

25166-3		
Quesnel Registry		
In the Supreme Court of British Columbia		
(BEFORE THE HONOURABLE MR. JUSTICE BUTLER AND JURY)		
Quesnel, B.C.		
November 2, 2015		
REGINA		
v.		
ROY ARTHUR TOPHAM		
PROCEEDINGS AT TRIAL (DAY 6)		
COPY		
Crown Counsel:		J. Johnston
Defence Counsel:		B. Johnson

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Quesnel, B.C.
November 2, 2015

THE CLERK: In the Supreme Court of British Columbia this 2nd day of November, 2015, continuing with the matter of Roy Arthur - Roy Arthur Topham, 25166-3.

MS. JOHNSTON: Thank you, My Lord, Jennifer Johnston appearing on behalf of the Provincial Crown.

MR. JOHNSON: Barclay Johnson appearing for Mr. Topham.

THE COURT: All right. And are we all set to begin?

MS. JOHNSTON: I believe so, My Lord. Thank you.

THE COURT: Let's bring in the jury.

(JURY IN)

THE COURT: All right. Ms. Johnston?

MS. JOHNSTON: Thank you, My Lord. As Your Lordship knows, we're going to continue this morning with Len Rudner's testimony. I'm pleased to say that my friend and I have agreed to some admissions. I'll read those into the record at the conclusion of Mr. Rudner's testimony. The admissions are going to make it unnecessary for me to call either Corporal Burns, whom as I told you in the closing took some photographs, or Barry Salt. So my - my expectation is, at the conclusion of red - Len Rudner's testimony, the Crown will read in some admissions and then the Crown will be closing their case.

THE COURT: All right, thank you.

MS. JOHNSTON: Thank you. If we could please call Len Rudner to the stand, please?

And, My Lord, I was provided with Exhibit - I believe 6, prior to - prior to calling in the court, so I can bring it up on my computer screen.

LEONARD RUDNER

a witness called for the Crown, recalled.

THE CLERK: And could you please state your name for the record again?

A Yes. Excuse me, Len, L-e-n, Rudner, R-u-d-n-e-r.

THE CLERK: Thank you.

EXAMINATION IN CHIEF BY MS. JOHNSTON, Continuing:

Q Mr. Rudner, we're going to continue from your testimony from Friday. I am going to go back. I want to - the problem with giving the Crown the weekend, sir, is that they always think of something they wish they've asked. And I'm going to ask if we could just briefly go back to Binder Number 3?

A Yes.

MS. JOHNSTON: If Exhibit Number 3 could please be given to Mr. Rudner?

Now, My Lord, I only have one point that I missed covering from Binder 3. I don't know that it's truly necessary to hand Binder 3 out to the jury. I'll bring the image up to - I'll bring the image up on the screen.

THE COURT: Well, I think we're - I think we're halfway to handing it out, so -

MS. JOHNSTON: We're halfway through anyway.

THE COURT: - we might as well continue then.

MS. JOHNSTON: Thank you very much, My Lord.

Q Sir, we discussed this article last day. This is the *Eighty Years of Infamy* which you would find at page 246 of Binder Number 3, Exhibit 3 in these proceedings. And in Tab M, you have a writing about *Eighty Years of Infamy*?

A Yes.

Q Now, sir, in - in reading through what you had written, we hadn't said anything about the anti-Nazi boycott which you find at paragraph 3 of your writing on the *Eighty Years of Infamy*. So we probably should address it on record as to what you'd like to tell us about this anti - anti-Nazi boycott, which I believe took place in Germany in 1933?

A That - that is correct.

THE COURT: Just - just so that everyone's at the right place, that's Tab M, and it's about five or six pages in, and at the top it says, "Eighty Years of Infamy 246"?

MS. JOHNSTON: Thank you, My Lord.

MR. JOHNSON: I'm sorry, I - I've lost the paragraph that she's referring to.

MS. JOHNSTON: Number three -

MR. JOHNSON: Thank you.

MS. JOHNSTON: - the third paragraph down from the title, "Eighty Years of Infamy".

