
22 and culture and the science part refers to the fact  
23 that, insofar as it is possible to control social  
24 settings, the social sciences follow scientific method.

25 MR. A. KULBASHIAN: Is it true that



1 many fully qualified, I guess, social science PhDs  
2 disagree with each other?

3 DR. HENRY: I think that's true in  
4 every discipline.

5 MR. A. KULBASHIAN: Would you say it  
6 would be true in math, or a more technical science  
7 discipline?

8 DR. HENRY: I think it is also true  
9 in the hard sciences, yes.

10 MR. A. KULBASHIAN: By how much do  
11 you believe they disagree?

12 DR. HENRY: Pardon?

13 MR. A. KULBASHIAN: By how much do  
14 you believe that --

15 MR. WARMAN: Objection. He is asking  
16 a question that requires first a hypothesis, a  
17 hypothetical question, and it calls for a meaningless  
18 and unknowable statistics.

19 THE CHAIRPERSON: Particularly the  
20 latter point.

21 MR. A. KULBASHIAN: So, would you  
22 say that in some cases that social scientists disagree  
23 with each other entirely?

24 DR. HENRY: I don't know what you  
25 mean by "entirely", but I do agree there is

1 disagreement among social scientists on certain issues.

2 MR. A. KULBASHIAN: Have you, I  
3 guess, had much dialogue -- like, I mean, much dialogue  
4 with other social scientists with PhDs?

5 DR. HENRY: I have been a university  
6 academic for, I think, close now to 40 years, so I  
7 would say I have had considerable experience.

8 MR. A. KULBASHIAN: Have you ever  
9 seen situations where they disagree from each other,  
10 like black and white, like complete contrasts?

11 DR. HENRY: No.

12 MR. A. KULBASHIAN: You have never  
13 seen any situation maybe where scientists would state  
14 two completely different opinions on the same issue?

15 DR. HENRY: Social scientists--

16 MR. A. KULBASHIAN: That's what I  
17 mean.

18 DR. HENRY: --yes, they do sometimes  
19 state different opinions, yes.

20 MR. A. KULBASHIAN: So, would social  
21 science be a field of science then or opinion?

22 DR. HENRY: It is a field of science.

23 MR. A. KULBASHIAN: So, what makes  
24 you certain that your opinion would be right on the  
25 topics presented in the Tribunal today as opposed to

1 somebody else's?

2 DR. HENRY: I think all good social  
3 scientists, qualified social scientists attempt,  
4 insofar as is possible, to follow the scientific  
5 method.

6 MR. A. KULBASHIAN: So, would you  
7 happen to know what the scientific method is for  
8 determining whether or not certain things are racism or  
9 not?

10 DR. HENRY: The scientific method, in  
11 general, is to follow a certain series of prescriptions  
12 in regard to sampling techniques, in regard to  
13 analysis, in regard to interpretation, in regard to  
14 trying to maintain, insofar as is possible, an  
15 objective distance from the subject matter being  
16 studied, and a number of other features.

17 MR. A. KULBASHIAN: Would you say  
18 that social scientists would, I guess, refer to  
19 statistics in order to determine, I guess, a  
20 likelihood --

21 DR. HENRY: Some social sciences use  
22 statistics, yes.

23 MR. A. KULBASHIAN: Would you say  
24 your science uses statistics in order to determine, I  
25 guess, a probable outcome?

1 DR. HENRY: Social anthropology does  
2 not rely too heavily on statistics, but insofar as the  
3 disciplines have merged so much in recent years, there  
4 is some use of statistical analysis, yes.

5 MR. A. KULBASHIAN: Now, would you  
6 say you have used any statistics to back up any of  
7 your -- I guess, any of your claims in this report?

8 DR. HENRY: No.

9 MR. A. KULBASHIAN: Would you  
10 consider yourself to have a lot of general knowledge  
11 outside the field?

12 DR. HENRY: I do.

13 MR. A. KULBASHIAN: Do you believe  
14 that if social scientists can change, or the analysis  
15 on a specific topic, then it would be more a field of  
16 opinion and not a science?

17 DR. HENRY: No, I don't.

18 MR. A. KULBASHIAN: Could you state  
19 why analysis could be changed on the same topic?

20 DR. HENRY: I don't think you  
21 understand what social science is about.

22 Social science deals with the  
23 complexities of human behaviour, I mean, all their  
24 particular idiosyncrasies, characteristics, history,  
25 culture, behaviour, et cetera.

1                   Social science cannot manipulate  
2 human beings as easily as the physical sciences can  
3 manipulate their subjects, whether they are chemical  
4 ingredients, atoms, or whatever.

5                   So, insofar as you can control and  
6 manipulate social subjects in any of the social science  
7 disciplines, you don't have full control of the  
8 research situation.

9                   MR. A. KULBASHIAN: So, do you  
10 believe you are here to testify on the science of the  
11 material placed before you or also make inferences or,  
12 I guess, what I -- guesses on some of the material that  
13 was put before you?

14                  DR. HENRY: No, I would not use the  
15 word "guesses." I would state that, insofar as it is  
16 possible, I have used, as most other bone fide  
17 researchers use, the best possible techniques at their  
18 disposal in order to arrive at a general series of  
19 interpretations.

20                  MR. A. KULBASHIAN: Would you  
21 consider yourself to have used any assumptions in  
22 filing your report?

23                  DR. HENRY: I have made no  
24 assumptions before I read the material.

25                  MR. A. KULBASHIAN: Did you make any

1           assumptions in order to file the reports -- in order to  
2           prepare the report, any assumptions about any of the  
3           material?

4                           DR. HENRY:  No.

5                           MR. A. KULBASHIAN:  Have you ever  
6           heard of a group called Women for Aryan Unity?

7                           DR. HENRY:  I have seen their name  
8           referred to in the literature off and on, yes.

9                           MR. A. KULBASHIAN:  Do you know any  
10          of the members?  Have you done any research on the  
11          group?

12                          DR. HENRY:  No.

13                          MR. A. KULBASHIAN:  So, would you  
14          consider it, I guess, plausible that maybe you have  
15          made assumptions about the group in order to file the  
16          specific section here on WAU?

17                          DR. HENRY:  I have already testified  
18          the other day to the fact that the very title, the very  
19          name of the organization gives an immediate clue to  
20          their ideology.

21                          MR. A. KULBASHIAN:  In that case,  
22          let's start talking about the NAACP, which my  
23          co-respondent brought up a couple of days ago.

24                          You testified that it stands for  
25          National Association for Advancement of Coloured

1 People, am I right?

2 DR. HENRY: That's correct.

3 MR. A. KULBASHIAN: Would you  
4 consider the term "coloured people", the term, to be an  
5 outdated way of, I guess, looking at people of colour,  
6 like, an outdated term?

7 DR. HENRY: Yes, I think it is an  
8 outdated term.

9 MR. A. KULBASHIAN: Would that be an  
10 outdated term like the word "Aryan"?

11 MR. WARMAN: Objection. Dr. Henry  
12 has already testified as to her interpretation of the  
13 word Aryan, that it does not, in fact, refer to simply  
14 an outdated mode and that, in fact, it does have  
15 references to the World War II Nazi era period using  
16 Aryan.

17 MR. A. KULBASHIAN: She also did  
18 testify that it was used well before the neo-Nazi  
19 period in World War II?

20 THE CHAIRPERSON: Considering the  
21 nature of the previous question, it is fair territory  
22 to examine. Go ahead.

23 MR. A. KULBASHIAN: So, if you could  
24 answer the question?

25 DR. HENRY: What was the question,

1           again?

2                           MR. A. KULBASHIAN:  The question was,  
3           would you consider the word "coloured people" to be an  
4           outdated term?

5                           DR. HENRY:  Yes, I do.

6                           MR. A. KULBASHIAN:  Similar to the  
7           word Aryan, like, as a classification of people?

8                           DR. HENRY:  Yes.

9                           MR. A. KULBASHIAN:  So, would you  
10          consider the title of the National Association for  
11          Advancement of Coloured People to be a title which, I  
12          guess, has some sort of historical racism, the title?

13                          DR. HENRY:  I wouldn't go so far as  
14          to say that, but it certainly is outdated.

15                          MR. A. KULBASHIAN:  If you have no  
16          idea as to what the NAACP was and you were hearing  
17          about it for the first time, would you classify the  
18          group as a racist group?

19                          DR. HENRY:  No.

20                          MR. A. KULBASHIAN:  And if you had no  
21          idea as to what they were getting at, and just the fact  
22          that the historical term referred to coloured people --  
23          if coloured people was used as a title, would you  
24          classify it as a racist group?

25                          DR. HENRY:  No.



1 MR. A. KULBASHIAN: Would you  
2 consider the group's manifesto to be united, educate,  
3 protect the coloured race or coloured people and --

4 THE CHAIRPERSON: Well, you moved  
5 your chair.

6 MR. WARMAN: I'm just making myself  
7 more comfortable in case --

8 THE CHAIRPERSON: You are referring  
9 to something as --

10 MR. A. KULBASHIAN: NAACP, and I'm  
11 basically, like, reading it and substituting the terms?

12 THE CHAIRPERSON: Be careful not to  
13 have you testify in your questioning. Be careful.

14 If there is something in front of you  
15 that you're referring to, perhaps you can propose first  
16 to the witness to see if it is recognized.

17 MR. A. KULBASHIAN: Well, it's  
18 actually a report. I'm changing some of the words in  
19 order to apply it to the NAACP.

20 THE CHAIRPERSON: You're referring to  
21 the report? I'm sorry.

22 MR. A. KULBASHIAN: That's right.

23 So, would you consider the NAACP to  
24 have, I guess, to have a purpose of uniting and  
25 educating and protecting the black race or coloured

1 people?

2 DR. HENRY: Yes, I do.

3 MR. A. KULBASHIAN: And would you  
4 consider them to be maybe a proud people who believe in  
5 raising their coloured children to be strong and fight  
6 for their cause?

7 MR. WARMAN: Objection. This is the  
8 second example that he's used. It comes back to the  
9 whole chocolate, child porn, NDP, communist thing.

10 First it was B'Nai Brith, now it is  
11 the NAACP.

12 If there is a proposition that he  
13 would like to put to the witness and have her answer --  
14 I believe it has already been answered -- and he should  
15 not be permitted to go on in these extraneous and  
16 secondary lines of questioning when they've already  
17 been done and answered.

18 MR. A. KULBASHIAN: I believe the  
19 reason I'm using these examples is to determine why  
20 she -- why there is a broken link because -- for  
21 example, B'Nai Brith, the title she stated was more  
22 from the scriptures.

23 In this sense, the title would be  
24 consistent with having historical, I guess, term  
25 applied to the title of the group, as well as possibly

1 the same manifesto, which would mean that if she had no  
2 clue about the group, would she consider it a racist  
3 group?

4 THE CHAIRPERSON: The distinction is  
5 subtle. I will allow it.

6 MR. A. KULBASHIAN: Well, it is --

7 THE CHAIRPERSON: It's subtle, but I  
8 will allow it.

9 MR. A. KULBASHIAN: So, would you  
10 consider that they would have the same manifesto except  
11 applied to coloured people -- I'm not using that term  
12 in a racist sense, more like the term of the name.

13 DR. HENRY: Yes.

14 MR. A. KULBASHIAN: So, would it be  
15 possible that the fact that you don't know anything  
16 about WAU would have just given you -- would have  
17 allowed you to make an assumption without  
18 cross-referencing it to other situations as opposed to  
19 a historical perspective?

20 DR. HENRY: No, because in addition  
21 to recognizing the labelling in the title, I did  
22 already say that I had some glancing familiarity with a  
23 group from prior reading.

24 MR. A. KULBASHIAN: What familiarity  
25 do you have with the group, you could say?

1 DR. HENRY: Well, I have read a bit  
2 about them as a group in the United States of women who  
3 have organized themselves into a white supremacist  
4 movement.

5 MR. A. KULBASHIAN: Do you know when  
6 you possible read about this or in what context you  
7 read about this?

8 DR. HENRY: Probably in Dr. Barrett's  
9 major book on white supremacists and racist groups in  
10 Canada and North America.

11 MR. A. KULBASHIAN: Would you  
12 consider a group, say, with only two members, I guess,  
13 to trigger a topic -- to be triggered as a topic of  
14 analysis -- to trigger a topic of analysis, sorry?

15 THE CHAIRPERSON: I did not  
16 understand the question.

17 MR. A. KULBASHIAN: I'm sorry. Would  
18 you consider a group with only two members to be -- to  
19 have sufficient weight to be part of somebody's  
20 analysis of groups in the U.S., for example?

21 DR. HENRY: I think I would probably  
22 say no to that question, except we are in the age of  
23 the Internet and, therefore, it only takes one person  
24 to put a website on the Internet.

25 MR. A. KULBASHIAN: Do you know how

1 many members were in this group?

2 DR. HENRY: In which one?

3 MR. A. KULBASHIAN: In the WAU?

4 DR. HENRY: No, I don't.

5 MR. A. KULBASHIAN: Do you know if  
6 they had a website?

7 DR. HENRY: No, I don't.

8 MR. A. KULBASHIAN: Do you know if  
9 they possibly started up in, I guess, August 2001 and  
10 did not move further than that?

11 DR. HENRY: No, I don't know that.

12 MR. A. KULBASHIAN: Would you happen  
13 to know if it was a one-women project?

14 DR. HENRY: No, I don't.

15 MR. A. KULBASHIAN: So, you stated  
16 that aside from -- do you remember what you read in the  
17 book about the WAU?

18 DR. HENRY: No, it was about more  
19 than a dozen years ago, so I certainly have no memory  
20 of it.

21 MR. A. KULBASHIAN: Do you know how  
22 far back you can recall things from your memory?

23 THE CHAIRPERSON: Be more specific.

24 MR. A. KULBASHIAN: Okay. Do you  
25 consider yourself to have a good memory?

1 DR. HENRY: For certain things I do  
2 and for other things I don't.

3 MR. A. KULBASHIAN: Would this have  
4 been -- like, for example, what do you mean for  
5 "certain things"?

6 DR. HENRY: I remember reading a  
7 reference to a white supremacist organization called  
8 "Women for Aryan Unity".

9 MR. A. KULBASHIAN: Is it possible  
10 the group you read about was called Aryan Women or  
11 Unity of Aryan Women or, I guess, by any other name?  
12 Is it possible that --

13 DR. HENRY: It is possible,  
14 certainly. These groups come and go.

15 MR. A. KULBASHIAN: Is it possible  
16 that you never actually read about WAU before?

17 DR. HENRY: It is quite possible that  
18 it used a similar name.

19 MR. A. KULBASHIAN: And is it  
20 possible that a similar, as in a more -- not  
21 necessarily the exact same name, but more similar name,  
22 so that it would probably trigger off the memory?

23 DR. HENRY: It would trigger off the  
24 same association.

25 The moment I see the word Aryan or

1           Aryan Unity in a title, it reads white supremacy and it  
2           reads Arianism from the Hitlerian period and it,  
3           therefore, reads racism to me.

4                       MR. A. KULBASHIAN:    Would you  
5           consider it to be a contradiction, aside from, I guess,  
6           looking at the World War II contradiction in the way  
7           you view groups?

8                       For example, a group that would be  
9           called NAACP as opposed to -- like, with the same  
10          manifesto, the same type of historical racism term in  
11          the title, and WAU, would you consider it to be a  
12          contradiction or would you attribute the two to be  
13          different?

14                      MR. WARMAN:    Objection.   Dr. Henry  
15          did not testify that the word "Aryan" and the words  
16          "coloured people" were in fact the same in terms of  
17          their historical racist connotation.

18                      THE CHAIRPERSON:   No, in fact, she  
19          testified that she would not classify NAACP, a priori,  
20          as a racist group.

21                      MR. A. KULBASHIAN:   She testified  
22          last Friday that Aryan was an outdated term of  
23          reference anthropologically, as well as she testified  
24          today that coloured people was an outdated term of  
25          reference anthropologically.

1 THE CHAIRPERSON: But she also then  
2 testified to your second proposition whether they can  
3 be compared and she seems to believe that, in her  
4 opinion, the two cannot be compared in terms of racism.  
5 I have an answer on that.

6 Are you going to the same question?

7 MR. KULBASHIAN: Actually the  
8 question is, if she believes there is an inconsistency  
9 in the way she views groups primarily on one side and  
10 NAACP where she knows about the group, as opposed to a  
11 group she has never heard about before?

12 THE CHAIRPERSON: Well, it sounds a  
13 bit like you're arguing with the witness, but I'll let  
14 the witness deal with that proposition.

15 Do you see an inconsistency there?

16 DR. HENRY: I think he said  
17 inconsistency.

18 MR. A. KULBASHIAN: Inconsistency  
19 about the way you referred to both groups or the way  
20 you interpret both groups?

21 DR. HENRY: No.

22 MR. A. KULBASHIAN: If we can turn to  
23 page 21 of your report.

24 DR. HENRY: I'm sorry, what page?

25 MR. A. KULBASHIAN: Page 21 of HR-1,



1 tab 64.

2 DR. HENRY: Thank you.

3 MR. A. KULBASHIAN: Over here you  
4 stated -- this is the part you read out loud..

5 I'm just going to refer to it instead  
6 of having you read it again.

7 You referred to Paul Fromm as a white  
8 supremacist. How do you know he is a white  
9 supremacist?

10 DR. HENRY: Paul Fromm is a very  
11 well-known person in Canadian society.

12 MR. A. KULBASHIAN: Would you go off  
13 of just the fact that he is very well known or be in  
14 the reports, or some expert analysis, or any kind of  
15 expert reference?

16 DR. HENRY: I have read a great deal  
17 about Mr. Fromm.

18 Certainly some of his material has  
19 come up in some prior human rights cases that I have  
20 also been involved in.

21 MR. A. KULBASHIAN: Has his material  
22 ever been deemed racist?

23 DR. HENRY: Has...?

24 MR. A. KULBASHIAN: Has the material  
25 by Paul Fromm ever been deemed racist?

1 MR. WARMAN: Objection. The question  
2 is vague. Deemed by whom?

3 MR. A. KULBASHIAN: Deemed by  
4 anybody, because she said they came up previously in  
5 human rights cases.

6 THE CHAIRMAN: Okay. So, what's the  
7 question?

8 MR. A. KULBASHIAN: Would you  
9 consider this material that came from Paul Fromm ever  
10 been classified racist by any experts or any --

11 DR. HENRY: Oh, a great many of them.

12 MR. A. KULBASHIAN: Okay. What kind  
13 of -- has he ever referred to other races in derogatory  
14 terms?

15 DR. HENRY: I'm not sure. I don't  
16 have all of his speeches and letters and so on in front  
17 of me.

18 MR. A. KULBASHIAN: Have you ever  
19 seen any material that you allege by him that does  
20 refer to anybody in derogatory racial terms?

21 DR. HENRY: I don't recall his  
22 material in that degree of detail.

23 MR. A. KULBASHIAN: So, is it safe to  
24 say you go off -- that you maybe don't remember  
25 anything about Paul Fromm and the association possibly

1 with racism would trigger you to think he is a racist?

2 DR. HENRY: No, I wouldn't put it  
3 that way. Paul Fromm is extremely well known to those  
4 of us who deal with racism and anti-racism.

5 He's been involved in numerous human  
6 rights cases and other kinds of cases.

7 He was, I believe -- but I'm not  
8 certain that this is correct -- removed from his post  
9 as a result, from his job.

10 The newspapers have written a great  
11 deal about him.

12 But, on the other hand, I don't  
13 recall reading in any of his material comments about  
14 other races.

15 The fact that he is a white  
16 supremacist is well known and accepted in all the  
17 literature on white supremacy in Canada. I can refer  
18 you specifically to literature on the subject.

19 MR. A. KULBASHIAN: You stated he is  
20 very well known to people who try to fight racism or in  
21 the field who analyze racism.

22 Is he well known to you, as in his --

23 DR. HENRY: I don't know him  
24 personally.

25 MR. A. KULBASHIAN: -- his doctrine?

1 No, I don't mean personally, but his doctrine, is that  
2 well know to you?

3 Do you know what he does? Do you  
4 know what he does?

5 DR. HENRY: I think he was a teacher  
6 at one point and I think he was discharged from his  
7 teaching position as a result of teaching racism in the  
8 classroom.

9 MR. A. KULBASHIAN: Is that what you  
10 think or is that what you know?

11 DR. HENRY: I believe that's the same  
12 individual.

13 MR. A. KULBASHIAN: You --

14 DR. HENRY: He was in the Scarborough  
15 school system, I believe, for a while, and he was  
16 discharged from that position, as I vaguely remember.

17 MR. A. KULBASHIAN: Do you know what  
18 groups he is a part of?

19 DR. HENRY: No.

20 MR. A. KULBASHIAN: Have you ever  
21 heard of CAFE?

22 DR. HENRY: Pardon?

23 MR. A. KULBASHIAN: Have you ever  
24 heard of his group CAFE?

25 DR. HENRY: CAFE...?

1 MR. A. KULBASHIAN: C-A-F-E.

2 DR. HENRY: No.

3 MR. A. KULBASHIAN: It is actually an  
4 acronym.

5 DR. HENRY: No.

6 MR. A. KULBASHIAN: Have you ever  
7 heard of any of the speeches -- any at all of the  
8 speeches that he's done?

9 DR. HENRY: There was some material  
10 written by him or taken from speeches that I remembered  
11 seeing many years ago in some of the literature on the  
12 human rights cases that have taken place.

13 But I don't remember them in detail  
14 now.

15 MR. A. KULBASHIAN: Would you happen  
16 to know if he has ever been a speaker on any  
17 conferences?

18 DR. HENRY: I'm sure he was.

19 MR. A. KULBASHIAN: Would you happen  
20 to know if any of his conferences include any black  
21 speakers or Jewish speakers?

22 DR. HENRY: I have not been to any of  
23 his conferences, so I cannot say that.

24 MR. A. KULBASHIAN: Have you heard  
25 anything about his conferences, aside from the

1 possibility that he gives conferences?

2 DR. HENRY: No, not really.

3 MR. A. KULBASHIAN: Is it safe to say  
4 that you don't know anything about Paul Fromm, except  
5 from what you possibly read in the newspapers or  
6 through other people's analysis?

7 DR. HENRY: Well, other people's  
8 analysis, of course, includes material from his own  
9 writings.

10 MR. A. KULBASHIAN: Do you know -- do  
11 you remember what you read in other people's analysis  
12 at all?

13 DR. HENRY: I have already said I  
14 don't. It has been quite a while since I had to review  
15 those materials and they are not exactly bedtime  
16 leisure readings.

17 MR. A. KULBASHIAN: So, when you  
18 did -- when you were analyzing the articles that were  
19 placed before you and you did a reference to Paul  
20 Fromm, you just happened to put the name white  
21 supremacist in front of his name as a way of  
22 aggravating --

23 MS MAILLET: Mr. Chair, I'm going to  
24 object to the line of questioning. She has already  
25 indicated what she has read and in the literature she

1 has seen and in the community that she belongs to that  
2 Paul Fromm is a known white supremacist.

3 It just seems me that he's starting  
4 to badger her at that point. What else -- that is her  
5 knowledge. Whether she has been to a conference -- she  
6 says she hasn't -- you know, the degree of detail which  
7 she knows, she has already answered the question.

8 MR. A. KULBASHIAN: She actually  
9 stated she has no degree of detail, like, you know.

10 THE CHAIRPERSON: It goes to the one  
11 thing I told you about last week. Make your points and  
12 collect those points and make your argument at the end.

13 Any points that you are trying to  
14 make on the issue of Paul Fromm, I think, you may have  
15 made. You covered off the limitations, if any, of this  
16 person's knowledge about that person.

17 Your next question was whether --  
18 well, what was your question?

19 MR. A. KULBASHIAN: If she knew  
20 anything about Paul Fromm at all?

21 THE CHAIRPERSON: I have heard what  
22 she knows about Paul Fromm.

23 MR. A. KULBASHIAN: No, if she knew  
24 anything about Paul Fromm at all, other than articles  
25 she's read in the newspaper or --

1 THE CHAIRPERSON: I think I have an  
2 answer on that.

3 MR. A. KULBASHIAN: That's fine. So,  
4 is it safe to say -- actually my last question --  
5 sorry, I remember now -- was why she used the word  
6 "white supremacist" to refer to Paul Fromm. Is it  
7 possible he is not a supremacist?

8 MR. WARMAN: Objection. I believe  
9 Dr. Henry has already answered that.

10 THE CHAIRPERSON: I have an answer  
11 for that, too.

12 MR. A. KULBASHIAN: The question was  
13 whether or not --

14 THE CHAIRPERSON: No, but from the  
15 other material, I have the answer. You are just  
16 rephrasing previous questions.

17 MR. A. KULBASHIAN: Okay. If you  
18 read further down, it says here that -- you refer to:

19 "...that Canada and America..."  
20 -- according to the article:

21 "...must cease letting the  
22 Israeli tail wag the dog of  
23 foreign policies."

24 Would you consider that to be a  
25 racist comment?



1 DR. HENRY: Not necessarily, except  
2 it has to be read in its context.

3 MR. A. KULBASHIAN: Have you placed a  
4 context anywhere in that article?

5 DR. HENRY: The context is the letter  
6 that has been -- that was published in the newsletter.

7 MR. A. KULBASHIAN: Did you do any  
8 analysis of the content in that article, in this  
9 paragraph?

10 DR. HENRY: Well, as it is stated  
11 there, yes.

12 MR. A. KULBASHIAN: Do you see  
13 anything about -- I don't see content, I see that it  
14 says:

15 "...must observe a Canada or  
16 America First policy in order  
17 not to get trapped by other  
18 people's conflicts. Both  
19 countries must "cease letting  
20 the Israeli tail wag the dog of  
21 foreign policies.""

22 Do you see any reference to the  
23 context of the article in that paragraph?

24 DR. HENRY: Well, I think the general  
25 context follows other articles and other letters that

1           were in that newsletter, and it is all with respect to,  
2           or much of it blames the Jews and the Israelis for the  
3           September 11th tragedy.

4                       MR. A. KULBASHIAN:  Is blaming Israel  
5           racism?  Simple question.

6                       DR. HENRY:  No.

7                       MR. A. KULBASHIAN:  And why not?

8                       MR. WARMAN:  Objection.  Blaming  
9           Israel for what?

10                      MR. A. KULBASHIAN:  For anything.  Is  
11           it racism for any kind of -- for anything, including  
12           September 11th, or including --

13                      THE CHAIRPERSON:  I had assumed it  
14           was 9/11 because that was in the last question.

15                      MR. A. KULBASHIAN:  Blaming racism  
16           for any reason -- like, is blaming Israel for any  
17           reason, including foreign policy, including wars,  
18           including genocide, whatever; is it racism?

19                      MR. WARMAN:  It is infamously vague.  
20           It could mean anything.  Could blame it for rain today,  
21           blame it for --

22                      THE CHAIRPERSON:  I think he means in  
23           a political --

24                      MR. A. KULBASHIAN:  In any sense, is  
25           it racism?

1                   MR. WARMAN: He's not limiting his  
2 question. He's saying in any sense.

3                   THE CHAIRPERSON: Try to focus it a  
4 bit.

5                   MR. A. KULBASHIAN: Is blaming Israel  
6 for political problems racism?

7                   DR. HENRY: No.

8                   MR. A. KULBASHIAN: And so, what  
9 about that phrase would be racism?

10                  DR. HENRY: About letting the  
11 Israeli tail wag the dog.

12                  MR. A. KULBASHIAN: That's rights.

13                  DR. HENRY: Is that what you are  
14 referring to?

15                  MR. A. KULBASHIAN: That's right.

16                  DR. HENRY: I didn't say, if you read  
17 the paragraph, that either the -- whatever commentary  
18 of Paul Fromm or even the commentary from David Duke is  
19 racism. It is all in the context of the general  
20 context of the newsletter in which a tragic act is  
21 immediately blamed on a particular group of people.

22                  MR. A. KULBASHIAN: Would you  
23 consider a tragic act being blamed on Palestinians  
24 racism?

25                  DR. HENRY: Not necessarily. It

1 depends on the context.

2 MR. A. KULBASHIAN: So, if you're  
3 going to continue from here, where you also say:

4 "Another letter is from David  
5 Duke who advocates an  
6 isolationist foreign policy for  
7 the U.S. He also takes notice  
8 of the need to "break the grip  
9 of this Zionist power in our  
10 midst".

11 Would you consider that to be racist?

12 DR. HENRY: It is, again, in the  
13 context of blaming a particular group for a particular  
14 event.

15 MR. A. KULBASHIAN: If you blame the  
16 American government for something, is that racism, even  
17 in that context?

18 DR. HENRY: It depends on the  
19 content.

20 MR. A. KULBASHIAN: Do you believe  
21 that a government is a race or is any kind of protected  
22 group that is --

23 DR. HENRY: I think I have said  
24 enough about what races are the other day.

25 MR. A. KULBASHIAN: Do you believe

1           that a government of any country -- searching for  
2           words -- is exempt from being criticized on any level  
3           for any action they take?

4                         DR. HENRY:  No.

5                         MR. A. KULBASHIAN:  Do you believe  
6           that criticizing a government is a form of racism?

7                         DR. HENRY:  When it is -- coincides  
8           with anti-Semitic, anti-Jewish kinds of sentiments,  
9           then, I think, within that context it can be considered  
10          a subtle form of racism.

11                        MR. A. KULBASHIAN:  Would you  
12          consider the Holocausts to -- like, the fact that a  
13          Holocaust took place, the Jewish Holocaust to exempt  
14          Israel or Jews from criticism?

15                        DR. HENRY:  No.

16                        MR. A. KULBASHIAN:  Is it possible  
17          that this article is purely political and you looked at  
18          it in a racial light?

19                        DR. HENRY:  I don't make that facile  
20          a distinction, I'm afraid.

21                        MR. A. KULBASHIAN:  Do you make any  
22          distinction between politics and racism, or would you  
23          just look at articles in varying degrees of racism?

24                        DR. HENRY:  I think there is a very  
25          strong relationship between politics and racism.

1                   MR. A. KULBASHIAN: But you stated  
2 you wouldn't happen to know anything about politics  
3 because you are not an expert; am I right?

4                   MR. WARMAN: Objection. Dr. Henry  
5 did not testify that she "knew nothing about politics".

6                   MR. A. KULBASHIAN: Okay, sorry.  
7 That she was not an expert in politics; am I right?

8                   MR. WARMAN: Objection.

9                   THE CHAIRPERSON: I know exactly what  
10 she said. You can make the comments that you want.

11                   MR. A. KULBASHIAN: I'm just  
12 reminding her.

13                   In that case, do you know anything  
14 about foreign policies of the U.S. or Canada?

15                   DR. HENRY: I am not completely  
16 ignorant.

17                   MR. A. KULBASHIAN: Would you happen  
18 to know anything about the foreign policies of the U.S.  
19 concerning Israel?

20                   DR. HENRY: Yes, I do.

21                   MR. A. KULBASHIAN: Would you believe  
22 that the foreign policy between the U.S. and Israel  
23 isolates Palestinians?

24                   DR. HENRY: I am not prepared to  
25 agree with that, no.

1 MR. A. KULBASHIAN: Can you give me a  
2 yes or no? It is a simple question.

3 THE CHAIRPERSON: She doesn't agree  
4 with you.

5 MR. A. KULBASHIAN: Well no, yes or  
6 no. That's all I want.

7 THE CHAIRPERSON: Well, no, I got an  
8 answer.

9 Let me explain something about  
10 leading questions, all right.

11 You can ask them in a way where you  
12 think a yes or a no gives you an answer; but the answer  
13 you may get from a witness may not be a yes or a no.

14 But that's the advantage of a leading  
15 question, it will often make a witness give a yes or a  
16 no answer, but don't necessarily assume that your  
17 witness is going to give you that kind of an answer.

18 I have the answer.

19 MR. A. KULBASHIAN: Okay.

20 How much do you know about David  
21 Duke?

22 DR. HENRY: David Duke, again, is a  
23 very well-known figure in North America because he is  
24 an American.

25 MR. A. KULBASHIAN: That's right.

1 DR. HENRY: And he's fairly well  
2 known to be associated with right-wing, racist and  
3 white supremacist groups and movements, and he is a  
4 very powerful isolationist in terms of his political  
5 stand.

6 MR. A. KULBASHIAN: Is isolationism a  
7 form of racism?

8 DR. HENRY: Not necessarily.

9 MR. A. KULBASHIAN: Would you happen  
10 to know anything about David Duke through your own  
11 research as opposed to reading other people's articles?

12 DR. HENRY: No.

13 MR. A. KULBASHIAN: Would it be safe  
14 to say that you have no technical knowledge of David  
15 Duke, aside from other people's opinions?

16 DR. HENRY: I don't understand that  
17 question.

18 MR. A. KULBASHIAN: Would it be safe  
19 to say that you have no scientific knowledge of David  
20 Duke, aside from other people's opinions expressed in  
21 their books?

22 DR. HENRY: No, because those  
23 opinions are informed, scientific opinions.

24 MR. A. KULBASHIAN: If you can turn  
25 to page 22, I believe. If you could look at the last



1 article, the Damien letter.

2 DR. HENRY: Yes, I have it.

3 MR. A. KULBASHIAN: Is it possible  
4 what Damien states in his letter are facts?

5 DR. HENRY: It may well be, yes.

6 MR. A. KULBASHIAN: Does Damien refer  
7 to any statistics in his letter?

8 DR. HENRY: I don't clearly remember,  
9 not having it in front of me, but I doubt it.

10 MR. A. KULBASHIAN: Now, if you read  
11 the article, if you remember it, do you remember  
12 anything about -- actually, I can put it right forward.

13 Do you remember you stated that the  
14 article referred to his uncle being killed by somebody  
15 who escaped?

16 DR. HENRY: Yes.

17 MR. A. KULBASHIAN: Do you believe  
18 somebody in distress would be very angry with that kind  
19 of situation?

20 DR. HENRY: Certainly.

21 MR. A. KULBASHIAN: Do you believe  
22 somebody in distress would not be in a state of mind  
23 to, I guess, logically think out his reaction to that  
24 situation?

25 DR. HENRY: Yes.

1 MR. A. KULBASHIAN: Do you believe  
2 that this article is anything more than a rant because  
3 his uncle got killed?

4 DR. HENRY: Yes.

5 MR. A. KULBASHIAN: Do you believe  
6 that this article falls under racism, then?

7 DR. HENRY: Yes.

8 MR. A. KULBASHIAN: Did you state  
9 also previously that Jews blaming Germans after World  
10 War II would not be racism because the majority of  
11 Germans were Nazis?

12 This would have been in my challenge  
13 to your expertise in the first day.

14 DR. HENRY: Sorry, I did not follow  
15 that.

16 MR. A. KULBASHIAN: Remember when I  
17 asked you if it would be racism for Jews during World  
18 War II to, I guess, slam Germans as a whole, and you  
19 stated it would not be because a lot of Germans were  
20 Nazis and they were going through a crisis; am I right?

21 DR. HENRY: Yes.

22 MR. A. KULBASHIAN: So, that would  
23 not be racism. Would you consider that the defence of  
24 a crisis situation to only apply to Jews during World  
25 War II?

1 DR. HENRY: No.

2 MR. A. KULBASHIAN: Do you believe an  
3 individual could be going through a crisis that might  
4 make him not think?

5 DR. HENRY: Certainly.

6 MR. A. KULBASHIAN: Just as a general  
7 note, would you consider the Vinland Voice articles  
8 that you received -- like, the Vinland Voice, to be a  
9 forum of a sense, as opposed to one person's opinions?

10 DR. HENRY: Well, there seems to be  
11 some degree of consistency in the kinds of articles  
12 that are published by it.

13 MR. A. KULBASHIAN: Did you see any  
14 pro-Palestinian articles in there?

15 DR. HENRY: Pro...?

16 MR. A. KULBASHIAN: Pro-Palestinian  
17 articles?

18 DR. HENRY: I don't really recall.

19 MR. A. KULBASHIAN: Do you remember  
20 the:

21 "You had "made me a human bomb"  
22 article?

23 DR. HENRY: Yes, we discussed that on  
24 Friday.

25 MR. A. KULBASHIAN: Would you

1 consider then that, I guess, the newsletter is  
2 consistent with ideas that it portrayed?

3 DR. HENRY: It appears to be.

4 MR. A. KULBASHIAN: Would you  
5 consider the newsletter having anti-Muslim views and  
6 having pro-Palestinian articles to be consistent?

7 DR. HENRY: Consistent with what?

8 MR. A. KULBASHIAN: Consistent in the  
9 views that it portrays?

10 DR. HENRY: I'm afraid I am not  
11 following you.

12 MR. A. KULBASHIAN: Okay. Would you  
13 consider it to be consistent for a newsletter to have,  
14 let's say, an anti-Muslim or anti-Arab article and then  
15 a pro-Palestinian article in the same issue to be  
16 consistent?

17 DR. HENRY: To be consistent with  
18 what?

19 THE CHAIRPERSON: The suggestion  
20 is -- hold on, Mr. Kulbashian, I just want to make  
21 things move along because you tell me the witness was  
22 being difficult yesterday -- the last time for delays  
23 and the delays may be just miscommunication. Let's  
24 get it straight.

25 MR. KULBASHIAN: Okay.

1 THE CHAIRPERSON: What the respondent  
2 is asking you, he points to the fact that in some of  
3 these Vinland Voice newsletters -- perhaps it is the  
4 same one, I don't recall -- one can find one article  
5 which is pro-Palestinian, written by a Palestinian, and  
6 another article where Muslims are blamed for the 9/11  
7 tragedy.

8 And so he's putting it to you that  
9 there's a lack of consistency in this newsletter, and  
10 what does that show you in terms of, perhaps this  
11 contextual perspective that you took and the word  
12 "forum" was used, I believe, by the questioner and  
13 suggesting perhaps this is merely an expression of the  
14 various people's opinions.

15 So, your question is, then, after all  
16 that...?

17 MR. KULBASHIAN: Yeah, after all  
18 that. Would you -- if you turn to page 20 -- sorry,  
19 tab 20, HR-1.

20 THE CHAIRPERSON: Tab 20?

21 MR. A. KULBASHIAN: Yes. Would you  
22 consider this issue of Vinland Voice to be consistent  
23 in its views?

24 THE CHAIRPERSON: Your question is as  
25 simple as that?

1                   There is one article that blames--  
2                                "And yes I hold "ALL" Muslims  
3                                personally responsible as well."

4                   MR. A. KULBASHIAN: Page 6.

5                   THE CHAIRPERSON: With the article  
6                   that comes later on written by allegedly -- apparently  
7                   written by a Palestinian, a victim of --

8                   DR. HENRY: I understand the  
9                   question. I think what my problem is in the term  
10                   "consistency", consistent to what?

11                   It doesn't surprise me that there is  
12                   not, if you will, a lack of consistency, to use your  
13                   terms, in a newsletter of this kind, because a lack of  
14                   logical consistency and a hate rant against many  
15                   different groups is sometimes quite characteristic of  
16                   these kinds of publications.

17                   MR. A. KULBASHIAN: Do you believe  
18                   that someone with your studies, as well as a degree in  
19                   political science or psychology would be more able to  
20                   accurately interpret the contents?

21                   DR. HENRY: No.

22                   MR. A. KULBASHIAN: And why not?

23                   DR. HENRY: Because I think, to use  
24                   your term, there is a certain consistency in the social  
25                   sciences in regard to how hate material is viewed.

1                   MR. A. KULBASHIAN: Do you believe  
2 you are qualified to make any sort of analysis on the  
3 state of minds of people?

4                   DR. HENRY: Only insofar as the state  
5 of mind can be interpolated from their written comments  
6 or their written material.

7                   MR. A. KULBASHIAN: Are you an expert  
8 in psychology?

9                   DR. HENRY: I certainly --

10                  MR. WARMAN: Objection. The  
11 testimony is that Dr. Henry has been preferred as an  
12 expert witness on behalf of racism and hate propaganda,  
13 it is not psychology.

14                  So, whether she considers herself to  
15 be an expert on psychology is really not -- it's  
16 irrelevant.

17                  THE CHAIRPERSON: Right. I can  
18 foresee what the comment is going to be because there  
19 are some references later in her report of the effect  
20 of the declarations and comments in this material.

21                  I think I know where the question is  
22 going on this.

23                  It is in terms of the understanding  
24 of the perceptions of the people who received the  
25 material; is that right?

1                   MR. A. KULBASHIAN: As well as the  
2 state of mind of people who wrote the material, which I  
3 brought up before previously.

4                   THE CHAIRPERSON: Where does that fit  
5 in?

6                   MR. KULBASHIAN: There are some  
7 things being stated, the reason for this article being  
8 posted is, even though there is no commentary -- for  
9 example, statistics, is because -- for example, article  
10 where there was the Muslim was arrested who was alleged  
11 to be a terrorist and also -- I'm not sure if you  
12 remember that article.

13                   THE CHAIRPERSON: Where?

14                   MR. A. KULBASHIAN: She refers to an  
15 article that was posted that was taken from a newspaper  
16 about a Muslim teacher that was arrested and alleged to  
17 be a terrorist, as well as another point in here --

18                   Okay. It's page 20, and if you look  
19 at the first article --

20                   THE CHAIRPERSON: I am reading.

21                   MR. A. KULBASHIAN: Where it say that  
22 there's no commentary on the article, however, it is  
23 obvious that these reprints are to criticize Canada.