A Yes, the - in 1933, the Jewish community in a - a number of countries, including the United States and I believe Great - Great Britain, came together to make a motion for an anti-Nazi boycott. The justification or the reason for this was that there had been previous to that a number of anti-Jewish activities in - in Germany. As well, of course, the - the Nazi party itself had a well-established pattern of Anti-Semitism starting from the 1920's, for example with the publication of *Der Sturmer*, which was a viciously Anti-Semitism publication which later became the official newspaper or organ, if you will, of the Nazi party in Germany.

Q Do you know what that is in English, "Der Sturmer"? You're not an expert in German, so if you don't know, that's fine.

A That -

Q Thank you. Please continue?

A It - it eludes me at the moment, I'm afraid. The - in - in any event, so the - so this was an attempt by the - by Jewish communities in a number of countries in - in order to get the Nazis in Germany to change their treatment of the Jews. I don't have any information at my disposal as to whether or not this boycott certainly was able to generate any specific effect, but I suppose one of the things that we see through this episode is that the view that the Nazis had of the Jews was sufficiently vibrant, if you will, that they felt that - and I've said this before, that really you could not speak of individual Jews, but rather you always tended to speak about world Jewry, right? So the actions of a Jewish community in one part of the world were not seen as separate and apart, but rather were seen as part of the - of the larger tapestry.

Q Now, sir, you actually give a - an example of that past Nazi Germany in the last paragraph on - on your *Eighty Years of Infamy* description?

A Yes, that's with regard to the - well, yes. The notion - the whole notion that there is such a thing as world Jewry, you know, it's a demonstration really of the power of conspiracy thinking. As I've said before to the court, there is no - there is no hive mind that controls the activities of - of individual Jews. There is no corporate Jewish entity. When one speaks of world Jewry or when one speaks of an organization, for example, like the World Jewish Congress, one is - one is speaking of a - of a group, of an umbrella organization which has a number of organizations underneath it, but marching orders are not passed from top to the bottom. Rather, these are opportunities for organizations in different countries to come - come together and to - and to deliberate, right, and to discuss and to disagree about - about policies and particular - and particular practices. And certainly, in the - you know, in the - in - in the 1930's there were no - there were no organizations within the Jewish community that would have had the ability to mobilize "world Jewry" to any particular end.

Q Sir, when we were going through it on Friday, if you skip ahead *Eighty Years of Infamy*, then you have *The Missing Word*, and then we have the preface which is Binder 4. It says Binder 4 at the title of the page?

A Yes.

Q Now, that is listed at page 265, but I think we've established, and I'll ask you to look at it on the screen, that the actual page for this is supposed to be 267. And you can see, if I was able to do this correctly as I'm bringing it up on the screen for you, "Preface", by Arthur Topham?

A I'm sorry, this is in volume -

Q This is in Volume 4, I'm so sorry.

THE COURT: And so - so for the benefit of the jury, should they hand back -

MS. JOHNSTON: Yes, they should.

THE COURT: - Exhibit 3?

MS. JOHNSTON: I'm sorry about that. Yes.

THE COURT: And do you want them to have Exhibit 4?

MS. JOHNSTON: I think it would be useful, My Lord, because we're going to be working our way through Exhibit Number 4.

THE COURT: All right.

MS. JOHNSTON:

Q Now, sir, I'm blowing that up for you, Mr. Rudner, so if you could tell me if it's properly positioned where you'd like it on the screen in front of you?

A Yeah, I see it on top.

MS. JOHNSTON: If I could have one second, please, My Lord?

Q Now, sir, what would you like to tell us about this preface?

A Well, I suppose my - my only comment would be that - of course I don't have any knowledge of the - of the alleged misdeeds to which Mr. Topham refers in this, but I do note that at one point Mr. Topham asserts that, "the Zionist Jew criminal media that dominates 95% or more of Canada's information technology". I suppose my - I suppose my observation would be that the whole notion that - that the Jews control the media is - is not uncommon. We find references to this in *The Protocols of the Elders of Zion* and - and elsewhere. Okay, now I will confess to the court that I have no expertise in the telecommunications industry, nor before doing some research did I - did I have any knowledge of who owns what in - in Canada, but I do note that after doing a little bit of research I discovered that certainly some of the larger providers, they would include Shaw Cable which appears to be family controlled - I do not believe the Shaw family is Jewish. There is Rogers Cable, where - where the controlling interest in that organization is through the Rogers family trust. They are not Jewish. With regard to Postmedia, which is a large Canadian conglomerate, some - some -- simply Googling indicated that Postmedia is now essentially owned by three major U.S. shareholders and based on the - based on the reportage, it would seem that these - that these American companies are far more interested in extracting interest payments for a rather massive loan - excuse me, a massive loan rather than controlling the editorial - editorial information. Indeed, it's estimated that by 2019, Postmedia will have paid more than 650 million dollars in interest on its loans.