24                   That's the reason why I'm asking her  
25 if she considers herself an expert in psychology.



1 THE CHAIRPERSON: I am not quite sure  
2 it is psychology that requires conclusions as it's  
3 presented here by this witness.

4 We know she is not an expert in  
5 psychology.

6 So, why don't you just ask, how did  
7 she reach that conclusion.

8 MR. A. KULBASHIAN: How did you reach  
9 that conclusion?

10 DR. HENRY: In the paragraph you have  
11 just quoted?

12 MR. A. KULBASHIAN: That's right.

13 DR. HENRY: Again, it is an issue of  
14 a matter of context, because the articles call  
15 attention to the fact Canada appears to be defending  
16 Israel.

17 And so there is implicit criticism of  
18 Canada for that, for its defense of Israel and  
19 apparently it is the rest of people who are suspected  
20 of terrorism.

21 MR. A. KULBASHIAN: Would this  
22 article be implicitly racist when it was viewed in the  
23 Toronto Star or wherever it came from?

24 DR. HENRY: No.

25 MR. A. KULBASHIAN: So, the reason

1           again you gave for this article being racist is  
2           context, let us say?

3                         DR. HENRY:    Yes.

4                         MR. A. KULBASHIAN:  Is context the  
5           view -- the general view that you would look at in  
6           order to determine whether a certain thing is implied  
7           in a certain way or --

8                         DR. HENRY:  Well, again, using your  
9           term, if there is a general consistency, which there  
10          appears to be, then I think it is legitimate to draw  
11          some interpretations or conclusions from that  
12          consistency.

13                        MR. A. KULBASHIAN:  In that case,  
14          where you stated that certain articles that could be  
15          just construed as political were racist because of  
16          context, do you believe that somebody with a degree in  
17          political science would be better able to look at the  
18          context of the article itself, without looking too  
19          broad above?

20                        DR. HENRY:  I really cannot answer  
21          that.

22                        In my experience I have known  
23          brilliant political scientists and I have known stupid  
24          political scientists.  So, it really varies a great  
25          deal.

1 MR. A. KULBASHIAN: How would you  
2 rate those political scientists to be stupid, those  
3 political scientists?

4 MR. WARMAN: Objection. I am just  
5 curious as to what the relevance is.

6 DR. HENRY: Because they are.

7 THE CHAIRPERSON: She answered before  
8 you had a chance to get up, so...

9 MR. KULBASHIAN: And how would rate  
10 their competence level?

11 MR. WARMAN: Objection. What is the  
12 relevance?

13 MR. KULBASHIAN: She has testified.  
14 I am getting to the point where everybody differs in  
15 view and opinions, so...

16 MR. WARMAN: If that's the  
17 proposition, perhaps he could just put it to the  
18 witness.

19 MR. A. KULBASHIAN: Okay. And who  
20 would be rating the political scientists? I'm getting  
21 back to the same question.

22 MR. WARMAN: Objection. It is the  
23 exact same question simply repeated.

24 MR. A. KULBASHIAN: If the witness  
25 can leave the room, I will talk about where I am going

1 with this.

2 THE CHAIRPERSON: Fine. Please step  
3 out.

4 DR. HENRY: This is ridiculous.

5 I mean, isn't it clear, Mr.

6 Kulbashian that--

7 MR. KULBASHIAN: You are not  
8 testifying right now.

9 THE CHAIRPERSON: Thank you. I would  
10 like to hear the witness.

11 DR. HENRY: --that political  
12 scientists who are professors in political science are  
13 judged and evaluated through peer mechanisms in terms  
14 of how they get their jobs, how they are promoted and,  
15 in certain instances, even how they are discharged.

16 THE CHAIRPERSON: Okay. Does that  
17 answer your question?

18 DR. HENRY: There is a peer process  
19 involved in evaluating academic professors.

20 THE CHAIRPERSON: Does that answer  
21 your question, Mr. Kulbashian?

22 MR. A. KULBASHIAN: If I ask another  
23 question and I get another objection, then maybe I  
24 won't.

25 So, the question is, I guess in the

1 1920s, would an a socialist anthropologist that stated  
2 that blacks were inferior in the 1920s to be -- would  
3 he be considered highly, as opposed to considered to  
4 be, I guess, making racist comments?

5 Let me just rephrase that. Since you  
6 talked about how --

7 DR. HENRY: No, I understand that  
8 question and I have to agree with it, because while I  
9 have said that there is a peer process involved in  
10 making evaluations, sometimes it slips up and people  
11 get through who are not properly credentialed.

12 MR. A. KULBASHIAN: I guess during  
13 the years of the slave trade in the U.S. a social  
14 anthropologist who would have stated, say, that blacks  
15 were inferior, would he have been -- I guess, what is  
16 the word you used to describe stupid -- I guess,  
17 political scientists or something like that?

18 Would he have been considered stupid,  
19 is the question, I guess?

20 THE CHAIRPERSON: That doesn't seem  
21 like a proper question.

22 MR. A. KULBASHIAN: Well, I'm trying  
23 to remember what term she used about the political  
24 scientist, some being reputable, some being -- what was  
25 the word you used?

1 DR. HENRY: You asked me whether a  
2 political scientist would be better placed to make this  
3 evaluation.

4 MR. A. KULBASHIAN: No. And also --

5 DR. HENRY: And my answer is it  
6 depends on the political scientist. Some are very  
7 smart and so on, and so aren't.

8 I can't generalize about a political  
9 scientist. Give me a name and maybe I would perhaps be  
10 able to give you a better answer.

11 MR. A. KULBASHIAN: Okay. But, the  
12 problem being I am not talking about a political  
13 scientist.

14 In the years in the U.S. when slavery  
15 was common and where it was believed entirely in a  
16 political, including from a scientific perspective that  
17 they were superior to blacks--

18 DR. HENRY: Yes.

19 MR. A. KULBASHIAN: --would the  
20 scientist, in that era, that stated that blacks were  
21 inferior to whites be considered stupid?

22 THE CHAIRPERSON: I do not like the  
23 use of the term "stupid".

24 I see there's an objection, by the  
25 way. That's why I am intervening here.

1                   But that one troubles me, to begin  
2                   with.

3                   MR. WARMAN: I mean, the first point  
4                   first, yes; the second part of it is this material is  
5                   not being evaluated in the context of the years of  
6                   slavery or the period of the 1920s.

7                   The material that's in issue before  
8                   the Tribunal is being evaluated in the standards of  
9                   2004 -- or the periods between 2001 and 2004, and it  
10                  has absolutely nothing to do with slavery or nothing to  
11                  do with...

12                  THE CHAIRPERSON: In that case, the  
13                  Tribunal will be assessing this material.

14                  This witness indeed has some put  
15                  forth some of the issues to provide assistance to the  
16                  Tribunal.

17                  At the end of the day, the Tribunal  
18                  will be assessing the material, not the witness,  
19                  based -- to determine if the matter is likely to expose  
20                  a person or persons to hatred or contempt by reason of  
21                  the fact that that person or those persons are  
22                  identifiable on the basis of a prohibited ground of  
23                  discrimination.

24                  The statute, the statute, the  
25                  statute.

1 MR. A. KULBASHIAN: Okay.

2 This question actually stems off of  
3 the fact that there is a peer evaluation process.

4 Would you be qualified to give any  
5 kind of -- to evaluate any political scientists,  
6 whether or not they're smart or not smart?

7 MR. WARMAN: Objection.

8 THE CHAIRPERSON: You are going down  
9 the same line. I still don't know where you are going  
10 with it.

11 MR. A. KULBASHIAN: Okay. If the  
12 witness can actually leave, then?

13 THE CHAIRPERSON: I would ask you to  
14 step out, so I can understand why he is going in this  
15 direction.

16 --- (witness steps down at 10:30 a.m.)

17 MR. A. KULBASHIAN: The direction I  
18 am trying to go into is whether or not she -- first of  
19 all, she stated she believes she is qualified and she  
20 is an expert in this field.

21 I want to put into context whether or  
22 not it is her opinion or whether or not she is an  
23 expert.

24 THE CHAIRPERSON: I have already  
25 declared her as an expert in racism. You can attack



1 her credibility.

2 MR. A. KULBASHIAN: Credibility, yes.

3 THE CHAIRPERSON: Yes, and you have  
4 done so, but explain to me further where you are going  
5 with this other line.

6 MR. A. KULBASHIAN: Well, the problem  
7 is, for example, there is Dr. William Pierce that's  
8 referred to in her notes and Dr. William Pierce is a  
9 gentleman with a doctorate in -- I don't know what -- I  
10 was just going to ask her if she does know what and she  
11 attacks Dr. Pierce as a non-credible, kind of a bogus,  
12 I guess -- what is the term that she used --

13 THE CHAIRPERSON: Refer me directly  
14 to where you are going.

15 MR. KULBASHIAN: Dr. William Pierce  
16 would have --

17 MR. WARMAN: I think I can be of  
18 assistance.

19 My understanding is that Mr. Pierce's  
20 doctorate was in physics.

21 THE CHAIRPERSON: Physics. Where is  
22 the reference in the report, please?

23 MR. A. KULBASHIAN: In the Tri-City  
24 section which would have been earlier on, the broadcast  
25 of Dr. William Pierce.

1                   So, if you go to the very  
2 beginning --

3                   THE CHAIRPERSON: What page?

4                   MR. A. KULBASHIAN: I'm going to find  
5 the exact page for you.

6                   THE CHAIRPERSON: Oh, William Pierce.

7                   MR. A. KULBASHIAN: Yeah, Dr.  
8 William Pierce, that's right.

9                   THE CHAIRPERSON: Page 6.

10                  MR. KULBASHIAN: Okay. And she also  
11 testified that Dr. William Pierce would have been one  
12 of the --

13                  THE CHAIRPERSON: "(see endnote #2),  
14 so there's a reference to an endnote.

15                  MR. A. KULBASHIAN: I guess that note  
16 would have been referring to a book or --

17                  THE CHAIRPERSON: Turn to page 28.

18                  MR. A. KULBASHIAN: Page 28. All  
19 right.

20                  THE CHAIRPERSON: Yes. Look at the  
21 bottom, that's her note.

22                  MR. A. KULBASHIAN: All right. My  
23 issue is she gives her opinions or evaluations of  
24 people that she doesn't know personally, that she  
25 doesn't recognize, that she has heard barely anything

1 of, that she wouldn't happen to even know what they are  
2 into and giving that kind of testimony should be backed  
3 up with some kind of --

4 THE CHAIRPERSON: And if it doesn't,  
5 then, you argue later that her testimony should not be  
6 considered by me.

7 You can certainly explore, but it  
8 doesn't take 10 years to get there, and then you turn  
9 around afterwards and tell me you need more time for  
10 this thing.

11 If you go to William Pierce and you  
12 ask her, what is your knowledge of William Pierce, and  
13 she will tell you, I know because I knew the man  
14 personally and I have read every single one of his  
15 works; that's one answer. The other answer might be,  
16 only from what I have heard.

17 If you read the note No. 2, you will  
18 see that she references in the text of someone else,  
19 maybe that's the source of her information.

20 Establish what the source of her  
21 information is. Is there anything else, witness, in  
22 terms of what your knowledge of this person is?

23 She has been pretty frank on the  
24 other ones, no, I don't know anything else except what  
25 I have read.

1                   Once you have established that, then  
2                   you can argue later on that her knowledge is minimal  
3                   and there is no way for her to have made this  
4                   assessment and that, I presume, would be your argument.

5                   MR. A. KULBASHIAN: And also why she  
6                   would consider herself so highly when there are  
7                   differences of opinions in her field.

8                   That is the only issue I would bring  
9                   up, so that's kind of why I asked her -- there's like  
10                  two issues.

11                  We're talking outside the witness' --

12                  THE CHAIRPERSON: Yes.

13                  MR. A. KULBASHIAN: Just like issues  
14                  of where I am getting to.

15                  THE CHAIRPERSON: Differences of  
16                  opinion because Mr. Pierce differs with her opinion?

17                  MR. A. KULBASHIAN: No, that it is  
18                  possible that anybody differs with her opinion --  
19                  whether or not, like, she holds --

20                  THE CHAIRPERSON: Let me explain.  
21                  With experts -- this is not the only expert in the  
22                  world, this is just one expert that's been put forth by  
23                  the complainant and Commission.

24                  MR. A. KULBASHIAN: Right.

25                  THE CHAIRPERSON: The logic would

1 indicate that although the expert is neutral, one would  
2 not expect a witness that is being put forth by the  
3 complainant/Commission to express an opinion which does  
4 not accord with their perspective.

5 But in all -- I can tell you with  
6 respect to all experts, in all sciences, there are  
7 differing opinions.

8 I mean, even in the so-called  
9 practical sciences, you can bring one engineer to say  
10 that this roof is sound and the other engineer will say  
11 it is unsound, it happens and we get into this battle  
12 of experts occasionally.

13 The fair game that occurs is that one  
14 expert is put forth, then another expert is put forth  
15 and there is discussion made about how one expert  
16 reached their conclusions and how the other expert  
17 reached his conclusions, and then the Tribunal decides  
18 between them.

19 Now, I have this one expert in front  
20 of me at this moment. You can go into what her sources  
21 of information are, but you don't have to get into a  
22 whole debate about how other people may differ with  
23 her. It exists.

24 In French we say, *ca va disparaître*.  
25 It just happens. All right.

1                   So, I mean, you don't have to spend a  
2                   lot of time getting into that point. It is a given,  
3                   that there will be people who have different opinions.

4                   We are all human. This is how things  
5                   are. There is no...

6                   I mean, there may be some certain  
7                   rules that are certainly one presumes standard in the  
8                   practical sciences, but I think in this realm,  
9                   certainly there can be differing opinions.

10                  This witness has been put forth by  
11                  these parties -- or this party, the Commission, to  
12                  present this opinion.

13                  Now, if you had wanted to bring your  
14                  own expert, you could have brought your own expert or  
15                  Mr. Warman could have brought another expert.

16                  I mean, experts can be introduced by  
17                  any party, all right.

18                  That's a given. I don't think you  
19                  have to spend a long time on this, I think it's a  
20                  given. We have already heard her answer about that.

21                  And avoid the use of words like  
22                  "stupid".

23                  MR. A. KULBASHIAN: That's a word she  
24                  actually used when the objection was coming up, she  
25                  said they're stupid, that's what she stated.

1 THE CHAIRPERSON: Oh well, if that's  
2 the case...

3 MR. A. KULBASHIAN: So, that's why I  
4 used that word. It's not -- I would not have used that  
5 word unless she said it.

6 THE CHAIRPERSON: I didn't catch it,  
7 if she used it first. I don't like the word to be  
8 used, no matter who used it.

9 MR. A. KULBASHIAN: Well, I'm going  
10 off of language she was using in order to...

11 THE CHAIRPERSON: I don't recall  
12 that, but if that's the case, still, I don't see what  
13 purpose it serves. It doesn't help me understand  
14 anything any better. It is a vague term.

15 MR. A. KULBASHIAN: It is, right.  
16 Obviously, right.

17 THE CHAIRPERSON: Do not spend too  
18 much time -- while we wait for the witness -- I  
19 recommend you do not spend too much time to establish  
20 the point that her opinion may differ from others. I  
21 mean, it is a given. You have made your point that  
22 social science people have varying opinions. I  
23 understand.

24 --- (witness resumes stand at 10:40 a.m.)

25 THE CHAIRPERSON: The witness is back

1 on the witness stand. Go ahead.

2 MR. A. KULBASHIAN: So, do you  
3 believe that the entire context needs to be evaluated  
4 in order to form a valid -- or an educated decision on  
5 whether or not something implies racism or something  
6 implies -- doesn't imply racism?

7 DR. HENRY: Yes.

8 MR. A. KULBASHIAN: How many articles  
9 did you read from the C.E.C.T. website?

10 MR. WARMAN: Objection. This is very  
11 well brought out terrain, if I may.

12 Mr. Kulbashian and Mr. Richardson  
13 have both addressed the issue of how many did you read,  
14 what articles did you read --

15 MR. A. KULBASHIAN: No, this is the  
16 C.E.C.T. website.

17 MR. WARMAN: Did they give you  
18 everything that was in their possession to review,  
19 everything on the CDs or did you just read portions of  
20 them. This is well brought out material.

21 MR. A. KULBASHIAN: We were talking  
22 about the Vinland Voice, we were not talking about the  
23 CDs.

24 THE CHAIRPERSON: No, I know exactly  
25 what the individual consulted. I examined that quite



1           thoroughly, I can go back to my notes.

2                           I asked her specific questions. She  
3           had not been to the website, she had only been to the  
4           material that was provided to her.

5                           MR. A. KULBASHIAN: I'm talking about  
6           the C.E.C.T. though, which would be --

7                           THE CHAIRPERSON: I thought it was  
8           all.

9                           Well, did you read anything on the  
10          C.E.C.T. website?

11                          DR. HENRY: No.

12                          MR. A. KULBASHIAN: Were you given  
13          anything from the C.E.C.T. website? It's the last  
14          question on this.

15                          DR. HENRY: Can I answer now?

16                          THE CHAIRPERSON: Go ahead.

17                          DR. HENRY: Well, I thought the  
18          material was from the website, the material I was given  
19          was from the website.

20                          MR. A. KULBASHIAN: From the C.E.C.T.  
21          Sorry, that means the --

22                          THE CHAIRPERSON: Let's be specific.

23                          MR. A. KULBASHIAN: That means the  
24          wpcect.com which is a different website and the only --

25                          THE CHAIRPERSON: Is it referenced

1 anywhere in her report?

2 MR. A. KULBASHIAN: Well, first of  
3 all, in her analysis where she talks about -- after  
4 Tri-City's, which is page 20.

5 At the very top it says:

6 "Analysis of Web Site Documents:  
7 Canadian Ethnic Cleansing Team"

8 And she just writes Vinland Voice,  
9 there is no reference to it actually being on the  
10 Canadian Ethnic Cleansing Team website. That is why I  
11 am asking her that question.

12 THE CHAIRPERSON: I believe I asked  
13 this in my questioning.

14 Other than the documents that are  
15 specifically referenced in your report, did you consult  
16 any other documents?

17 DR. HENRY: No.

18 MR. A. KULBASHIAN: Okay. Are you an  
19 expert in symbols or just hate propaganda -- hate  
20 symbols, sorry?

21 DR. HENRY: I know something about  
22 hate symbols, yes.

23 MR. A. KULBASHIAN: Have you done any  
24 extensive research on hate symbols?

25 DR. HENRY: I have in the past done

1           some reading, yes.

2                           MR. A. KULBASHIAN:  Would you happen  
3           to know the difference between hate symbols -- or would  
4           you consider yourself an expert in symbols?

5                           DR. HENRY:  In general, no.

6                           MR. A. KULBASHIAN:  Is it true that  
7           the term Holocaust denial is used to refer to all forms  
8           of denial of Holocausts, so including not only the  
9           Jewish Holocaust, but say earlier ones too, or even the  
10          later ones?

11                          DR. HENRY:  That's not my  
12          understanding of the term.

13                          MR. A. KULBASHIAN:  So, what would  
14          you call denial of all forms of Holocaust?

15                          DR. HENRY:  I don't think it even has  
16          a specific term, or certainly not one that I am  
17          familiar with.

18                          MR. A. KULBASHIAN:  Do you believe  
19          that Holocaust denial is a form of racism?

20                          DR. HENRY:  Yes, I do.

21                          MR. A. KULBASHIAN:  Is it common for  
22          the numbers game to be used to deny the Holocaust?

23                          DR. HENRY:  Yes, it is.

24                          MR. A. KULBASHIAN:  Is it common for  
25          people to state, say, there was a lot of Jews alive in

1 Europe after the alleged Holocaust took place and we  
2 don't believe the Holocaust happened?

3 DR. HENRY: Sorry, can you...

4 MR. A. KULBASHIAN: Is it common for  
5 people to challenge the fact of the Holocaust by  
6 stating there were a lot of Jews alive after the time  
7 of the Holocaust?

8 DR. HENRY: Yes, that has been said.

9 MR. A. KULBASHIAN: Would you  
10 consider that an expert should be a little more careful  
11 about using that kind of term to evaluate whether or  
12 not a Holocaust took place?

13 DR. HENRY: Simply because a couple  
14 of thousand people survived?

15 MR. A. KULBASHIAN: No. Do you  
16 believe that an expert should not be using that method  
17 for evaluating whether or not a Holocaust took place,  
18 the method of saying -- an expert in racism, sorry -- a  
19 method of saying, well, there are is a lot of people  
20 alive still, so I don't believe a Holocaust took place?

21 DR. HENRY: I'm not aware that I said  
22 that.

23 MR. A. KULBASHIAN: Do you remember  
24 talking -- I'm asking, do you believe that they should  
25 be more sensitive, you know, more sensitive to saying

1           that?

2                           THE CHAIRPERSON:  I'm not sure I  
3           understand the question.

4                           MR. A. KULBASHIAN:  Would you believe  
5           that somebody who is an expert in social anthropology,  
6           who studies racism, who is an anti-racist herself,  
7           should be more careful than playing the numbers game to  
8           determine whether or not a Holocaust happened?

9                           DR. HENRY:  Oh, I see.  You are  
10          referring to the fact that I --

11                          MR. A. KULBASHIAN:  It's just a yes  
12          or no question for that answer.

13                          THE CHAIRPERSON:  No, no, no.  I  
14          described to you the effect before -- I'm not --

15                          MR. A. KULBASHIAN:  I'm asking a  
16          question and she is not answering that question.  I  
17          asked for a yes or no, it's a simple question.

18                          THE CHAIRPERSON:  No, what she is  
19          doing, sir, is she's trying to rephrase your question  
20          because she didn't quite understand your question.

21                          I had no idea what your question was  
22          about but now, from this answer, I appear to be getting  
23          an interpretation of what you said, and maybe I will be  
24          able to understand what is being said, because that's  
25          what counts the most, the Tribunal has to understand

1 the questions and the answers; right?

2 How are you interpreting the  
3 question?

4 DR. HENRY: I think the question  
5 refers back to the comment I made that the reason, or  
6 one of the reasons me and people like me restrict the  
7 term Holocaust to the World War II episode and do not  
8 refer to the other genocides or Holocausts in human  
9 history as Holocausts, and in so making that  
10 distinction, I think I said -- I may have said  
11 something about the fact that there are still people  
12 alive in Palestine or there are many Palestinians  
13 alive.

14 So, that I may have made that  
15 reference in justifying my argument that Holocaust is  
16 restricted to the World War II Holocaust and does not  
17 refer, in my view, to the contemporary Palestinian  
18 situation which I defined more as a genocide.

19 MR. A. KULBASHIAN: Actually, I  
20 remember the question being from Mr. Richardson if you  
21 believed a genocide happened in Palestine, and you  
22 stated that you saw a video of Yasser Arafat's funeral  
23 and there were a lot of Palestinians alive.

24 DR. HENRY: Yes.

25 MR. A. KULBASHIAN: So, it was the

1 word genocide that you used. I'm using the word  
2 Holocaust as, so...

3 THE CHAIRPERSON: So, what's your  
4 question now? Now I understand the context of it  
5 better.

6 MR. A. KULBASHIAN: Now, do you  
7 believe -- okay, so let's use the word genocide in  
8 order to make it easier for the witness to understand.

9 Do you believe that an expert should  
10 be playing a numbers game to determine whether or not a  
11 genocide took place?

12 DR. HENRY: Well, numbers is only one  
13 part of the equation.

14 MR. A. KULBASHIAN: But do you  
15 believe that they should be playing the numbers game  
16 from a sensitivity, I guess, perspective and do you  
17 believe that somebody would say a Holocaust --

18 DR. HENRY: Not exclusively, no.

19 MR. A. KULBASHIAN: So, experts  
20 should not be -- should be more sensitive than to play  
21 a numbers game?

22 DR. HENRY: I don't know about "more  
23 sensitive", but it is only one factor in a complex  
24 equation.

25 MR. A. KULBASHIAN: But do you

1 believe that somebody who would exclusively use the  
2 number of Jews that were still alive after World War II  
3 to, like, to denounce, I guess, the existence of the  
4 fact of the Holocaust, would you consider that to be  
5 racism?

6 DR. HENRY: In a general context,  
7 yes.

8 MR. A. KULBASHIAN: That's what I am  
9 talking about, the general context.

10 If the only method that was used to  
11 evaluate whether or not a genocide had taken place was  
12 by playing that numbers game, would that it be racism  
13 in any context -- for any genocide, I mean?

14 DR. HENRY: I don't think I can  
15 answer that because the determination of a complex  
16 event like a genocide requires more explanation than  
17 simply counting up dead bodies.

18 MR. A. KULBASHIAN: Or counting up  
19 live ones?

20 DR. HENRY: Or counting live ones.

21 MR. A. KULBASHIAN: And would you  
22 consider yourself to have maybe stepped a little out of  
23 line by using that to answer James' question that there  
24 were still a lot of Palestinians alive?

25 DR. HENRY: I don't think it was out



1 of line. Again, I think it was in context with a  
2 general discussion or line of questioning about the  
3 meanings of various terms.

4 MR. A. KULBASHIAN: I guess --

5 DR. HENRY: But, if you will, I will  
6 agree with your sentiments certainly that numbers alone  
7 are not justified in calling something either a  
8 Holocaust or a genocide. There are other factors  
9 involved.

10 MR. A. KULBASHIAN: When you are  
11 referring to the Holocaust, if people use a different  
12 name or use a mitigating name or use a general broad  
13 sweeping name, for example, the six million, I don't  
14 know, when they use, let's say, the six-million event  
15 or the Jewish question or something like that, do you  
16 believe that's a mitigating term for the Holocaust?

17 DR. HENRY: I personally haven't  
18 heard those terms.

19 MR. A. KULBASHIAN: Have you heard  
20 the Jewish question?

21 DR. HENRY: I would -- certainly not  
22 the Jewish question. That is a much larger issue than  
23 just referring to the numbers of Jewish dead in the  
24 Holocaust.

25 So, I wouldn't accept the Jewish

1 question, no.

2 MR. A. KULBASHIAN: So, if somebody  
3 used the word Jewish question to mitigate the  
4 Holocaust, would you consider that to be a form of  
5 racism?

6 DR. HENRY: I have no familiarity  
7 with the use of that term in that context, so I can't  
8 say.

9 MR. A. KULBASHIAN: Would you  
10 consider if somebody called the Holocaust a Jewish  
11 affair, would that be a form of racism? Would that be  
12 a form of mitigating the memory of the Holocaust?

13 MR. WARMAN: Objection. Mitigating  
14 is quite an imprecise term.

15 THE CHAIRPERSON: I'm sorry, I did  
16 not quite get that.

17 MR. A. KULBASHIAN: Would that be  
18 mitigating the -- I guess the concept of the Holocaust,  
19 in the way, like, belittling it?

20 DR. HENRY: Belittling it, yes, I  
21 would agree with that.

22 MR. A. KULBASHIAN: So, and would  
23 belittling the Holocaust be a form of Holocaust denial  
24 or racism?

25 DR. HENRY: Yes.

1 MR. A. KULBASHIAN: Did you refer to  
2 genocide at Nan-king and all the transgressions related  
3 to it as Asian Affairs in a trial previously?

4 DR. HENRY: Not that I am familiar  
5 with, no.

6 MR. A. KULBASHIAN: Do you remember  
7 testifying in front of a panel for Doug Collins, a  
8 journalist?

9 DR. HENRY: I remember it, but I  
10 don't remember the specifics, no.

11 MR. A. KULBASHIAN: Do you remember  
12 filing a report where you referred to the genocide of  
13 Nan-king as Asian Affairs?

14 DR. HENRY: No, I don't.

15 MR. A. KULBASHIAN: Do you remember  
16 what year you testified for the Doug Collins case?

17 DR. HENRY: No, I don't.

18 MR. A. KULBASHIAN: Do you have a  
19 good memory?

20 DR. HENRY: Mr. Kulbashian, I do. I  
21 lead a very, very busy, complex, academic and research  
22 life of which testifying is one small part of what I  
23 do.

24 I do not remember the specifics of  
25 what I said or wrote in a trial that took place 12

1 years ago or whenever.

2 MR. A. KULBASHIAN: 12 years ago, you  
3 said?

4 DR. HENRY: Whenever it took place.  
5 And if there is questioning involved in regard to  
6 earlier testimony on my part in such cases, I would  
7 need a lot of time out to review those cases.

8 MR. A. KULBASHIAN: Do you consider  
9 yourself to have a selective memory?

10 MR. WARMAN: Objection. The question  
11 is solely abusive.

12 MS MAILLET: Yes, I object. I agree  
13 absolutely. No need to insult the witness.

14 MR. A. KULBASHIAN: No, it's not an  
15 insult.

16 MS MAILLET: Well, what he's  
17 inferring by that is that she is selectively  
18 remembering what she needs to.

19 MR. A. KULBASHIAN: That's what I'm  
20 referring to.

21 THE CHAIRPERSON: It's a good  
22 argument.

23 But, you don't have any recollection  
24 of what happened?

25 DR. HENRY: No, I do not.

1 THE CHAIRPERSON: How many years ago  
2 was this testimony, so we can stop playing games.

3 MR. A. KULBASHIAN: About eight years  
4 ago.

5 THE CHAIRPERSON: Eight years ago.  
6 So, she said 12, you're saying eight.

7 Move on, please.

8 Does it really make a huge difference  
9 between 12 and eight?

10 MR. A. KULBASHIAN: Well, no, it's  
11 not about the date, it's not about the date. It's  
12 about we actually have an article on this trial.

13 THE CHAIRPERSON: Well, if you want  
14 to put something to the witness, go ahead.

15 MR. A. KULBASHIAN: In that case,  
16 I'll just continue on.

17 When you studied at Brooklyn College,  
18 what do you learn?

19 MR. WARMAN: Objection. The question  
20 again is infamously vague, "what did you learn", "what  
21 did you study"?

22 MR. A. KULBASHIAN: Sorry, what  
23 field, what field of history, what type of history? I  
24 guess, what did you specialize in in college when you  
25 were learning history, I guess?

1 DR. HENRY: European history.

2 MR. A. KULBASHIAN: Okay, I guess  
3 that's more or less...

4 Have you heard of Professor Dadrian  
5 or Israel Charney?

6 DR. HENRY: Pardon?

7 MR. A. KULBASHIAN: Israel Charney or  
8 Professor Dadrian?

9 THE CHAIRPERSON: Dadrian?

10 MR. A. KULBASHIAN: D-A-D-R-I-A-N.  
11 Have you ever heard of them, ever read any of their  
12 works?

13 DR. HENRY: No.

14 MR. A. KULBASHIAN: Have you ever  
15 heard of any specialists in Holocausts and genocides?

16 DR. HENRY: Yes, but that name does  
17 not ring a bell.

18 MR. A. KULBASHIAN: Does Israel  
19 Charney ring a bell?

20 DR. HENRY: Israel...?

21 MR. A. KULBASHIAN: Charney,  
22 C-H-A-R-N-E-Y.

23 DR. HENRY: Not really, no.

24 MR. A. KULBASHIAN: Do you remember  
25 stating at the same trial that if you reduced your

1 reports to a more manageable 25 pages and that's why  
2 you used the term Asian Affairs to describe the  
3 Holocaust -- I mean, the genocide at Nan-king?

4 THE CHAIRPERSON: I'm sorry, I didn't  
5 understand your question at all.

6 MR. A. KULBASHIAN: I'm asking if she  
7 recalls stating -- if she...

8 You know what, I'll -- have you heard  
9 of the genocide encyclopedia?

10 DR. HENRY: No, I haven't.

11 MR. A. KULBASHIAN: Do you think that  
12 Jews are psychologically demoralized by the Holocaust?

13 DR. HENRY: I don't think I  
14 understand the terms that you're using. I would prefer  
15 to say that Jews were strongly affected by the  
16 Holocaust.

17 MR. A. KULBASHIAN: I guess that's  
18 the way to put it. Do you know what effects that would  
19 have on them?

20 DR. HENRY: Yes, they are bitter,  
21 angry, sad, tragic --

22 MR. A. KULBASHIAN: Up to this date?

23 DR. HENRY: I think the older  
24 generation, probably is.

25 MR. A. KULBASHIAN: Do you believe

1           that even the younger generation would feel the same  
2           feelings towards, I guess, the events?

3                         DR. HENRY:  I think it depends.  I  
4           don't think you can generalize about the younger  
5           generation in general.

6                         Certain members of the younger  
7           generation would still feel that seriously affected,  
8           others probably not.

9                         MR. A. KULBASHIAN:  Say, reading  
10          stories -- from reading stories or hearing accounts?

11                        DR. HENRY:  From other people, yes.

12                        MR. A. KULBASHIAN:  Are you an expert  
13          on the Jewish Holocaust?

14                        DR. HENRY:  Not especially.

15                        MR. A. KULBASHIAN:  You wrote a topic  
16          on the Jewish Holocaust; am I right?  She wrote a book.

17                        MR. WARMAN:  Objection.  Both this  
18          question and the previous question have been asked and  
19          answered.

20                        THE CHAIRPERSON:  I'm just assuming  
21          it is going somewhere else.

22                        MR. A. KULBASHIAN:  It is going  
23          somewhere, actually.

24                        Does writing a book -- so do you  
25          consider yourself not to be --



1 THE CHAIRPERSON: The book you're  
2 talking about, is it "Holocaust Denial: Bigotry in the  
3 Guise of Scholarship", is that the one?

4 MR. A. KULBASHIAN: Yes.

5 THE CHAIRPERSON: Well, if you are  
6 referring to it, you --

7 MR. A. KULBASHIAN: Yes.

8 THE CHAIRPERSON: Page 6 of her CV.

9 MR. A. KULBASHIAN: Would writing a  
10 book on a topic make somebody an expert on that topic?

11 DR. HENRY: That book, as I recall,  
12 is predominantly a sort of summary -- descriptive  
13 summary of the denial of Holocaust, rather than the  
14 Holocaust itself or anything related to it.

15 MR. A. KULBASHIAN: Does writing a  
16 book on any topic make somebody an expert on that  
17 topic, just in general?

18 DR. HENRY: I really cannot answer  
19 that.

20 THE CHAIRPERSON: It's a general  
21 question.

22 MR. A. KULBASHIAN: Does anyone who  
23 writes a book about a topic get called an expert on  
24 that topic? That's more specific.

25 THE CHAIRPERSON: How?

1 MS MAILLET: The question is --

2 MR. A. KULBASHIAN: Okay. The  
3 question is, just because somebody wrote a book on a  
4 topic, let's say the topic being animals, et cetera,  
5 would that make them an expert on that topic?

6 MR. WARMAN: Objection. The witness  
7 has not been tendered as an expert in Holocaust  
8 studies, she's been tendered as an expert in--

9 MR. KULBASHIAN: I'm just saying in  
10 general.

11 MR. WARMAN: --racism and propaganda.

12 THE CHAIRPERSON: I think I know  
13 where he is going with this question.

14 In consulting expertise, in  
15 consulting literature, do you assume that anyone who  
16 has written text on any given topic is an expert in  
17 that field?

18 DR. HENRY: Not necessarily.

19 MR. A. KULBASHIAN: Does writing --  
20 even if he wrote many books on any topic, would that  
21 automatically make them an expert?

22 DR. HENRY: I have difficulty using  
23 such terminology because it is alien to me. As a  
24 professor in a major university we don't define  
25 ourselves as experts, we are defined as specialists in

1 given fields and topics.

2 MR. A. KULBASHIAN: Would you  
3 consider somebody who wrote many books on a specific  
4 topic to be a specialist on that field or topic?

5 DR. HENRY: Yes, probably.

6 MR. A. KULBASHIAN: Purely on the  
7 fact that that person wrote many books on the topic,  
8 or --

9 DR. HENRY: A book that passes  
10 academic evaluations, so it is not just any book.

11 I mean, a journalist can write a book  
12 in two weeks using just minor sources or journalistic  
13 sources.

14 So, the writing of a book as such, it  
15 is what kind of book.

16 MR. A. KULBASHIAN: Do you know how  
17 many books Dr. William Pierce has written?

18 DR. HENRY: No, I don't. I have  
19 never seen his vitae.

20 MR. A. KULBASHIAN: So, is it safe to  
21 say you don't know pretty much anything other than, I  
22 guess, the effects of Dr. William Pierce on society?

23 DR. HENRY: As indicated in this  
24 material and report, yes.

25 MR. A. KULBASHIAN: Are there any

1 other authors in the books that you wrote, like  
2 co-authors?

3 DR. HENRY: Pardon?

4 MR. A. KULBASHIAN: For the books you  
5 wrote on race relations, et cetera, did you write them  
6 solo, like?

7 DR. HENRY: No, no, I have written  
8 with co-authors.

9 MR. A. KULBASHIAN: Would you  
10 consider yourself to have written the majority of the  
11 book or half of the book?

12 DR. HENRY: Of which book, the  
13 Holocaust denial book?

14 MR. A. KULBASHIAN: Well, in general.  
15 I mean, like, would you consider yourself to be a big  
16 contributory to the books that you write with  
17 co-authors?

18 DR. HENRY: Yes.

19 MR. A. KULBASHIAN: Coming back to  
20 the Vinland Voice, you read newspapers; am I right?

21 DR. HENRY: When I have time, yes.

22 MR. A. KULBASHIAN: Do you believe  
23 that different journalists have different opinions in  
24 newspapers?

25 DR. HENRY: Yes.

1 MR. A. KULBASHIAN: Do you believe  
2 one journalist's opinion would say be -- create a theme  
3 for a newspaper, or would it be all different?

4 DR. HENRY: In a good newspaper it  
5 would be different ideas, different points of view.

6 MR. A. KULBASHIAN: Would you  
7 believe -- would you agree, then, Vinland Voice is a  
8 collection of different points of view?

9 DR. HENRY: It is a collection of  
10 different points of view, insofar as it seems to  
11 represent writings of many different people. But there  
12 is some degree of consistency in what they write about.

13 MR. A. KULBASHIAN: I am going to try  
14 to weed out some questions, that way I don't have to go  
15 over certain things.

16 MS MAILLET: Mr. Chairman?

17 THE CHAIRPERSON: Yes.

18 MS MAILLET: Perhaps it's a good time  
19 to take a break.

20 THE CHAIRPERSON: Good time for a  
21 break, yes. It's 11 o'clock.

22 REGISTRY OFFICER: All rise.

23 ---Short recess at 11:03 a.m.

24 ---Resumed after the recess at 11:30 a.m.

25 REGISTRY OFFICER: Order, please.

1 All rise.

2 THE CHAIRPERSON: Mr. Kulbashian.

3 MR. KULBASHIAN: Yes. Does everyone  
4 have a copy?

5 THE CHAIRPERSON: Yes. Go ahead,  
6 Mr. Kulbashian.

7 MR. A. KULBASHIAN: If you look at  
8 the paper you were given, the news article?

9 DR. HENRY: Yes.

10 MR. A. KULBASHIAN: Do you recognize  
11 the event?

12 DR. HENRY: You mean the hearing  
13 itself? Yes.

14 MR. A. KULBASHIAN: If you can turn  
15 to page 3 of -- actually, can you turn to page 2 first.

16 THE CHAIRPERSON: Before we get  
17 there, this appears to be an excerpt from which  
18 newspaper?

19 MR. A. KULBASHIAN: It's a print-out  
20 of an entire article from NS News, which is North Shore  
21 News, I believe -- yeah, North Shore News.

22 THE CHAIRPERSON: North Shore British  
23 of Vancouver. North Shore -- I've never heard of this  
24 newspaper.

25 Oh, yes, North Shore News, in North

1 Vancouver. So it is an excerpt from the North Shore  
2 News in North Vancouver, dated July 27, 1998.

3 MS MAILLET: If he's trying to put  
4 this in --

5 THE CHAIRPERSON: My understanding  
6 from what I have heard until now, this is not going in  
7 for proof of what may be in the article, but rather to  
8 put to the witness because of -- and answers from the  
9 witness regarding her own recollection because of her  
10 existing involvement.

11 I don't see a problem -- we are not  
12 there yet, but I don't in advance see a problem in  
13 that.

14 MR. KULBASHIAN: Just use as a  
15 refresher.

16 THE CHAIRPERSON: As I always tell  
17 parties during cases like this -- in any case, when a  
18 newspaper articles are submitted, I make it quite  
19 clear -- I did mention this already --

20 MR. A. KULBASHIAN: Yes, you did.

21 THE CHAIRPERSON: --with respect to  
22 the evidence of other newspaper articles involving the  
23 respondents, we all know that these are journalistic  
24 articles and they are not necessarily truthful  
25 accounts, with all due respect to the Fifth Estate.

1 So, we will produce this as --

2 REGISTRY OFFICER: The article as  
3 described by the Chairperson will be filed as the  
4 respondents Exhibit R-9.

5 EXHIBIT NO. R-9: Excerpt of  
6 newspaper article as previously  
7 described, from the North Shore  
8 News dated July 27, 1998.

9 THE CHAIRPERSON: Yes.

10 MR. A. KULBASHIAN: Thanks, Mr.  
11 Chairman.

12 Dr. Henry, if you could turn to the  
13 first page of the article and read the date at the very  
14 top.

15 DR. HENRY: July 27th, 1998.

16 MR. A. KULBASHIAN: Six years ago.  
17 So, I was wrong about eight years earlier on. Not very  
18 good with dates.

19 Do you remember this tribunal, I  
20 guess this hearing?

21 DR. HENRY: I remember the hearing,  
22 yes.

23 MR. A. KULBASHIAN: Can you turn to  
24 the second page. If you can read the second paragraph.

25 DR. HENRY: Yes.



1 MR. A. KULBASHIAN: So, I will ask  
2 you a question, now that we have the words now.

3 So, would you consider terms like  
4 this, like, six-million stories, six-million matter  
5 trivialize the Holocaust?

6 DR. HENRY: I think so, yes.

7 MR. A. KULBASHIAN: Would you agree  
8 with that?

9 If you could just glance at the  
10 second full paragraph from the bottom.

11 DR. HENRY: Which one, after noting  
12 the lack of movies?

13 MR. A. KULBASHIAN: Actually, if you  
14 could look at the third paragraph from the bottom where  
15 it says published on...

16 DR. HENRY: Published on March 16th,  
17 1994, the opinion, editorial; is that the one?

18 MR. A. KULBASHIAN: That's right.

19 DR. HENRY:

20 "Refer to Steven Spielberg's  
21 movie Schindler's List as  
22 Swindler's List."

23 MR. A. KULBASHIAN: Do you believe  
24 that's another way of trivializing the Holocaust?

25 DR. HENRY: Yes, it is.

1 MR. A. KULBASHIAN: Do you know if  
2 Schindler was a Jew?

3 DR. HENRY: I don't believe he was a  
4 Jew.

5 MR. A. KULBASHIAN: Do you believe it  
6 is a form of racism?

7 DR. HENRY: That what is a form of  
8 racism?

9 MR. A. KULBASHIAN: That calling  
10 Schindler's List Swindler's List?

11 DR. HENRY: Within the context of  
12 other things that, I think, were written in that  
13 editorial.

14 MR. A. KULBASHIAN: Can you read the  
15 second paragraph on page 3.

16 Actually -- sorry about that. If you  
17 can read from the bottom of page 2 to the top of page  
18 3, the last line there on page 2?

19 DR. HENRY: Yes.

20 "He bemoans "the few (films)  
21 that have been done on Asian  
22 Affairs"."

23 MR. A. KULBASHIAN: If you go down,  
24 where it says:

25 "However, rather than..."

1 Page 2, the very bottom:

2 "However,..."

3 DR. HENRY:

4 "However, rather than  
5 detail...this unpublicized  
6 genocide...".

7 Yes?

8 MR. A. KULBASHIAN: Keep reading out  
9 loud.

10 DR. HENRY: I didn't catch your  
11 question.

12 MR. A. KULBASHIAN: Keep reading out  
13 loud, from the bottom of page 2, that last line,  
14 until --

15 THE CHAIRPERSON: I will read it.

16 "However, rather than detail,  
17 Collins' criticisms of  
18 comparatively unpublicized  
19 genocides in Southeast Asia,  
20 Henry wrote that he, Collins,  
21 bemoans "the few (films) that  
22 have been done on Asian  
23 Affairs"."

24 MR. A. KULBASHIAN: If you could also  
25 read part of the next paragraph.

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DR. HENRY:

"Asked about her choice of words, Henry said she did not think the undefined term Asian Affairs would offend Chinese who survived the 19 massacres, Canadian and American veterans who faced torture, disease, beheadings, enforced labour in prisoner of war camps, Korean women forced to sexually service occupying troops or other victims of Japanese atrocities."

MR. A. KULBASHIAN: Do you remember now referring to those events as Asian Affairs?

DR. HENRY: I already testified that I don't remember it.

MR. A. KULBASHIAN: Does this refresh your memory?

DR. HENRY: Well, I would have to assume that what is written in this piece is accurate.

And since I don't have the report that I wrote in front of me, nor do I have the transcripts of what happened at that particular hearing, I can only assume credibility.

1 MR. A. KULBASHIAN: You also  
2 testified that you remember reading certain issues,  
3 certain things about Paul Fromm or Dr. William Pierce;  
4 am I right?

5 And you just remembered -- you don't  
6 necessarily remember any details but you remember  
7 reading...

8 DR. HENRY: Yes.

9 MR. A. KULBASHIAN: Okay. Do you  
10 remember reading about Mr. Fromm or Dr. Pierce before  
11 or after this incident?

12 DR. HENRY: Both.

13 MR. A. KULBASHIAN: Would you say  
14 that maybe your memory is, I guess, lacking on certain  
15 aspects of what you remember or what you don't  
16 remember, whether it be, I guess -- what is the word  
17 for it -- to be beneficial to your testimony here?

18 MR. WARMAN: Objection. It's the  
19 exact same selective memory question, rephrased and  
20 restated and parsed in new grammar and put to the  
21 witness again.

22 MR. A. KULBASHIAN: Sir, now that  
23 I've let her read the article to try to refresh her  
24 memory and she still states she doesn't remember it. I  
25 am trying to see if she has some selective memory on

1 this.

2 THE CHAIRPERSON: Your point is made.  
3 What is she going to say? Do you think she's going to  
4 say, yes, I have a selective memory.

5 So, you can argue the point at the  
6 very end.

7 MR. A. KULBASHIAN: Do you try to do  
8 everything not to discredit yourself at a Tribunal  
9 hearing?

10 THE CHAIRPERSON: I don't even  
11 understand the question.

12 For the record, I intervened -- so  
13 no confusion arises -- because Mr. Warman got up and  
14 before he had an opportunity to make his objection, I  
15 made the point I didn't understand the question.

16 Go ahead.

17 MR. A. KULBASHIAN: Would you say  
18 anything to try not to discredit yourself at a Tribunal  
19 hearing as an expert?

20 THE CHAIRPERSON: Again, I don't  
21 understand the question.

22 MR. A. KULBASHIAN: I guess, I'll  
23 try ---

24 THE CHAIRPERSON: Why would anyone  
25 want to discredit themselves under any circumstances?

1 MR. A. KULBASHIAN: Very selective  
2 memory, I guess it would be.

3 THE CHAIRPERSON: You're arguing, Mr.  
4 Kulbashian, leave it. All right.

5 Because, again, listen to me. I know  
6 you are not a professional at this, and I don't know if  
7 you have ever had the occasion to ever work at this,  
8 but the key is to make your points, collect them and  
9 make a solid argument in your final submissions, all  
10 right.

11 There is no need to beat the witness  
12 over the head with your future arguments.

13 MR. A. KULBASHIAN: Okay.

14 THE CHAIRPERSON: Collect the nails  
15 today and hammer them in in your arguments, do you  
16 understand?

17 MR. A. KULBASHIAN: I understand. I  
18 will cut out that part of my questioning and get into  
19 another.

20 THE CHAIRPERSON: One, because it  
21 leads you to make questions that often are not that  
22 comprehensible. We're short on time, and I mean, there  
23 is no reason to waste time on points that are properly  
24 dealt with in final submissions.

25 MR. A. KULBASHIAN: I'm not trying to

1 waste time.

2 THE CHAIRPERSON: No, I'm not saying  
3 you do it intentionally, but this is what the effect  
4 is.

5 MR. A. KULBASHIAN: I understand, but  
6 my problem is that since we are playing with an issue  
7 of probabilities -- the balance of probabilities here,  
8 I would rather her admit to certain things than me --  
9 like, you know, refer to --

10 THE CHAIRPERSON: Inferences?

11 MR. A. KULBASHIAN: Yeah.

12 THE CHAIRPERSON: It's hard to get  
13 admissions in --

14 MR. A. KULBASHIAN: If I have to get  
15 an admission --

16 THE CHAIRPERSON: Ask it once, which  
17 you have done. But sometimes you end up asking the  
18 same thing three times over and all you do is -- you  
19 called it the other day an uncooperative witness, but  
20 what really it is is a witness who has made her answer,  
21 who has given her answer.

22 MR. A. KULBASHIAN: So, I guess I  
23 will move back then.

24 When you refer to types of racism,  
25 you stated that strong racist beliefs, part of that



1 would be detailing on how races differ; am I right?

2 DR. HENRY: Yes.

3 MR. A. KULBASHIAN: Do you believe  
4 races do differ?

5 DR. HENRY: No.

6 MR. A. KULBASHIAN: In any biological  
7 way?

8 THE CHAIRPERSON: Races or racists?

9 MR. A. KULBASHIAN: Races, sorry.

10 THE CHAIRPERSON: R-A-C-E-S?

11 MR. A. KULBASHIAN: That's right.

12 DR. HENRY: The evidence is that they  
13 differ only in very inconsequential biological ways  
14 because races basically are genetic pools and that  
15 leads, then, to the only real difference, which is that  
16 in certain genetic pools, as a result of the genetic  
17 pooling, there has been a concentration of disease  
18 factors.

19 And in terms of controlling, or the  
20 histology of disease, it is sometimes relevant to  
21 examine a sample of a population for the prevalence of  
22 a particular disease gene, or gene that causes disease.

23 MR. A. KULBASHIAN: So, would you say  
24 there are any other differences in races aside from  
25 just, I guess, genetic disease related?

1 DR. HENRY: No.

2 MR. A. KULBASHIAN: Are you an expert  
3 in genetics?

4 DR. HENRY: No.

5 MR. A. KULBASHIAN: Do you believe  
6 that somebody in order to be racist would have to  
7 consider other people to be inferior to them?

8 DR. HENRY: Yes.

9 MR. A. KULBASHIAN: Do you believe  
10 that there are races that don't believe they're  
11 superior?

12 DR. HENRY: Anything is possible in  
13 human experience and human behaviour.

14 Generally speaking, the view that  
15 other "races" are inferior is one of the hallmarks of  
16 racist ideology.

17 MR. A. KULBASHIAN: You also  
18 testified on one of the articles where Dr. William  
19 Pierce referred to the World Trade Centre Memorial  
20 where a negro, Mexican and a white...

21 THE CHAIRPERSON: I'm sorry, you  
22 mumbled something there.

23 MR. A. KULBASHIAN: Where a negro, a  
24 Mexican and a white person were, I guess, cast into a  
25 statue of three white firemen.

1 THE CHAIRPERSON: Right.

2 MR. A. KULBASHIAN: Do you believe  
3 that that is a form of racism modifying--

4 DR. HENRY: No.

5 MR. A. KULBASHIAN: --the actual  
6 effect?

7 DR. HENRY: No.

8 MR. A. KULBASHIAN: Do you believe  
9 that racism is any issue about race, not necessarily  
10 somebody who believes they are superior or other people  
11 are inferior?

12 Could racism be an issue with people  
13 who are obsessed with race, in essence?

14 DR. HENRY: I think, yes, again, that  
15 is a hallmark of racists, that they -- to use your term  
16 "are obsessed with it", yes.

17 MR. A. KULBASHIAN: Do you believe a  
18 person who would cast a statue by modifying the event  
19 would be somebody who is obsessed with race in order  
20 to, I guess, forcefully change history, in essence?

21 DR. HENRY: Not necessarily.

22 MR. A. KULBASHIAN: Do you know what  
23 kind of reaction there was in the U.S. about the  
24 statue?

25 DR. HENRY: No, I don't.

1 MR. A. KULBASHIAN: Do you know if  
2 the statue was removed as a result of people  
3 complaining?

4 DR. HENRY: No, I don't.

5 MR. A. KULBASHIAN: So, would you be  
6 commenting on Dr. William Pierce's reference to this, I  
7 guess, statue purely based on what he said, without  
8 looking into what events occurred around the statue, or  
9 what opinions were expressed around the statue?

10 DR. HENRY: That's correct.

11 MR. A. KULBASHIAN: So, it wouldn't  
12 be in context -- would you agree it would be out of  
13 context, the actual statue?

14 DR. HENRY: I commented on his  
15 comment in the context of his whole article which I  
16 reviewed.

17 I did not check the validity of his  
18 facts in regard to that statue.

19 MR. A. KULBASHIAN: So, would it be  
20 fair to say that by not checking the validity of the  
21 facts, you made a decision that would not have been  
22 scientific?

23 DR. HENRY: No, it would not.

24 MR. A. KULBASHIAN: In the article  
25 written by Dr. Pierce, you stated the article -- the

1 header, "To Be or Not To Be Nice" meant -- it would be  
2 referring to killing other people, or, you know -- I  
3 don't know if you remember --

4 DR. HENRY: Yes, I do.

5 MR. A. KULBASHIAN: How did you get  
6 to that conclusion without reading the rest of the  
7 story; just because you believe Dr. Pierce is a racist  
8 or --

9 DR. HENRY: I did read the entire  
10 article.

11 MR. A. KULBASHIAN: Well, you stated  
12 just by looking -- you stated in your testimony by  
13 looking at the article -- the header of the article --

14 DR. HENRY: No, that's taken out of  
15 context. I began my response to questions on that  
16 article by saying, for example, just by looking at the  
17 header, you know what it is about and I then went on to  
18 describe further -- make further commentary on the  
19 article.

20 MR. A. KULBASHIAN: Just for the sake  
21 of brevity, if you could turn to tab 15, just one of  
22 the articles that you speak about.

23 DR. HENRY: Did you say 15?

24 MR. A. KULBASHIAN: Tab 15. The  
25 "Multicultural Justice".

1 DR. HENRY: Right.

2 MR. A. KULBASHIAN: Do you remember  
3 what you stated about that article when you were  
4 talking about the issue of torture, et cetera?

5 I will try to refresh your memory  
6 here, that way I do not have to waste time.

7 Did you state that because of that  
8 article where he states that a certain individual  
9 advocated the use of torture, that Pierce begins with  
10 the circumstance which allows him to lead into his main  
11 point that the State of Israel uses torture against  
12 Palestinians.

13 Am I right?

14 DR. HENRY: Yes.

15 MR. A. KULBASHIAN: Would you happen  
16 to know if Israel uses torture against Palestinians?

17 DR. HENRY: It is a commonly made  
18 allegation.

19 MR. A. KULBASHIAN: Would you happen  
20 to know if any U.N. Security Council votes on  
21 condemning torture, condemning Israel for torture used  
22 against Palestinians?

23 DR. HENRY: No, I don't.

24 MR. A. KULBASHIAN: If you say it's a  
25 common made allegation, would you happen to know for a

1 fact if it's a lie or if it's true?

2 DR. HENRY: No, I don't.

3 MR. A. KULBASHIAN: So, would you  
4 consider this anything other than pointing out possibly  
5 a fact?

6 DR. HENRY: Pardon?

7 MR. A. KULBASHIAN: Would you  
8 consider the theme of trying to prove that Israel uses  
9 torture against Palestinians, would you consider that  
10 to be him trying to get the point of fact as opposed to  
11 being racist?

12 DR. HENRY: The point of being, the  
13 torture element is, in a way, almost irrelevant. The  
14 fact that Dr. Pierce identifies the Jewish interviewer.  
15 Why, why, why when you're talking about, you know, John  
16 Jones who is the host of an interview program, do you  
17 identify him as the Episcopalian John Jones?

18 Why is that necessary? The Jewish  
19 interviewee is Dershowitz. And how does he know, on  
20 what evidence does he supply that the "Jew", Sumner  
21 Redstone owns CBS or whatever it is.

22 The racism is apparent because these  
23 identifications are irrelevant.

24 MR. A. KULBASHIAN: Would you believe  
25 that -- how much do you know -- briefly, do you know

1 anything about the Armenian genocide as to who was  
2 perpetrating the genocide?

3 DR. HENRY: I am not an expert on the  
4 Armenian genocide, but I believe it was a conflict  
5 between the Turks and the Armenians.

6 MR. A. KULBASHIAN: Did you just  
7 refer to the genocide as a conflict between the Turks  
8 and Armenians as opposed to perpetrated by Turks and  
9 Armenians -- by the Turks on Armenians?

10 DR. HENRY: No, I believe that's  
11 exactly what history tells us happened.

12 MR. A. KULBASHIAN: It was a conflict  
13 as opposed to a genocide perpetrator?

14 DR. HENRY: No, I already  
15 described --

16 MR. WARMAN: Objection. He is  
17 putting words --

18 THE CHAIRPERSON: It is hair  
19 splitting. Is it really relevant to --

20 MR. A. KULBASHIAN: It's relevant.

21 THE CHAIRPERSON: Why?

22 DR. HENRY: I have already identified  
23 the Armenian genocide.

24 THE CHAIRPERSON: Excuse me.  
25 Just because you said so it is



1 relevant?

2 MR. A. KULBASHIAN: If she could  
3 leave, I will get to the point?

4 THE CHAIRPERSON: Not the distinction  
5 between whether it's a conflict or --

6 MR. A. KULBASHIAN: It's a mitigating  
7 term, it's like a trivializing term. A lot of people  
8 use conflict between Germans and Jews in order to refer  
9 to the Holocaust. It's a trivializing term.

10 THE CHAIRPERSON: Then just let it be  
11 and you'll argue the point later.

12 But go ahead, ask the next question.  
13 Go ahead.

14 MR. A. KULBASHIAN: Would you believe  
15 that since, as you stated, it would be like perpetrated  
16 by Turks -- would you consider, say, an Armenian on a  
17 news show to speak pro-Turkish or pro-Ottoman -- would  
18 you consider they would speak to that matter, after the  
19 history?

20 DR. HENRY: Probably not.

21 MR. A. KULBASHIAN: Is it possible  
22 the reason you point out the person was Jewish is  
23 because he was to show a perspective, a point of view,  
24 an angle, as opposed to saying it in a racist fashion?

25 DR. HENRY: Why identify the

1 interviewer or even the network owner as Jewish,  
2 totally irrelevant.

3 MR. A. KULBASHIAN: Well, is it  
4 possible that the network owner and interviewer and the  
5 person being interviewed would not hold any  
6 pro-Palestinian or, in fact, hold an anti-Palestinian  
7 opinion because of their, I guess, their ethnicities?

8 MR. WARMAN: Objection. First off,  
9 it's an incomprehensible for one.

10 The second one is that Mr. Kulbashian  
11 appears to be attempting to substantiate the  
12 allegations in the Pierce article by way of saying  
13 really when Mr. Pierce is talking about Israelis, when  
14 he's talking about Jews, aren't they the same thing;  
15 and aren't these people all really Jews and, therefore,  
16 isn't the Jewish opinion that torture is okay.

17 I think that's a little problematic  
18 in terms of the deportment, in terms of not abusing the  
19 process, the Tribunal.

20 MR. A. KULBASHIAN: Do you know what  
21 I was thinking?

22 THE CHAIRPERSON: Talk to me.

23 MR. A. KULBASHIAN: Does Mr. Warman  
24 know what I was thinking or...

25 THE CHAIRPERSON: It makes no

1 difference what he was thinking, it's the question that  
2 you're putting forth that's the problem.

3 MR. A. KULBASHIAN: Is it possible  
4 Dr. Pierce was pointing out they were Jews in order to  
5 support his claim that there would be, I guess, an  
6 anti-Palestinian theme to it, to point out their racism  
7 in fact as opposed to, say --

8 DR. HENRY: I cannot second guess  
9 what was in his mind, I can only read what I see on the  
10 printed page.

11 In all probability you may be right  
12 on that, but there is no way for me to know that.

13 MR. A. KULBASHIAN: Why would you  
14 comment on something that you can't second guess?

15 DR. HENRY: Because it is all within  
16 the context of the entire article.

17 MR. A. KULBASHIAN: Do you know what  
18 Dr. Pierce has a PhD in?

19 DR. HENRY: No, I don't.

20 MR. A. KULBASHIAN: By your  
21 standards, do you believe he is not reputable?

22 DR. HENRY: By my standards I don't  
23 believe he is reputable.

24 MR. A. KULBASHIAN: Do you know if  
25 there is a large or small number of PhDs that do agree

1 with him, like, I guess doctors, people doctors that  
2 agree with him?

3 MR. WARMAN: Objection. It is  
4 meaningless or unknowable statistic.

5 MR. A. KULBASHIAN: Well then, she  
6 would have to refer to statistics in order to state --

7 THE CHAIRPERSON: Well, unknowing a  
8 statistic on this.

9 MR. WARMAN: How many PhDs agree with  
10 Mr. Pierce on subject "x". I mean, it's completely  
11 outside of her knowledge. There is no way of having an  
12 empirical answer to that.

13 THE CHAIRPERSON: I doubt it, but  
14 certainly a broader question can be asked. To your  
15 knowledge, does Dr. Pierce have any -- is there in the  
16 literature some suggestion that he is supported.

17 MR. WARMAN: Supported within in what  
18 field, within the physics community, within the  
19 anti-racist community, within the rights community.

20 THE CHAIRPERSON: Are you able to  
21 answer this question in any way?

22 DR. HENRY: Not really.

23 THE CHAIRPERSON: Fine. No answer.

24 MR. A. KULBASHIAN: No answer. Is it  
25 safe to say that because of your views, you tend to

1 hang out with other professionals that share your same  
2 views on a daily basis?

3 DR. HENRY: I don't hang out with  
4 racists, if that's what you mean.

5 MR. A. KULBASHIAN: Do you hang out  
6 with any professionals that would have a different view  
7 on the racial issue?

8 MR. WARMAN: Objection. Racial  
9 issue? What is the meaning of that?

10 MR. A. KULBASHIAN: Well, the issue  
11 of racism in general, her topic. Would you hang out --

12 MR. WARMAN: Pro-racist? Is that the  
13 suggestion?

14 THE CHAIRPERSON: She has already  
15 answered. She does not hang out -- "around" with  
16 people who are "racists", is what she said.

17 MR. A. KULBASHIAN: So, denouncing  
18 his opinion, would you say that he is -- by denouncing  
19 his opinion, would you say he is less qualified than  
20 you to make a professional scientific assessment?

21 DR. HENRY: Yes.

22 MR. A. KULBASHIAN: Do you know how  
23 many books he has written?

24 DR. HENRY: No.

25 MR. A. KULBASHIAN: Do you know if he

1 has his own radio show?

2 MR. WARMAN: Objection. The  
3 relevance.

4 MR. A. KULBASHIAN: The relevance is,  
5 it's like having a CV, or, you know, like by stating  
6 her CV shows that she is experienced in the field.

7 THE CHAIRPERSON: Except there is one  
8 distinct difference, all right. I think, this witness  
9 is being proffered to deal with the material before us  
10 in terms of assessing it I think in the context of  
11 section 13 and the effects that they have.

12 MR. A. KULBASHIAN: She is  
13 assessing --

14 THE CHAIRPERSON: You see, you  
15 know --

16 MR. KULBASHIAN: She is assessing  
17 another -- I guess, the articles of another, I guess,  
18 PhD, professional --

19 THE CHAIRPERSON: And you know what,  
20 I don't want to get into this because Mr. Warman is  
21 going to tell me that he's a PhD in physics which has  
22 absolutely nothing to do with the topic.

23 So, let's not get into that battle  
24 here.

25 What I'm driving at, I just want you

1 to focus on the fact it is the effect that counts.  
2 It's not the intent even, it's the effect of the  
3 material that's in question to be judged by this  
4 Tribunal.

5 It is not whether one component of  
6 this is one way or another. It is the effect of the  
7 material. And I won't read it again, because I've read  
8 it so many times.

9 So, you know, we are just spinning  
10 our wheels if we sit there and try to -- it is the  
11 effect that counts.

12 MR. A. KULBASHIAN: But if the  
13 interpretation is wrong, then -- because you see the  
14 issue is that in her reports, Dr. Henry at the very end  
15 comes to a conclusion which, by the standards of the  
16 Tribunal should not be happening on behalf of the  
17 witness.

18 THE CHAIRPERSON: Right. I have made  
19 that clear. And I have also made it clear under the  
20 Supreme Court decision I referenced earlier, it is  
21 acceptable for the experts to engage in that sort of  
22 conclusion, but at the end of the day, it is still the  
23 adjudicator's role. An adjudicator is not bound by any  
24 final conclusions.

25 And I can an tell you right now for a

1 fact that any conclusion on the ultimate issue on this  
2 case will not be considered -- any conclusion reached  
3 by any expert in this case on the ultimate issue will  
4 have zero consideration by this Tribunal.

5 I can tell you that right now.

6 MR. A. KULBASHIAN: I don't know if  
7 you remember Cecil Brooks v. The Department of  
8 Fisheries and Oceans.

9 THE CHAIRPERSON: Sure, I have that  
10 at the top of my fingers. You're referring to a  
11 decision from the Tribunal?

12 MR. A. KULBASHIAN: Yes, on Dr.  
13 Henry's reports.

14 And some of the points they were  
15 outlining are --

16 THE CHAIRPERSON: Is this the recent  
17 decision from --

18 MR. KULBASHIAN: Yes, it was -- it  
19 started in 2003. It's June 2004, decision on Dr.  
20 Henry's report.

21 THE CHAIRPERSON: Yes, what about it?  
22 No, I don't have it at hand.

23 MR. WARMAN: Member Hadjis, this one  
24 is suspiciously likely argument by the way, and  
25 suspiciously likely something that might better be



1           referenced -- it is either a question of law, if it's  
2           being raised in support of or it's an argument.

3                   THE CHAIRPERSON: I don't know what  
4           it is right now, but I agree with you it is likely to  
5           be that, but would you like the witness to step out, is  
6           that what you are saying?

7                   MR. A. KULBASHIAN: That would be  
8           good.

9                   MR. WARMAN: No. All I'm doing is  
10          asking -- is objecting to what is transpiring because  
11          Mr. Kulbashian is either --

12                   THE CHAIRPERSON: I have suggested he  
13          should follow a different line of questioning.

14                   MR. WARMAN: But neither of those two  
15          things would lead to eligible questions to the witness.

16                   THE CHAIRPERSON: I don't even know  
17          what he is referring to.

18                   MR. A. KULBASHIAN: If the witness  
19          can actually step out so that I can get at this issue  
20          because it is kind of a long issue.

21                   THE CHAIRPERSON: I have already  
22          established her expertise.

23                   Because my recollection was that  
24          would have concerned the admission of her as an expert,  
25          that ruling?

1 MR. A. KULBASHIAN: That's right, it  
2 was a ruling that she not be admitted -- if she can  
3 step out so I can get into this.

4 THE CHAIRPERSON: It is argument. So  
5 then it's argument.

6 MR. A. KULBASHIAN: It's not just  
7 argument. It's where I'd be getting to with my line of  
8 questioning because it would apply to why the reasons  
9 that are given as to why she should not be --

10 THE CHAIRPERSON: Just for a moment,  
11 please step out.

12 --- (witness steps down at 12:00 p.m.)

13 THE CHAIRPERSON: If you are going to  
14 refer me to a ruling, Mr. Kulbashian, I want a copy  
15 here right now.

16 MR. A. KULBASHIAN: I'm going to give  
17 you the copy reference.

18 THE CHAIRPERSON: No, no, I want it  
19 now. I don't want to waste time. This is all a waste  
20 of time. If you're going to be referring to rulings, I  
21 want a copy in advance.

22 MR. A. KULBASHIAN: I wasn't actually  
23 expecting to refer to it today, so that's why I did not  
24 make a copy.

25 THE CHAIRPERSON: Fine.

1 MR. A. KULBASHIAN: Section of that,  
2 No. 14, No. 15, as well as near the end as to why. I'm  
3 trying to establish why those things do apply.

4 THE CHAIRPERSON: 13, 14 and 15?

5 MR. KULBASHIAN: I was not very  
6 prepared when I was challenging her admission as an  
7 expert witness.

8 THE CHAIRPERSON: Yes, but what my  
9 colleague Dr. Burke says at paragraph 13 -- I assume it  
10 was him, right -- yes, it was:

11 "The third concern is more  
12 substantive, although the rule  
13 against providing an opinion on  
14 the ultimate issue before a  
15 Tribunal has been relaxed in  
16 recent years, it still must be  
17 respected. The responsibilities  
18 of a Tribunal cannot be  
19 delegated to experts who have  
20 none of the legal training,  
21 evidentiary sensibilities or  
22 adjudicative experience as the  
23 members of a Tribunal. Every  
24 adjudicative body has an  
25 obligation to reach its own

1 conclusions on the fundamental  
2 issues in a case, without  
3 direction from the parties."

4 Exactly what I just told you. And

5 14:

6 "The report of Dr. Henry is  
7 prejudicial in the true sense of  
8 the word. It comments on the  
9 evidence that the respondent  
10 apparently intends to call and  
11 suggests that only one  
12 conclusion is available to the  
13 Tribunal at the end of the  
14 hearing.

15 In my view, this undermines the  
16 independence of the process and implicitly impinges on  
17 the right of the respondent to present its case. There  
18 is a danger that this might fetter the ability of the  
19 Tribunal to choose freely between the alternatives put  
20 before it by the parties. This is exactly what the  
21 evidence of an expert must not do."

22 That was the expert report from that  
23 case and this was at the stage of allowing the expert  
24 to testify or not.

25 MR. A. KULBASHIAN: That's why I'm

1 referring to that, I'm not going to bring that into  
2 evidence. The only reason I'm referring in order to  
3 get a template of what questions I'm going to ask her.

4 THE CHAIRPERSON: This is a template  
5 of questions to have asked prior to her admission as an  
6 expert.

7 The context is different. This case  
8 was not a --

9 MR. A. KULBASHIAN: I understand.

10 THE CHAIRPERSON: -- a section 13  
11 complaint.

12 I will readily acknowledge with you  
13 right now that many of her comments in her report --  
14 particularly in the early section -- are just  
15 recitations of fact.

16 I mean, she says that the report says  
17 the Vinland Voice says this and the website says that  
18 and she puts it into a certain perspective.

19 In many ways those conclusions are  
20 themselves ultimate issue conclusions, because it does,  
21 again, come down to whether the matter is likely to  
22 expose a person or persons to hatred or contempt.

23 That's my role. I can assure, that's  
24 going to be my role.

25 MR. A. KULBASHIAN: I'm using that as

1 a template to ask questions.

2 MS MAILLET: The question about  
3 whether or not her report should be admitted and what  
4 weight it should have, he could possibly do that in his  
5 closing argument.

6 THE CHAIRPERSON: Sure.

7 MS MAILLET: Otherwise to go back to  
8 the issue now of qualifying her as an expert and  
9 allowing her report and testimony, this is not the  
10 time.

11 MR. A. KULBASHIAN: I am not going  
12 back to that issue. I might have been too late to  
13 bring up some points I wanted to bring up.

14 Now she has been qualified as an  
15 expert, I am trying to make sure her report carries as  
16 little weight as possible.

17 THE CHAIRPERSON: And in the process  
18 you have asked certain questions, as I told you, you  
19 are building the nails. Keep on building the nails,  
20 but I have lost track of where we are right now and we  
21 have wasted a lot of time on this.

22 MR. A. KULBASHIAN: I am not really  
23 experienced with expert witnesses. You may feel that I  
24 might be touching on many points, like going around in  
25 circles, but I'm doing that to build up to the ultimate

1 thing.

2 It might not seem very apparent where  
3 I am going because of the way I am organized because I  
4 haven't dealt with an expert witness.

5 THE CHAIRPERSON: Where is this round  
6 of questions now before we got sidetracked on all this  
7 stuff?

8 MR. WARMAN: It is my understanding  
9 Mr. Kulbashian or his counsel have in fact dealt with  
10 expert witnesses in previous criminal cases.

11 THE CHAIRPERSON: He has counsel.  
12 Who is his counsel? I don't see anybody here.

13 MR. WARMAN: Before his counsel. I  
14 was specifying in previous cases that dealt with Mr.  
15 Kulbashian at the criminal courts, Mr. Kulbashian has  
16 had experience with expert witnesses.

17 THE CHAIRPERSON: Perhaps, but not to  
18 a certain extent, as his being a lawyer.

19 Now, look, what is your next series  
20 of questions, so we'll know where we are at, because I  
21 have lost track of everything.

22 MR. A. KULBASHIAN: In her evaluation  
23 of National Alliance --

24 THE CHAIRPERSON: No, I meant, the  
25 specific area you were just in.

1 MR. A. KULBASHIAN: I'm touching on  
2 the Tri-City article so far, I did touch on the Vinland  
3 Voice --

4 THE CHAIRPERSON: Specifically  
5 dealing with Mr. Pierce.

6 MR. A. KULBASHIAN: Oh, dealing with  
7 Mr. Pierce. It's mostly the fact that she tried to, I  
8 guess, assess the language he was using in order to  
9 determine whether or not it is racist.

10 The thing is it cannot be -- in a way  
11 it is like trying to, I guess, suck and blow at the  
12 same time. Because she can't say at one end she's not  
13 a phycologist and she's not obviously, you know, not  
14 equipped to deal with that, and also on the other end,  
15 when there is nothing explicit that states this would  
16 give somebody that opinion.

17 THE CHAIRPERSON: My problem on  
18 this -- and maybe it pertains to the report -- is that  
19 we've gotten ourselves caught up -- and it occurred  
20 from both ends -- on whether something is racist or  
21 not.

22 It is not necessarily the test that  
23 is being used her. The test here is whether it is  
24 likely to expose a person or persons to hatred or  
25 contempt.



1                   Something may or may not be racist in  
2                   and of itself, but -- something may be racist, but yet  
3                   not expose a person to hatred or contempt.

4                   So, maybe we are dealing with two  
5                   definitions. I am not concerned with her definition of  
6                   racism or yours or anyone else's. My concern is  
7                   section 13.

8                   MR. A. KULBASHIAN: I understand.  
9                   But if you are talking about something that may or may  
10                  not be racist, that she ends of finding as being  
11                  racist, then what -- we're probably...

12                  So, if she's not either like an  
13                  expert in linguistics or the way things are --

14                  THE CHAIRPERSON: We know what she is  
15                  an expert in. That's a bit of -- you know, every time  
16                  you ask her are you an expert in this? I know exactly  
17                  she is an expert in.

18                  MR. A. KULBASHIAN: I understand  
19                  that, but I would rather her, like, to admit to maybe,  
20                  like, I guess trying to hit and miss in her report as  
21                  opposed to actually filing a scientific report.

22                  Because the issue of whether or  
23                  not -- getting into articles that are not explicitly  
24                  racist -- for example, there is no commentary on the  
25                  article but implied racism because of the context, and

1 I'm going to be touching on those issues.

2 THE CHAIRPERSON: I have her -- look,  
3 I'm trying to short cut this.

4 I have her reasons why she finds some  
5 things racist. She'll say it's the context, she'll say  
6 it's because it is found -- she said it before, that's  
7 why I am saying this -- in a newsletter that contains  
8 something else which was more racist than what you may  
9 be identifying as racist and as not being racist at  
10 this time.

11 We have been down this road.

12 MR. A. KULBASHIAN: Then it is like  
13 saying one article being racist in a newspaper, which I  
14 will be touching on, like, because she has all the  
15 articles --

16 THE CHAIRPERSON: That's what she  
17 said. That is her opinion. You disagree with it. I  
18 understand.

19 MR. A. KULBASHIAN: That is why I'm  
20 addressing each article separately, like, in our  
21 context and seeing how she builds a theme of context.

22 Because you can build a theme of  
23 context by saying this is the impression I get because  
24 I read one article at the very beginning or maybe  
25 somebody told me this is what I am dealing with because

1 of the context...

2 THE CHAIRPERSON: Just start asking  
3 the questions. If this ends up delaying things, you  
4 know, so be it.

5 The report was drafted in such a way  
6 and was put forth in such a way that, yes, it allows  
7 you to make these questions.

8 MR. A. KULBASHIAN: That is what I  
9 am trying to say. Thank you, Mr. Chairman.

10 THE CHAIRPERSON: The decision was  
11 made to file the report, this is the implication.  
12 --- (witness resumes at 12:10 p.m.)

13 MR. A. KULBASHIAN: I'm just going to  
14 move on off this topic, I don't have to ask any  
15 questions.

16 I'm just taking a minute to go to the  
17 next one.

18 Another quick question. Is it  
19 possible to bring the flag issue back or has that  
20 already been excluded?

21 THE CHAIRPERSON: They're not in  
22 evidence any more and any testimony relating thereto,  
23 as far as I am concerned, is stricken.

24 MR. A. KULBASHIAN: Is it possible to  
25 bring the issue back, that way it solves some of the

1           problems.

2                           THE CHAIRPERSON:  They are not in  
3           evidence.  I mean, if you want to put them back into  
4           evidence, then I wish you had said something back when  
5           we took them out.

6                           MR. A. KULBASHIAN:  Then if I just  
7           touch on this article, it just makes it shorter.

8                           If you turn to tab 14 in HR-1.

9                           You say that somewhere in this  
10          article there is reference to communists; am I right,  
11          communists, Jewish commissars in Russia and they were  
12          sending Russians and Ukrainians to death camps, et  
13          cetera, et cetera.

14                          It would be on page 8 of your report.

15                          How much do you know about communism?

16                          DR. HENRY:  A certain amount.

17                          MR. A. KULBASHIAN:  Would you happen  
18          to know anything about the hierarchial structure of the  
19          communist party?

20                          DR. HENRY:  At the present moment in  
21          time?

22                          MR. A. KULBASHIAN:  Well, I mean,  
23          referring to the Russians, which is really in the  
24          context of this article.

25                          DR. HENRY:  This is in the context

1 then of the 2nd World War period?

2 MR. A. KULBASHIAN: In the way the  
3 communists in this article, I guess, referring to the  
4 Jewish commissars in Russia during the 2nd World War,  
5 whatever, would you happen to know anything about the  
6 hierarchial structure?

7 DR. HENRY: Not in specific detail,  
8 no.

9 MR. A. KULBASHIAN: Would you happen  
10 to know about, I guess, who or what, like, were in the  
11 hierarchial structure, how many, I guess, executives  
12 were in the communist party in Russia?

13 DR. HENRY: No.

14 MR. A. KULBASHIAN: Do you happen to  
15 know how many of them were Jews?

16 DR. HENRY: No.

17 MR. WARMAN: Objection.

18 MR. A. KULBASHIAN: Objection to  
19 what?

20 THE CHAIRPERSON: What?

21 MR. WARMAN: Mr. Kulbashian is  
22 attempting to justify the anti-Semitism that is  
23 contained in the article and that is the exact material  
24 that is complained of.

25 My perception of what he appears to

1           be attempting to do is to say that in fact it is true  
2           and in fact there were Jewish commissars and in fact  
3           they did butcher them.

4                        I would like to have some sort of  
5           clarification as to whether the anti-Semitic material  
6           contained in these complaints and put forward by these  
7           two hate groups is going to be allowed to be entered as  
8           argument.

9                        MR. A. KULBASHIAN:  First of all,  
10          there was testimony on many levels.  First of all, he  
11          called them hate groups.  I don't think he is an expert  
12          to testify to that.

13                       Second of all --

14                       THE CHAIRPERSON:  Do you know what  
15          the problem is here, complainant/Commission, the  
16          problem is that the report opened a lot of doors to  
17          allow this type of questioning in the way it has been  
18          drafted, and it's fair game.

19                       From the point when there are  
20          references supposedly to historical facts and this  
21          witness wants to question -- or ask about her knowledge  
22          of these historical facts.  The door is opened.

23                       I am going to allow these questions.  
24          I think it is a greater disservice to this process to  
25          constantly object to this material than to just deal

1 with it.

2 MR. A. KULBASHIAN: Okay. Would you  
3 happen to know anything about, like, how many Jews  
4 were -- the same question was asked earlier -- how many  
5 Jews were in the hierarchical structure of the  
6 communist party?

7 DR. HENRY: No.

8 MR. A. KULBASHIAN: Would you agree  
9 this article was a fact, it's not necessarily a  
10 hateful, more like a historical representation?

11 DR. HENRY: This whole article is --

12 MR. A. KULBASHIAN: No, I'm sorry,  
13 this part of the article, sorry, was factual? Would it  
14 be racism or just a historical representation?

15 DR. HENRY: I can't really answer  
16 that, because I don't know whether it was factual.

17 MR. A. KULBASHIAN: But if it was a  
18 fact, is what I'm asking you.

19 DR. HENRY: You're asking it as an  
20 hypothetical. If this was factual, would I consider  
21 the fact that Jewish Russian commissars killed gentiles  
22 an act of racism; is that the question?

23 MR. A. KULBASHIAN: Yes, is it  
24 possible?

25 DR. HENRY: It is possible.

1                   MR. A. KULBASHIAN:  Would it be  
2                   possible that a lot of the articles or a lot of the  
3                   historical, I guess, commentary that you referred to in  
4                   your report might have been true and you might have  
5                   just looked at the aspect of the fact that Jews were  
6                   included in the comments, as opposed to, say, just say  
7                   people?

8                   DR. HENRY:  The inclusion of  
9                   historical materials which do or do not include Jews  
10                  does not alter my opinion that the piece, in general,  
11                  is an anti-Semitic one.

12                  MR. A. KULBASHIAN:  Okay, but you  
13                  talk about the piece in general, however, why would you  
14                  have specific comments on specific parts of the article  
15                  when you are not sure?

16                  DR. HENRY:  Because this is material  
17                  that is contained in the article.  And just preceding  
18                  it he is talking about teachers who are teaching  
19                  koshered versions of the war and so on.

20                  And he is -- let me refer back to the  
21                  article to make my point.

22                  He is not discussing -- the relevant  
23                  passage here is the sentence in quotes.

24                  Whether it's true or not about Jewish  
25                  commissars, the point that I'm making is -- has to do



1 with the realities of Russian anti-Semitism and there  
2 are many historically verified pogroms against Jews.

3 MR. A. KULBASHIAN: Do you happen to  
4 know about any of the historically verified pogroms  
5 against Jews?

6 DR. HENRY: I know they existed. I  
7 no longer know about them in detail now.

8 MR. A. KULBASHIAN: Is it safe to say  
9 this would just be, I guess, comments from memory and  
10 no detail attached to it?