Again I point out that - you know, that one can of course go to these individual companies and one can discover simply by looking at names, individuals who may or may not be members of the Jewish community. But as I said elsewhere, having a member of the Jewish community as the president or chief operating officer or cooking bottle washer of an organization does not make it a Jewish organization. It simply makes it an organization that has Jews as employees.

Q Now, sir, we're going to skip ahead. We're going to skip through to - we're going to skip the editor's note on 287 as you go to your binder, so flip the page. We've got the editor's preface at 304, so I'll bring it up on my screen for you. And we are going to look, sir, at a graphic. So you can see the bottom of it, "800 years of hate"?

THE COURT: Just - just a moment, I'm not caught up - 384?

MS. JOHNSTON: We are on - oh, did I say 384? Three O four, My Lord.

THE COURT: Three -- three O -

MS. JOHNSTON: Three O four.

THE COURT: All right, thank you.

MS. JOHNSTON:

Q And what we have here is a depiction of a person with two puppets. Sir, do you recognize any of the people who are depicted as puppets?

A From the material that was provided in the evidence book, I recognize Harry Abrams who is the individual on the left side.

Q The one I'm pointing to?

A No.

Q Oh, sorry.

A The other left.

Q Mr. Abrams, yes.

A And the gentleman wearing the police hat, that is, I believe, Terry Wilson.

Q Now, sir, the person who's holding the puppets of Mr. Wilson and Mr. Abrams, is there anything about this depiction, sir, which signals to you that this person is intended to be Jewish?

A A - a number of things, certainly the - the Star of David which appears on the crown of the individual's hat. As indicated elsewhere, the Star of David certainly in the 20 - in the current era is certainly seen as being synonymous with the Jewish people. The star over the hat is not - is not uncommon for members of the Orthodox Jewish community. As I think I - I don't think we've mentioned it before, but it is considered meritorious for an Orthodox Jew to keep his head covered at all times and it's considered to be an additional - additionally good, if I can put it that way, for there to be two coverings. Hasidic Jews tend to adopt a certain similar style of dress and the black hat is - is one element of that style of dress. Beyond that, certainly it is not only members - members of the Jewish community who wear beards, but the - but the hat, the Star of David, the caricatured nose, the long beard and the - you know, what I will call the unusual shape of the ears, is reminiscent of - of many sorts of Anti-Semitism caricatures.

Q Thank you. Now, let's just pick up on the nose because you mentioned the nose and then you said something about it being consistent with other caricatures. What - what - what signals to you that this is a character - sorry, signals to you that this is a caricature and furthermore signals to you that this is intended as a caricature of someone who is Jewish?

A Okay. Well, again the - the - the prominent - the prominence of the nose, one of the - one of the omens of - of Anti-Semitic caricature is hyper exaggeration of certain facial features, the ears, the nose, sometimes the teeth. The teeth will - or the mouth will be drawn in such a way as to suggest something animal-like. In this case we don't see fangs, but the caricatures have not been - have - in the past historically, have not been shy about making use of - of those images. I suppose one can - one can also say that having the - if we proceed, so to speak, further down on the image, Orthodox Jews will - will tend to dress in a way that is - that - that is modest, which is to say they cannot draw attention to themselves, so while there certainly isn't a uniform as such, the wearing of a dark - of - of dark clothing, a dark suit for example, is more than - more than not - not uncommon, okay? It is - it's - it is a very - a fairly normal thing to see, for example in the streets of Toronto where I live. And of course the individual appears to be wearing a T-shirt of some sort with the letters "ADL" on it. ADL stands for, whatever else it may stand for, the Anti-Defamation League, which is a U.S. based Jewish advocacy organization.