11 DR. HENRY: They are not comments  
12 from my member. They are comments from recorded  
13 historical material on these pogroms.

14 MR. A. KULBASHIAN: I'm just going to  
15 address the issue of memory. Is it possible that  
16 people over time start to forget things, in their  
17 heads, I guess, morfing the concepts, possibly  
18 misinterpreting concepts over time?

19 DR. HENRY: I suppose that's  
20 possible.

21 MR. A. KULBASHIAN: Is it possible  
22 that the fact that you don't remember a lot of the  
23 things that you had written in your report about actual  
24 facts, I mean, is it possible that in your mind that  
25 over time things started changing about the facts or

1 about the, I guess --

2 THE CHAIRPERSON: I don't understand  
3 the question.

4 MR. A. KULBASHIAN: Is it possible  
5 that the events, like, you know, the interpretation of  
6 events get changed over time when people start  
7 forgetting what happened?

8 THE CHAIRPERSON: We had an answer to  
9 that.

10 MR. A. KULBASHIAN: So, the question,  
11 is it possible that the fact she is testifying on,  
12 like, you know, basically reporting on a lot of the  
13 incidents in here, not going back to history, talking  
14 about them, just saying I read it somewhere.

15 Is it possible that you might have  
16 been mistaken?

17 THE CHAIRPERSON: It goes to the core  
18 question -- I turn to you -- the core question was the  
19 effect. If it is a known -- if it is commonly known in  
20 the public that a certain concept has a certain effect  
21 on people and someone harps upon it, whether or not it  
22 is actually true, it is the effect that counts. That's  
23 what we are talking about here.

24 I don't know where you are going with  
25 all this, Mr. Kulbashian, but at the end of the day

1           it's the effect.

2                               If we say that all -- I don't know --  
3           all Italians have hair that sticks up or something, and  
4           it may or may not be true, but we just keep saying it  
5           over and over and over, it can have the effect of doing  
6           harm to that specific group. Do you see how I mean  
7           about the statute?

8                               So, whether or not you established  
9           that 57-million Italians do not have hair that stands  
10          up, it doesn't make a difference.

11                              MR. A. KULBASHIAN: In that case --  
12          now, the Human Rights Act also say that hatred towards  
13          a person, not necessarily a group of people --

14                              THE CHAIRPERSON: Person or persons.

15                              MR. A. KULBASHIAN: Towards a person  
16          or persons.

17                              THE CHAIRPERSON: Yes.

18                              MR. A. KULBASHIAN: Now, is it  
19          possible that when news repeatedly reports on, say, a  
20          crime that somebody is alleged to have committed, it  
21          opens that person up to hatred by other people?

22                              DR. HENRY: In theory it is possible.

23                              MR. A. KULBASHIAN: In theory is it  
24          possible that facts do open people up to hatred, if the  
25          facts are, I guess, low regarded?

1                   Like, I'm sorry, if the facts are, I  
2                   guess -- I'm not sure of the word.

3                   THE CHAIRPERSON: I don't know,  
4                   because if you're arguing the law right now, it is the  
5                   wrong place to do it.

6                   But it says, a person or group of  
7                   persons identifiable on the basis of a prohibitive  
8                   ground of discrimination.

9                   Yes, certainly a news report that  
10                  says that this politician has misled the population  
11                  could expose that person to hatred, but it is not on  
12                  the ground -- the ground has to be one of the  
13                  stipulated grounds of section 3.

14                  MR. A. KULBASHIAN: Yeah, I'm getting  
15                  to that.

16                  So, it's possible if somebody, I  
17                  guess -- let's say facts were presented about somebody,  
18                  it could open to hatred if the facts were bad -- that's  
19                  the only way I could put it right now.

20                  THE CHAIRPERSON: Just move along.

21                  MR. A. KULBASHIAN: Basically, is it  
22                  your opinion any writing in history about historical  
23                  events could open a group of people up to hatred?

24                  DR. HENRY: No.

25                  MR. A. KULBASHIAN: Is it possible

1           that writings about what Germany did in World War II  
2           could open Germans up to hatred?

3                         DR. HENRY:    Yes.

4                         MR. A. KULBASHIAN:  Is it possible  
5           that facts, in general, could open people up to hatred  
6           in that sense in a more, I guess, racial sense than a  
7           personal sense?

8                         DR. HENRY:    Yes.

9                         MR. A. KULBASHIAN:  When you refer to  
10          what -- like:

11                                 "What his own version of events  
12                                 omits is a reality of Russian  
13                                 anti-Semitism and their pogroms  
14                                 for Russian Jews."

15                         THE CHAIRPERSON:  Hold it.  Where are  
16          you reading from again?

17                         MR. A. KULBASHIAN:  Oh, I'm sorry,  
18          page 8 again, first paragraph in brackets.

19                         THE CHAIRPERSON:  Yes.  Repeat it  
20          again.

21                                 "What his own version of events  
22                                 omits..."

23                         MR. A. KULBASHIAN:

24                                 "--is the reality of Russian  
25                                 anti-Semitism..."

1 THE CHAIRPERSON:

2 "--of Russian anti-Semitism and  
3 their pogroms directed at  
4 Russian Jews."

5 MR. A. KULBASHIAN: When you refer to  
6 that, is it your position that this article opens Jews  
7 up to racism because of, I guess, the facts that are  
8 presented, or the fact the entire story hasn't been  
9 told?

10 DR. HENRY: I think I have to answer  
11 that as both.

12 MR. A. KULBASHIAN: Both?

13 DR. HENRY: Yes.

14 MR. A. KULBASHIAN: So, aside from  
15 the fact it opens people up to racism, do you know of  
16 any report that looks at both sides -- do you know if  
17 every report professionally that may have been done  
18 would look at both sides of the issue, and not  
19 necessarily just one side?

20 DR. HENRY: What kind of report?

21 MR. A. KULBASHIAN: Any kind of  
22 report. Let's say somebody was discussing history. Do  
23 you believe somebody discussing history in a  
24 professional report would look at both sides of the  
25 issue?

1 DR. HENRY: Not necessarily.

2 MR. A. KULBASHIAN: So, is there any  
3 need for a comment at the end where it says:

4 "What his own version of events  
5 omits...", et cetera?

6 DR. HENRY: Yes, I felt it necessary  
7 to add that because he makes a specific point of trying  
8 to imply that Jews were involved in the destruction of  
9 other people, in the Russian situation.

10 MR. A. KULBASHIAN: Is it possible  
11 that it's true?

12 DR. HENRY: It is possible that it is  
13 true.

14 MR. A. KULBASHIAN: Did you in filing  
15 this report look at both angles of articles that you  
16 commented on, or did you, like, just take a specific  
17 view and attack the article that way?

18 DR. HENRY: My mandate was to read  
19 the articles to see if I found any traces of racist  
20 ideology.

21 MR. A. KULBASHIAN: So, would you  
22 consider that a one-sided approach to the articles?

23 DR. HENRY: No, I wouldn't, not when  
24 it is in the context of all the other things that Dr.  
25 Pierce says in all of these articles.

1 MR. A. KULBASHIAN: Would you  
2 consider that you took a one-sided approach to any of  
3 the articles?

4 DR. HENRY: No.

5 MR. A. KULBASHIAN: The Vinland Voice  
6 ones, for example?

7 DR. HENRY: No, I read them tabula  
8 rasa.

9 MR. A. KULBASHIAN: Did you, say,  
10 happen to look at -- you stated that your mandate was  
11 to find racism; am I right?

12 DR. HENRY: No, my mandate was to  
13 read the materials to see if there was racist ideology,  
14 anti-Semitic, anti-black, et cetera, ideology in them  
15 that could conceivably have the effect that the Human  
16 Rights Code mandates.

17 MR. A. KULBASHIAN: Would you  
18 consider yourself to be testifying from a neutral  
19 perspective?

20 THE CHAIRPERSON: We already had that  
21 answer.

22 MR. A. KULBASHIAN: No, after this  
23 question -- after you stated, would that be a neutral  
24 perspective on the articles or a biased perspective on  
25 the articles?



1 DR. HENRY: It would be an open  
2 perspective.

3 MR. A. KULBASHIAN: Looking for  
4 racism is an open perspective as opposed to just values  
5 whether or not there is racism?

6 MR. WARMAN: Objection. That is not  
7 what the witness has just stated, no.

8 MR. A. KULBASHIAN: Well, that's what  
9 I'm saying. I'll get to the next...

10 Coming back to where you stated that  
11 there are a lot of media reports, et cetera, did you  
12 read Paul Fromm and...

13 --- (reporter appeals)

14 THE CHAIRPERSON: No, I'm asking you  
15 to state the whole question. It was too fast there and  
16 you'll have to slow down in your questioning.

17 MR. A. KULBASHIAN: Coming back to  
18 media reports, you stated Paul Fromm is known as a  
19 white supremacist because of media reports, am I right?

20 DR. HENRY: That's one reason he is  
21 known.

22 MR. A. KULBASHIAN: Yeah, it's one  
23 reason.

24 DR. HENRY: Yes.

25 MR. A. KULBASHIAN: So, do you

1 believe everything the media says? A simple question.

2 DR. HENRY: If you have read any of  
3 my books, you would hardly ask me that question.

4 MR. A. KULBASHIAN: Well, it is a  
5 question for the record. I understand your position on  
6 that?

7 THE CHAIRPERSON: Go ahead.

8 DR. HENRY: No, I don't believe.

9 MR. A. KULBASHIAN: So, do you know  
10 who specifically you would have gotten any information  
11 about -- you know, from about Paul Fromm?

12 DR. HENRY: No.

13 MR. A. KULBASHIAN: Is it possible  
14 that it was just, let's say, information from an  
15 anti-racist website, possibly somebody who was not  
16 professional?

17 DR. HENRY: No, it went well beyond  
18 that.

19 MR. A. KULBASHIAN: So, you believe  
20 that this source was from a professional?

21 DR. HENRY: From professional  
22 sources.

23 MR. A. KULBASHIAN: But you don't  
24 remember who?

25 DR. HENRY: As far back as Dr.

1 Barrett's book on right-wing movements, Paul Fromm was  
2 already identified in that book -- again, I don't have  
3 it in front of me -- but it is at least 12 years old,  
4 maybe more.

5 MR. A. KULBASHIAN: Do you know what  
6 Dr. Barrett's qualifications are?

7 DR. HENRY: He was a professor at the  
8 University of Guelph.

9 MR. A. KULBASHIAN: Like, what PhD?

10 DR. HENRY: Social science for sure.  
11 Either sociology or anthropology.

12 MR. A. KULBASHIAN: Okay. Do you  
13 believe that people who stand up for their rights as  
14 racists, are usually referred to as racists or called  
15 racists?

16 DR. HENRY: Very often, yes.

17 MR. A. KULBASHIAN: Do you believe  
18 that it is possible that Paul Fromm could have been  
19 called a racist for standing up for the right -- you  
20 know, right of racists to speak and have their opinions  
21 publicly?

22 DR. HENRY: I think that's one of the  
23 things in fact he argues, yes.

24 MR. A. KULBASHIAN: Have you ever  
25 heard of the saying -- let's see here -- "I don't agree

1 with what you are saying but I will defend to the death  
2 your right to say it"?

3 DR. HENRY: Yes.

4 MR. A. KULBASHIAN: Do you know who  
5 said it?

6 DR. HENRY: Don't really remember.

7 MR. A. KULBASHIAN: Voltaire.

8 DR. HENRY: Very famous philosopher.

9 MR. A. KULBASHIAN: Do you believe it  
10 is possible Paul Fromm is not a white supremacist at  
11 all but he just believes that people -- that everybody  
12 should have the right to say what they want to say?

13 DR. HENRY: I think he believes that  
14 everybody should have the right to say what they  
15 believe, and he has spent many years doing exactly  
16 that.

17 But what he believes in is racial  
18 inequality between human beings and he believes in the  
19 superiority of the white "Aryan race".

20 And these are not ideologies that I  
21 agree with, and there are a lot of other people like me  
22 who do not agree with them.

23 MR. A. KULBASHIAN: Have you ever  
24 seen any article or any factual reference from Paul  
25 Fromm that would indicate in any way that he believes

1 in the superiority of the white race?

2 DR. HENRY: I'm sure there are quite  
3 a number of such articles.

4 MR. A. KULBASHIAN: Have you ever  
5 read one?

6 DR. HENRY: I don't have it  
7 immediately at hand, no.

8 MR. A. KULBASHIAN: Have you ever  
9 read one, not whether they exist or whether or not you  
10 have them in hand, but have you ever read one where it  
11 refers to facts to determine whether or not he is a  
12 white supremacist?

13 DR. HENRY: Well, I cannot answer  
14 that, because I have read a great deal of material on  
15 white supremacy here and in the United States, and Paul  
16 Fromm is frequently mentioned in a lot of this  
17 material.

18 Whether he is specifically identified  
19 or quoted, without having the material in front of me,  
20 I cannot say.

21 MR. A. KULBASHIAN: Do you know if he  
22 is identified as a white supremacist or whether or not  
23 he is associated with white supremacists?

24 DR. HENRY: I don't know what the  
25 difference is.

1                   MR. A. KULBASHIAN: Is somebody being  
2 a white supremacist you would say would be somebody who  
3 is a white supremacist, and somebody associated, would  
4 that be somebody who, say, fought for their rights or  
5 something to that effect?

6                   DR. HENRY: I really don't know.

7                   THE CHAIRPERSON: I think you have  
8 answered this question.

9                   Just to be clear, do you believe that  
10 he espouses the same opinions as those he may have also  
11 defended in terms of their right to speak?

12                  DR. HENRY: Yes.

13                  MR. A. KULBASHIAN: My question is  
14 whether or not she has ever read any reference to him  
15 being a white supremacist, as opposed to standing up  
16 for the rights of white supremacists?

17                  THE CHAIRPERSON: I had the answer to  
18 that question before.

19                  MR. A. KULBASHIAN: But that was my  
20 question, does she remember ever reading anything with  
21 factual information?

22                  THE CHAIRPERSON: She has no  
23 recollection of that.

24                  MR. A. KULBASHIAN: Is it possible  
25 that you guessed he was a white supremacist when you

1 filled out this report?

2 DR. HENRY: No.

3 MR. A. KULBASHIAN: Is it possible  
4 that you didn't know for sure but you wrote that he was  
5 a white supremacist in this report?

6 THE CHAIRPERSON: I have her answers  
7 on this topic. You've explored it.

8 MR. A. KULBASHIAN: Not at all?

9 THE CHAIRPERSON: I said I have her  
10 answers on this topic. You have explored it. Move on,  
11 please.

12 I am not going to let you ask 30  
13 times over the same question. It is clear that the  
14 witness has testified how she has reached her  
15 conclusions on Paul Fromm and some of the other  
16 individuals that you have brought up. Those are your  
17 nails. Use them later.

18 MR. A. KULBASHIAN: Now, turning to  
19 the article about the nuclear bomb -- bin Laden's  
20 nuclear bomb, do you remember?

21 DR. HENRY: Which tab are you at,  
22 please?

23 MR. A. KULBASHIAN: This would be  
24 referring to September 14th, so it should be tab 20.  
25 Page 21 of your report.

1                   Turn to page 21 of the report, I'm  
2                   referring to the article. It's at the bottom of page  
3                   21 where you commented on it.

4                   DR. HENRY: Yes.

5                   MR. A. KULBASHIAN: So, do you  
6                   believe this article to be, I guess, in a way, racist?

7                   DR. HENRY: I think I have lost you.  
8                   Which article?

9                   MR. A. KULBASHIAN: Let's actually go  
10                  to the article itself. It's tab 20. So, if you see --  
11                  you actually comment on here, which is page 6 of tab 20  
12                  and your report is on page 21, page 5 and 6 of tab 20.

13                  One is the quote and one is just one  
14                  line.

15                  DR. HENRY: One is what, I'm sorry?

16                  MR. A. KULBASHIAN: One is the quote  
17                  from bin Laden I believe, quotes on Osama bin Laden,  
18                  and the other is the commentary about bin Laden.

19                  THE CHAIRPERSON: I cannot find it.

20                  MR. A. KULBASHIAN: It's actually tab  
21                  20, page 5 and 6. Bottom of 5 and top of 6.

22                  THE CHAIRPERSON: Quotes from Osama  
23                  bin Laden. You are referring to the third paragraph,  
24                  page 6.

25                  MR. A. KULBASHIAN: I am referring to



1 the three paragraphs there.

2 So, if you look at the very bottom,  
3 right?

4 DR. HENRY: Yes?

5 MR. A. KULBASHIAN: First of all, the  
6 issue here is, do you have any commentary on this  
7 article, because there is no commentary about the  
8 article itself in your report?

9 DR. HENRY: You mean the article  
10 that's headed: "Quotes from Osama bin Laden"?

11 MR. A. KULBASHIAN: Sorry, the  
12 comments that follows it that says -- at the bottom --

13 THE CHAIRPERSON: The article begins  
14 at the bottom of page 5 and finishes at the top of page  
15 6.

16 MR. A. KULBASHIAN: The article  
17 begins at the bottom of page 5, and a few paragraphs at  
18 the top of page 6 are the commentary on the article.

19 I'm asking what her opinion of the  
20 article is. There is no comment on the article. There  
21 is just, like, quotes from the article itself in your  
22 report.

23 THE CHAIRPERSON: How do you know  
24 that? All I see is six paragraphs.

25 MR. A. KULBASHIAN: If you look at it

1 it says, "Quotes from Osama bin Laden", am I right?

2 And:

3 "If an NA member was in the  
4 rubble that WOULD be collateral  
5 damage", would not be a quote  
6 from Osama bin Laden.

7 THE CHAIRPERSON: Okay. What I do  
8 see at the end of the second paragraph on page 5 at the  
9 bottom there, it says:

10 "...It is our duty to lead  
11 people to the light."

12 And then there seems to be a  
13 reference to the interview, and it's closed, was made  
14 to an ABC reporter. It says:

15 "Muslim leader Osama bin Laden  
16 from the May, 1998 interview of  
17 by ABC reporter John Miller."

18 And then on the next page, at the top  
19 of page 6 what Mr. Kulbashian is describing as comments  
20 with respect to the previous article -- previous quote  
21 from Osama bin Laden.

22 Now, your question is what about  
23 this, Mr. Kulbashian?

24 MR. A. KULBASHIAN: First, she has  
25 not provided any commentary about the article, she just

1 quoted the article.

2 THE CHAIRPERSON: Well, do you recall  
3 the article, let's be specific.

4 MR. A. KULBASHIAN: She's made a  
5 commentary on the comments -- she hasn't made a  
6 commentary on the comments.

7 THE CHAIRPERSON: Well, there is some  
8 reference to it at the bottom of page 6.

9 MR. A. KULBASHIAN: Just quotes taken  
10 from the article, no commentary on it. If you check  
11 it, it just states that -- at the top, middle.

12 THE CHAIRPERSON: Of page 22, yes,  
13 okay. There is a reference there; is there not?

14 MR. A. KULBASHIAN: But there is no  
15 commentary on it. I'm just asking if she can give a  
16 commentary on those comments?

17 DR. HENRY: You want me to comment on  
18 those three comments?

19 MR. A. KULBASHIAN: That's right.

20 DR. HENRY: Well, the last one I  
21 commented on, if you will, because I have cited them  
22 and quoted them in the report.

23 The first comment is, I think, quite  
24 a serious one, because it suggests that if we keep  
25 nuclear blasts going in various American cities then we

1 are doing a service to mankind.

2 And the second one cites Dr. Pierce  
3 in regard to this, that there has to be wide-spread  
4 trauma and deprivation for change to take place.

5 So there are some messages that are  
6 in these comments.

7 And the last one says, well, if we  
8 had this kind of nuclear device, look how many people,  
9 Jews and even others dying for a good cause.

10 So it is a series of very strong,  
11 powerful comments that suggests we need wide-spread  
12 destruction of life, limb and property in order to  
13 advance and expand the white race.

14 MR. A. KULBASHIAN: First of all,  
15 does every race strive for its advancement and  
16 expansion and survival, every ethnicity, every race,  
17 every culture?

18 THE CHAIRPERSON: Let's move on.

19 MR. A. KULBASHIAN: It's a good  
20 question.

21 THE CHAIRPERSON: No, it is not. How  
22 is it relevant to this?

23 MR. A. KULBASHIAN: It will be  
24 relevant.

25 THE CHAIRPERSON: Well then, let's

1 get to the relevant portion.

2 MR. A. KULBASHIAN: That's why I have  
3 to ask that question.

4 THE CHAIRPERSON: No, you are not  
5 going to get an answer to that, does every race try to  
6 advance itself. We have been down this road. She  
7 doesn't believe in eternal race.

8 You asked a whole bunch of questions  
9 about this last time. Move on.

10 MR. A. KULBASHIAN: In that case --

11 THE CHAIRPERSON: Get to the point.

12 MR. A. KULBASHIAN: I will get to the  
13 point. Do you know the distinction between the word  
14 Jews and the word Israel?

15 A distinction -- if she can just make  
16 a distinction?

17 THE CHAIRPERSON: No.

18 MR. A. KULBASHIAN: I would like her  
19 to --

20 THE CHAIRPERSON: Why?

21 MR. A. KULBASHIAN: Because I'm going  
22 to get to another distinction.

23 THE CHAIRPERSON: And why do you  
24 think she's going to be different than what I think?

25 MR. A. KULBASHIAN: Has she answered

1 this one before?

2 THE CHAIRPERSON: I don't now, but  
3 it's so obvious.

4 MR. A. KULBASHIAN: Well, that's the  
5 next question. She has not answered it before. I  
6 asked Detective Wilson --

7 THE CHAIRPERSON: She did answer it,  
8 she said she defined Jews as a religious group. She  
9 did say that, I recall that, and Israel is a country. I  
10 recall that too. What else?

11 MR. A. KULBASHIAN: Define Americans  
12 and America?

13 DR. HENRY: Americans are people who  
14 are resident and/or citizens of the United States of  
15 America.

16 MR. A. KULBASHIAN: And in any  
17 article -- in any, I guess, news article for that  
18 matter, have you ever heard, let's say, the war in Iraq  
19 be referred to as the Americans; war on Iraq, or when  
20 people refer to the American government, have you ever  
21 heard anybody call them Americans did such and such?

22 DR. HENRY: Yes.

23 MR. A. KULBASHIAN: Is that, I guess,  
24 what would you consider that as a form of  
25 categorization, a form of, like, racism based on

1 association or something like that?

2 MR. WARMAN: Objection. Americans  
3 are not a race. There's no evidence to that effect.

4 THE CHAIRPERSON: Is it a race?

5 MR. A. KULBASHIAN: As far as the  
6 evidence, you mean? Okay. Well, it's an ethnicity --  
7 not an ethnicity, it's a nationality. It would also  
8 fall under section 13.

9 Have you ever heard of people  
10 referring to America as the Americans?

11 DR. HENRY: Yes.

12 MR. A. KULBASHIAN: Would you  
13 consider that to be a form of racism in any way?

14 MR. WARMAN: Objection. He is asking  
15 whether Americans, the nationality, are racism. They  
16 are two clearly distinct entities.

17 THE CHAIRPERSON: I don't even know  
18 what the question is.

19 MR. A. KULBASHIAN: Section 13,  
20 nationality, would be --

21 THE CHAIRPERSON: Well, I know. Go  
22 straight to the point.

23 MR. A. KULBASHIAN: Is it possible  
24 people use the word Jews instead of Israel?

25 THE CHAIRPERSON: There is a direct

1 question, instead of going around about and...

2 MR. A. KULBASHIAN: I don't know how  
3 to approach it, that's all.

4 THE CHAIRPERSON: That's where you  
5 want to go; isn't it?

6 MR. A. KULBASHIAN: Is it possible --  
7 do you believe --

8 THE CHAIRPERSON: What was your  
9 answer to that?

10 DR. HENRY: I think it is possible.

11 MR. A. KULBASHIAN: Have you ever  
12 heard people refer to Israel -- Israeli government  
13 policies as Jews?

14 DR. HENRY: To Israel what?

15 MR. A. KULBASHIAN: Israeli  
16 government policies -- let's say the Israeli government  
17 did something, have you ever heard anybody referring to  
18 it as Jews did something?

19 DR. HENRY: I think it is certainly  
20 possible, yes.

21 MR. A. KULBASHIAN: In this last  
22 election -- I'm sure you watched it; am I right -- the  
23 U.S. election?

24 DR. HENRY: Yes.

25 MR. A. KULBASHIAN: Do you know how



1 much they were split by, 50/50, I guess, the election?

2 DR. HENRY: Roughly.

3 MR. A. KULBASHIAN: Do you remember,  
4 I guess, Bush saying Americans voted for Bush?

5 DR. HENRY: I imagine it is something  
6 he might have said, yes.

7 MR. A. KULBASHIAN: Have you said --  
8 is it possible using the word Jews in order to  
9 abbreviate the term the Israeli government when they  
10 are referring to something?

11 DR. HENRY: I have already said that  
12 is possible. It's incorrect, but it is possible.

13 MR. A. KULBASHIAN: Would that be the  
14 same as abbreviating, say, the massacre of Nan-king as  
15 Asian Affairs?

16 DR. HENRY: It would be what?

17 MR. A. KULBASHIAN: Would that be, I  
18 guess, consistent -- or the same idea as abbreviating  
19 the term, like, the consequence of the massacre at  
20 Nan-king as a term Asian Affairs?

21 DR. HENRY: No, I will not answer  
22 that, because I said earlier, that without reviewing  
23 that case and my report on it, I cannot really comment  
24 on it.

25 THE CHAIRPERSON: I don't see it as

1 an appropriate analogy, Mr. Kulbashian. Move on.

2 MR. A. KULBASHIAN: I'm not asking  
3 her --

4 THE CHAIRPERSON: Move on.

5 MR. A. KULBASHIAN: Is it possible  
6 that people don't agree, don't recognize the existence  
7 of Israel?

8 DR. HENRY: Oh, yes.

9 MR. A. KULBASHIAN: Can you think of  
10 another word people would use, then, for the Government  
11 of Israel instead of the word Jews?

12 DR. HENRY: Israelis.

13 MR. A. KULBASHIAN: If they do not  
14 recognize the existence of Israel, what term could they  
15 use?

16 DR. HENRY: Well, the fact of the  
17 matter is that the country known as Israel exists and  
18 its citizens are referred to as Israelis; the same as  
19 Americans are citizens of the United States of America.

20 MR. A. KULBASHIAN: Is it possible  
21 for someone -- is it possible for someone to not  
22 recognize the existence of Israel?

23 DR. HENRY: I just answered that.

24 MR. WARMAN: Objection. The question  
25 has been asked and answered.

1 THE CHAIRPERSON: The question has  
2 been answered and I said, yes it is. Move on.

3 MR. A. KULBASHIAN: Is it possible  
4 that in that case that when the same person doesn't  
5 recognize Israel as a country, just refers to Israelis  
6 as Jews then?

7 DR. HENRY: That's possible, yes.

8 MR. A. KULBASHIAN: Getting to the  
9 point of the human bomb article which is on page 6 of  
10 tab 20, okay.

11 Can you read that article? It is  
12 important to my case and she has not read it, so...

13 THE CHAIRPERSON: Didn't we look at  
14 it before?

15 MR. A. KULBASHIAN: We looked at it  
16 briefly in passing but there's a lot of points in this  
17 article.

18 THE CHAIRPERSON: Save that question  
19 for later.

20 MR. A. KULBASHIAN: For later.

21 THE CHAIRPERSON: We have to  
22 progress. I have a duty to have an expeditious process  
23 here. It is in the statute.

24 I'm going to -- we have to move on.  
25 To have the witness read this whole article right now,

1 and we still haven't come to the lunch break, I am not  
2 going to delay the case that much.

3 Why don't we -- she can read it  
4 during the break and you can come back to ask the  
5 question later.

6 MR. A. KULBASHIAN: Some of these  
7 things I want to go on the record.

8 THE CHAIRPERSON: We will. But I am  
9 not going to read the whole thing. That is a very,  
10 very long process to put us through each time to read  
11 an entire thing into the record, when an excerpt is all  
12 you --

13 MR. A. KULBASHIAN: Entire articles  
14 were read into the record earlier on.

15 THE CHAIRPERSON: Yes, I know, and  
16 that may have been a mistake on my part to have allowed  
17 you to follow that process.

18 MR. A. KULBASHIAN: Not just by  
19 myself, but the Commission as well.

20 THE CHAIRPERSON: No, not as much as  
21 you were. But that's okay. If you want the witness to  
22 read the text, she can read it, I can read it, we can  
23 all read it, and then we can draw her attention to it.  
24 That will occur at the break.

25 MR. A. KULBASHIAN: Yes.

1 THE CHAIRPERSON: Hold onto that.  
2 I will ask the witness to read this article during the  
3 break.

4 MR. A. KULBASHIAN: I should ask her  
5 this, from yesterday to today, have you read the  
6 article yet, the human bomb article, did you get to  
7 read it?

8 THE CHAIRPERSON: This article?

9 MR. A. KULBASHIAN: Like, she might  
10 have done it overnight, actually have you read the  
11 article overnight?

12 DR. HENRY: I think we all read it on  
13 Friday or Thursday.

14 THE CHAIRPERSON: Yes, we perused it.

15 MR. A. KULBASHIAN: Yes.

16 DR. HENRY: No, since then I have not  
17 read it.

18 MR. A. KULBASHIAN: That would make  
19 it much easier that way.

20 Yesterday you referred to this as, I  
21 have it down as, not patriotic; is that right?

22 THE CHAIRPERSON: Not yesterday, but  
23 Friday.

24 MR. A. KULBASHIAN: Oh yes, sorry,  
25 Friday, you referred to the writer of this article, I

1 have it down as, is not patriotic; is that right?

2 THE CHAIRPERSON: Patriot.

3 MR. A. KULBASHIAN: Oh, yes.

4 DR. HENRY: I may have.

5 MR. A. KULBASHIAN: And you also  
6 stated there is a possibility, but since you did not  
7 read the entire article you could not say for sure?

8 THE CHAIRPERSON: What was the  
9 possibility?

10 MR. A. KULBASHIAN: The scenario of  
11 the article she perused.

12 THE CHAIRPERSON: All right. Go on.

13 MR. A. KULBASHIAN: Do you know  
14 anything about -- this is a different question -- do  
15 you know anything about the Israeli/Palestinian  
16 conflict as far as transgressions by Jews on  
17 Palestinians?

18 DR. HENRY: I am not an expert on the  
19 Israeli/Palestinian conflict.

20 MR. A. KULBASHIAN: Can you define  
21 the term "state sponsored terror"?

22 DR. HENRY: No, I can't.

23 MR. A. KULBASHIAN: Can you define  
24 the term "fascist", then?

25 DR. HENRY: Even that term is so used

1 and misused that it is hard to define, but it is  
2 basically an authoritarian regime that does not allow  
3 for basic civil and human right freedoms.

4 MR. A. KULBASHIAN: Would you  
5 consider it consistent with what the Nazis did in World  
6 War II, I guess?

7 DR. HENRY: Yes.

8 MR. A. KULBASHIAN: Shall I get into  
9 the meaning -- definitions of state sponsored terror?

10 THE CHAIRPERSON: I don't know  
11 where -- I didn't think she referenced this in her  
12 report. I think it was only part of a series of  
13 questions.

14 Let's not play games here. Do you  
15 recall -- I don't want games to be played.

16 MR. A. KULBASHIAN: I'm not playing  
17 games.

18 THE CHAIRPERSON: No. I specifically  
19 intervened in that series of questions and had the  
20 witness go on to read the page at the other end because  
21 she had forgotten and then she completed her testimony,  
22 if you recall.

23 MR. A. KULBASHIAN: Which page?

24 THE CHAIRPERSON: Page 8.

25 MR. A. KULBASHIAN: In that case, do

1           you believe it would have been -- I don't know if I can  
2           ask the same question again, it's not really a restated  
3           question.

4                                Do you believe it would have been  
5           racism -- it would be racism now or even back in 1950s  
6           to slam the Germans for what the Nazi government did?

7                                THE CHAIRPERSON: Slam them?

8                                MR. A. KULBASHIAN: Yeah. Well,  
9           sorry about that term. For criticizing the Germans for  
10          what the Nazi government did, as a form of, I guess,  
11          collective association?

12                               DR. HENRY: I am not sure I  
13          understand the question.

14                               THE CHAIRPERSON: I thought we had  
15          this question asked at one point.

16                               MR. A. KULBASHIAN: This was more  
17          Jews coming out of the Holocaust question.

18                               THE CHAIRPERSON: No, you said --  
19          unfortunately it has been so long I don't remember.

20                               I remember even this morning you  
21          mentioned painting all Germans as being Nazis and  
22          responsible for the war.

23                               MR. A. KULBASHIAN: Okay.

24                               THE CHAIRPERSON: We have an answer  
25          on that.



1 MR. A. KULBASHIAN: Have you ever  
2 found the news relies to how many, I guess to guess at  
3 how many U.N. resolutions have been attempted to be  
4 passed against Israel?

5 DR. HENRY: There have been several,  
6 yes.

7 MR. A. KULBASHIAN: Do you know the  
8 outcome of any of those votes?

9 DR. HENRY: No, I don't.

10 MR. A. KULBASHIAN: Do you know how  
11 many of those America vetoed?

12 MR. WARMAN: Objection. She just  
13 stated she doesn't know the answer.

14 MR. A. KULBASHIAN: What is the  
15 outcome, then. The question is how many people hear a  
16 lot about it, if the question is vetoed.

17 DR. HENRY: No.

18 MR. A. KULBASHIAN: Would it be  
19 possible to say that maybe America vetoed all the  
20 resolutions against Israel?

21 DR. HENRY: It would be possible.

22 MR. A. KULBASHIAN: Do you believe  
23 that just because the U.N. did not pass the resolution  
24 condemning Israel because of the vetoes that Israel is,  
25 in effect, not fascist or -- what now?

1 I'm just waiting for him to --

2 MR. WARMAN: That's why I'm sitting  
3 down.

4 THE CHAIRPERSON: Wait for him to ask  
5 the question.

6 MR. A. KULBASHIAN: Basically, is it  
7 possible for people to view Israel now the way that  
8 they viewed the Nazi government in World War II?

9 DR. HENRY: Yes, I think that is  
10 possible.

11 MR. A. KULBASHIAN: Of all you heard  
12 in the news, is it likely that a lot of people view  
13 Israel now?

14 DR. HENRY: I don't know a lot of  
15 people, but I know that view is prevalent.

16 MR. A. KULBASHIAN: So saying that is  
17 possible that people refer to, I guess, the Israeli  
18 government as Jews, is it possible that the same people  
19 who, I guess -- I am just going to skip this question  
20 so I don't have to, like, go over the same thing again.

21 THE CHAIRPERSON: I don't know where  
22 you are going. Go ahead.

23 MR. A. KULBASHIAN: Is it possible  
24 that the same people who condemned Israel for crimes  
25 against humanity would also not recognize the existence

1 of the state?

2 DR. HENRY: Would not recognize the  
3 existence of the state of Israel?

4 MR. A. KULBASHIAN: That's right.

5 DR. HENRY: I think that is likely,  
6 yes.

7 MR. A. KULBASHIAN: Okay. Would you  
8 consider that to be a form of state sponsored  
9 terrorism?

10 MR. WARMAN: Objection. The witness  
11 has already testified she cannot define state sponsored  
12 terror.

13 MR. A. KULBASHIAN: Would you  
14 consider collective punishment to be a form of fascism?

15 THE CHAIRPERSON: Mr. Kulbashian, you  
16 have made your point.

17 MR. A. KULBASHIAN: Actually, I'm  
18 getting to my point.

19 THE CHAIRPERSON: You keep asking  
20 these questions and the witness keeps saying, no, she  
21 is not a political scientist.

22 MR. A. KULBASHIAN: Well, she did  
23 testify she knows what fascism was, so I will get to  
24 fascism then.

25 THE CHAIRPERSON: No, she could not

1 give you a definition of fascism --

2 MR. A. KULBASHIAN: She did. I  
3 remember her giving a definition.

4 THE CHAIRPERSON: Oh, that was  
5 fascism and not state sponsored terrorism.

6 MR. A. KULBASHIAN: Yeah.

7 THE CHAIRPERSON: I'm sorry.

8 MR. A. KULBASHIAN: This is part of  
9 my point, so...

10 THE CHAIRPERSON: What is your point?

11 MR. A. KULBASHIAN: I am not going to  
12 do it in front of the witness. I am not going to  
13 prepare her to answer questions I am going to ask.

14 MR. WARMAN: Objection. Sorry, I  
15 just want to make sure on the record that there's an  
16 objection.

17 THE CHAIRPERSON: And your objection  
18 is to the last question of what is her definition of  
19 fascism or --

20 MR. WARMAN: No, it's to this line of  
21 questioning, as to what the relevance is --

22 THE CHAIRPERSON: What is the  
23 relevance?

24 Please leave the room for a moment.

25 MS MAILLET: Actually, if I may, Mr.

1 Chair, perhaps after we discuss what the relevance is,  
2 then we can take our break so that Dr. Henry could --

3 MR. A. KULBASHIAN: Review the  
4 article?

5 THE CHAIRPERSON: It is going to be a  
6 very short break today.

7 Please step out a moment, Dr. Henry.  
8 I guess you won't be coming back, so you may...

9 --- (witness stands down at 12:50 p.m.)

10 MR. A. KULBASHIAN: My issue is, if  
11 she's talking about opinion and how she interpreted the  
12 articles, what happens -- she testified that even  
13 though some people might be offended by Germans being,  
14 I guess, classified as bad people during World War II,  
15 some people could get offended by Jews being classified  
16 as bad people now. And if there is a parallel being  
17 drawn between fascism in the Israeli government right  
18 now and the fascism in the German government back then.

19 And what I was referring to fascism  
20 was was collective punishment, isolation into ghettos,  
21 a lot of, I guess -- if you want to stand up, go ahead.

22 MR. WARMAN: I'm listening to you.

23 MR. A. KULBASHIAN: Like, uprooting  
24 farm lands and trees, et cetera, would be a form of  
25 fascism, like, and fascism is defined as collective

1 punishment, economic -- what is the word for it --  
2 socio-economic discrimination, I guess you could say,  
3 against certain people that don't have the same rights  
4 as other citizens in the same land.

5 It is getting into that whole story  
6 that is it possible -- just because some people get  
7 offended by an interpretation of people, is it possible  
8 that it is still not -- it is section 13.

9 THE CHAIRPERSON: Do you know what  
10 the problem is, section 13 precisely.

11 MR. A. KULBASHIAN: Exactly.

12 THE CHAIRPERSON: And the problem is  
13 when you cite those things, you just say them in  
14 certain ways, it's nice, but the comments that we do  
15 have here is an incomplete presentation of the facts,  
16 because then you have comments, like:

17 "We'll have to kill everyone of  
18 you who dares to remain and  
19 contaminate Palestine with your  
20 presence."

21 You see, that is the kind of language  
22 I think she referred to in her previous evidence of why  
23 she drew the conclusion. That is why, don't  
24 misrepresent things. When she read most of the passage  
25 in this text, she saw it as one way, but then when

1           having read back, she saw it as another way, all right?

2                           We have been down that road.

3                           MR. A. KULBASHIAN: She read some of  
4           the passages in the textbook. The issue is --

5                           THE CHAIRPERSON: And supported the  
6           proposition put to her that this may be that of a  
7           person who has suffered at the hands in a war.

8                           But then she read the last passage  
9           and she provided another interpretation.

10                          MR. A. KULBASHIAN: But the issue is  
11           whether or not she is qualified to make that kind of  
12           interpretation, because even section 13, it is like  
13           stating that just because, say, Armenians or Greeks,  
14           slam Turks for the genocide, by saying well that's  
15           against the Turks.

16                          You know, like, section 13 could --  
17           evaluating whether or not it falls under section 13 is  
18           like saying that Turks --

19                          THE CHAIRPERSON: It is the effect  
20           that counts, the effect.

21                          MR. A. KULBASHIAN: So if it's  
22           possible in this sense that the effect is more of, I  
23           guess, the same kind of effect, well, we have been  
24           slaughtered, we hate you because we have been  
25           slaughtered by you, kind of effect, as opposed to

1 actually slamming Jews for --

2 THE CHAIRPERSON: Stop using the word  
3 "slamming", please, Mr. Kulbashian. What is this?  
4 Are we in some kind of punk-rock concert? What is  
5 slamming here?

6 MR. A. KULBASHIAN: Criticizing Jews  
7 as a race as opposed to criticizing Jews as a people  
8 who have done certain things in a situation.

9 Because there has to be a  
10 distinction.

11 It is like stating that anything that  
12 could possibly offend any Jewish person is not covered  
13 under section 13 just because, say, someone doesn't  
14 agree that Israel is a terrorist state?

15 THE CHAIRPERSON: It's not offending  
16 persons, the suggestion is may expose -- it is exposing  
17 a person or persons to hatred or contempt by reason of  
18 the fact that they have the identifiable feature as  
19 provided by under the Act.

20 MR. A. KULBASHIAN: Yeah, but this  
21 doesn't refer to those features as much as it refers  
22 to --

23 THE CHAIRPERSON: As Jews, as Jews.

24 MR. A. KULBASHIAN: That is true, but  
25 it doesn't refer to identifiable features as much as --



1 THE CHAIRPERSON: We are into  
2 argument. You know what, this is what the problem is.  
3 Because, as I have indicated before, as the excerpt you  
4 gave me from Dr. Burke's decision says, this expert  
5 witness cannot -- the ultimate conclusion rests in the  
6 hands of the Tribunal.