Q Sir, at Tab E of your expert report you've listed for us some of the common aspects of Jewish Orthodox dress?

A Okay, one moment.

THE COURT: Sorry, can you give that reference again?

MS. JOHNSTON: Tab E -

THE COURT: Tab E.

MS. JOHNSTON: - of his - thank you.

A Yes.

Q Now, sir, you've mentioned the hat -

A Yes.

Q - and the beard to us. Is that depicted anywhere in the paragraphs you see in that - in that part of your expert report? There's also two pages.

A Certainly the - the hat is -

Q There's a couple of hats. There's the - a -

A Yeah, I think --

Q -- kippah, if I'm pronouncing it correctly?

A No, you are - you are pronouncing it correctly. I seem to have included that twice as a bonus; my apologies to the court. The hat that - there is a hat that I refer to that is on the second page of - of Tab E, although this is not the style of hat that we see here. The shtreimel, as I - as I noted in my - in my material, is a - is a fur hat, okay, which is - which is worn by strictly - by - by strictly Orthodox Jews. And again, the - the composition, so to speak, of the hat is - is not so important. It is the fact that it provides a double covering to the head, okay? That is its significance.

Q Thank you. And you also talk about side locks or side curls at the bottom of the first page under - again I'm going to try and pronounce it correctly, peyot?

A Peyot.

Q Thank you.

A Okay. And - and there - these - it is - again, it is - it is not strict - it is not strictly required, but - but custom is - is a very powerful thing, so for - for Orthodox Jews, right, to either wear a full beard, right, or to have their side locks left - left unshaved. As I - as I recall, the justification or the support for this is found in a desire to separate ourselves from the customs of priests who - who - who lived in the lands adjacent to Israel where they, as a matter of their custom, kept their heads - their heads or faces shaven.

Q Thank you, sir. And ADL, what does that stand for, do you know?

A It's - well, it may - it may have other meanings as well, but I - but I believe - but certainly the ADL was the initials of the Anti-Defamation League.

Q Which we actually see right there?

A Ah.

Q Page 321, sir, and we're looking at an introduction to a short article by Gilad Atzmon?

A Yes.

Q So I'm bringing it into focus now. The title is, *Jews Are Not A Race, But Jewish Identity is Racist*, by Gilad Atzmon?

A Mm-hmm.

Q And here's the editor's notes. So what can you tell us about this editor's note, sir?

A Well, the - the essence of - the essence of Mr. Topham's note appears to be to introduce this article by Gilad Atzmon and it is that the tradition of defining Jewish matrilineality, that is to say through the mother, makes no scientific sense and therefore Jews cannot constitute a race. He, that is Mr. Topham, then concludes by expressing agreement with Mr. Atzmon saying, and I quote:

All they [Jews that is] really have that's definable is, as Atzmon states, is their overt racism toward[s] any other ethnic or racial group.

End of quote. My - my comment - my comment on this is that I think that the Jews do have a lot of things in common and what Mr. Topham describes is not one of those elements. Now, again, as I think I note, perhaps not in this note, in - in others, certainly genetic research is not my - is not my area of expertise, but in preparing for - for court, I did find a number of articles speaking to the question of genetic - genetic research into - into the Jewish community and that research appears to suggest, in actual fact, genetic research, DNA analysis, shows in that - that shows the Jews have much more in common with each other, so to speak, around the world, than they do for example with -

MR. JOHNSON: My Lord, I'm going to object at this point.

THE COURT: It sounds to me like this may be going beyond expertise. Do you want -

MR. JOHNSON: Way beyond.

MS. JOHNSTON: Fair enough. Fair enough.

Q Sir, you've acknowledged to us that you're not an expert in genetics. Is - is it simply fair to say that you're aware of other research which is beyond your expertise to evaluate, but nevertheless indicates a contrary view?

A Correct.

Q Thank you. And you finish your comments on editor's notes essentially copying what you've already told us about Jewish people being an identifiable group?

A That is correct.

Q Fair enough. And we have *Dear Radical Readers*, the next insert at 333 of the binder. And I'm bringing it into - up on the screen now, sir. What can you tell us about this - this portion?