7 This sounds precisely to me like the  
8 argument that we will be engaging in on the last day of  
9 the hearing when we hear the arguments.

10 Yes, the expert has made some  
11 comments and as I indicated in my ruling allowing her  
12 to testify, many of her comments go to the ultimate  
13 issue and, to that extent, the Tribunal will not take  
14 them into consideration.

15 There were other comments that didn't  
16 go to the ultimate issue, and those are the ones I  
17 suppose she is here testifying on.

18 And deciding whether section --  
19 whether the excerpts that you are referencing will or  
20 will not expose a person or persons to hatred or  
21 contempt is something that I will deal with, not she.

22 MR. A. KULBASHIAN: But then it is  
23 like getting somebody to testify that the entire site  
24 is dedicated to the Israeli/Palestinian situation that  
25 claims that Jews promoted the atrocities in Palestine

1 would be saying that is contempt towards Jews or hatred  
2 towards Jews.

3 THE CHAIRPERSON: That's an argument  
4 they are going to make and that you will make and Mr.  
5 Richardson will make to the contrary.

6 MR. A. KULBASHIAN: I am trying to  
7 clarify that she doesn't try to state that this article  
8 is anything but in a political context or like the  
9 context of genocide as opposed to the context that it  
10 is just signalling out Jews for --

11 THE CHAIRPERSON: Too many contexts.

12 MR. A. KULBASHIAN: Everything is  
13 based on context here, obviously.

14 THE CHAIRPERSON: Right, and that's  
15 what she has testified.

16 MR. A. KULBASHIAN: I understand  
17 that.

18 So, like basically, my opinion would  
19 be, like, getting her to change the context in which  
20 she views this article -- first of all, reading the  
21 entire thing is key.

22 THE CHAIRPERSON: It didn't form part  
23 of her report, that was just questions from -- I don't  
24 know -- from you, Mr. Richardson?

25 MR. A. KULBASHIAN: Well, now that is

1 out, she did say it was a racist article.

2 THE CHAIRPERSON: What's out? I mean,  
3 she expressed her opinion, yes.

4 MR. A. KULBASHIAN: She expressed her  
5 opinion but she had not read the entire article --

6 THE CHAIRPERSON: No, she hasn't.  
7 So, read the entire article during the break.

8 MR. V. KULBASHIAN: During the  
9 weekend, this is one of the things...

10 THE CHAIRPERSON: She will read it at  
11 lunch. That's fine.

12 I have been engaging in this  
13 dialogue. I would like to hear what the  
14 complainant/Commission have to say.

15 MS MAILLET: And about the line of  
16 questioning?

17 THE CHAIRPERSON: Well, we had an  
18 objection to this line of questioning, so what do you  
19 have to say about it?

20 Now we've heard a reply from Mr.  
21 Kulbashian, what do you have to say?

22 MR. WARMAN: Two points. The first  
23 is that the line of questioning appears to be dedicated  
24 to entering what is, in effect, a political manifesto.

25 And the second thing is that nowhere

1 in the Act, and specifically under section 13 is there  
2 a category that says if we have suffered historical  
3 injustice we may, therefore, call for the genocide of  
4 another group.

5 MR. A. KULBASHIAN: It does not call  
6 for genocide of another group.

7 MR. WARMAN: It does, in fact. It  
8 says: Leave or we will kill you all.

9 MR. A. KULBASHIAN: It doesn't make  
10 that comment.

11 THE CHAIRPERSON: Mr. Kulbashian,  
12 please sit down.

13 MR. WARMAN: The entire line of  
14 questioning is appears to be attempting to develop an  
15 argument that due to historical suffering ergo it is  
16 permissible to violate the Act, and there is no defence  
17 like that within the Act.

18 MS MAILLET: And the only thing I  
19 would add, Mr. Chair, is the questions appear to me to  
20 be a way for Mr. Kulbashian to make his closing  
21 argument.

22 And as you pointed out, he can make a  
23 lot of these points in closing argument, instead of  
24 trying to have the witness over and over again agree  
25 with his argument or his point of view. I think his

1 argument can be made at the end of the hearing.

2 I just find it very time consuming  
3 that he makes an attempt to try to get his argument in  
4 through this witness.

5 MR. A. KULBASHIAN: Actually, my  
6 position is more that I believe that this witness is  
7 the type of person that likes to guess at situations  
8 and if they stick they stick.

9 So, I'm trying to challenge her on  
10 everything she has said to make sure that she can admit  
11 at least on certain --

12 THE CHAIRPERSON: She may not admit  
13 to anything. It's a challenge.

14 MR. A. KULBASHIAN: Well, it's a  
15 challenge whether or not -- it is a challenge whether  
16 or not -- challenge, like, the ultimate goal being to  
17 show that what she does is not necessarily science as  
18 much as more of her opinions, if she was offended by  
19 it, or something to that effect.

20 It is like taking her for granted as  
21 a scientist in her field is like saying, like, whatever  
22 you say with your opinion on these specific articles,  
23 you're right --

24 THE CHAIRPERSON: That is not how  
25 experts are put forth to the Tribunal.

1 MR. A. KULBASHIAN: I understand.  
2 But when I can show that -- a lot of things she is  
3 doing is more on the basis of opinion as opposed to  
4 just not having -- like, not necessarily talking about  
5 whether or not section 13, right, exposing somebody,  
6 but when you go ahead and comment on articles saying  
7 that it was put there because they have these  
8 intentions, when she's not a psychologist.

9 THE CHAIRPERSON: Intention is not an  
10 element in section 13.

11 MR. A. KULBASHIAN: I understand  
12 that.

13 THE CHAIRPERSON: The Human Rights  
14 Act is not an element. You can be discriminating  
15 without having any intentions to discriminate.

16 MR. A. KULBASHIAN: I am talking  
17 about like an article, like an article from a newspaper  
18 stating that there was intention as to why they are put  
19 there. And if she does stuff like that, by trying to  
20 it, like, hit and miss, you know, like throwing enough  
21 darts to hit the bulls eye --

22 THE CHAIRPERSON: That isn't what is  
23 going on.

24 MR. A. KULBASHIAN: It is like  
25 drawing a picture, because in this --

1 THE CHAIRPERSON: Mr. Kulbashian,  
2 look, two things: I am not going to let you get into  
3 this whole historical study of the history of the human  
4 race with this witness.

5 You make one or two questions and  
6 it's clear to me, it's clear to me that this witness is  
7 not an expert in history, that her knowledge is based  
8 on general knowledge in some ways of certain things.

9 She made reference to the pogroms was  
10 an interpretation that is out there.

11 I am not going to allow you to spend  
12 hours and hours going over and over the history of  
13 things. It just doesn't make logical sense for us to  
14 do so.

15 MR. A. KULBASHIAN: But I've  
16 established through her testimony in my  
17 cross-examination that she is not necessarily a neutral  
18 witness, more a witness that came here to testify for,  
19 I guess, the prosecution, in a sense?

20 THE CHAIRPERSON: That's clear. They  
21 put her forward.

22 MR. A. KULBASHIAN: However, she is  
23 also required to be neutral in the way she approaches  
24 the subject rather than somebody telling her, you know,  
25 look at this, or looking at it from a perspective that

1           there has been a crime committed, as opposed to looking  
2           at the perspective of what does this tell me.

3                         And it seemed apparent for me at this  
4           point that she is stating more like there has been  
5           something committed as opposed to just tell me the  
6           following. Because her entire report is more like,  
7           this is what happened as opposed to this is what this  
8           tells me.

9                         THE CHAIRPERSON: It doesn't make a  
10          difference what her report says in the end, it is what  
11          I think.

12                        MR. A. KULBASHIAN: Well, the entire  
13          report is based on stuff like that, then what will end  
14          up happening is --

15                        THE CHAIRPERSON: Is a report that is  
16          of no value and that you will argue is valueless.

17                        MR. A. KULBASHIAN: Then there is no  
18          necessity -- there's no relevance to the Tribunal.

19                        THE CHAIRPERSON: Right, that's a  
20          very good argument you will make at the end.

21                        MR. A. KULBASHIAN: I am trying to  
22          establish the relevance. That is the whole point.

23                        It is like saying -- the problem is  
24          there is an issue of probabilities. And if I don't try  
25          to address all the relevant issues --



1 THE CHAIRPERSON: You don't have to  
2 address all these issues to me. I have other issues at  
3 stake here.

4 MR. A. KULBASHIAN: It's my  
5 reputation that's at stake here. If somebody else is  
6 willing to take, I guess, the reputation hit and also  
7 my money could be at stake too. If someone else is  
8 willing to, like, take those hits for me, then fine,  
9 then I can just walk out right now, but I'm just trying  
10 to show that there's no points I have not addressed in  
11 essence.

12 THE CHAIRPERSON: We will take a  
13 break.

14 We'll re-organize, come back and the  
15 witness will have read the material, we can proceed  
16 after and I will hear every objection as it comes  
17 forward.

18 MR. A. KULBASHIAN: Just one issue to  
19 finish it off. These are just issues -- because the  
20 witness has been tendered as an expert --

21 THE CHAIRPERSON: She is an expert  
22 in racism and whatever else I said.

23 MR. A. KULBASHIAN: I feel whatever  
24 points that I do not address, then there might be an  
25 issue with, you know, that creating balancing

1 probability at the other end as opposed to my end.

2 THE CHAIRPERSON: We'll deal with  
3 every issue and many things have been written in her  
4 report that open doors for questioning by you, and that  
5 decision was made to do so.

6 So, fine. We'll take a break.

7 --- Luncheon recess taken at 1:05 p.m.

8 --- On resuming at 2:00 p.m.

9 REGISTRY OFFICER: Order, please.  
10 All rise.

11 --- (witness resumes stand at 2:00 p.m.)

12 THE CHAIRPERSON: So, Ms Henry, I  
13 guess you have had the opportunity to read the article  
14 in question?

15 DR. HENRY: Yes, I have.

16 THE CHAIRPERSON: Are you set?

17 DR. HENRY: Yes.

18 MR. A. KULBASHIAN: Do you have any  
19 comments on the body of the article?

20 DR. HENRY: Other than the comments I  
21 have already made on it, no.

22 MR. A. KULBASHIAN: Now, you have got  
23 a better view of the article, do you believe that, I  
24 guess, the Jews he is referring to at the very end,  
25 whether it is the government or whether it's the

1 people?

2 DR. HENRY: Whether it is the  
3 government or the people?

4 MR. A. KULBASHIAN: In the very end,  
5 in the last paragraph?

6 DR. HENRY: I think he is referring  
7 to the people.

8 MR. A. KULBASHIAN: Do you believe it  
9 is possible he is referring to the government at all?

10 DR. HENRY: It is possible.

11 MR. A. KULBASHIAN: Does he anywhere  
12 recognize the existence of Israel in this article?

13 DR. HENRY: No.

14 MR. A. KULBASHIAN: Is it possible he  
15 is referring to Jews as the government, for the sake of  
16 brevity?

17 DR. HENRY: Yes.

18 MR. A. KULBASHIAN: Getting back to  
19 the topic of fascism, in reading the article, would you  
20 consider any of those, I guess, experiences portrayed  
21 in the article to be consistent with what you hear  
22 going on in the news, from what she knows.

23 THE CHAIRPERSON: Going on in the  
24 news where?

25 MR. A. KULBASHIAN: Sorry. Would you

1           consider it to be consistent with what you have heard  
2           in the news about what goes on in the occupied  
3           territories?

4                         DR. HENRY: I think I have heard some  
5           of this in some news broadcasts, yes.

6                         MR. A. KULBASHIAN: Coming back on  
7           the topic of fascism in that sense --

8                         DR. HENRY: The topic of...?

9                         MR. A. KULBASHIAN: Fascism.

10                        DR. HENRY: Yes.

11                        MR. A. KULBASHIAN: Would you  
12           consider collective punishment to be part of fascism?

13                        DR. HENRY: I don't really know what  
14           that term means, as I think I have indicated earlier.

15                        MR. A. KULBASHIAN: Have you ever  
16           heard of punishing all the Jews for allegations during  
17           World War I to be a form of collective punishment?

18                        DR. HENRY: No, I haven't.

19                        MR. A. KULBASHIAN: Can you -- if I  
20           told you collective punishment was punishing may for  
21           the actions of few, would you agree?

22                        DR. HENRY: That sounds reasonable.

23                        MR. A. KULBASHIAN: Would you  
24           consider uprooting farmlands and trees in order to  
25           create a buffer zone to be a form of collective

1 punishment?

2 DR. HENRY: I am afraid I cannot  
3 comment on that.

4 MR. A. KULBASHIAN: When you look  
5 back on World War II, do you remember what the initial  
6 stages of World War II before -- like, before any  
7 concentration camps -- do you know what the initial  
8 stages of the Jewish lives were like?

9 DR. HENRY: Do you mean, before  
10 Hitler became Chancellor of Germany?

11 MR. A. KULBASHIAN: After he became  
12 Chancellor but before there were concentration camps  
13 that were established.

14 DR. HENRY: Yes.

15 MR. A. KULBASHIAN: Do you remember  
16 how Jews lived in World War II?

17 DR. HENRY: Yes.

18 MR. A. KULBASHIAN: Do you know how  
19 they lived, explain?

20 DR. HENRY: They lived under severe  
21 repressive prohibitions.

22 MR. A. KULBASHIAN: They lived in  
23 ghettos, you would say, they were isolated in ghettos?

24 DR. HENRY: In some countries, yes.

25 MR. A. KULBASHIAN: Would you

1 consider a wall isolating Palestinians to be a form of  
2 isolating them?

3 MR. WARMAN: Objection. The  
4 relevance of the questioning, attempting to make the  
5 assertion that the treatment of the Palestinians by  
6 Israelis is comparable somehow to the Jews during World  
7 War II.

8 I'm just wondering what the relevance  
9 is?

10 THE CHAIRPERSON: I can see the big  
11 picture. Perhaps it's not necessary to go into the  
12 details.

13 Let me give you this there right now  
14 and I think the witness would agree with me.

15 There are people who are of the view  
16 that the situation of the Palestinians is one of plight  
17 and they disagree with the treatment that is being --  
18 their treatment, if I can use the word, "at the hands  
19 of the Israelis", so --

20 MR. A. KULBASHIAN: I am talking about  
21 more -- the reason I am talking about the specifics is  
22 to draw a parallel and get back to her initial  
23 statements of whether or not somebody in that position  
24 or somebody who is experienced at would be talking  
25 about a race necessarily or more of the actions about

1 the government --

2 THE CHAIRPERSON: You talk so fast  
3 that...

4 MR. A. KULBASHIAN: Sorry. First I  
5 am drawing parallels and then coming back to her --

6 THE CHAIRPERSON: I have just given  
7 you the parallel, so you can short circuit this.

8 MR. A. KULBASHIAN: I'm drawing  
9 direct parallels to World War II.

10 THE CHAIRPERSON: Yes, I understood  
11 that. That's what I am saying, some people say that --  
12 you are submitting that there are people who are of the  
13 view that the Palestinians are at the present time  
14 placed into one certain area and, therefore, suffering  
15 because of that. That's a view.

16 MR. A. KULBASHIAN: Well, that's kind  
17 of -- that's where I beg to differ. What I am trying  
18 to get to is actually draw the parallel directly in  
19 order to -- and come back to her initial statement  
20 where she stated that the people talking, let's say,  
21 about Jews in a situation like this would be reacting  
22 to government and government policy, rather than just  
23 the people and not necessarily expressing hatred  
24 towards Jews or not necessarily even targeting all Jews  
25 in any way.

1                                    If you can kind of get what I am  
2           trying to say?

3                                    THE CHAIRPERSON:  Not quite.  But --

4                                    MR. A. KULBASHIAN:  It is the idea.

5                                    THE CHAIRPERSON:  Do you know what?  
6           We have, again, spent too much time trying to analyze  
7           what you are thinking.

8                                    I will allow the question and let us  
9           proceed.

10                                  MR. A. KULBASHIAN:  I will ask a  
11           straight question:  Would you consider there to be a  
12           lot of parallels between the way Palestinians are being  
13           treated in their own land at the moment and the way the  
14           Jews were treated pre-concentration camp during World  
15           War II after Hitler became Chancellor?

16                                  DR. HENRY:  I won't use the word  
17           "parallels", but I would agree that there is intense  
18           suffering amongst the Palestinian people today as a  
19           result of the contestation between themselves and the  
20           people in the State of Israel.

21                                  MR. A. KULBASHIAN:  Would you  
22           consider there to be a lot of similarities in the way  
23           they are living and the way they are being oppressed?

24                                  THE CHAIRPERSON:  I already have an  
25           answer to that.



1 MR. WARMAN: Objection.

2 THE CHAIRPERSON: Look, I'm going to  
3 read something to you, Mr. KulbashiAn. It is section  
4 48.9(1) of the Canadian Human Rights Act.

5 "Proceedings before the Tribunal  
6 shall be conducted as informally  
7 and expeditiously as the  
8 requirements of natural justice  
9 and the rules of procedure  
10 allow."

11 Now, in accordance with natural  
12 justice I will allow to explore this area, but I am  
13 also obliged to move the whole thing along  
14 expeditiously.

15 So, don't ask the same question over  
16 and over again. The point has been made. I know what  
17 you are getting at. Do you understand?

18 MR. A. KULBASHIAN: Okay. Then I  
19 guess I will just get to the final question in all  
20 this.

21 Is it possible -- actually even  
22 more -- is it probable a lot of the Jewish references  
23 and the articles referring to Jews would be referring  
24 to the government and their policies as opposed to  
25 Jews?

1 DR. HENRY: I am not sure I could say  
2 that at this point, really, without going through every  
3 single reference and looking at the context of it.

4 I would go so far as to agree that  
5 some might be to the State of Israel, the government,  
6 as opposed to Jewish people anywhere and everywhere in  
7 the world.

8 MR. A. KULBASHIAN: That's much  
9 better than going through 100 questions.

10 THE CHAIRPERSON: That's right. Your  
11 point is made. You got that answer about five minutes  
12 ago also.

13 MR. A. KULBASHIAN: Have you ever  
14 done any research into hate sites as a form of  
15 propaganda?

16 DR. HENRY: No, I haven't.

17 MR. A. KULBASHIAN: Have you ever  
18 done any research into hate propaganda disseminated by  
19 the Internet?

20 DR. HENRY: No.

21 MR. A. KULBASHIAN: Have you ever  
22 been on-line?

23 DR. HENRY: Oh, yes, many times.

24 MR. A. KULBASHIAN: Would you  
25 consider, say, a site with a link to Disney.com on

1           there to be -- just any site, like a personal site, to  
2           be affiliated with Disney.com?

3                         DR. HENRY:  Affiliated with...?

4                         MR. A. KULBASHIAN:  With Disney.com,  
5           Disney, like the Walt DisneyWorld site.

6                         DR. HENRY:  What is the question?

7                         MR. A. KULBASHIAN:  Would you  
8           consider a site with Disney.com, like a link to  
9           Disney.com on there to be affiliated with the Walt  
10          Disney Company?

11                        MR. WARMAN:  Objection.  What is the  
12          context?  What kind of a site?

13                        MR. A. KULBASHIAN:  Any site.

14                        THE CHAIRPERSON:  First of all, why  
15          is this witness being asked this question, that's what  
16          I am not clear about.  You are asking --

17                        MR. A. KULBASHIAN:  To a normal  
18          person, that's the idea, to somebody who might just be  
19          on-line.

20                        Because I mean, she doesn't appear to  
21          be an expert in -- it's much easier to ask a normal  
22          person --

23                        THE CHAIRPERSON:  She is here as an  
24          expert in a certain manner.

25                        MR. A. KULBASHIAN:  No, no, but --

1 THE CHAIRPERSON: Look, without  
2 putting the witness at broadside, is your point that a  
3 link on one website --

4 MR. A. KULBASHIAN: To another --

5 THE CHAIRPERSON: -- going to another  
6 does not demonstrate something about the linked  
7 website?

8 MR. A. KULBASHIAN: Does not  
9 demonstrate the website with a link to the other  
10 website would have any kind of control or affiliation?

11 THE CHAIRPERSON: Can somebody -- can  
12 we get an acknowledgment of that from the  
13 Commission/complainant?

14 The point being here is that he's  
15 saying, if there is a link on site A going to site B,  
16 B it does not necessarily mean that site B has any  
17 knowledge of the link on site A.

18 MR. A. KULBASHIAN: Or the  
19 information on site A -- on site B.

20 MR. WARMAN: If there was no other  
21 context to lead one to believe that.

22 --- (reporter appeals)

23 MR. WARMAN: If there was no other  
24 context to lead one to believe that.

25 MR. A. KULBASHIAN: So, the answer to

1           that was...?    If I can get --

2                         THE CHAIRPERSON:  Unless there are  
3           any other circumstances to indicate otherwise, just  
4           pure -- in and of itself, the fact that site A has a  
5           link to site B, doesn't mean that site B is aware of  
6           that link.

7                         MR. A. KULBASHIAN:  Would that also  
8           extends to is whether or not both sites have similar  
9           themes or similar ideologies -- for example, one site  
10          where people like a certain thing, linked to another  
11          site where people like the same thing; would that also  
12          extend to that one?

13                        THE CHAIRPERSON:  Are you in a  
14          position to answer that question?

15                        DR. HENRY:  I don't really know  
16          enough about the subject matter to say that.

17                        My assumption, my understanding of  
18          links -- I may be totally wrong -- but as a lay  
19          person's assumption is that one link, a link goes to a  
20          similar website.

21                        MR. A. KULBASHIAN:  And would you  
22          consider that that similar website to be in the control  
23          of the person who linked to it?

24                        DR. HENRY:  No, not necessarily.

25                        MR. A. KULBASHIAN:  Would you

1 consider it to necessarily be the responsibility of the  
2 person who linked to it?

3 DR. HENRY: No.

4 MR. A. KULBASHIAN: The question is  
5 for a layman, you know, for a lay person, however she  
6 put it.

7 Turn to -- let's ignore that. Have  
8 you ever seen the show Royal Canadian Air Farce?

9 THE CHAIRPERSON: Royal Canadian Air  
10 Farce?

11 DR. HENRY: Yes, I have.

12 MR. A. KULBASHIAN: Have you ever  
13 seen them poke fun at other races or religions?

14 DR. HENRY: Yes, I suppose -- I don't  
15 know about races or religions.

16 MR. A. KULBASHIAN: Have you ever  
17 seen the Jewish sports commentators on that show?

18 DR. HENRY: I cannot say that I have.  
19 I don't watch it regularly. I have seen it now and  
20 again.

21 MR. A. KULBASHIAN: Have you ever  
22 seen people poke fun, in general, in a very joking  
23 manner poke fun at, you know, I guess, other races -- a  
24 joking manner poke fun but not necessarily  
25 discriminating against?

1 DR. HENRY: That's usually done by  
2 members of the group themselves. Such as, for example,  
3 you will hear or see on television black jokes told by  
4 a black comedian.

5 MR. A. KULBASHIAN: Would that make a  
6 difference as to whether or not somebody was -- if they  
7 poked fun, would it make a difference who made it if  
8 it's going to be, I guess, considered hatred or not?

9 DR. HENRY: I think it certainly  
10 makes a difference when people poke fun at themselves,  
11 whether they are performers or joking in their living  
12 room, as opposed to when dominant majority people who  
13 have power in society make those jokes.

14 MR. A. KULBASHIAN: Does it make a  
15 difference if the people who are making those jokes are  
16 a dominant part of society, as opposed to a  
17 non-dominant part of society?

18 DR. HENRY: Yes, it does make a  
19 difference.

20 MR. A. KULBASHIAN: How would you  
21 classify somebody being dominant in society?

22 DR. HENRY: Who is a member of a  
23 mainstream population, has --

24 MR. A. KULBASHIAN: How would you  
25 classify --

1 DR. HENRY: -- political, economic,  
2 social and cultural authority in decision-making.

3 MR. A. KULBASHIAN: Would you refer  
4 to statistics to make the distinction?

5 DR. HENRY: I don't think I  
6 understand.

7 THE CHAIRPERSON: I think we know  
8 what we are talking about.

9 Certainly one has seen -- one has  
10 seen, and this is an area I explored in some of the  
11 questioning I made earlier, one certainly has seen some  
12 comedians who are white males who have made jokes about  
13 visible minorities from the United States.

14 DR. HENRY: Mm-hmm, that does happen.

15 THE CHAIRPERSON: So then --

16 MR. A. KULBASHIAN: So, coming back  
17 to the fake personals ads that you testified about, I  
18 don't know if you remember, where there were personals  
19 ads, classifieds in tab --

20 DR. HENRY: In the joke section.

21 MR. A. KULBASHIAN: Yes.

22 DR. HENRY: Yes.

23 MR. A. KULBASHIAN: Would you  
24 consider a method of poking fun in the same manner?

25 DR. HENRY: Yes, I think that was the



1 aim, was to mock the content of them.

2 MR. A. KULBASHIAN: Would you  
3 consider that an open attack on the race?

4 DR. HENRY: As far as I remember now,  
5 those were personal classifieds that were supposed to  
6 have been, I think, in Israeli newspapers.

7 MR. A. KULBASHIAN: From what I  
8 heard, it would have been, it was like the classifieds,  
9 yes.

10 Would you consider that --

11 DR. HENRY: It is a form of mocking,  
12 a form of mockery.

13 MR. A. KULBASHIAN: Would that leave  
14 people open to hate or contempt?

15 DR. HENRY: Well in and of itself, as  
16 a lone piece of evidence perhaps not, but taken in  
17 context --

18 MR. WARMAN: Objection. I don't  
19 believe she was finished her answer when Mr. Kulbashian  
20 was interjected.

21 THE CHAIRPERSON: Do you have  
22 anything else to say?

23 DR. HENRY: No, it's all right.

24 MR. A. KULBASHIAN: Would you  
25 consider black power to be a racist terminology?

1 DR. HENRY: You mean the label?

2 MR. A. KULBASHIAN: No, just black  
3 power the saying, you know, like white power? Or would  
4 you consider the term, like, if somebody yelled black  
5 power to be the equivalent of somebody yelling white  
6 power?

7 DR. HENRY: Yes, in terminological --  
8 just looking at the words themselves, yes.

9 But in terms of the meanings behind  
10 the words, not necessarily.

11 MR. A. KULBASHIAN: How do you make a  
12 distinction between a meaning?

13 DR. HENRY: Again, it depends on  
14 context.

15 I think people who yell out or have  
16 signs or whatever that say white power are indicating  
17 their disgruntlement with the way in which minority  
18 people have advanced and they are reclaiming, as it  
19 were, a bit of their power.

20 MR. A. KULBASHIAN: So it would be a  
21 form of racism, you mean?

22 DR. HENRY: Pardon?

23 MR. A. KULBASHIAN: So it would be --  
24 I guess you would consider it a form of racism?

25 DR. HENRY: I think that reflects a

1 certain degree of antagonism against people of colour  
2 and others who are trying to claim a share of the pie.

3 MR. A. KULBASHIAN: Would you  
4 consider black power to be a form of racism, then?

5 DR. HENRY: Black power is -- relates  
6 to an entirely different dynamic because it is the  
7 minority that's involved, not the majority.

8 MR. A. KULBASHIAN: Does it make a  
9 difference in racism whether a minority is involved or  
10 a majority is involved?

11 DR. HENRY: It makes a difference,  
12 because racism basically aligns itself to power  
13 relations and it depends on who has the power in any  
14 given context.

15 So, black people do not have power in  
16 societies that are basically run and determined by  
17 white elites.

18 MR. A. KULBASHIAN: So are you of the  
19 opinion that racism only works one way, then?

20 DR. HENRY: No, I am not at all.  
21 Racism is not a monopoly of one group.

22 But I think you have to understand  
23 that when the two are in the one society, and where the  
24 power relations are so unequal between them, there is  
25 an attempt on the part of the minority to assert its

1 claim.

2 MR. A. KULBASHIAN: Do you believe  
3 that the minority follows statistics to determine  
4 whether or not they are the minority or not in control?

5 DR. HENRY: I don't understand the  
6 question.

7 THE CHAIRPERSON: I don't understand  
8 the question.

9 MR. A. KULBASHIAN: Do you believe  
10 that the minority that you referred to that is not in  
11 control, as you say, knows they are not in control, or  
12 uses the statistics to determine whether or not they  
13 are in control?

14 DR. HENRY: No, they know they are  
15 not in control.

16 MR. A. KULBASHIAN: So what you are  
17 saying, basically, is that the terminology white power  
18 would be racist, but the terminology black power would  
19 be starting to gain power, am I right?

20 DR. HENRY: Black power symbolizes  
21 the attempt of black people to achieve equality,  
22 whereas white power I think is the reverse of that. It  
23 is the affirmation of their power -- or the attempt to  
24 affirm that they have and they are going to continue  
25 holding onto it.

1 MR. A. KULBASHIAN: Do you believe  
2 that to somebody who is not black that could possibly  
3 give off the impression of racism?

4 DR. HENRY: Yes.

5 MR. A. KULBASHIAN: You testified  
6 that you heard of Black Panthers, am I right?

7 DR. HENRY: Yes.

8 MR. A. KULBASHIAN: Have you ever  
9 heard of their motto, I guess?

10 DR. HENRY: I don't recall it, no.

11 MR. A. KULBASHIAN: Have you ever  
12 heard of the motto being black power?

13 DR. HENRY: Being...?

14 MR. A. KULBASHIAN: Being black  
15 power, the Black Panthers' motto?

16 DR. HENRY: I may be -- I don't know.

17 MR. A. KULBASHIAN: When you did  
18 research into racism involving people of colour, did it  
19 ever -- as a target or in any way, did you ever come by  
20 doing research into the Black Panthers' motto?

21 DR. HENRY: No.

22 MR. A. KULBASHIAN: Is it possible  
23 then that the Black Panthers is actually a racist  
24 group?

25 DR. HENRY: I think there is a

1 perception on the part of some people that indeed it is  
2 a racist group. I don't particularly share that view.

3 I don't share some of their aims -- I  
4 should not say aims, I don't share some of the  
5 strategies and techniques they used in the past.

6 But I am sympathetic to the need for  
7 black people to assert equality in any way they can,  
8 short of destroying people and their property.

9 MR. A. KULBASHIAN: Would you  
10 consider it, I guess -- what is the word you use --  
11 would you consider unrefutable sources to be the ones  
12 that would say that Black Panthers would be a racist  
13 group or would you --

14 DR. HENRY: Not necessarily  
15 disreputable people, whatever they mean by that; I  
16 think uninformed people might have that view.

17 MR. A. KULBASHIAN: How much detail  
18 do you know about the Black Panthers at all?

19 DR. HENRY: When they were in power,  
20 or when they were popular, I should say, there is quite  
21 a good deal to be said learning about them, but they  
22 have been in decline for so long that they don't even  
23 exist any more, to my knowledge.

24 So, at this point in time, I know  
25 very little.

1 MR. A. KULBASHIAN: Have you ever  
2 heard of the New Black Panthers party?

3 DR. HENRY: No, I haven't.

4 MR. A. KULBASHIAN: Getting back to  
5 the Vinland Voice issue for a bit.

6 Would you go to tab 19 on HR-1, turn  
7 to page 3 and page 5 and page 4, those three pages.

8 You noted that they are either  
9 reprints of articles of Anti-Racist Action, or --

10 DR. HENRY: Yes.

11 MR. A. KULBASHIAN: How much do you  
12 know about Anti-Racist Action?

13 DR. HENRY: Very little.

14 MR. A. KULBASHIAN: Would you know if  
15 they are in any way a reputable group by racism, or  
16 maybe just --

17 DR. HENRY: I really can't say,  
18 because I have not studied them, I have not interviewed  
19 any member of them. So, I have very little  
20 information, other than scattered press reports, which  
21 I don't rely on.

22 MR. A. KULBASHIAN: In your reports,  
23 you stated -- would you consider attacking ARA as a  
24 form of racism?

25 THE CHAIRPERSON: Is that in her

1 report?

2 MR. KULBASHIAN: In her report  
3 somewhere here.

4 I guess, page 20, at the very bottom.  
5 Is there a reason you added that paragraph in your  
6 analysis of the content that you reviewed?

7 DR. HENRY: Where are we?

8 MR. A. KULBASHIAN: Page 20 of your  
9 report, the last paragraph.

10 DR. HENRY: All I have said in that  
11 paragraph, is that apparently the reason they are in  
12 the newsletters is to poke fun and mock their  
13 activities. That's all I have said about it.

14 MR. A. KULBASHIAN: Do you feel there  
15 is a reason -- like, do you feel there was a need to  
16 make, I guess, commentary on articles like this one in  
17 your report?

18 Do you believe that this comment in  
19 any way achieves the goal of determining racism or  
20 non-racism?

21 DR. HENRY: No, but it feeds into my  
22 argument that mockery -- trivialization and mockery of  
23 certain important events is part of the strategy, the  
24 linguistic strategy of many of the materials that I  
25 reviewed.



1 MR. A. KULBASHIAN: Have you ever  
2 done any research into linguistics?

3 DR. HENRY: Quite a lot, yes.

4 MR. A. KULBASHIAN: Where you talk  
5 about mockery, do you consider that there has been any  
6 important events that they've poked fun at?

7 DR. HENRY: No, but, I mean, the  
8 general -- the reason that I speculated that these  
9 reports are in here is because they are used as a form  
10 of mockery.

11 MR. A. KULBASHIAN: Okay.

12 DR. HENRY: And particularly because  
13 of some of the quotes that are in it, the descriptions,  
14 she shouted behind her scarf and so on.

15 MR. A. KULBASHIAN: Could it be true?

16 DR. HENRY: It may very well be true.

17 MR. A. KULBASHIAN: Have you ever  
18 seen any ARA protests?

19 DR. HENRY: No, I haven't.

20 MR. A. KULBASHIAN: Have you ever  
21 read their doctrine?

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

23 MR. A. KULBASHIAN: So you just make  
24 an assumption on the group based on the name?

25 DR. HENRY: Well, I do know what the

1 group was trying to accomplish. I mean, I do know in  
2 very general terms that they are attempting in their  
3 way to fight racism.

4 MR. A. KULBASHIAN: Do you consider  
5 them to have declared war on racism?

6 DR. HENRY: Pardon?

7 MR. A. KULBASHIAN: Do you consider  
8 them to have declared war on racism?

9 DR. HENRY: I really don't know  
10 enough about their stated intentions to say that.

11 MR. A. KULBASHIAN: Do you believe  
12 that the ARA refers to either sociological or  
13 anthropological research to promoter their doctrine?

14 DR. HENRY: I don't know because I  
15 don't know what their doctrines in detail are.

16 MR. A. KULBASHIAN: What aspect of  
17 racist propaganda do you study?

18 DR. HENRY: I study mainly materials  
19 that are given to me for analysis.

20 MR. A. KULBASHIAN: I'm not talking  
21 about in general?

22 DR. HENRY: Pardon?

23 MR. A. KULBASHIAN: In your studies,  
24 in your research?

25 DR. HENRY: That's not a focus of my

1 own research.

2 My own research is on racism and how  
3 racism manifests, of which hate propaganda is only one  
4 of many, many, many unfortunate ways in which racism  
5 manifests.

6 MR. A. KULBASHIAN: What type of hate  
7 propaganda have you done research on?

8 DR. HENRY: I just said --

9 THE CHAIRPERSON: You asked a  
10 question about 15 minutes ago where she said she has  
11 not done any research on hate propaganda.

12 DR. HENRY: No.

13 THE CHAIRPERSON: And she didn't say  
14 that now either.

15 MR. A. KULBASHIAN: Okay. That's --

16 THE CHAIRPERSON: She said she  
17 studied racism and how it manifests, not hate  
18 propaganda.

19 MR. A. KULBASHIAN: In that case, how  
20 can she be considered to be tendered as an expert of  
21 hate propaganda?

22 THE CHAIRPERSON: Because she wasn't.

23 MR. A. KULBASHIAN: She was tendered  
24 as an expert in racism and hate propaganda.

25 THE CHAIRPERSON: No, I believe -- I

1 will find it now. Let me find it now.

2 MR. A. KULBASHIAN: I have the exact  
3 wording, "application to be tendered as an expert in  
4 the area of racism and propaganda".

5 THE CHAIRPERSON: Although you may  
6 have a point -- true, expert in the area of racism and  
7 hate propaganda against designated groups identified in  
8 the claim.

9 DR. HENRY: Well, hate propaganda  
10 takes many different forms.

11 Negative media articles, which I  
12 study in great detail, is also classified under hate  
13 propaganda.

14 MR. A. KULBASHIAN: Did you just say  
15 you are not an expert in hate propaganda?

16 I'm sorry, we might be at a juncture  
17 or milestone as far as this goes, so...

18 DR. HENRY: No, I think it is very  
19 easy to clarify.

20 THE CHAIRPERSON: Put it to the  
21 witness. It is all part of your argument.

22 MR. A. KULBASHIAN: Go ahead and that  
23 will clarify things. Go on?

24 DR. HENRY: One of my major areas of  
25 research in recent years has been negative, hostile and

1 stereotypic media which, in effect, is a form of hate  
2 propaganda, because when the media targets specific  
3 groups erroneously or by omission or by stereotyping,  
4 that's a form of propaganda against them, and has the  
5 same negative effect on target populations.

6 MR. A. KULBASHIAN: In that case,  
7 getting back to my question, did you answer that you  
8 hadn't done research on hate propaganda?

9 DR. HENRY: Not on the kind of hate  
10 propaganda that I think you are referring to. I don't  
11 think you were referring to media reports.

12 MR. A. KULBASHIAN: No, I was  
13 referring to hate propaganda as in blatant or kind  
14 of --

15 DR. HENRY: No, I have not, and I  
16 have consistently said that.

17 MR. A. KULBASHIAN: Mr. Chairman, for  
18 the record, if we can take that off the --

19 THE CHAIRPERSON: At this point what  
20 is done is done, but certainly your point is taken and  
21 you can argue the point later.

22 MR. A. KULBASHIAN: Would you  
23 consider the documents that you reviewed here to be  
24 hate propaganda?

25 DR. HENRY: I think many of them are,

1           yes.

2                           MR. A. KULBASHIAN:  Would you  
3           consider yourself fit to analyze those?

4                           DR. HENRY:  Well, yes, I have already  
5           suggested that hate propaganda is one of the ways in  
6           which racism is manifested, and when one studies  
7           racism, therefore, one studies all aspects or as many  
8           aspects as one possibly can.

9                           And I have done a lot of analysis of  
10          hate propaganda, in your terms, as well as in my terms  
11          of media reportage.

12                          MR. A. KULBASHIAN:  Didn't you just  
13          state that you haven't done research into hate  
14          propaganda?

15                          DR. HENRY:  I think we are using the  
16          term research rather loosely.  By research, I mean, a  
17          lot of reading of the literature on the aspects.

18                          THE CHAIRPERSON:  You have done  
19          reading or you have not done reading?

20                          DR. HENRY:  No, I have.

21                          MR. A. KULBASHIAN:  That's  
22          inconsistent --

23                          DR. HENRY:  I have written a huge  
24          section, as I testified the other day, in my major  
25          textbook on the effects of hate propaganda, hate

1 messages and hate crime.

2 MR. A. KULBASHIAN: Do you believe  
3 that there is a general theme to the Vinland Voice  
4 sites?

5 DR. HENRY: Pardon?

6 MR. A. KULBASHIAN: Do you believe  
7 there is a general theme to the Vinland Voice website?

8 DR. HENRY: I think a lot of the  
9 materials I read on this site have a racist theme.  
10 They are anti-Semitic, they are anti-black, they cite  
11 materials and documents from other people that have  
12 that genuine orientation.

13 MR. A. KULBASHIAN: So far last time  
14 you testified that there is seven articles you could  
15 find that would be considered racist; explicitly, like,  
16 Women for Aryan Unity one, the September 11th reaction,  
17 an article by Paul Fromm, David Duke, the nuclear  
18 issue, the B'Nai Brith article -- the B'Nai Brith  
19 article was re-posted, reprinted on their comments of  
20 September 11th.

21 There is another article here,  
22 which is the I guess, the Pledge of Allegiance and  
23 another article by Damien.

24 Do you believe -- how many articles  
25 would you say there were on the Vinland Voice sites?

1 DR. HENRY: I have no idea, without  
2 looking at all of them.

3 MR. A. KULBASHIAN: Could you  
4 definitively say there was a general context?

5 DR. HENRY: Well, if there were seven  
6 messages or documents among the materials that, in my  
7 view, promote racism, I would say, yes, because the  
8 only way of answering your question would be if there  
9 are no articles or documents on a site that refer to  
10 dirty Jews or niggers or any other racial pejorative.

11 MR. A. KULBASHIAN: Do you know how a  
12 general theme is set on a site?

13 DR. HENRY: I don't make sites, so I  
14 don't know.

15 MR. A. KULBASHIAN: What would you  
16 consider a general theme? The majority of the articles  
17 or minority of the articles?

18 DR. HENRY: It doesn't matter to me,  
19 as long as a hate theme is evident even if in only one  
20 article I would say the material as a whole, the whole  
21 newsletter, or whatever the document is, is suspect.

22 MR. A. KULBASHIAN: So would you say  
23 that because of your perception of what the political  
24 views of the owners of the site are, you state that  
25 there's a racist them, all right.



1 DR. HENRY: Yes.

2 MR. A. KULBASHIAN: And you also  
3 testified you believe it is more of a forum. Would you  
4 agree that in a forum, a lot of people would express  
5 their views?

6 DR. HENRY: Yes, exactly.

7 MR. A. KULBASHIAN: That still sets a  
8 theme for the forum or would that just be individual  
9 opinions?

10 DR. HENRY: Well, when the individual  
11 opinions, even though they come from many different  
12 people, express similar views, then, I think, we have  
13 what could be called a theme.

14 MR. A. KULBASHIAN: Coming back to  
15 the term "mutt", have you ever heard, say, somebody who  
16 is half British, half Irish refer to themselves as  
17 mutts?

18 DR. HENRY: I cannot say that I have.

19 MR. A. KULBASHIAN: Do you know what  
20 the term "mutt" means?

21 DR. HENRY: I think it is a mixed  
22 dog, is it not?

23 MR. A. KULBASHIAN: That is a  
24 person's perspective. I'm not talking about a  
25 perspective of a dog, in general, do you know what the

1 term "mutt" means?

2 DR. HENRY: Yes, a person of mixed  
3 heritage.

4 MR. A. KULBASHIAN: Could a person  
5 who is half British and half Irish be a "mutt", then?

6 DR. HENRY: I suppose they could, but  
7 very often refers to racial mix rather than ethnic or  
8 national mix. But I suppose it could refer to a  
9 national mix as well.

10 MR. A. KULBASHIAN: Do you know if  
11 it's common for people to use it to denote mixed  
12 culture birth, as opposed to mixed race birth?

13 DR. HENRY: What do you mean by  
14 "mixed culture"?

15 MR. A. KULBASHIAN: Culture from the  
16 heritage standpoint. Like as in --

17 DR. HENRY: You mean like a half  
18 American and half Canadian would be a mutt?

19 MR. A. KULBASHIAN: Yes.

20 DR. HENRY: No, I must say I have not  
21 heard it used in that way before.

22 THE CHAIRPERSON: Have you heard it  
23 used in terms of people who talk about their origins  
24 from Europe, half Dutch, quarter Dutch, half French?

25 DR. HENRY: The term mutt, I must say

1 not in my experience.

2 MR. A. KULBASHIAN: How much  
3 experience have you had with the term "mutt" before?

4 DR. HENRY: I know a lot of racists  
5 use it to refer to mongrelization, that is, mixed race.

6 MR. A. KULBASHIAN: And have you read  
7 a lot of racist articles?

8 DR. HENRY: I have read enough of  
9 them, I think.

10 MR. A. KULBASHIAN: By enough you  
11 would say you concentrated your research on them, or by  
12 enough you mean you have read enough to know basically  
13 the general ideas racists hold?

14 DR. HENRY: That's correct.

15 MR. A. KULBASHIAN: Would you say you  
16 have read over 100 articles of the term "mutt" or one  
17 or two?

18 DR. HENRY: I am afraid, unlike you,  
19 I do not count numbers like this, so I am unable to  
20 say.

21 MR. A. KULBASHIAN: I guess in a  
22 better way, have you read a few articles that refer to  
23 the term "mutt" or many?

24 DR. HENRY: I have come across the  
25 term on quite a number of occasions. I have also come

1 across the term mongrel and mongrelization.

2 MR. A. KULBASHIAN: If you can turn  
3 to where that forum post is.

4 Ms Maillet, did you remove the forum  
5 post that we were going to have photocopied or have  
6 they all been removed from the message board one?

7 MS MAILLET: Yes, it was excluded  
8 from the evidence.

9 MR. A. KULBASHIAN: If you could turn  
10 to pages -- let me see, to tab 2. Could you read the  
11 date at the bottom right corner.

12 DR. HENRY: 19/02/02.

13 MR. A. KULBASHIAN: Do you know what  
14 date that would be?

15 DR. HENRY: Second of February -- I  
16 mean the 19th of February '02.

17 MR. A. KULBASHIAN: Can you turn to  
18 the next page. Please read the date at the bottom of  
19 the page?

20 DR. HENRY: The same.

21 MR. A. KULBASHIAN: Can you turn to  
22 tab 14.

23 THE CHAIRPERSON: Tab 14.

24 MR. A. KULBASHIAN: Tab 15. Can you  
25 read the date?

1 DR. HENRY: 15.

2 MR. A. KULBASHIAN: That's right.

3 DR. HENRY: It's the same date.

4 MR. A. KULBASHIAN: Can you turn to

5 tab 17?

6 DR. HENRY: Tab 17, yes.

7 MR. A. KULBASHIAN: Do you see a date

8 there?

9 DR. HENRY: That looks like January

10 13th is what I see.

11 MR. A. KULBASHIAN: Do you see a year

12 there?

13 DR. HENRY: Actually, no, I don't.

14 THE CHAIRPERSON: Mr. Kulbashian, we

15 have been through this document before, if I recall.

16 MR. A. KULBASHIAN: The dates are the

17 date of printing, so...

18 THE CHAIRPERSON: You are asking

19 this witness. She did not make the document. The

20 evidence of the person who filed this document, Mr.

21 Warman suggested a date.

22 MR. A. KULBASHIAN: That's what I am

23 saying, what she reads as a date. I am not asking her

24 to testify. I don't think she knows that.

25 THE CHAIRPERSON: She is here to

1 testify, not to confirm dates.

2 MR. A. KULBASHIAN: Turn to tab 2,  
3 then again. Is there any racist comments on the front  
4 page?

5 DR. HENRY: Not explicitly, no.

6 MR. A. KULBASHIAN: Now, when you  
7 talk about obscenities, that would be your own opinion  
8 as to why the obscenities are there?

9 DR. HENRY: Yes, that was my  
10 speculation.

11 MR. A. KULBASHIAN: Do you believe  
12 that anyone that's doing recreational surfing, let's  
13 say, that is Black or Jewish would go and look for a  
14 site like this, in recreational, not like professional?

15 DR. HENRY: That they would look for  
16 a site like this?

17 MR. A. KULBASHIAN: Yes?

18 DR. HENRY: I don't know.

19 MR. A. KULBASHIAN: Do you believe  
20 anybody, like, people who generally do recreational  
21 surfing would go look for a site that would be  
22 offensive to them?

23 DR. HENRY: Probably not. But, on  
24 the other hand, I can also speculate that there may be  
25 a few people who would want to know what is being

1 written against them.

2 I suppose that would be more in the  
3 name of professional surfing rather than recreational.

4 MR. A. KULBASHIAN: Would you, for  
5 example, consider it odd to see links to racist sites  
6 on, I guess, Jewish sites, or Disney, or any other  
7 recreational sites, the common ones?

8 DR. HENRY: On recreational sites,  
9 probably not.

10 On Jewish sites, although I am not  
11 familiar with them -- I do not do that sort of  
12 surfing -- I would not be surprised if you would find  
13 them.

14 MR. A. KULBASHIAN: Would you  
15 consider for -- would you consider that somebody would  
16 have to go right out and look for a site like this to  
17 find it?

18 DR. HENRY: Probably, although  
19 sometimes you stumble on sites where you have no idea  
20 how you got to them. I know that's happened to me.

21 MR. A. KULBASHIAN: How would you  
22 define "stumble on sites"?

23 DR. HENRY: Well, just suddenly a  
24 page comes up and you really have no sense of how it  
25 got there. That's happened to me, I know. I imagine

1 it is happening to other people, too.

2 MR. A. KULBASHIAN: What kind of  
3 sites would you usually say you stumble upon?

4 DR. HENRY: Oh, it doesn't matter.  
5 Just something I didn't intentionally seek.

6 MR. A. KULBASHIAN: Would you mean  
7 more in the form of advertising sites, trying to sell  
8 you something that would pop up?

9 DR. HENRY: Well, that happens very  
10 often, but sometimes I think you also hit a wrong  
11 button, for some reason, and something comes up.

12 MR. A. KULBASHIAN: Have you ever  
13 stumbled upon a racist site?

14 DR. HENRY: No.

15 MR. A. KULBASHIAN: If you can turn  
16 to tab 23. If you can look at the point -- the four  
17 points at the very top. Can you read those out loud.  
18 They are not very long.

19 DR. HENRY:

20 "Jews are responsible for the  
21 immigration policies that let  
22 Arab bombers into the country.  
23 Jews are responsible for the  
24 foreign policies that made Arabs  
25 want to attack us.



1                               Jews are responsible for  
2                               obscuring these facts in their  
3                               media.  
4                               End ZOG, end terrorism."

5                               MR. A. KULBASHIAN: Do you know what  
6                               ZOG stands for?

7                               DR. HENRY: No, I don't.

8                               MR. A. KULBASHIAN: Would it be  
9                               Zionist Oppressed Government, Zionist Occupational  
10                              Government, or anything like that?

11                             DR. HENRY: I don't know what it  
12                             stands for.

13                             MR. A. KULBASHIAN: Have you ever  
14                             come by the term ZOG in any of your reading of  
15                             literature?

16                             DR. HENRY: Not that I recall.

17                             MR. A. KULBASHIAN: If I told you  
18                             this was a very common word used by racists, would you  
19                             agree or disagree?

20                             DR. HENRY: I think it might well be  
21                             or else it probably would not be in here.

22                             MR. A. KULBASHIAN: Would you  
23                             consider somebody that has read a lot of, I guess,  
24                             propaganda in their research to have maybe come by this  
25                             word at least once?

1 DR. HENRY: I may very well have come  
2 by it. I do a lot of reading.

3 MR. A. KULBASHIAN: When you read the  
4 racist -- I guess, as you put it, articles, do you ever  
5 research in terms of terminology and why --

6 DR. HENRY: If it's relevant to my  
7 analysis.

8 MR. A. KULBASHIAN: If ZOG, I guess,  
9 stands for Zionist Occupational Government, is it  
10 possible that the term Jews in there would be referring  
11 to the occupational government?

12 DR. HENRY: I suppose it is, yes.

13 MR. A. KULBASHIAN: Is it possible,  
14 then, it would be referring to a government as opposed  
15 to policies, as opposed to people?

16 DR. HENRY: I suppose it could,  
17 although that would not make much sense to me if it  
18 referred to people or -- well, I really don't see how  
19 you can say it refers to government. I don't see how  
20 you can say it is -- about referring to people either.

21 I mean, it is just an allegation.  
22 There is no evidence or anything behind it.

23 MR. A. KULBASHIAN: Is it possible  
24 that where it says that Jews are responsible for  
25 foreign policies that made Arabs want to attack us,

1           that it's referring to government as opposed to foreign  
2           policy?

3                         DR. HENRY: I suppose in that case it  
4           refers to probably the State of Israel.

5                         MR. A. KULBASHIAN: Okay. What?

6                         THE CHAIRPERSON: What about No. 3,  
7           do you think that refers to Israel?

8                         DR. HENRY: Because in their media,  
9           but there is also Jewish media in countries other than  
10          in Israel, so it is unclear to me whether it means  
11          Israeli media or North American and even European  
12          Jewish media.

13                        MR. A. KULBASHIAN: Does it say, 'in  
14          the media' or 'in their media'?

15                        DR. HENRY: "In their media".

16                        MR. A. KULBASHIAN: When you read the  
17          pledge underneath it, do you suppose that that pledge  
18          would be referring to the American/Israeli alliance as  
19          opposed to Jews in America?

20                        THE CHAIRPERSON: Where?

21                        MR. KULBASHIAN:

22                                 "I pledge allegiance to...",  
23          It's the bottom two lines there.

24                        THE CHAIRPERSON:

25                                 "I pledge allegiance...", you

1 mean the words that follow  
2 alliance?

3 MR. A. KULBASHIAN: Where it says,  
4 "I pledge allegiance...",  
5 et cetera, et cetera.

6 THE CHAIRPERSON: Where is the  
7 alliance?

8 MR. A. KULBASHIAN: I am saying where  
9 it says:

10 "The United States of  
11 America...",

12 is it possible they are referring to an  
13 American/Israeli alliance?

14 DR. HENRY: I really don't know.

15 MR. A. KULBASHIAN: Is it possible  
16 they are referring to an alliance which is under  
17 Zionism which is the oppression problem?

18 DR. HENRY: It could mean anything.

19 MR. A. KULBASHIAN: Is it possible  
20 this is an attack on government more than people?

21 DR. HENRY: Well, whether it is an  
22 attack on government or an attack on people, the point  
23 is that it is filled with racial epithets and  
24 stereotyping and is, therefore, unacceptable to people  
25 who believe in...

1 MR. A. KULBASHIAN: Now, where do you  
2 see stereotyping?

3 DR. HENRY:  
4 "race-mixing rag, Jew-nited  
5 States"

6 And:  
7 "Under Zionism",  
8 which is then equated with:  
9 "Tyranny and Oppression for  
10 all",  
11 which is what would happen under Zionism.

12 I think that's filed with racial  
13 commentary or certainly epithets.

14 MR. A. KULBASHIAN: Getting to the  
15 Zionism part, would you consider the government in  
16 Israel fighting for -- trying to retain control of  
17 Jerusalem, to be Zionist government, believing their  
18 rights to Zion, in a sense, or to Islam?

19 DR. HENRY: I think there is much to  
20 be said for their belief in that.

21 MR. A. KULBASHIAN: Would you believe  
22 that based on some stuff that you testified earlier,  
23 they do have a policy of tyranny and oppression in  
24 their attempts in getting control of the land?

25 DR. HENRY: No, I don't think I would

1           agree with that, because I have already stated on  
2           several occasions that this is a tragic encounter  
3           between two people, both of whom feel they have a right  
4           to a disputed piece of territory, land and its history.

5                           And I do not characterize that  
6           conflict with these terms. It's alien to me.

7                           MR. A. KULBASHIAN: So, do you  
8           believe that in any way the present Israeli government  
9           could be tyrannical or oppressive?

10                          DR. HENRY: For the same reason --  
11           the same comment I have just made. And I am not a  
12           citizen of Israel. I have, on occasion, visited the  
13           country.

14                          I am in no position to state whether  
15           it is tyrannical or oppressive. Those allegations have  
16           been made against it.

17                          MR. A. KULBASHIAN: Okay. Do you  
18           know who the Prime Minister of Israel is at the moment?

19                          DR. HENRY: I think it is still Ariel  
20           Sharon; isn't it?

21                          MR. A. KULBASHIAN: Have you ever  
22           heard of the Massacre of Gemayel in Lebanon, in Sabra,  
23           Shatila?

24                          DR. HENRY: Very vaguely.

25                          MR. A. KULBASHIAN: Have you ever

1 heard of Ariel Sharon being held responsible for the  
2 massacre that occurred in refugee camps?

3 DR. HENRY: He has a checkered  
4 history. I understand that, yes.

5 MR. A. KULBASHIAN: Would you  
6 consider him to be tyrannical in that sense?

7 DR. HENRY: I don't think it follows.

8 MR. A. KULBASHIAN: How do you define  
9 tyrannical?

10 DR. HENRY: I think President Bush is  
11 tyrannical by the same token.

12 I just -- I am not comfortable using  
13 that terminology.

14 MR. A. KULBASHIAN: No, I understand.  
15 There isn't much argument in this room, I guess.

16 THE CHAIRPERSON: Do not make any  
17 assumptions about peoples' political views vis-a-vis  
18 the American government.

19 DR. HENRY: I'm sorry I said that.

20 MR. A. KULBASHIAN: That's fine. I  
21 did kind of, in a way, indirectly asked her. But what  
22 would you consider the word "tyrannical" to mean, then?

23 DR. HENRY: I would consider Adolf  
24 Hitler to have been tyrannical.

25 MR. A. KULBASHIAN: What would you

1 consider the word to mean?

2 DR. HENRY: Well, a tyrant is one who  
3 oppresses his or her people and who are not allowed any  
4 recourse to opposition of any kind for fear of their  
5 lives.

6 I would characterize Hitler's regime  
7 in Germany as that. I would also characterize the  
8 former Apartheid government in South Africa as  
9 tyrannical.

10 MR. A. KULBASHIAN: Now, to be  
11 tyrannical, would they have to exert control over all  
12 their population or maybe also a small portion of the  
13 population?

14 DR. HENRY: Well, that brings us back  
15 to your favourite numbers, which, again, I am not  
16 comfortable with.

17 MR. A. KULBASHIAN: Would you say --  
18 I guess in the sense that you brought Hitler or the  
19 Apartheid government up, would you say that they  
20 reserved their oppression to specifically, like, the  
21 minority or majority of the government, as opposed to  
22 the entire population?

23 DR. HENRY: I think both would  
24 qualify for the term tyrant.

25 MR. A. KULBASHIAN: Which is why I



1 was asking those questions before which is why I wanted  
2 to get into specifics.

3 Would you consider the demolition of  
4 an entire building because a suicide bomber lived in  
5 one of the apartments to be a tyrannical action?

6 MR. WARMAN: Objection. This is  
7 straying really far from the material that is before us  
8 under section 13(1) of the Act.

9 I'm just wondering if there can be  
10 some clarification as to the relevance.

11 MR. A. KULBASHIAN: Definition of  
12 tyranny, the definition of the term here and why she  
13 would consider it to be racism; and also getting into  
14 attacking articles one by one because you --

15 THE CHAIRPERSON: By the building,  
16 were you referring back to the article on the alleged  
17 Palestinian writer?

18 MR. A. KULBASHIAN: Or in general for  
19 her views that she made. Maybe I'll just ask her,  
20 then.

21 Have you ever heard of the Israeli  
22 army demolishing entire buildings because a suicide  
23 bomber might have lived in one of the apartments?

24 THE CHAIRPERSON: Mr. Warman, do you  
25 have an objection?

1                   MR. WARMAN:  Objection.  There is no  
2                   reference to Israelis.  There's been reference to the  
3                   Jew-nited States of America, no reference to Mr.  
4                   Sharon.

5                   We're getting into again this  
6                   political science area.

7                   THE CHAIRPERSON:  I think, again,  
8                   you made your point, Mr. Kulbashian.

9                   I don't think you need to go any  
10                  further.

11                  You've put to the witness the  
12                  possibility there is another interpretation of this  
13                  provision.  You have alluded to elements, both in  
14                  current events and in history, that may suggest another  
15                  interpretation of this.

16                  If that's where you need to go with  
17                  this line of questioning -- I think going any further  
18                  in detail about what the actual definition of tyranny  
19                  is --

20                  MR. A. KULBASHIAN:  Well, again,  
21                  like, first of all, she stated it is possible the first  
22                  four points, but then she stated the rest were racist,  
23                  the rest of -- I guess, the pledge allegiance was  
24                  racist.  She did state that.

25                  At this point I am saying if there is

1 any grounds for her to believe that "Under Zionism with  
2 Tyranny and Oppression for all" is racist.

3 She just testified -- like,  
4 basically, being -- I will let Mr. Warman get in on  
5 this.

6 MR. WARMAN: If the Tribunal cannot  
7 take cognizance of something that says the Jew-nited  
8 States of America then, I wonder where this line of  
9 questioning is going and whether anything can convince  
10 the Tribunal that in fact when someone says the  
11 Jew-nited States of America, that it means what it says  
12 on its face and that it is, in fact, it is self  
13 evident.

14 MR. A. KULBASHIAN: Is there any  
15 testimony as to what it says, or are you just  
16 testifying right now as to what he thinks it says?

17 THE CHAIRPERSON: It says what it  
18 says. You put to the witness the possibility of  
19 another interpretation. We have that. I think you can  
20 move along. That is all I am saying.

21 MR. A. KULBASHIAN: In that case, I  
22 will wrap up the Zionist part then.

23 In that case --

24 THE CHAIRPERSON: I don't mean the  
25 same question you just asked a minute ago.

1                   MR. A. KULBASHIAN: I want to make  
2                   sure this article as handled. I have a couple more  
3                   questions on this article.

4                   THE CHAIRPERSON: When I say "move  
5                   along", I mean move along.

6                   MR. A. KULBASHIAN: In that case,  
7                   going to the Anti-Defamation League article, which  
8                   would be on page 3 of the same tab, tab 23.

9                   How much have you heard about the  
10                  Anti-Defamation League?

11                  THE CHAIRPERSON: Sorry?

12                  MR. KULBASHIAN: It's page 3 of tab  
13                  23, the one with the little picture on top.

14                  THE CHAIRPERSON: Oh, okay. ADL is  
15                  the Anti-Defamation League.

16                  DR. HENRY: I don't think I made any  
17                  comment on this article in my report.

18                  MR. A. KULBASHIAN: Actually I  
19                  believe that there was some comment on this article.  
20                  It is September --

21                  THE CHAIRPERSON: Ah, there is a  
22                  reference.

23                                 "There is also a long  
24                                 article..."

25                  I am reading now from page 22 of the report:

1 "There is also a long article on  
2 hate crimes and the distribution  
3 of cards defining such crimes  
4 distributed by the  
5 Anti-Defamation League in the  
6 U.S."

7 Is that it?

8 MR. A. KULBASHIAN: Yes, sir.

9 THE CHAIRPERSON: I am not sure there  
10 is any comment about it from the witness.

11 DR. HENRY: No, there isn't. I just  
12 mentioned that it's there.

13 MR. A. KULBASHIAN: Would the  
14 articles mentioned in here be the ones that you read?

15 THE CHAIRPERSON: In here,  
16 meaning...?

17 MR. A. KULBASHIAN: The report being  
18 the articles that you read -- would articles not  
19 mentioned here mean that you have not read them?

20 DR. HENRY: Yes.

21 THE CHAIRPERSON: Talking about  
22 articles or tabs?

23 MR. A. KULBASHIAN: No. Certain  
24 articles, because they are sort of separated into  
25 different articles in the same tab.

1 THE CHAIRPERSON: Right. Let me put  
2 it this way. I see your point. I see your question.  
3 Let me put it, so I can understand clearly.

4 For instance, in your report, page  
5 22, "September 28, 2001", it is written under with  
6 parentheses (WA-008.05), in your report, I'm referring.

7 It is my understanding that that's  
8 the number that appeared at the bottom of pages of what  
9 we have as tabs here in our book.

10 MR. A. KULBASHIAN: But there is no  
11 slash because there is slash to the page number.

12 THE CHAIRPERSON: Right.

13 MS MAILLET: If you look at tab 23,  
14 that is the document number that is at the bottom.

15 MR. A. KULBASHIAN: Referring to the  
16 entire document.

17 THE CHAIRPERSON: What did you  
18 consult? Did you only consult everything bearing that  
19 number 008.05 and that we see under tab 23 or did you  
20 only consult --

21 MR. A. KULBASHIAN: Specific  
22 articles?

23 THE CHAIRPERSON: -- those things for  
24 which reference is specifically made?

25 DR. HENRY: Specific articles that

1           were highlighted.

2                           THE CHAIRPERSON:  Do you know what is  
3           highlighted?

4                           DR. HENRY:  That was on the -- no, I  
5           don't remember.

6                           THE CHAIRPERSON:  Let me ask the  
7           question.  I want to be clear about this.

8                           Going back to tab 23, if you look at  
9           tab 23, you will see it contains what appear to be six  
10          sheets of paper.

11                          DR. HENRY:  Right.

12                          THE CHAIRPERSON:  I don't know if you  
13          referenced every single article, every single portion  
14          of the tab, those six pages in the tab when referring  
15          to this area at page 22 of your report.

16                          So, I think the question that's being  
17          asked of you is, if per chance a page of tab 23 is not  
18          referenced in your report, does it mean you did not  
19          consult it or for some reason you just did not include  
20          it in your report?

21                          DR. HENRY:  And I did not include it  
22          in my report probably because it was not flagged.

23                          THE CHAIRPERSON:  It was not flagged?

24                          DR. HENRY:  No, it wasn't noted as  
25          something I should be looking at.

1 MR. A. KULBASHIAN: Do you know who  
2 determined what you should be looking at?

3 DR. HENRY: Well, whoever put  
4 together the materials that -- the Commission  
5 materials.

6 MR. A. KULBASHIAN: When you, I  
7 guess, testified before a Tribunal before, have you  
8 ever been told what to look at and what not to bother  
9 with?

10 DR. HENRY: Not quite in those terms.  
11 But there are materials that are flagged and others  
12 that are not.

13 And in the interests of time and  
14 resources, it is usually recommended that I look at  
15 some and not all, because sometimes the material is  
16 overwhelming and, so it doesn't -- time does not  
17 permit.

18 MR. A. KULBASHIAN: So --

19 DR. HENRY: Or on the other hand -- I  
20 don't recall -- it could also be I did not see any  
21 particular relevancy to an article and so I didn't  
22 mention it.

23 MR. A. KULBASHIAN: So which one is  
24 it?

25 THE CHAIRPERSON: What is that last



1 comment?

2 DR. HENRY: Well, for example, the  
3 one we are dealing with, the Anti-Defamation League  
4 piece, I did not see any particular rhyme or reason for  
5 it, so I didn't do any analysis of the text.

6 Some of these things are almost  
7 straightforward reporting. And, therefore, the mandate  
8 to look for -- analyze things that had, in my view,  
9 racist content, there would be no need to do that.

10 This, I think, is a general thing  
11 about definition of hate crime, how many were reported  
12 to the FBI and so on.

13 In other words, there was nothing  
14 here that was analyzable in terms of my mandate.

15 MR. A. KULBASHIAN: My question was,  
16 articles -- what made you pick the articles that you  
17 did read at all? That's what I'm asking?

18 DR. HENRY: I didn't pick them. They  
19 were the materials that were given to me.

20 MR. A. KULBASHIAN: They were  
21 flagged?

22 DR. HENRY: Yes.

23 MR. A. KULBASHIAN: Would you  
24 consider that your analysis of the documents were  
25 guided?

1 DR. HENRY: I don't know how you mean  
2 "guided", but certainly some are more relevant to the  
3 mandate than others, yes.

4 MR. A. KULBASHIAN: You would  
5 consider that you were pointed in a direction to go?

6 DR. HENRY: I wouldn't put it that  
7 way. Articles like this one I think -- and there are  
8 one or two others like it --

9 THE CHAIRPERSON: Which ones?

10 DR. HENRY: The ADL hate crimes one,  
11 and I think the next one, 44 states with hate crime  
12 laws, which I also didn't comment on because they  
13 didn't have anything in them that was analyzable in  
14 terms of what I was supposed to do.

15 MR. A. KULBASHIAN: I wasn't asking  
16 about whether you commented on them.

17 Did you read every article in the  
18 documents provided to you?

19 DR. HENRY: The ones that were  
20 flagged as being particularly relevant to the mandate.

21 MR. A. KULBASHIAN: Had you read the  
22 Palestinian article with "You Made Me A Human Bomb"  
23 before?

24 DR. HENRY: Yes, I had.

25 MR. A. KULBASHIAN: And you testified

1 yesterday that you had not read it?

2 DR. HENRY: Now, I've been reading  
3 and reading. When you read quickly, you read. When you  
4 read to analyze, that's a very different matter of  
5 reading. That's reading word by word, over and over  
6 again, putting it down, reading it again, et cetera;  
7 subjecting it to word analysis and so on is very  
8 different than quickly reading through an article.

9 MR. A. KULBASHIAN: When I asked  
10 yesterday if you had seen the article before, why did  
11 you answer no?

12 DR. HENRY: I am sure I had seen it,  
13 but it doesn't mean I read it carefully.

14 MR. A. KULBASHIAN: Why did you  
15 answer no yesterday?

16 DR. HENRY: I don't think I answered  
17 no. If I did, I was in error. I would have seen it and  
18 not paid attention to it.

19 MR. A. KULBASHIAN: Is it safe to say  
20 you took each document, each, like, tab as an entire  
21 document in one in order to understand the context,  
22 right?

23 Is it safe to say that you wrote that  
24 context of the individual tabs as we have them over  
25 here right now as one document, I guess, trying to

1 determine context of each document.

2 Basically if there was another  
3 part --

4 DR. HENRY: No, no, no, because I  
5 read them from the CD Rom and they were, as far as I  
6 know, not tabbed in this manner.

7 MR. A. KULBASHIAN: Were they  
8 individually organized?

9 DR. HENRY: Individually organized,  
10 yes.

11 MR. A. KULBASHIAN: Would you  
12 consider them all as one document?

13 Would you have considered the entire  
14 tabs not here, CD Rom -- like, you know --

15 DR. HENRY: I would have considered,  
16 say, all of Vinland Voice of September 14th as one  
17 document.

18 MR. A. KULBASHIAN: That's pretty  
19 much what I am getting at.

20 So would it be fair to say if you  
21 were reviewing context, you reviewed everything in that  
22 one document in order to determine context?

23 DR. HENRY: Yes.

24 MR. A. KULBASHIAN: Did you read --  
25 did you read any other documents from Vinland Voice,

1 other than these three you referred to -- or four?

2 Three, I think. Did you have it  
3 available to you?

4 DR. HENRY: These, as far as I  
5 remember -- and I don't have a CD Rom -- and I haven't  
6 looked at it for quite some time, so I don't know if  
7 there were other issues on...

8 MR. A. KULBASHIAN: Then would it be  
9 safe to say you are not capable at this point of  
10 providing an assessment on the theme of the site,  
11 without reviewing the entire document?

12 DR. HENRY: I don't know what the  
13 entire document looked like.

14 MR. A. KULBASHIAN: Did you view the  
15 entire site?

16 THE CHAIRPERSON: Which site? The  
17 Vinland Voice site?

18 MR. A. KULBASHIAN: The Vinland  
19 Voice site. From all the documents that she had,  
20 because she stated she reviewed only the ones that are  
21 available here.

22 DR. HENRY: I reviewed the ones that  
23 were on the CD Rom.

24 And I said before, whether those  
25 constituted all that were on the website, I don't know.

1 I didn't make the CD Rom and I haven't looked at the  
2 website.

3 MR. A. KULBASHIAN: How many were on  
4 the CD Rom?

5 DR. HENRY: I don't know. I don't  
6 have it with me. It was quite a lot.

7 MR. A. KULBASHIAN: Quite a lot that  
8 you saw.

9 DR. HENRY: Oh, yes, it was a full CD  
10 Rom almost. Well, no, I take that back. There is a  
11 lot of material on it.

12 MR. A. KULBASHIAN: How were the  
13 documents flagged on the CD Rom?

14 DR. HENRY: That I don't recall.  
15 There was also a print-out that accompanied the CD Rom  
16 and on the print-outs, I think, certain ones were  
17 indicated and then there was also a bit of a problem in  
18 finding the relationship between the printed document  
19 numbers and CD Rom numbers.

20 There was some clarification of that  
21 needed.

22 MR. A. KULBASHIAN: So would you  
23 say -- I guess your report on this was guided by a  
24 non-professional?

25 DR. HENRY: I don't know that I would

1 use those terms.

2 MR. A. KULBASHIAN: Do you believe  
3 you were guided in any way for your analysis?

4 DR. HENRY: What do you mean by  
5 "guided"?

6 MR. A. KULBASHIAN: Guided, as in  
7 somebody told you what to do, pointed you in a  
8 direction?

9 DR. HENRY: No, I was given a bunch  
10 of materials, some were more relevant to my mandate  
11 than others, and those were the ones I concentrated on  
12 for the analysis.

13 I was perfectly free to reject any of  
14 them, or to say this is straightforward journalism, I  
15 see no problem with it. No one told me what to look  
16 for.

17 MR. A. KULBASHIAN: But did they tell  
18 you what to read?

19 DR. HENRY: Certainly the ones --  
20 there were some articles that were pointed, were  
21 flagged, yes.

22 MR. A. KULBASHIAN: Those were the  
23 ones you concentrated on?

24 DR. HENRY: Yes, those were the ones  
25 that I concentrated on.

1 MR. A. KULBASHIAN: Would you say you  
2 were guided?

3 DR. HENRY: Well, if you insist on  
4 using the term, I can agree with you there was some  
5 sort of framework provided, but I wouldn't --

6 THE CHAIRPERSON: I think you have  
7 explored this area, Mr. Kulbashian.

8 MR. A. KULBASHIAN: When you -- I'm  
9 going to skip this area. That's pretty much the last  
10 one I had. When you refer to straightforward  
11 journalism, you didn't happen to refer to any of the  
12 articles that had no commentary that were taken from  
13 newspapers as straightforward journalism; did you?

14 DR. HENRY: No, I didn't.

15 THE CHAIRPERSON: That was so fast, I  
16 didn't quite catch that. You got an answer, but what  
17 was the question again?

18 MR. A. KULBASHIAN: I stated that she  
19 said that she had an option of referring to -- I guess,  
20 describing documents as being straightforward  
21 journalism, but some of the documents that were taken  
22 from newspapers or reprinted she didn't describe them  
23 as straightforward journalism. That's what I am asking  
24 her.

25 THE CHAIRPERSON: You mean in her



1 report they were not called straightforward journalism?

2 MR. A. KULBASHIAN: No. Well, she  
3 actually made them -- analyzed them as having implied,  
4 as opposed to calling them straightforward journalism.

5 THE CHAIRPERSON: If I recall, in  
6 some of her evidence she was saying that this is an  
7 article and that it talked about context. I heard that  
8 in her evidence yesterday.

9 MR. A. KULBASHIAN: That's the whole  
10 idea. The difference between -- I guess, if she states  
11 she had the option of just calling certain articles  
12 straightforward journalism as opposed to saying, oh, it  
13 implies that.

14 THE CHAIRPERSON: Let me think of a  
15 specific example. There was the one with the  
16 statistics from the U.K.

17 It seemed to me in the  
18 cross-examination yesterday that we established that  
19 that was an article from some other source; did we not?

20 How was it presented in your report?

21 DR. HENRY: It was described as -- I  
22 had to understand why this very straightforward set of  
23 numbers was presented in this context, and I came to  
24 the conclusion that it was put there deliberately to  
25 warn Canadians, that if they were not watchful, the

1 same rise in non-white numbers would occur in Canada as  
2 in the U.K.; whereas -- if I might just continue in  
3 terms of the difference here -- the article on the ADL,  
4 is a straightforward piece of journalism that describes  
5 about hate crimes and some cards identifying hate  
6 crime, defining hate crime was distributed to police  
7 officers and so on.

8 As is the next one, which says 44  
9 states with hate crime laws. It is just, again,  
10 straightforward journalism, which reports on issues.

11 And these are the kinds of things I  
12 either mention or not mention at all because they don't  
13 bear on anything in the mandate of looking and  
14 analyzing racist content.

15 MR. A. KULBASHIAN: What was your  
16 mandate?

17 DR. HENRY: Exactly that, to analyze  
18 the material from the point of view of whether they  
19 were racist and spread hatred and contempt, according  
20 to the Human Rights legislation.

21 MR. A. KULBASHIAN: So, why is there  
22 no additional commentary on the Anti-Defamation League  
23 article and there is additional commentary on the  
24 arrest of the terrorist article -- arrested alleged  
25 terrorist, to be exact.

1 THE CHAIRPERSON: Arrested terrorist?

2 MR. A. KULBASHIAN: There was a  
3 teacher that was arrested and supporting Israeli  
4 support, you referred to exactly, this is page 20.

5 Why is there a commentary on that  
6 article, as opposed to just being said it is an article  
7 put there for -- the U.N. conference article, the first  
8 one, WA-007.

9 THE CHAIRPERSON: That one.

10 MR. A. KULBASHIAN: Why is there a  
11 difference between, I guess --

12 DR. HENRY: Well, I think the third  
13 sentence explains why I thought the two together call  
14 attention to Canada's role in fighting terrorism and in  
15 the defense of the State of Israel.

16 MR. A. KULBASHIAN: Again, that's  
17 speculation?

18 DR. HENRY: Well, I think it is  
19 clear, though, that these articles call attention to  
20 Canada's defense of Israel, even though they are not  
21 particularly commented on.

22 It was clear to me they were implicit  
23 attempts to criticize Canada for its defense of Israel.

24 MR. A. KULBASHIAN: Would that be an  
25 opinion, then?

1 DR. HENRY: I think it is an informed  
2 implication of why these articles were there.

3 MR. A. KULBASHIAN: Did you talk to  
4 any of the editors of the Vinland Voice to ask them?

5 DR. HENRY: I didn't phone you to ask  
6 you, if that's what you are asking.

7 MR. A. KULBASHIAN: No, I'm saying  
8 anybody from the Vinland Voice. Have you asked any of  
9 the editors from the Vinland Voice, since you said it  
10 is an informed --

11 DR. HENRY: It is my informed  
12 opinion.

13 MR. A. KULBASHIAN: Informed by...?

14 DR. HENRY: By the content of the  
15 articles.

16 MR. A. KULBASHIAN: The content of  
17 the articles aside, informed opinion they are there  
18 because of...?

19 DR. HENRY: That's my suspicion, yes.

20 MR. A. KULBASHIAN: So it is not  
21 necessarily informed, more like suspicion then? If you  
22 could go to page 22.

23 THE CHAIRPERSON: She used the word.

24 MR. A. KULBASHIAN: So, were you  
25 saying it was, I guess, more suspicion than informed?

1 MR. WARMAN: Objection. She just  
2 answered this question. It's repeating in six  
3 different ways to try to get an answer the he would  
4 prefer.

5 MR. A. KULBASHIAN: However, I did  
6 get a contradiction, so I guess --

7 THE CHAIRPERSON: That's it. Leave  
8 it there. Remember?

9 MR. A. KULBASHIAN: If you go to page  
10 22 of your report, you refer to the B'Nai Brith  
11 article, which would be in tab 20, if I am not  
12 mistaken.

13 THE CHAIRPERSON: Page 22?

14 MR. A. KULBASHIAN: Yes, page 22, the  
15 second paragraph I'll read that one line.

16 THE CHAIRPERSON: About the  
17 Anti-Defamation League.

18 MR. A. KULBASHIAN: No, page 22 of  
19 her report.

20 THE CHAIRPERSON: Oh, at the top?

21 MR. A. KULBASHIAN: At the top, where  
22 it says, the second paragraph, comments, et cetera.

23 THE CHAIRPERSON: It goes back to tab  
24 20.

25 MS MAILLET: It is at page 9 of tab

1 20.

2 THE CHAIRPERSON: Page 8 and 9.

3 MR. A. KULBASHIAN: Do you see  
4 anything in the article -- in the news article by B'Nai  
5 Brith itself?

6 DR. HENRY: What do you mean, do I  
7 see anything?

8 MR. A. KULBASHIAN: Do you believe  
9 that article to be published by the B'Nai Brith of  
10 Canada?\_

11 DR. HENRY: Well, one of the problems  
12 with many of these materials is that they are never  
13 referenced. So one doesn't know where they come from.

14 MR. A. KULBASHIAN: Would you believe  
15 it is possible they were published by B'Nai Brith of  
16 Canada?

17 DR. HENRY: I will take this at face  
18 value and say, yes, that it is a press release from --  
19 I think so -- from B'Nai Brith Canada.

20 MR. A. KULBASHIAN: Now if you read  
21 the commentary at the very bottom, beside that little  
22 less than sign, or between the two, which is greater  
23 than -- where it says, "Obviously..."

24 DR. HENRY: Yes.

25 MR. A. KULBASHIAN: Can you read

1           that?

2                           DR. HENRY:

3                           "Obviously the Jews are trying  
4                           to pass the buck and direct  
5                           attention elsewhere. Well fuck  
6                           them all. We know who is  
7                           responsible and they will pay on  
8                           behalf of our American  
9                           brothers."

10                          MR. A. KULBASHIAN: I would like you  
11           to continue. There is more.

12                          DR. HENRY: Pardon?

13                          MR. A. KULBASHIAN: Can you continue.

14                          THE CHAIRPERSON: Just read the last  
15           two lines.

16                          DR. HENRY:

17                          "I urge all Canadians who care  
18                          at all to take action against  
19                          B'Nai Brith and all other Jew  
20                          organizations. Certain  
21                          cocktails are very cheap. Death  
22                          to ZOG."

23                          MR. A. KULBASHIAN: First of all, is  
24           it possible the article is, first of all, angry?

25                          DR. HENRY: Which one?

1 MR. A. KULBASHIAN: Sorry. The  
2 commentary at the end of the article, would that be  
3 angry commentary?

4 DR. HENRY: I think it is extremely  
5 offensive. I don't know how angry is it.

6 MR. A. KULBASHIAN: Do you believe  
7 the person wrote it in anger?

8 DR. HENRY: I really don't know  
9 whether the person who wrote it was angry. All I can  
10 read is what is on the page. It is extremely offensive  
11 and very dangerous.

12 MR. A. KULBASHIAN: So maybe you can  
13 determine whether or not an article was posted to have  
14 an implicit meaning?

15 DR. HENRY: Pardon?

16 MR. A. KULBASHIAN: You can't  
17 determine whether or not this was written in anger, and  
18 yet -- do you still believe that you can --

19 DR. HENRY: Why would it be written  
20 in anger, when, obviously, this is a sentiment that the  
21 writer believes. He or she may not have been angry,  
22 may merely have been expressing what they say and think  
23 and believe 24 hours of the day.

24 I can't see necessarily that it cites  
25 or messages anger.



1 MR. A. KULBASHIAN: Do you believe  
2 this could be an attack against government?

3 DR. HENRY: I believe it is an attack  
4 against Jews, as symbolized by the B'Nai Brith  
5 organization whose press release immediately proceeds  
6 it. That is the way I read it.

7 MR. A. KULBASHIAN: Do you believe it  
8 is an attack on B'Nai Brith, then?

9 DR. HENRY: It is an attack on B'Nai  
10 Brith and, obviously, on Jewish people. It says "the  
11 Jews", it doesn't say the members of the B'Nai Brith  
12 organization.

13 MR. A. KULBASHIAN: Could that be  
14 abbreviated?

15 DR. HENRY: I don't know.

16 MR. A. KULBASHIAN: Is it possible?

17 DR. HENRY: It also says, "B'Nai  
18 Brith and all other Jew organizations".

19 MR. A. KULBASHIAN: So it could be  
20 referring to an organizations as opposed to actual  
21 views?

22 DR. HENRY: Well, organizations --

23 MR. WARMAN: Objection. Just  
24 stretching credibility.

25 THE CHAIRPERSON: Sustained. Move

1 on, please.

2 Do you wish to review your material?

3 We can take a quick break at this  
4 point. I mean 10 minutes.

5 REGISTRY OFFICER: All rise.

6 --- Recess taken at 3:27 p.m.

7 --- On resuming at 3:40 p.m.

8 REGISTRY OFFICER: Order, please.

9 All rise.

10 Please be seated.

11 THE CHAIRPERSON: Okay. Go ahead.

12 MR. A. KULBASHIAN: If we can turn to  
13 report, page 23.

14 Here it states that:

15 "Hate messages in any form  
16 attempt to destabilize  
17 democratic societies."

18 Where do you get that information  
19 from?

20 DR. HENRY: From my general  
21 knowledge.

22 MR. A. KULBASHIAN: Do you believe  
23 that hate messages are trying to create anarchy?

24 DR. HENRY: I don't know about  
25 anarchy, but there is certainly an attempt to

1 destabilize, to present chaos.

2 MR. A. KULBASHIAN: Do you think some  
3 of the messages you call hate were to (a) forward a  
4 cause as opposed to destabilize the country, or  
5 society?

6 DR. HENRY: No, I think I have  
7 already cited often in my testimony why I consider most  
8 of these messages to be hate oriented.

9 MR. A. KULBASHIAN: Now, getting  
10 into -- you stated there would also be, like, hate  
11 sites providing links to other websites and creating a  
12 network of websites through links; am I right?

13 DR. HENRY: Yes.

14 MR. A. KULBASHIAN: Where do you get  
15 that information from?

16 DR. HENRY: You see it referenced  
17 right there.

18 MR. A. KULBASHIAN: To Burriss Smith  
19 and Strahm?

20 DR. HENRY: That's correct.

21 MR. A. KULBASHIAN: What are their --  
22 are they sociologists?

23 DR. HENRY: They are researchers who  
24 have in a peer reviewed journal of scholarly repute  
25 published that article.

1 MR. A. KULBASHIAN: Do you know what  
2 their, I guess, their qualifications are?

3 DR. HENRY: They are all academics,  
4 they're all researchers. I think, but I am not  
5 definite, they are sociologists because the article was  
6 published in Sociological Focus. But it doesn't mean  
7 that necessarily, but I suspect so.

8 MR. A. KULBASHIAN: You referenced  
9 Matsuda?

10 DR. HENRY: Yes.

11 MR. A. KULBASHIAN: Dr. Matsuda and  
12 you stated he is a psychologist, am I right?

13 DR. HENRY: Matsuda.

14 THE CHAIRPERSON: Where is this  
15 referenced? Page 25.

16 MR. A. KULBASHIAN: Further up, page  
17 25?

18 DR. HENRY: Marie Matsuda is a social  
19 psychologist.

20 MR. A. KULBASHIAN: When you  
21 referenced Delgado, you said he is a famous race  
22 theorist. What is a --

23 DR. HENRY: Critical race theorist,  
24 yes.

25 MR. A. KULBASHIAN: What would you

1 say a race theorist is?

2 DR. HENRY: It is a person, an  
3 academic who specializes in what is called critical  
4 race theory.

5 By critical race theory, you mean,  
6 theory that is influenced by post-modernists,  
7 post-structural and Neo-Marxist theory.

8 MR. A. KULBASHIAN: Would it be a  
9 professional with a PhD in anything specific to this  
10 field?

11 DR. HENRY: Delgado, I believe, has  
12 both a law and a PhD degree.

13 MR. A. KULBASHIAN: In law?

14 DR. HENRY: I believe so. I think he  
15 has both law and a PhD in -- I don't know.

16 MR. A. KULBASHIAN: Would you  
17 consider him somebody who --

18 DR. HENRY: He is very famous, very  
19 well known and highly reputed, as is Marie Matsuda.

20 MR. A. KULBASHIAN: When you say  
21 "very famous and very well known", in what sense would  
22 he be credible?

23 DR. HENRY: In the sense that his  
24 work has been reviewed favourably by his peers, that it  
25 is cited often in people's work.

1 MR. A. KULBASHIAN: Would you  
2 consider, I guess, a race theorist to be an expert in  
3 anything or statistical analysis? Does he use polls to  
4 poll people to get information?

5 DR. HENRY: I think he would use all  
6 the research techniques that are available to social  
7 scientists.

8 MR. A. KULBASHIAN: Do you believe --  
9 is he right?

10 DR. HENRY: Delgado, I believe, yes.

11 MR. A. KULBASHIAN: Do you believe  
12 that his polling is more statistical than scientific?

13 DR. HENRY: That distinction doesn't  
14 resonate with me. I don't know whether he has even  
15 used polling, so I can't answer that question.

16 MR. A. KULBASHIAN: Do you know what  
17 method he has used to get his information?

18 DR. HENRY: He would have used  
19 research methods of a work, quite a variety, including  
20 researching the literature, interviewing people, doing  
21 participant observations.

22 MR. A. KULBASHIAN: He --

23 DR. HENRY: Whether he did a survey  
24 research on the subject, I am not really quite sure.

25 MR. A. KULBASHIAN: Are you

1           stating --

2                           DR. HENRY:  It's a very large book,  
3           by the way.

4                           MR. A. KULBASHIAN:  Does a large book  
5           mean that...

6                           DR. HENRY:  I mean like big, thick, a  
7           lot of pages.

8                           MR. A. KULBASHIAN:  Oh, I understand.  
9           Does that necessarily mean that it is an expert report  
10          more than, I guess, just a hobby?

11                          DR. HENRY:  Pardon?

12                          MR. A. KULBASHIAN:  Would that be an  
13          expert report?  Would the book be -- would it be  
14          classified as an expert's report more than just a hobby  
15          of somebody who is interested in that field?

16                          DR. HENRY:  All three of these  
17          writers, four of them, in fact, are full professors in  
18          their various disciplines at very prestigious American  
19          universities who are specialists in their fields.  This  
20          is hardly a hobby.

21   They also make their living, if  
22          you will.

23                          MR. A. KULBASHIAN:  Is his discipline  
24          law?

25                          DR. HENRY:  I think Delgado does have

1 a law degree.

2 MR. A. KULBASHIAN: Does he have a  
3 social anthropology degree?

4 DR. HENRY: I don't think he is an  
5 anthropologist.

6 MR. A. KULBASHIAN: So, do you  
7 believe that his perspectives are more an issue of law,  
8 and not necessarily mind set or society's reactions to  
9 certain events or --

10 DR. HENRY: I can't make that  
11 distinguish.

12 MR. A. KULBASHIAN: What do you refer  
13 to him for in your --

14 DR. HENRY: Well, you see the words  
15 that mean, "critical race theory, assault of speech and  
16 the first amendment".

17 That gives you the clue as to what  
18 the work is about. And there are specific cites from  
19 it in the report. I think I have cited one or two of  
20 their definitions and so on.

21 MR. A. KULBASHIAN: I am going to go  
22 to where he cited it.

23 DR. HENRY: I cannot find it myself.

24 MR. A. KULBASHIAN: Page 24.

25 DR. HENRY: I think maybe it would



1 help you if I told you the materials that are in the  
2 references that are cited are by academics, by people  
3 of credibility, by people whose credentials are people  
4 who have known research, track records from one or more  
5 of the social sciences.

6 MR. A. KULBASHIAN: Is law one or  
7 more of the social sciences?

8 DR. HENRY: Yes.

9 DR. HENRY: I have just found at  
10 least one reference. I don't know if there is more  
11 than one, but it is on page 3, their definition of hate  
12 speech.

13 MR. A. KULBASHIAN: Going to  
14 Kaufmann, that you refer to over here, Dr. Kaufmann I'm  
15 assuming?

16 DR. HENRY: Yes.

17 MR. A. KULBASHIAN: What is his  
18 credentials?

19 DR. HENRY: Kaufmann was a lawyer. I  
20 believe we went into this in testimony earlier.

21 He was a lawyer, I believe, with the  
22 Ministry of Justice or one of the government ministries  
23 and he wrote a very important appendix to a book on  
24 hate crime -- a report on hate crime published in the  
25 '60s.

1 MR. A. KULBASHIAN: Kallen would be a  
2 Superior Court judge, am I right?

3 DR. HENRY: Pardon?

4 MR. A. KULBASHIAN: Kallen?

5 THE CHAIRPERSON: Kaufmann is the one  
6 who I suggested may have been.

7 MR. A. KULBASHIAN: There is also a  
8 Kallen made reference to here.

9 DR. HENRY: Those are two different  
10 people.

11 MR. A. KULBASHIAN: What is Kallen,  
12 then? I think I wrote Kallen down as Superior Court  
13 judge, I guess.

14 DR. HENRY: No, no, no. Kallen is  
15 again, an academic professor and researcher who  
16 specialized on studying hate crimes, hate propaganda,  
17 and particularly some of the effects of the hate trials  
18 with specific reference to the Zundel trial -- one of  
19 the Zundel trials.

20 THE CHAIRPERSON: As for the  
21 Kaufmann, that was just a guess -- a Fred Kauffman who  
22 was a Superior Court judge in Quebec.

23 DR. HENRY: It was, I think, Fred  
24 Kaufmann.

25 THE CHAIRPERSON: Okay. He was an

1 Appeal Court justice in Quebec, retired now, I think.

2 MR. A. KULBASHIAN: How often do you  
3 refer to the theories or judgments of other -- sorry,  
4 opinions of other professionals in your testimony at  
5 tribunals?

6 DR. HENRY: I don't know how often,  
7 but I think one has to certainly supply a moderate  
8 review of some of the main literature or relevant  
9 literature on the subject.

10 MR. A. KULBASHIAN: You would not say  
11 "Dr. William Pierce"?

12 DR. HENRY: I would not, except in  
13 the body of the text as being a writer whose material  
14 I'm analyzing.

15 MR. A. KULBASHIAN: So you would not  
16 consider him -- you would not consider him -- what is  
17 the word for it -- not reputable -- you would not  
18 consider him a source that you could possibly quote as  
19 a balance to other opinions?

20 DR. HENRY: No.

21 MR. A. KULBASHIAN: Do you have any  
22 statistics that you based any of your research on?

23 THE CHAIRPERSON: I am sorry, I don't  
24 understand the question.

25 MR. A. KULBASHIAN: For her report,

1 does she -- do you have any statistics that you -- it  
2 is not necessarily included in here in the report, but  
3 did she rely on statistics to base a lot of her  
4 arguments?

5 THE CHAIRPERSON: I think you asked  
6 that question, but I don't mind hearing it again. Did  
7 you rely on statistics in order to come to your  
8 findings?

9 DR. HENRY: No.

10 MR. A. KULBASHIAN: I guess this is  
11 social science you are relying on?

12 DR. HENRY: That's correct. Although  
13 many social sciences use statistics, so it is not a  
14 meaningful distinction.

15 MR. A. KULBASHIAN: If you look at --  
16 have you done any, I guess, formal education in law.

17 THE CHAIRPERSON: I am sorry, have  
18 you done any...?

19 MR. A. KULBASHIAN: Formal education  
20 in law?

21 DR. HENRY: In law?

22 MR. A. KULBASHIAN: Yes?

23 DR. HENRY: No.

24 MR. A. KULBASHIAN: When you quote  
25 people from the law field -- I don't know how to put

1           it -- you are pretty much relying on their opinions and  
2           their perceptions as opposed to having any kind of  
3           knowledge yourself to what they say?

4                           Let me see if I can rephrase that.  
5           Do you rely on other people's opinions without having  
6           any first-hand knowledge yourself of whether or not  
7           they can be correct, just because they may be famous  
8           or --

9                           DR. HENRY: Well, that is a very  
10          difficult kind of question, because at the heart of it  
11          is -- I am afraid your misunderstanding on how research  
12          is done.

13                           Research is always done in every  
14          field by first looking and fully understanding what  
15          other researchers have written about a particular  
16          subject.

17                           You don't go into a field blind, so  
18          to speak. You must first apprise yourself of what has  
19          been written on the subject.

20                           The first thing that any graduate  
21          student learns is to read literature on the subject,  
22          whatever that subject is.

23                           And then you use that literature to  
24          help inform your opinions, to help make your  
25          interpretations and so on.

1                   It frames also the original  
2 innovative unique ideas that you bring to the subject  
3 matter.

4                   So, it is not a matter of relying on  
5 somebody's opinion in the law.

6                   If there are materials in legal  
7 studies that relate to the issue being researched, one  
8 has to read it and understand it.

9                   And assuming that it is published in  
10 a peer reviewed journal, that the journal is reputable,  
11 that it is found in academic libraries, et cetera, that  
12 it is used in the teaching of students, both  
13 undergraduate and graduate, then one can safely assume  
14 that the material has some relevance and that it can  
15 safely be cited as a source.

16                   At the same time, one cites  
17 references with which one does not agree and presents  
18 the opposing opinion. So and so argues on the other  
19 hand that.

20                   Now, those kinds of references will  
21 also very often be included in legitimate research.

22                   That is a very long winded answer to  
23 your question, but perhaps it helps explain why there  
24 are references to the work of other people.

25                   MR. A. KULBASHIAN: You did refer to

1 Kallen's -- I think that was a justice?

2 THE CHAIRPERSON: Kallen is not --  
3 Kaufmann is possibly.

4 MR. A. KULBASHIAN: There was  
5 research done by Kallen about the emotional effects of  
6 hate trials on victims?

7 DR. HENRY: Yes, exactly.

8 MR. A. KULBASHIAN: You came to the  
9 idea that it puts victims to a lot of distress?

10 DR. HENRY: Yes.

11 MR. A. KULBASHIAN: Is there a reason  
12 why you brought that up?

13 DR. HENRY: Well, I think what the  
14 statute is in the Human Rights legislation, and one of  
15 the effects is the effect on society and the effect on  
16 people.

17 And so the effect or the potential  
18 effect of hate on people is what is at issue here, or  
19 is one of the things that's at issue here.

20 MR. A. KULBASHIAN: You mean the  
21 trial itself, or -- you are referring to hate trials,  
22 am I right?

23 DR. HENRY: And also other hearings,  
24 tribunal hearings, trials and courts of justice, and a  
25 variety of things.

1 MR. A. KULBASHIAN: Do you believe  
2 this tribunal hearing itself is damaging to the, I  
3 guess, psychologically damaging to people, to victims?

4 DR. HENRY: No, I don't think so,  
5 because -- just looking in this room, we are the only  
6 people who are participants.

7 The effect of trials that has been  
8 studied on the population in a broader sense than  
9 merely the participants in one room, were trials that  
10 received a great deal of media attention, such as  
11 almost all of the ones that involved Ernst Zundel.

12 MR. A. KULBASHIAN: So, do you  
13 believe in that sense, I guess, people should be --  
14 that there should be no media coverage or they should  
15 just go straight to jail without people -- the people  
16 who are in hate trials, I guess, suspects -- do you  
17 believe there should be no media coverage of the trials  
18 themselves?

19 DR. HENRY: No, I don't believe that  
20 at all, because I believe generally in democratic  
21 principles and the media has the right to be present in  
22 the public interest.

23 MR. A. KULBASHIAN: Do you believe  
24 that maybe, then, a hateful action is aggravated  
25 further by it going to trial?



1 DR. HENRY: That was one of the ideas  
2 that was talked about in that particular article that I  
3 have referenced, yes.

4 MR. A. KULBASHIAN: Do you believe  
5 they shouldn't go to trial and go straight to jail?

6 DR. HENRY: Do I believe?

7 MR. A. KULBASHIAN: Do you believe --  
8 go ahead?

9 MR. WARMAN: Objection. The question  
10 is abusive, as many others, and irrelevant.

11 THE CHAIRPERSON: And asked also, he  
12 just asked it before.

13 MR. A. KULBASHIAN: If they should go  
14 to jail and she did not answer that.

15 THE CHAIRPERSON: Well no, and it is  
16 abusive. Do you honestly expect this witness to say  
17 yes to your question?

18 MR. A. KULBASHIAN: I don't see the  
19 relevance of it being included in her report, then.

20 THE CHAIRPERSON: I am sorry.

21 MR. A. KULBASHIAN: I don't see the  
22 relevance of it being included in her report.

23 THE CHAIRPERSON: That's a good  
24 argument. Bring it up at the end.

25 MR. A. KULBASHIAN: What is the

1           relevance --

2                           THE CHAIRPERSON:  Go ahead.

3                           MR. A. KULBASHIAN:  What is the  
4           relevance to be included in the report for this trial  
5           then, the relevance of it --

6                           DR. HENRY:  Relevancy of what?

7                           MR. A. KULBASHIAN:  Of the issue of  
8           hate trials being, I guess, psychologically impacting  
9           the victims.  What is the relevance of it in this  
10          report?

11                          DR. HENRY:  The relevance, I think I  
12          have lost you here.

13                          MR. A. KULBASHIAN:  Why is it  
14          relevant -- why is the impact of hate trials relevant  
15          to section 13 in front of us?

16                          DR. HENRY:  Because there has been a  
17          particular piece of research, mainly Kallen's, which  
18          does raise that question.

19                          And if you look -- and it is cited  
20          very briefly on the bottom of page 24 -- that is, the  
21          psychological impact of hate messages on target groups,  
22          hate mongering can inflict profound psychological  
23          damage, et cetera, and the research on the impact of  
24          hate trials on minority target groups supports these  
25          conclusions.  And that is the reference to Kallen.

1 MR. A. KULBASHIAN: My question  
2 though, is, what is the relevance to the proceedings in  
3 front of us? Why would you include that, testify to  
4 that?

5 DR. HENRY: Because one of the things  
6 we are asked to do is talk about the effects of hate --  
7 hate messages, hate propaganda, hate crime, hate  
8 mongering, et cetera, on individuals, on groups, on  
9 society in general.

10 MR. A. KULBASHIAN: My question was  
11 what is the relevance of the impact of hate trials  
12 being included in your report?

13 DR. HENRY: Simply because there has  
14 been more research on hate trials than say the impact  
15 on hate messages.

16 Secondly, it is in that whole  
17 collection of hate material, of hate-related events.

18 MR. A. KULBASHIAN: Is it relevant to  
19 this case, though?

20 DR. HENRY: No, this is not a hate  
21 trial. This is a tribunal hearing.

22 MR. A. KULBASHIAN: Okay. So, that's  
23 why I'm asking my question again. What is the  
24 relevance of the information --

25 DR. HENRY: I have already answered

1 that.

2 MR. A. KULBASHIAN: You talk --

3 DR. HENRY: In respect of the fact  
4 that I have included the plethora of hate activities.

5 MR. A. KULBASHIAN: You just -- what  
6 is the purpose to dump all of the information here  
7 and -- Ms Maillet has an objection.

8 THE CHAIRPERSON: Yes.

9 MS MAILLET: I am objecting to the  
10 question because she has answered that the reason she  
11 believes it is relevant is because she is answering the  
12 question of what are the affects on individuals of  
13 society of hate messages.

14 Hate trials is one of those effects.  
15 He has made his point. I would ask he move on to  
16 something else.

17 MR. A. KULBASHIAN: I did not --

18 MS MAILLET: I believe he's trying to  
19 make argument --

20 MR. A. KULBASHIAN: I didn't get an  
21 answer about that, I keep get an answer about the hate  
22 trials and hate messages.

23 THE CHAIRPERSON: She has explained  
24 that in her -- you asked about the relevance and she  
25 says --

1 MR. A. KULBASHIAN: The relevance of  
2 hate trials, yes.

3 THE CHAIRPERSON: That's right. She  
4 said it is one -- there aren't many direct -- it was a  
5 question of studies -- there are not similar studies in  
6 the hate propaganda and that is why she turned to this  
7 study and it all goes to the effect of hate.

8 MR. A. KULBASHIAN: However, the  
9 reason there is an issue of hate trials --

10 THE CHAIRPERSON: She saw it as  
11 relevant to the statute.

12 MR. A. KULBASHIAN: How do you see it  
13 as relevant to the statute?

14 DR. HENRY: It is part of the whole  
15 range of activity of hate mongering.

16 MR. A. KULBASHIAN: Do you believe  
17 that hate trials is a form of hate mongering?

18 DR. HENRY: Pardon?

19 MR. A. KULBASHIAN: Do you believe  
20 hate trials is a form of hate mongering?

21 DR. HENRY: Yes.

22 MR. A. KULBASHIAN: Do you believe  
23 that going to trial being accused of something is a  
24 form of hate mongering?

25 DR. HENRY: I think it is all part

1 and parcel of the same range of activities.

2 MR. A. KULBASHIAN: Do you believe --

3 DR. HENRY: Hate messages, hate  
4 propaganda and hate crime lead to hate trials in  
5 certain situations when individuals, or if individuals  
6 are charged with any of those activities which  
7 contravene any of the laws of the land.

8 So they are part of a continuum of  
9 hate.

10 MR. A. KULBASHIAN: Do you believe  
11 somebody getting charged with hate crimes is further  
12 guilty of making a hate trial to take place?

13 Somebody who gets charged with a hate  
14 crime, do you believe they are further hate mongering  
15 by allowing a hate trial to take place? I guess that's  
16 my question. I don't know if I am talking in circles?

17 DR. HENRY: I don't understand the  
18 question, because it is a legal -- sorry.

19 MR. A. KULBASHIAN: Go ahead, Mr.  
20 Warman.

21 MR. WARMAN: I don't know if it is  
22 possible, but if I may be of assistance, could we not  
23 just simply say that it is a reasonable inference or a  
24 reasonably foreseeable outcome of the hate propaganda  
25 activities and then move on. If that's acceptable.

1 MR. A. KULBASHIAN: Is that an  
2 answer. Well, that is what I am asking, what the  
3 relevance of it is here.

4 She did not state that, that's the  
5 problem.

6 THE CHAIRPERSON: What Mr. Warman is  
7 saying is perhaps that is the intended answer, that one  
8 of the negative consequences of hate propaganda is the  
9 inevitable hate crimes trial or hate tribunal, hate  
10 messages tribunal hearing.

11 MR. A. KULBASHIAN: So he believes  
12 this Tribunal is a form of hate mongering?

13 DR. HENRY: Not the Tribunal, not the  
14 process that we are involved in.

15 MR. A. KULBASHIAN: So that's what I  
16 do not understand. I guess I have to go to something  
17 else and put a note and clarify it later.

18 The last paragraph on page 24.

19 It is in your report -- sorry --  
20 with regard to psychological impact of hate messages on  
21 target groups, hate mongering can inflict profound  
22 psychological and spiritual damage. That's the one I  
23 am referring to.

24 Do you have any experience in the  
25 kind of spiritual damage you could inflict, or do you

1           have any research into any spiritual or psychological  
2           damage which can be inflicted?

3                         DR. HENRY:   The literature I cited --  
4           and there is much more in Kallen and Kaufmann and  
5           others certainly cites a great deal, there's a very  
6           wide body of literature on the subject of damage of all  
7           kinds done to the victims of hate, including physical  
8           health damage.

9                         MR. A. KULBASHIAN:   Would it have  
10          been more correct for you to phrase that by stating  
11          that Kallen states is opposed to stating that --

12                        DR. HENRY:   No, the widely accepted  
13          literature on this subject is enormous.  It is not an  
14          issue of speculation or anything of that sort.  It is a  
15          documented reality in a huge body of research.

16                        MR. A. KULBASHIAN:   Have you done any  
17          of that research?

18                        DR. HENRY:   No, but I have certainly  
19          looked at some of the literature.  I think you might  
20          appreciate that in a research report that is submitted  
21          for a particular purpose, I don't think any of us would  
22          be advanced by a bibliography of 50 items.

23                        MR. A. KULBASHIAN:   If we can turn to  
24          the threats on page 21.

25                        I think it is on page 21.  Let me



1 see. Coming back to where you stated that the writer  
2 blames the Israeli government rather than Palestinians  
3 or Osama bin Laden for the attack on the Twin Towers.

4 Do you remember hearing any media  
5 reports about Palestinians dancing in the streets  
6 during the attacks?

7 DR. HENRY: I believe so, yes.

8 MR. A. KULBASHIAN: Do you remember  
9 hearing any reports\_after the fact that those were  
10 pre-recorded footage that was misrepresented on the  
11 news?

12 DR. HENRY: I think -- yes, I think  
13 so.

14 MR. A. KULBASHIAN: Do you remember  
15 hearing who forwarded that footage over to the news  
16 agency?

17 DR. HENRY: No.

18 MR. A. KULBASHIAN: Would it be  
19 possible, say, it was the Israeli government that  
20 forwarded that footage to the news agencies?

21 DR. HENRY: Could be anybody, I  
22 really don't know.

23 MR. A. KULBASHIAN: Would you  
24 consider laying blame in that sense to be a form of  
25 racism? Like, manufacturing information like that to

1 be a form of racism in order to spread hate towards --

2 MR. WARMAN: Objection. This is  
3 a double hypothetical; if they forwarded, wouldn't that  
4 be --

5 THE CHAIRPERSON: There is nothing  
6 wrong with double hypothetical; it is just we don't  
7 know where it is going.

8 MR. WARMAN: Well, not only that, but  
9 the witness has just testified, she doesn't know if  
10 they did.

11 THE CHAIRPERSON: I hope you are  
12 aware -- I want you to be aware of the fact, Mr.  
13 Kulbashian, many times, in many of your questions you  
14 throw a series of facts and put it to the witness and  
15 the witness may deny it, not be aware of it. None of  
16 that is in evidence, unless you prove it, it is not  
17 proven. I just hope you know that.

18 Just because you throw something out  
19 there, don't think it has been proven.

20 The Tribunal is not taking note of  
21 the fact -- the witness did say that she may have heard  
22 something about this footage as having been found to  
23 have not been subsequent to 9/11. I mean, just so you  
24 know that all the stuff that you are putting to the  
25 witness does not necessarily prove it, unless

1 independently proven or admitted.

2 MR. A. KULBASHIAN: I will go back,  
3 then.

4 Yesterday we did not get an answer --  
5 not yesterday, I mean Friday -- there was an issue we  
6 did not get an answer to, so I am going back there  
7 again.

8 When the issue of the number of  
9 Palestinians was brought up in relation to genocide  
10 could have been committed, you were asked whether or  
11 not you would expect to see a lot of Jews on, you know,  
12 if Ariel Sharon were to die, and you stated yes.

13 THE CHAIRPERSON: I am sorry, see a  
14 lot of Jews...?

15 MR. A. KULBASHIAN: A lot of Jews  
16 collecting, you know, basically on television.

17 The question was, you saw a lot of  
18 Palestinians around Yasser Arafat's coffin, et  
19 cetera --

20 THE CHAIRPERSON: So you would --

21 MR. A. KULBASHIAN: There was no  
22 answer given and I would actually like to ask the  
23 question about that.

24 THE CHAIRPERSON: You are saying if  
25 Ariel Sharon were to die tomorrow, would there be Jews

1 present at his funeral?

2 MR. A. KULBASHIAN: The answer was  
3 yes.

4 THE CHAIRPERSON: Do we have an  
5 admission on that. I see someone standing up.

6 MR. A. KULBASHIAN: And she stated  
7 that there -- did you see more, and she said yes.

8 So, the question on that same note  
9 is: using the same logic that you used to determine  
10 whether or not a genocide happened in Palestine, could  
11 you say that the Holocaust did not happen?

12 MR. WARMAN: In fact, that exact  
13 question has already been canvassed.

14 MR. A. KULBASHIAN: There was an  
15 objection, just like this one.

16 THE CHAIRPERSON: Repeat the  
17 question, please. Try to be logical and sequential.

18 MR. A. KULBASHIAN: Basically she  
19 testified she did see a lot of Palestinians on T.V.

20 THE CHAIRPERSON: Right. Put that  
21 aside. Next.

22 MR. A. KULBASHIAN: She also did  
23 testify she would probably expect to see a lot more  
24 Jews around Ariel Sharon's coffin.

25 THE CHAIRPERSON: More than whom?

1 More than how many?

2 MR. A. KULBASHIAN: More than  
3 Palestinians.

4 THE CHAIRPERSON: More than  
5 Palestinians? I don't recall that at this point.

6 MR. A. KULBASHIAN: I believe that  
7 was --

8 THE CHAIRPERSON: Is that important  
9 to your question? Certainly we would see Jewish people  
10 at the funeral service.

11 What is the next question?

12 MR. A. KULBASHIAN: The question  
13 posed to her is whether or not she would see more  
14 than -- she would expect to see more than Palestinians,  
15 I guess more --

16 THE CHAIRPERSON: How can this  
17 witness answer that question?

18 MR. A. KULBASHIAN: Well, she  
19 actually answered yes to that question, which is what I  
20 am getting to.

21 THE CHAIRPERSON: I don't recall  
22 that.

23 MS MAILLET: I don't recall that  
24 either, Mr. Chair.

25 THE CHAIRPERSON: Not in my notes,

1 but I don't know how relevant this is.

2 What is the next question, that  
3 follows?

4 No, really, seriously, Mr.  
5 Kulbashian, I see you nodding your head.

6 What is the significance of how many  
7 people show up at a person's funeral?

8 MR. A. KULBASHIAN: Well, the  
9 question is, on the same logic she used to determine  
10 whether or not there would have been a genocide  
11 committed in Palestine.

12 THE CHAIRPERSON: I think the  
13 implication in that answer, Mr. Kulbashian -- let us  
14 not play games -- and I am using the word "games" --  
15 no, don't deny it -- when she says that she saw  
16 Palestinians, I think, the implication is that the race  
17 was not annihilated, that the ethnic group was not  
18 annihilated. That is I think what she meant by that  
19 answer. I mean, honestly, that is what she meant by  
20 it, wouldn't you agree?

21 MR. A. KULBASHIAN: It is possible.

22 THE CHAIRPERSON: So getting into the  
23 question of how many people were at Yasser Arafat's  
24 funeral and how many people were able to get -- or were  
25 at Rabin's funeral or Sharon's in the future, come on,

1 don't waste the time of the Tribunal, please.

2 Move on.

3 MR. A. KULBASHIAN: My problem is not  
4 a wasting time.

5 THE CHAIRPERSON: Move on, sir.

6 MR. A. KULBASHIAN: Yes.

7 THE CHAIRPERSON: I have made a  
8 decision on that. I don't want to hear these types of  
9 questions. Go on.

10 MR. A. KULBASHIAN: Do you believe as  
11 an expert you were given enough information to make an  
12 accurate deduction on your analysis?

13 DR. HENRY: That I was given enough  
14 information? I am not sure what you mean by that. I  
15 was given the documents.

16 MR. A. KULBASHIAN: As an expert, are  
17 you supposed to only look at one angle?

18 DR. HENRY: Again, I am unclear about  
19 how to answer that. I was retained as an expert to  
20 analyze and write with respect to certain documents  
21 insofar as they may demonstrate materials that go  
22 counter to the legislation of this country.

23 MR. A. KULBASHIAN: In the Canadian  
24 Human Rights Act?

25 DR. HENRY: Yes.

1                   MR. A. KULBASHIAN: Do you believe  
2                   that linking to racist articles or racist sites is a  
3                   form of racism itself?

4                   DR. HENRY: The mean the act of  
5                   linking from one site to the other?

6                   MR. A. KULBASHIAN: Yes?

7                   DR. HENRY: It is a method as Fromm  
8                   and others in that report I have cited indicate -- it  
9                   is a way of building a worldwide network of similarly  
10                  minded people; therefore, it is a way of re-enforcing  
11                  dissemination of racist materials.

12                  MR. A. KULBASHIAN: Do you believe  
13                  that if a law site, say, linked to a racist content  
14                  would be a form of racism or a form of propagating a  
15                  racism further?

16                  DR. HENRY: Not necessarily. It may  
17                  simply be a link to establish credibility to a comment.

18                  It would act as a footnote or a  
19                  reference in an academic text.

20                  MR. A. KULBASHIAN: Do you believe  
21                  that you could have made a neutral decision on the  
22                  content of the site if you were guided -- that's what  
23                  you are to look at?

24                  DR. HENRY: Sorry, could you rephrase  
25                  that.



1 THE CHAIRPERSON: Sorry, I don't  
2 understand your question.

3 MR. A. KULBASHIAN: Would you believe  
4 it is possible for somebody who is guided to contents,  
5 guided to a specific article, et cetera, to make a  
6 neutral distinction and neutral analysis of contents of  
7 the site or purpose or --

8 THE CHAIRPERSON: Let me rephrase  
9 your questions. We have to move this along.

10 Do you think the ability to conduct a  
11 neutral assessment of a series of documents, for  
12 instance, an entire website can be made when only  
13 presented with excerpts of that website?

14 DR. HENRY: Yes, I do.

15 THE CHAIRPERSON: You feel you can?

16 DR. HENRY: Yes.

17 THE CHAIRPERSON: Was that your  
18 question, in essence?

19 MR. A. KULBASHIAN: I guess. Now,  
20 when you looked at the content of the Tri-City sites --  
21 because of the jokes and the stuff like that on  
22 there -- and the Vinland Voice articles, was there a  
23 difference in language, the type of language used?

24 MR. WARMAN: Objection. This  
25 question has been covered in extensive detail in terms

1 of what the differences were between Tri-City Skins and  
2 whether the expert felt there was a difference, what  
3 kind of language was used, whether there were symbols,  
4 et cetera?

5 THE CHAIRPERSON: We have examined  
6 that, Mr. Kulbashian.

7 MR. A. KULBASHIAN: You stated that  
8 the distinction is irrelevant. Why would you say it is  
9 irrelevant? That's what we didn't ask.

10 MR. WARMAN: Objection. The question  
11 was asked and answered. It was felt that it was  
12 irrelevant because both promoted hate messaging, both  
13 promoted targeting the target communities, both of them  
14 inspire, whether by language or symbology to the kind  
15 of violence and the kind of violent language against  
16 the target communities.

17 THE CHAIRPERSON: In that case, you  
18 have an incredible memory. I don't remember all that,  
19 but...

20 I seem to recall something along  
21 those lines, yes.

22 MR. A. KULBASHIAN: In that sense, I  
23 am trying to see what question I am allowed to ask,  
24 since I am being cut off.

25 THE CHAIRPERSON: You are not being

1 cut off, sir, but they are questions that have been  
2 asked before. We cannot afford to spend time on  
3 questions that have already been asked and answered.

4 MR. A. KULBASHIAN: Could a site that  
5 uses more professional language be considered political  
6 as opposed to racial?

7 DR. HENRY: I do not what you mean by  
8 "professional".

9 MR. A. KULBASHIAN: A site that does  
10 not use insults, or, like, diatribes?

11 DR. HENRY: A site that does not  
12 include racist terminology, like dirty Jews, Jew-nited  
13 States, fucking niggers, and a wide variety of other  
14 epithets on these sites, I would consider to be, to use  
15 your term, professional.

16 But from the moment, terms like white  
17 race, the superiority of white race, Aryan unity, it's  
18 either augmenting each other, then these flag almost  
19 immediately racism.

20 MR. A. KULBASHIAN: So coming back to  
21 the Aryan unity thing, do you believe that without a  
22 doubt the concept of Aryan unity is racist?

23 DR. HENRY: Yes.

24 MR. A. KULBASHIAN: Do you believe  
25 that the concept of Jewish unity is racist?

1 MR. WARMAN: Objection. This entire  
2 point has been covered before. The question is black  
3 power, is that equivalent in some way to Aryan...

4 THE CHAIRPERSON: We have been down  
5 this road, please, Mr. Kulbashian.

6 You gain nothing by having it all  
7 beaten over and over, other than tiring the Tribunal.

8 MR. A. KULBASHIAN: I am actually  
9 tired myself.

10 That's why -- so you stated, I guess,  
11 political, racist, combatants doesn't make a  
12 difference. Does that mean you cannot make a  
13 distinction between politics of race and actual racism?

14 DR. HENRY: Between what?

15 MR. A. KULBASHIAN: Between politics,  
16 politics in general and racism?

17 THE CHAIRPERSON: Politics of race?

18 MR. A. KULBASHIAN: Politics of race  
19 and racism?

20 THE CHAIRPERSON: What does that  
21 mean? I would like to know what politics of race  
22 means.

23 MR. A. KULBASHIAN: More in the sense  
24 of could be blaming or pointing a finger at a race, not  
25 necessarily a race -- a nationality, et cetera, in the

1 form of politics -- as we stated it is possible Jews or  
2 Israel, the government, et cetera -- can you make a  
3 distinction between that and racism?

4 THE CHAIRPERSON: If one is to make  
5 distinctions, if one is to use the term, point  
6 fingers -- and let's not, perhaps the Jewish analogies  
7 are inappropriate -- but if one were to refer to  
8 another ethnicity, if you were to accuse Germans or  
9 Italians or French of something, can that be  
10 interpreted as a political statement and not a  
11 racial -- or ethnic-based discrimination -- can the two  
12 be associated?

13 Do I understand your question  
14 properly?

15 MR. A. KULBASHIAN: Pretty much.

16 DR. HENRY: Yes.

17 THE CHAIRPERSON: Is there a line  
18 that can demarcated between the two?

19 DR. HENRY: I find it very difficult  
20 to make that distinction because racism is almost  
21 inherently political, because racism defends the status  
22 quo.

23 It maintains the hegemonic order of  
24 society by keeping other people down.

25 So, making a distinction between

1 politics and racism is not, to me, a very meaningful  
2 distinction.

3 Well, that's basically the way I  
4 would answer that.

5 I don't think racism is devoid of  
6 politics, nor is politics in some cases devoid of  
7 racism.

8 So there is too much relationship  
9 between political institutions and racist institutions  
10 and so on.

11 I cannot, as a social scientist, make  
12 that linear distinction. I mean, the argument that is  
13 being presented, these are political statements and not  
14 racial statements.

15 Well, a statement that includes  
16 racial epithets and racial defamation, whether it is in  
17 a political context or at a party, the bottom line is  
18 that it denigrates people.

19 MR. A. KULBASHIAN: Do you believe  
20 that in that sense that a news show reporting any  
21 illegal or any violent actions any countries took in  
22 the oft chance that somebody could risk being exposed  
23 to hatred because of those statements?

24 DR. HENRY: I didn't catch the first  
25 part.

1 MR. A. KULBASHIAN: Do you believe  
2 reporting factual and not one-sided or biased reports  
3 on news events could ultimately expose somebody to  
4 racism?

5 I mean, suppose a religion or race to  
6 racism?

7 DR. HENRY: I think a lot of  
8 reporting of what is supposedly factual events can  
9 inadvertently re-enforce racism already existent  
10 against such a nation, such a group, whatever the  
11 community used, that is already pervasive in society.

12 MR. A. KULBASHIAN: Would you say  
13 somebody saying Americans are dumb for doing something,  
14 would you consider that a form of racism?

15 DR. HENRY: Not necessarily, no.

16 THE CHAIRPERSON: We are getting into  
17 the -- we have to be careful. The Act contemplates  
18 discrimination on any of the designated grounds.

19 So when you make the analogy of  
20 Americans -- and in your earlier, I suppose, when we  
21 are referring to certain European countries -- this may  
22 not qualify as race-related commentary, but it could be  
23 ethnic commentary.

24 So, I guess is your question broader  
25 than that?

1 MR. A. KULBASHIAN: Possibly in a  
2 way.

3 As in language-wise, when people --  
4 what would be the effect on society for that kind of  
5 statement?

6 DR. HENRY: It depends on which  
7 society, when and where and the context and how the  
8 comment was made and by whom.

9 There are some variables involved, it  
10 is almost impossible to generalize.

11 MR. A. KULBASHIAN: Looking at Israel  
12 now, have you ever heard of any references to any news  
13 of airspace violations on other countries?

14 DR. HENRY: No.

15 MR. A. KULBASHIAN: Is it safe to  
16 say, I guess, you are selective on what you listen to,  
17 on what you read?

18 DR. HENRY: No.

19 THE CHAIRPERSON: For the record, I  
20 am not aware of any airspace violations.

21 MR. A. KULBASHIAN: Lebanon, for  
22 example.

23 THE CHAIRPERSON: Is that what you  
24 mean?

25 Perhaps if you were more specific,



1 then maybe we would understand.

2 MR. A. KULBASHIAN: Have you ever  
3 heard about airspace violations of Lebanon by the  
4 Israeli army?

5 MR. WARMAN: Objection. What is the  
6 relevance to this?

7 THE CHAIRPERSON: That is the second  
8 point.

9 MR. A. KULBASHIAN: See, the problem  
10 is -- I don't know if the witness can step outside  
11 because I need to clarify a few things and it is  
12 getting kind of frustrating when I am being told I  
13 can't follow that line of questioning because people do  
14 not really see where I am going with it, or when I am  
15 being told that I cannot continue that line of  
16 questioning.

17 THE CHAIRPERSON: It has to appear  
18 evident. But if you can't -- can you refer to a  
19 excerpt, at least, from her report that you are  
20 alluding to, Mr. Kulbashian.

21 MR. A. KULBASHIAN: The problem is,  
22 looking at the perspective of whether or not -- I don't  
23 know -- I would be more comfortable talking about it if  
24 she is excluded.

25 THE CHAIRPERSON: Please step outside

1 for just one minute.

2 --- (witness stands down at 4:28 p.m.)

3 THE CHAIRPERSON: Where is this all  
4 going. Tell me where? What is the logical sequence  
5 that you are going to follow to get to this critical  
6 question that you will be asking the witness. I need  
7 to know. Tell me.

8 MR. A. KULBASHIAN: First of all, I  
9 am not using a logical sequence because I dealt with  
10 this once before -- and what I am doing is trying to  
11 put one points forward to tie them in near the end.

12 THE CHAIRPERSON: That is a logical  
13 sequence. I am asking you, what is the sequence?

14 MR. A. KULBASHIAN: The thing is I  
15 have tried to ask so many questions, and I have been  
16 told that I cannot go -- even though there might be an  
17 ulterior motive and I can't keep discussing --

18 THE CHAIRPERSON: Ulterior motive,  
19 what's up with that?

20 MR. A. KULBASHIAN: It could be not  
21 relevant, sorry. I have been told it might not be  
22 relevant -- it might not be relevant, and the problem  
23 is I cannot really discuss the relevance in front of  
24 the witness where she has --

25 THE CHAIRPERSON: She is out of the

1 room. So, I am asking you.

2 MR. A. KULBASHIAN: The issue is,  
3 talking about the issue of airspace violations,  
4 fascism, state-sponsored terrorism, in that  
5 perspective.

6 THE CHAIRPERSON: What does that all  
7 give us?

8 MR. A. KULBASHIAN: What it all does,  
9 in essence, is it makes it so that -- I guess in a  
10 way -- it is the whole distinction between Jews and  
11 Israel, the whole distinction between certain  
12 aspects -- like, my opinion is that somebody comes in  
13 as a witness and states that a lot of role, which she  
14 has no clue about whether conveniently, I guess -- can  
15 she help me out or could it be something that are known  
16 in her general knowledge and she says, okay, I don't  
17 have a memory of that, when I try to ask her a  
18 question.

19 THE CHAIRPERSON: You are jumping  
20 around.

21 MR. A. KULBASHIAN: When I try to  
22 bring up issues, the Tribunal points -- like world  
23 events like that, either she doesn't know or she has no  
24 memory. And my suspicion is that --

25 THE CHAIRPERSON: Again, why do we

1           have to know about whether the fact or not -- I don't  
2           know -- that Israeli airplanes have crossed into  
3           Lebanese airspace?

4                         MR. A. KULBASHIAN:  The problem is --  
5           from a perspective of somebody who has either been in  
6           the middle of the adjustments or in the middle of the  
7           transgressions by another government who could look at,  
8           I guess, the issue from a --

9                         THE CHAIRMAN:  But which one, which  
10          issue?  See, but specifically, point me to the report.  
11          If it is the Palestinian or whatever it was -- one  
12          article out of the many that have been submitted  
13          here -- she acknowledged, for instance, I believe, that  
14          there was an understanding -- in fact, when she had  
15          only read the portion before the last page, she thought  
16          it was a perfectly acceptable point of view of a victim  
17          of what, I think, you are alluding to here.

18                        And then she made some comments about  
19          the last paragraph.

20                        I understand you are trying to ask  
21          some questions here, but I need to know where they are  
22          going in terms of what you haven't accomplished to this  
23          point.  That's important for me right at this stage.

24                        We have run very long on this witness  
25          and it looks like we are going to have to find some

1 kind of re-arrangement here.

2 MR. A. KULBASHIAN: What do you mean,  
3 I don't understand?

4 THE CHAIRPERSON: Well, the witness  
5 is not available tomorrow, I don't know what we are  
6 going to do.

7 MR. A. KULBASHIAN: Now, getting to  
8 that, that is actually a pretty important issue,  
9 considering that the trial was to initially supposed to  
10 start on the 12th, if I am correct, and when I made the  
11 call that I wouldn't be able to make it on the second  
12 week, it was moved earlier.

13 Now, I don't understand how she was  
14 only available on the 12th if the trial was supposed to  
15 start --

16 THE CHAIRPERSON: It is very logical  
17 and simple to me, as I would have expected you to do  
18 with your witnesses. If your next witness is Mr. "X"  
19 and you are told that the case instead of beginning on  
20 Monday will begin the previous Monday, you move Mr. "X"  
21 up and tell Mr. "X", you know, use up your next week,  
22 it is not my concern any more, because the expectation  
23 was that the witness would testify in that first week.

24 We have gone beyond that. I don't  
25 blame anyone for that.

1 MR. A. KULBASHIAN: We did put two  
2 weeks for the trial, too.

3 THE CHAIRPERSON: We didn't put two  
4 weeks for one witness or two witnesses.

5 You should be as concerned about this  
6 as the next person. I mean, you have all these time  
7 issues yourself. We have changed the schedule  
8 precisely to accommodate your exam schedule.

9 MR. KULBASHIAN: I made it earlier, to  
10 that effect --

11 THE CHAIRPERSON: Look, we are going  
12 to allow this witness -- and we're going to find a way  
13 to have this witness complete her testimony.

14 I am not saying that you will be  
15 denied the opportunity to complete your  
16 cross-examination. But what it will do, it may end up  
17 altering our schedule.

18 That puts the respondents at risk  
19 because we have been put on notice from the complainant  
20 that he intends to claim costs for any additional time  
21 and displacement.

22 I am not saying it would be awarded  
23 to him, but it does put a risk there.

24 MR. A. KULBASHIAN: The issue, I have  
25 been told so many times to either hurry up, or, like,

1 last time, Friday I was told I should be finished by  
2 today, by tonight -- like, that I have to be  
3 finished --

4 THE CHAIRPERSON: I encouraged you to  
5 do so, because I do not want repetitive questions. We  
6 have had a series of them.

7 MR. A. KULBASHIAN: But issues of  
8 that kind of pressure, especially when I am dealing  
9 with a situation I am neither a lawyer to be able to  
10 handle that kind of situation. It puts pressure on me.  
11 That's kind of my problem.

12 It puts a pressure on me. In a way  
13 it does stress me. It makes it difficult -- it makes  
14 it hard for me to think, because I'm not in a position  
15 where I deal with it every day, you know, most of the  
16 stuff I deal with is technical stuff. This is not  
17 stuff I am in every day.

18 Like, I have so much more to go. The  
19 problem is, I cannot even get my ideas straight  
20 because --

21 THE CHAIRPERSON: With all due  
22 respect, you are doing an excellent job of presenting  
23 all your ideas, as was Mr. Richardson, by the way --  
24 Mr. Richardson did a very good job in doing his  
25 cross-examination.

1 All we are asking is that you deal  
2 with relevant issues and not be repetitive on your  
3 questioning.

4 When I see you going back in pages, I  
5 start to worry you are going in the wrong direction.

6 MR. A. KULBASHIAN: Basically I have  
7 gone in order that she stated as well in James'  
8 cross-examination was underneath it, so that's why I  
9 have to go up and down.

10 MR. V. KULBASHIAN: Now, our real  
11 problem now is that it is obvious--  
12 ---(reporter appeals)

13 THE CHAIRPERSON: You have to speak  
14 into the microphone, sir.

15 MR. V. KULBASHIAN: It's obvious that  
16 we will not be able to finish today. I don't know what  
17 is going to be the next step. Maybe we should decide  
18 because I have to go and get his son and I don't want  
19 to leave it at the last moment. This is the main  
20 problem.

21 MR. A. KULBASHIAN: We should decide  
22 this right now because that is going to be another  
23 issue that comes up.

24 MS MAILLET: My information, Mr.  
25 Chair, is that Dr. Henry is not available this week



1           until Friday and to have everybody stay in Oakville  
2           until Friday, I submit, would be a lot of cost --

3                         THE CHAIRPERSON:  What are the  
4           options, then?

5                         MS MAILLET:  I was hopping we would  
6           finish today as well with Dr. Henry, but...

7                         THE CHAIRPERSON:  Clearly we won't,  
8           even if the cross-examination were to finish right now,  
9           you have re-examination.

10                        MS MAILLET:  The only option I can  
11           see is to schedule another week.  And as much as I  
12           really would not prefer that that would happen, I don't  
13           know what other option we would have.

14                        MR. A. KULBASHIAN:  That's my issue.  
15                        Now, my questioning -- because of the  
16           fact I was cut off in certain places and when I came  
17           back to it --

18                        THE CHAIRPERSON:  Let me explain  
19           something to you.  I'm cutting off -- let me explain  
20           something to you.

21                        It is a normal part of the process to  
22           get cut off -- I know you are not a lawyer.

23                        You see them on T.V.  Objections,  
24           sustained and you get cut off.

25                        So questions that you pose will be

1           objected to, as was the case with Mr. Richardson, as  
2           you were objecting to questions posed by complainant  
3           and Commission and it is a nasty thing.

4                         It is in first year law school, you  
5           learn right away when you do your moot court cases that  
6           the tribunal will cut in and re-arrange your schedule  
7           in terms of your questions. That is going to happen.  
8           Don't be surprised by that.

9                         MR. A. KULBASHIAN: But there is an  
10          issue -- because, like, I mean, it is hard for me to  
11          show the relevancy of my questioning. It is kind of  
12          in my mind, like, where are you going with this?

13                        THE CHAIRPERSON: We need to know,  
14          because if it is not relevant, then it has no business  
15          being in front of the Tribunal.

16                        MR. A. KULBASHIAN: The thing is, you  
17          are talking about my questions being irrelevant to the  
18          case, because it is entirely testimony -- I mean, the  
19          relevance might not be immediately, I guess, apparent,  
20          but I find myself going back to questions I already  
21          asked and then they only seem relevant.

22                        THE CHAIRPERSON: When you delve  
23          extensively into the history of the Israeli/Palestinian  
24          conflict, how is that relevant to what is before us at  
25          the Tribunal? We need to know.

1                   MR. A. KULBASHIAN: For example, in  
2                   the same sense as the context of the "You Made Me A  
3                   Human Bomb" article, in the same sense as the  
4                   example -- I do not want to testify.

5                   THE CHAIRPERSON: The article is  
6                   there and we've dealt with it extensively and we have  
7                   heard a lot of evidence from this witness on that  
8                   article. So what else?

9                   MR. A. KULBASHIAN: In that context,  
10                  it is your testimony that myself and my dad are from  
11                  Lebanon, and it does change the state of mind, as well  
12                  as having experienced a lot of things it does change  
13                  our state of mind and it is something that I wanted to  
14                  ask her about, which is why I was getting into like  
15                  state-sponsored terrorism and the fascism issue where  
16                  she testified earlier on during the qualification round  
17                  when I cross-examined her, after she gave her  
18                  credentials, when I did ask her questions about whether  
19                  or not it would be a form of racism, whether or not --

20                  THE CHAIRPERSON: Slow down, slow  
21                  down.

22                  MR. A. KULBASHIAN: Whether or not it  
23                  would be considered racism -- like, if somebody who was  
24                  Jewish after World War II went through, you know, like,  
25                  broadcast hate messages against Germans, for example,

1           whether or not that would be considered a form of  
2           racism or because the majority of racists were Nazis --  
3           this kind of gets that...

4                         THE CHAIRPERSON:  Slowly, slowly,  
5           slowly.

6                         MR. A. KULBASHIAN:  -- because the  
7           majority of racists -- because the majority of Germans  
8           were Nazis, and it would not be a form of racism  
9           because it is dealing with, I guess, the general  
10          majority in that time.

11                        And I'm kind of going back to that  
12          point that she made, trying to get a perspective, first  
13          of all, give a history by way of -- given an idea of  
14          what's happened as far as the Israeli government's  
15          actions and a possibility --

16                        THE CHAIRPERSON:  How does it pertain  
17          to the material -- what I want you to do is to show  
18          me -- go to the material and show me -- yes, one at a  
19          time.

20                        MR. A. KULBASHIAN:  Yes.

21                        THE CHAIRPERSON:  I'm speaking her.

22                        MR. A. KULBASHIAN:  Fine.

23                        THE CHAIRPERSON;  You see here, she  
24          makes this statement here, and I say it is wrong  
25          because of this.  Do that for me.  Take your time.

1                   Looks like we will not be going back  
2 to the witness this afternoon.

3                   I do want to say one thing: If your  
4 point -- and we have certainly examined the whole  
5 principle -- is it possible that other countries or  
6 people from other groups can be in violation of section  
7 13, and the answer is yes.

8                   If that's one of the issues that you  
9 wish to raise, the answer to that has clearly been said  
10 to be yes; however, that is not what is in front of us.

11                  MR. A. KULBASHIAN: I understand.  
12 But the problem is, like, somebody who states her  
13 experience, like, who is inconsistent with the way she  
14 expresses herself, or the way she expresses --  
15 --- (reporter appeals)

16                  THE CHAIRPERSON: And slower, slower.  
17 Take a sip of water each time.

18                  MR. A. KULBASHIAN: Somebody who is  
19 inconsistent with what she states she knows about or  
20 she forgets -- it makes it quite difficult for me to,  
21 first of all --

22                  THE CHAIRPERSON: But I will  
23 demonstrate something to you. When you find a person  
24 who has memory lapses, you note them and leave them  
25 because then you will get back to it when you argue.

1 That is what I am trying to say.

2 I don't know if you are trying to get  
3 some sort of 10-count knockout punch -- 10-count  
4 knockout or a knockout punch, but it is not necessary  
5 for these types -- I am not saying what has occurred  
6 here is in any way validated or not, I am speaking in  
7 theory here.

8 What is significant for you is to  
9 establish certain facts. For instance, you have spent  
10 quite a bit of time on the witness' experience or her  
11 expertise in the area of hate propaganda. You made  
12 some points there that you asked certain questions on,  
13 and we have the answers, and the job was done in terms  
14 of what you would be arguing, and I still don't know  
15 what they will be arguing on the other side.

16 But you have made your point. So, it  
17 is not necessary to harp over and over.

18 So, I do need to know now because we  
19 sort of have a general idea of the areas you have  
20 canvassed -- what further areas you wish to canvass  
21 with the witness so we don't get into this constant  
22 fight about what is relevant and what is not.

23 MR. A. KULBASHIAN: I will primarily  
24 go back to the articles she commented on.

25 THE CHAIRPERSON: The content of the

1 articles we know because we have them. Her comments,  
2 right?

3 MR. A. KULBASHIAN: Right.

4 THE CHAIRPERSON: What is it exactly?  
5 At page 21, September 14th, is there anything further  
6 you wish to deal with?

7 MR. A. KULBASHIAN: I am sorry, page  
8 20 we dealt with. Page 21 -- I am sorry, the contents  
9 of the articles she has not commented on. That is  
10 why --

11 THE CHAIRPERSON: Okay. Tell us  
12 right now right so we'll move on. That might be the  
13 most helpful way for us to know what is going to be  
14 relevant.

15 It reminds me, this is to help  
16 everyone. It reminds me of complicated cases where we  
17 asked the parties sometimes to sit down and write out  
18 or state exactly what issues they see arising from a  
19 piece of evidence or from the overall case. And it  
20 becomes like a chart, against which we connect the  
21 questions that are asked.

22 If a question arises about what is  
23 relevant, boom, you connect it right there. I think I  
24 need you to do that for me.

25 I understood from many of your

1 questions the point that was made that some of these  
2 articles may have a political connotation.

3 If that is the point you have tried  
4 to make, you have certainly asked a whole series of  
5 questions on that, and your point of view has been  
6 presented, subject to argument later on.

7 But your point of view has been  
8 presented on that.

9 So if there is anything additional,  
10 it would be helpful to be able to have that framework,  
11 so that we'll know exactly what we are dealing with.

12 MR. A. KULBASHIAN: I guess I can get  
13 that ready for Friday then I guess.

14 THE CHAIRPERSON: The suggestion I  
15 sensed right here was that if we are going until Friday  
16 why even bother with Friday and set it down another  
17 week.

18 That's what I sensed from that  
19 comment from Ms Maillet.

20 MS MAILLET: That's correct. I don't  
21 know about Mr. Warman's position, but, as far as I am  
22 concerned, everybody here -- what day is this,  
23 Monday -- for the rest of the week, when we are already  
24 going to have to schedule, I think, another week.

25 THE CHAIRPERSON: Except for the



1 other option -- which has been known to occur in my  
2 hands -- and that is, that we split the evidence, that  
3 is to say, we continue the cross-examination at a later  
4 point and if all parties are interested in the  
5 option -- I believe that would close your case in the  
6 case of the complainant and Commission?

7 MS MAILLET: Yes, it is.

8 THE CHAIRPERSON: And complainant.

9 MR. WARMAN: Yes.

10 THE CHAIRPERSON: So, if the parties  
11 are interested in opening the evidence of the two  
12 respondents at this point.

13 MR. A. KULBASHIAN: I believe  
14 actually that would be very prejudicial.

15 THE CHAIRPERSON: It could be  
16 prejudicial. It depends. I am saying, it is an option  
17 that you may or may not want to follow. This would  
18 have to be by consent of law, to deal with areas that  
19 are not relevant to the expert's report, for instance.

20 MR. A. KULBASHIAN: That would be  
21 very difficult --

22 THE CHAIRPERSON: The expert has, for  
23 instance, dealt with the actual issues of location -- I  
24 think Mr. Richardson talked about the apartment and so  
25 on in his evidence. So those types of issues were not

1 touched upon in any way by the expert witness.

2 Those could be started at this stage.

3 MR. A. KULBASHIAN: But then what  
4 could happen is either cross-examined -- because then  
5 it would restrict cross-examination.

6 MR. RICHARDSON: There is no reason  
7 talking about it because we already know from that side  
8 that that cannot happen until this part is done.

9 THE CHAIRPERSON: That option is not  
10 available.

11 MR. A. KULBASHIAN: The initial  
12 examination might lead -- the only problem is it would  
13 be required to restrict the testimony --

14 THE CHAIRPERSON: Yes, some of your  
15 testimony would be restricted.

16 MR. A. KULBASHIAN: That would cause  
17 a situation where people have to scramble to try and  
18 figure out where they were at certain points.

19 THE CHAIRPERSON: It's an unorthodox  
20 way of proceeding, I understand that. I've done it in  
21 the past. The problem is experts. That's the problem.  
22 In many of our cases we get expert witnesses with very  
23 tight schedules and we end up doing this, especially in  
24 those pay equity cases.

25 We have these pay equity cases where

1 experts are constantly getting interrupted, that's a  
2 problems.

3 So it looks like we may have to  
4 examine another week. This is good, because the  
5 suggesting being, even Friday doesn't make sense, from  
6 what I heard from --

7 MR. RICHARDSON: I think that if we  
8 lose, we are responsible for Mr. Warman's expenses. I  
9 am not going to pay for him to live here for a week --  
10 I am going to look at it that way.

11 THE CHAIRPERSON: It was a bit of my  
12 discussion about why proceeding in an expeditious way  
13 is in everyone's interest.

14 MR. A. KULBASHIAN: I agree, but to  
15 make sure we touch on all the points, because this is  
16 our first case, and this is something we're not used to  
17 and we don't know --

18 THE CHAIRPERSON: I have not heard  
19 from the Commission or complainant. Do you wish to say  
20 anything?

21 I see you are assembling yourself  
22 because it is time to leave.

23 MR. A. KULBASHIAN: I need to --

24 THE CHAIRPERSON: I would like to  
25 have the organization of the file in the manner I have

1 discussed with you. Some sort of a management meeting  
2 or something would be good to sort of set up the issues  
3 so we do not have this back and forth going on.

4 I know there is just the close of  
5 this expert evidence, the cross-examination left.  
6 Beyond that it would be the respondents' evidence.

7 Perhaps it would do us a lot of good  
8 to narrow down the issues.

9 I don't know if it's worth it to  
10 stick around until tomorrow to do that or simply to do  
11 it by telephone at some point.

12 I am open to suggestions.

13 MS MAILLET: I am open to anything.  
14 It's more the respondents that are going to have some  
15 kind of obligation to --

16 MR. A. KULBASHIAN: Telephone would  
17 be better for me in a sense, because I have to take  
18 time to prepare. I do not want to be half organized  
19 tomorrow and then -- you know, because I'm just going  
20 to be going home tonight, you know, and probably really  
21 tired when I get there, so that's the kind of issue,  
22 how much I'll have done. And I don't want to bring  
23 everybody back here.

24 THE CHAIRPERSON: I want a game plan  
25 of where you're going with the cross-examination of

1 this witness vis-a-vis her report.

2 It doesn't do you any harm. In fact,  
3 what we are supposed to have is a full disclosure of  
4 the game plans. I don't have a sense that I have that  
5 from the respondents, in the same sense, yet.

6 But it would be helpful to me to  
7 know where it is going. I am sort of learning along  
8 the way.

9 MR. A. KULBASHIAN: Right.

10 THE CHAIRPERSON: I want to give you  
11 the opportunity to cross-examine the witness, but I  
12 also don't want us to go into areas that don't fall  
13 into the game plan.

14 Mr. Warman, yes.

15 MR. WARMAN: Sorry. It would also be  
16 helpful if this should be taken as confirmation that  
17 the respondents to intend to testify, or have made a  
18 decision in that regard in terms of how much more time  
19 we are going to need.

20 THE CHAIRPERSON: I had heard from  
21 both that their initial intention -- remember, the high  
22 water mark -- was that they would testify.

23 MR. WARMAN: Yes.

24 THE CHAIRPERSON: It is an option  
25 available at any moment for a party to not call a

1 witness.

2 At this point is it the intention of  
3 both respondents to still testify?

4 --- (reporter appeals)

5 MR. RICHARDSON: It's still up in the  
6 air with me. We haven't decided.

7 THE CHAIRPERSON: Same applies for  
8 you, Mr. Kulbashian?

9 MR. A. KULBASHIAN: So far what we  
10 have talked about is who is going to testify than  
11 whether or not, because we don't know for sure --

12 THE CHAIRPERSON: The possibility is  
13 either one or the other.

14 MR. A. KULBASHIAN: It is one or the  
15 other as opposed to both of us. We are not thinking  
16 independently, we are thinking more collectively on  
17 this.

18 THE CHAIRPERSON: I do not expect  
19 more than that.

20 As to what the will-say would be,  
21 everything, I would gather.

22 Any other questions, Mr. Warman?

23 Any position on coming back?

24 You have expressed some concern in  
25 the past, but is there anything newer than the original

1 concern?

2 MR. WARMAN: If it's possible, I  
3 would ask the Tribunal and I will be making a formal  
4 letter to the Tribunal with regard to a new venue for  
5 the hearing.

6 I do not want to make those  
7 submissions now, but I will be making that to the  
8 tribunal in writing, I will address that point, because  
9 there appears to be -- in the statute to be some  
10 question about that.

11 THE CHAIRPERSON: Will you be  
12 available to come to Ottawa for a hearing?

13 MR. RICHARDSON: We are hoping we  
14 would be done Friday and they would be done on their  
15 side Friday and we would be done.

16 THE CHAIRPERSON: All this week.

17 MR. RICHARDSON: Closing statements,  
18 we would be willing to come up to Ottawa for the day,  
19 drive up together and do our closing statements and  
20 come right home. That's what we're hoping to do.

21 We got into that and we can consider  
22 that.

23 THE CHAIRPERSON: It is the  
24 Commission's position, often when you have complainants  
25 in a different area than the respondents, they try to

1 accommodate both parties.

2 In this case because of the  
3 representations made by the respondents, the whole  
4 hearing was to be held here, because there was  
5 suggestion that maybe Mr. Warman could recoup his  
6 expenses. However, the hearing has gone for some time  
7 longer than anticipated. Costs are getting up there.

8 It may be in the respondents'  
9 interests...

10 MR. RICHARDSON: With all due  
11 respect, Mr. Chairman, all three of us asked for one  
12 week. We have had less than a week, so time is not on  
13 our side.

14 THE CHAIRPERSON: I am not going to  
15 try to attribute the time -- there is also one thing  
16 that I am mindful of, though, and that is the way the  
17 statute seems to be structured, the right to costs is  
18 one way.

19 MR. WARMAN: Actually, in terms of  
20 submissions I will be making to the Tribunal in  
21 writing, I will address that point, because there  
22 appears within the statute to be some question about  
23 that -- not in the way that they're structuring it, but  
24 in the whole question of costs themselves.

25 THE CHAIRPERSON: Whether you would



1 be entitled to cost, is that what you're saying?

2 MS MAILLET: Section 54, which deals  
3 with remedy on section 13 offences doesn't seem to  
4 specify that the remedy of expenses that's under 53 is  
5 part of the --

6 THE CHAIRPERSON: I just saw that a  
7 few minutes ago. It sort of went in my radar and --

8 MS MAILLET: That was everybody's  
9 kind of assumption as we went into this, that Mr.  
10 Warman would have that opportunity to make that claim,  
11 but the statute doesn't seem to allow that.

12 So we can argue about the discretion  
13 of the Tribunal at some point, but it's just when I  
14 read the statute as well --

15 THE CHAIRPERSON: Things were so much  
16 easier when the Commission was paying for these costs.

17 MR. A. KULBASHIAN: I don't  
18 understand. Are you talking about section 53 that's  
19 the problem, or 54?

20 THE CHAIRPERSON: 54.

21 MR. A. KULBASHIAN: Sorry, never  
22 mind.

23 MR. WARMAN: Again, I would much  
24 prefer to have this done over either a teleconference  
25 or...

1 MR. A. KULBASHIAN: It would be much  
2 easier.

3 THE CHAIRPERSON: Maybe it would be  
4 helpful to do it through a video conference. I know  
5 the two respondents are in two different cities, so  
6 that would be difficult.

7 MR. RICHARDSON: If you are talking  
8 about a video conference involving the expert witness?

9 THE CHAIRPERSON: No, to discuss the  
10 matter. All right.

11 I am certainly not in favour of  
12 conducting a hearing by video conference with this  
13 witness. I mean, I am open to video conferencing  
14 sometimes on some witnesses, but at the stage we are at  
15 now, I don't think we would be able to function  
16 properly.

17 MR. A. KULBASHIAN: I do not  
18 understand, video conferencing as opposed to the  
19 Tribunal?

20 THE CHAIRPERSON: It is just musing  
21 on my part.

22 We have used video conferences to  
23 resolve these types of issues in the past.

24 MR. A. KULBASHIAN: As to the  
25 official.

1 THE CHAIRPERSON: If you have a  
2 witness, for instance, who is going to testify for five  
3 minutes at the other end of the country, we organize a  
4 video conference and the parties find themselves in one  
5 room with their counsel and the witness is somewhere  
6 else, and the video conference occurs with witnesses  
7 that, you know, are not key to the case.

8 I think this problem has evolved to  
9 the point where this witness is key to the case and  
10 certainly I wouldn't expect the parties to testify in  
11 that manner.

12 At least -- unless there is no other  
13 option. I hate to put off things.

14 But, we may have no choice to do so  
15 at this time.

16 Generally speaking, what are we  
17 looking in terms of availability?

18 November is going to be a problem, I  
19 understand from the respondents, and myself as well --  
20 I'm getting booked right into January.

21 I will not be able to set down dates  
22 right now. I just want to have a sense from you.

23 MR. A. KULBASHIAN: I can give you an  
24 entire schedule. Just only Friday has become an issue  
25 for me because of the exam thing, but if I can get --

1 THE CHAIRPERSON: Maybe you can  
2 provide that.

3 MR. RICHARDSON: I don't think we  
4 will be a full week.

5 THE CHAIRPERSON: I will probably set  
6 aside a full week to be safe.

7 MS MAILLET: Mr. Chairman, would you  
8 mind if I advised Dr. Henry that she is free to go.

9 THE CHAIRPERSON: Yes. Perhaps you  
10 could ask her for any months that she will be absent  
11 from the country or something.

12 MS MAILLET: This is what I know --  
13 and I will confirm this with her -- is that she goes to  
14 Trinidad at the beginning of January for the semester  
15 at the university.

16 THE CHAIRPERSON: She teaches?

17 MS MAILLET: I will get that  
18 information from her now.

19 THE CHAIRPERSON: Now, do you see why  
20 I was pressuring you to finish. It doesn't work in  
21 anybody's interest.

22 You are not pleased with the case  
23 running, Mr. Kulbashian, running long --

24 MR. A. KULBASHIAN: That's not the  
25 problem, but school obviously becomes an issue.

1 THE CHAIRPERSON: I just want you to  
2 understand why you saw -- why you felt that I was  
3 trying to push you along. I said, if possible, we need  
4 to move expeditiously, because now look what happens.

5 MR. A. KULBASHIAN: That's right.

6 THE CHAIRPERSON: You want this over  
7 with --

8 MR. A. KULBASHIAN: Yes, I have  
9 school to work with and --

10 THE CHAIRPERSON: -- and the  
11 complainant wants this over with.

12 I will wait to hear what Ms Maillet  
13 has to say when she gets back.

14 Mr. Levac asks me an interesting  
15 question, Mr. Warman.

16 If we were to organize this  
17 conference call, let's say, by Friday, since we already  
18 have the week set aside for us, do you think you would  
19 be available for a Friday conference call?

20 MR. A. KULBASHIAN: It would,  
21 depending what time?

22 THE CHAIRPERSON: When it is  
23 convenient to all.

24 MR. A. KULBASHIAN: Would it be a  
25 morning or afternoon?

1 THE CHAIRPERSON: Mid-day. What is  
2 better for you?

3 MR. A. KULBASHIAN: I have an exam  
4 from four to six, so before that.

5 THE CHAIRPERSON: Before then, yes.

6 MR. A. KULBASHIAN: Like last time  
7 when we did from ten o'clock in the morning, if I  
8 remember --

9 THE CHAIRPERSON: Mr. Warman?

10 MR. WARMAN: I believe that is fine.

11 MR. RICHARDSON: I am 100 per cent  
12 for anything you guys want.

13 MR. A. KULBASHIAN: What is the  
14 conference --

15 THE CHAIRPERSON: We are supposed to  
16 be here, yes.

17 MR. A. KULBASHIAN: Will the  
18 conference be for the dates --

19 THE CHAIRPERSON: We can do it by --  
20 yes, e-mail or fax. Yes, e-mail.

21 MR. A. KULBASHIAN: It is much easier  
22 to e-mail than to, like, describe it over the phone.

23 MR. RICHARDSON: Can we video the  
24 last of her testimony?

25 THE CHAIRPERSON: I would like to

1           hear parties on that. I assume because of the critical  
2           nature of her evidence as it's evolved that you would  
3           not want to do it by video conference; but if the  
4           parties consent to it --

5                         MR. WARMAN: Perhaps it would be best  
6           to wait until Ms Maillet gets back.

7                         THE CHAIRPERSON: Let me explain to  
8           you how that works, so that we have an informed --  
9           because if that is going to be a solution, I would  
10          rather deal with these types of things, if it is  
11          available.

12                        A video conference situation, it  
13          would be convenient, I think, at least if the  
14          respondents could find themselves in one location  
15          together, all right?

16                        So we would set up a facility, let's  
17          say in Toronto, where you would sit at a table, you  
18          would have a monitor in front of you, perhaps two  
19          monitors, one showing yourselves and the other monitor  
20          showing the other participants. And there is a camera  
21          right on top of the monitor. And there is virtually no  
22          lag in the communications with the technology that we  
23          have today.

24                        I would be in Ottawa. I perhaps may  
25          show up in Toronto, if Ms Maillet could be here too,

1 but if Mr. Warman wasn't available, and the costs were  
2 too high -- we are just discussing video conferencing.

3 MS MAILLET: Apparently Dr. Henry can  
4 advise the court that she may be available this  
5 Wednesday afternoon of this week -- and I'm just trying  
6 to think in terms of how to possibly finish her  
7 cross-examination.

8 I don't know if Mr. Kulbashian feels  
9 he will be more than a day, but that would give us half  
10 a day.

11 MR. A. KULBASHIAN: If you want to  
12 take that risk, I think that is the biggest issue I  
13 have.

14 THE CHAIRPERSON: Could you in some  
15 way make arrangements in the evening for your child, if  
16 we ran a bit longer.

17 MR. A. KULBASHIAN: My mom has to  
18 work. I don't have a choice, and my dad is here with  
19 me.

20 THE CHAIRPERSON: We are trying to --  
21 find a solution here, Mr. Kulbashian.

22 I don't want to use the euphemism,  
23 work with me.

24 If this is a way that we can just --  
25 because if we get the issue of this witness out of the



1 way, it frees up -- we may still have to find other  
2 dates, but at least this sort of initial obstacle can  
3 be dealt with.

4 MR. A. KULBASHIAN: I am not sure if  
5 this will be dealing with the initial obstacle or  
6 creating more breaks in her testimony. That's the big  
7 issue.

8 Like, looking at it from the  
9 perspective, like my kid's sick at the moment, well,  
10 coming down with something. So it is unpredictable  
11 and --

12 THE CHAIRPERSON: Can your father not  
13 be there that day?

14 MR. A. KULBASHIAN: He has to drive  
15 me back and forth. He has to go back and forth.

16 THE CHAIRPERSON: Is there no other  
17 way for you to get here? If it's possible that the  
18 remainder of her testimony is only four, or five hours,  
19 we would be able to do it.

20 MR. A. KULBASHIAN: If it takes  
21 another day, then the issue is going to be broken  
22 again. That is kind of the issue I am trying to deal  
23 with.

24 It's going to make it worse and it's  
25 going to complicate it. I don't know.

1 THE CHAIRPERSON: Beyond that.

2 DR. HENRY: If I really kill myself  
3 to change my own schedule I could probably make it  
4 Friday. That means an enormous amount of adjustment  
5 for me, however.

6 MR. A. KULBASHIAN: So can we do this  
7 over the phone than try to worry about --

8 THE CHAIRPERSON: Mr. Kulbashian, we  
9 have options here now. And I realize you have family  
10 commitments, but if there is a possibility, then --  
11 what can I tell you, someone has to sacrifice here.  
12 It can't be all one way.

13 Mr. Richardson has, on occasion,  
14 offered to not even show up at all at the hearing in  
15 order to trust you with --

16 MR. A. KULBASHIAN: I have no choice  
17 of not showing up at this case.

18 THE CHAIRPERSON: Your father has to  
19 drive you? Is there no other way for you to come to  
20 Oakville?

21 The GO train stops right down the  
22 road here, my understanding is.

23 I personally, with Mr. Levac, have  
24 taken the GO bus on other occasions.

25 MR. A. KULBASHIAN: I wish I could

1 foresee what is going to happen. But so far --

2 MR. RICHARDSON: What about video  
3 conferencing?

4 THE CHAIRPERSON: That would deal  
5 with the incompleteness. That is to say, if by chance,  
6 we cannot complete the evidence of the witness at that  
7 point, then we'll look at the video conference.

8 We are here already. Let's work on  
9 the hope that things will conclude on Wednesday.

10 It would help -- if we have the  
11 Commission/complainant's case closed by this week, then  
12 it helps us in terms of organizing the remainder of the  
13 case.

14 MR. V. KULBASHIAN: And then what's  
15 going to happen for the --

16 THE CHAIRPERSON: We'll see. Right  
17 now it becomes less cumbersome, because right now we  
18 are looking for dates that has to accommodate everyone  
19 in this room, plus Dr. Henry, whom we know will be  
20 teaching in January out of the country.

21 If we can deal with Dr. Henry's  
22 evidence right now -- and we don't want to go beyond  
23 this week, because then we fall into your exam  
24 schedule, right Mr. Kulbashian?

25 MR. A. KULBASHIAN: My exams are on

1           Fridays, so --

2                           THE CHAIRPERSON: I know, but you  
3           made it clear you wanted to be able to attend classes  
4           and so on.

5                           MR. A. KULBASHIAN: I have not  
6           attended classes in over a week. That is another  
7           problem, on Wednesday is --

8                           THE CHAIRPERSON: Wednesday was  
9           booked to be here, you were going to be here. Don't  
10          tell me anything about that.

11                          MR. A. KULBASHIAN: I understand.

12                          THE CHAIRPERSON: I urge you to make  
13          some sacrifice in order to be here, or I will insist  
14          that you move your case along promptly -- and why don't  
15          you make your list of submissions by tomorrow, a game  
16          plan, and then I'd like to see from the  
17          Commission/complainant if there is anything in there to  
18          which they can stipulate, that is to say, agree, for  
19          instance, when I said earlier about that there can be  
20          two points of view on a political issue, whatever it  
21          was I mentioned earlier.

22                          That helps advance a  
23          cross-examination or evidence as a whole.

24                          MR. A. KULBASHIAN: So make written  
25          submissions tomorrow?

1 THE CHAIRPERSON: Yes, tomorrow,  
2 e-mail them to Mr. Levac. Maybe if Mr. Levac receives  
3 them here he can print them up on his computer -- I  
4 understand at least the Commission counsel is in the  
5 same hotel.

6 So we can provide a copy at that  
7 point. Maybe we will even do a conference call from  
8 here without you having to come here. Try to see if we  
9 can work out those issues by telephone tomorrow, sort  
10 of narrow the focus.

11 What time can you be here, Dr. Henry,  
12 on Wednesday?

13 DR. HENRY: On Wednesday, I thought  
14 after the lunch break, two o'clock.

15 I mean, you normally break at one,  
16 so...

17 THE CHAIRPERSON: Well, yes, we're  
18 not going to break. It sounds like we're not going to  
19 sit at all. So, we could start earlier if that would  
20 be convenient to you, and allow us a little lead time.

21 DR. HENRY: No, I cannot make it  
22 before two, because it takes 40 minutes to get here.

23 THE CHAIRPERSON: So two to five.

24 MR. A. KULBASHIAN: Three hours.

25 THE CHAIRPERSON: Three hours, but

1 maybe it is possible.

2 If we focused on the issues in such a  
3 way that perhaps objections will not be forthcoming  
4 from the complainant or the Commission, then maybe we  
5 can get somewhere.

6 MR. A. KULBASHIAN: We will try.

7 THE CHAIRPERSON: Let's try it.

8 MR. A. KULBASHIAN: Is it tentative?

9 THE CHAIRPERSON: No, if that's okay  
10 with the Commission/complainant -- I mean, it was a  
11 suggestion made by Ms Maillet.

12 MS MAILLET: I am sorry, I was not  
13 listening. Would you be willing to sit on Wednesday  
14 and -- first of all, do a conference call tomorrow to  
15 see if we can focus the issues down, after a document  
16 is prepared -- try to work on it tonight as much as  
17 possible so we have it by noon hour tomorrow and then  
18 maybe in the afternoon we can do a conference call.

19 MR. A. KULBASHIAN: You can call my  
20 cellphone.

21 THE CHAIRPERSON: Your cellphone. If  
22 we focus some of the issues down, know what is relevant  
23 and not relevant, then maybe the remainder of the  
24 cross-examination can progress in a quick, orally  
25 fashion, and maybe we can finish it.

1                   And then if there is re-examination  
2 left, perhaps that can be dealt with with the video  
3 conference option that we spoke about earlier from  
4 Ottawa for some people and Toronto for other people.

5                   MS MAILLET: I would be agreeable to  
6 that, and to continue Wednesday with Dr. Henry.

7                   THE CHAIRPERSON: Do you wish to  
8 confer with the complainant on that?

9                   MR. WARMAN: That is fine.

10                  DR. HENRY: The video conferencing  
11 would mean going to some studio somewhere.

12                  THE CHAIRPERSON: Right downtown,  
13 maybe near University. When we organize video  
14 conferences -- it may not occur in your case, but we  
15 are saying in the worst case scenario, it means you are  
16 going to some conference room -- they are widely  
17 available now.

18                  Isn't there one at -- there is one  
19 right downtown somewhere, somewhere near Bay Street or  
20 something. I think there is one downtown.

21                  So, I don't think that would be an  
22 inconvenience for you.

23                  DR. HENRY: Okay.

24                  MR. A. KULBASHIAN: Do you want this  
25 video conferencing --

1 THE CHAIRPERSON: No, I prefer viva  
2 voce evidence. It is not viva voce, but I mean in the  
3 presence of all. So I would rather try the Wednesday,  
4 and then if that doesn't work out -- whatever is not  
5 completed at that point, we'll go to video.

6 I know you say you feel a little  
7 pressure to try to organize yourself in advance,  
8 mindful of what I have said.

9 We'll try to work it out tomorrow.  
10 Let's have an open discussion tomorrow on what your  
11 framework is for this witness, because the nature of  
12 the questioning has been, as you say, collections that  
13 you intend to build something with or -- anyway, come  
14 to some conclusion about.

15 I would like to know what those  
16 conclusions are.

17 MR. A. KULBASHIAN: Fine.

18 THE CHAIRPERSON: The conference call  
19 tomorrow for two o'clock, you will be available on your  
20 cellphone?

21 MR. A. KULBASHIAN: Call my  
22 cellphone, I will have my cellphone available.

23 THE CHAIRPERSON: You will be able to  
24 stay on it for half an hour?

25 MR. A. KULBASHIAN: Yes.



1 THE CHAIRPERSON: We'll see you  
2 Wednesday at two o'clock, right here.

3 I guess that covers off all of the  
4 points.

5 Anything else, raise it with Mr.  
6 Levac.

7 REGISTRY OFFICER: All rise.  
8 --- Whereupon the hearing adjourned at 5:05 p.m., to  
9 Wednesday, November 17th, at 2:00 p.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.

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Lynda Johansson, C.S.R., R.P.R.

25