A Well, in a - in a sense it is - it is a reprise of themes that have been raised elsewhere. We have the fact that - we have the alleged fact that the media of Zion is controlled, the judiciary is in the pay of a - Zionist Jewish lobby groups and these groups are essentially interchangeable from Communist Bolsheviks, the - the Cheka, which I believe was the secret police under - under the Bolsheviks, and so forth. I suppose what I found - what I found most - most interesting in this particular section is what appears to be an almost a drawing up of - of sides or of opposing forces. On the one side Mr. Topham appears to place the forces of Zionist Jews and the control they exert over the media, the judiciary, various think tanks. Essentially, I suppose any person who Mr. Topham opposes seems to fall into one of those categories. On the other hand you have perhaps Mr. Topham and a few others who are fighting against what he sees as overwhelming odds. In his words, Radical Press is:

... another beacon of free speech and a citadel of common sense yet to be assailed [by] Zion ...and the New World ...

I'm sorry --

... the New World Order agenda for global totalitarianism. That, in a nutshell, is what the ... charge against me is all about.

End of quote.

THE COURT: I'm sorry, where were you reading from there?

A These were - I'm reading from - from my - my own notes -

THE COURT: Oh, right.

A -- My Lord. The - that was on page 333.

MR. JOHNSON: My Lord, I'm getting confused here about what Mr. Topham is saying and what - what Mr. Rudner is saying. Perhaps we can be a little more clear or if there could be a direction.

MS. JOHNSTON: Thank you. I can.

THE COURT: Well, why - why don't you try and clear that up?

MS. JOHNSTON: Absolutely.

Q So, sir, if you look at paragraph 2 of your report, paragraph 2 under this section we're discussing at 333?

A Yes.

Q You can see your second paragraph?

A Yes.

Q And then you have just near the bottom his words, "Radical Press is: Another beacon of free speech"?

A Correct.

Q So if you look at the paragraph that I've brought up on the screen, is it easier for you to see it there? It probably is. And you can see, "Another beacon of free speech and a citadel of common sense"?

A I'm just - yes. Yes, that is in the second para -

Q "Yet to be assailed by the Zion and the New World Order agenda for global totalitarianism. That, in a nutshell, is what the" - and you -

A Section -

Q Yeah, you've taken that out and you've put just "charge" -

A Yes.

Q - "against me is all about"?

A Yes, my apologies.

THE COURT: So that's 334?

MS. JOHNSTON:

Q So it's a quote and you've - you've indicated "charge" in square brackets to indicate that that's a contribution by the author, in this case you?

A Yes.

Q All right. And is that the quote that you're referencing on this paragraph?

A Yes, it is.

Q Thank you. Now, sir, the bottom - you actually - you actually cross-reference with another section that you've seen in this book which is a reference to the dark well?

A Yes.

Q And that we see - and I'm going to jump ahead to it on the screen, but first, before we get there, that is 506 of the binders. That is in the section of Arthur's court and under 2I of Binder 4. 506, there's a heading that says dark - "The Dark Well". And I'm just trying to find it, sir, 506, and you can see the heading, "The Dark Well", coming into view now. So, sir, what is it you're going - you'd like to tell us about this - this section of the website?

A Well, as noted, there is a - the "us" versus "them" dynamic that - that appears to be established here is one where you have the - the Jew - the Jews on - on the side of darkness, right, and those who oppose them on the - on the side of light. The reference - the whole notion of there being an Apocalyptic struggle of - of some sort between the Jew - between the Jews and those who oppose them is not uncommon in anti-Semitic literature. Certainly, perhaps most famously in Nazi ideology, this - this was an important part of it. But I think in *The Dark Well* on page 506 I note that - the quote that I found, and I believe this is from Mr. Topham, where he says that:

The anti-Christ is hard at work manifesting its agenda for world destruction and control.

Q All right. Just pause, because I'm going to find that on the screen.

THE COURT: Is that under the heading, "The anti-Christ" -

MS. JOHNSTON: Thank you.

THE COURT: - rather than, "The Dark Well"?

MS. JOHNSTON: Thank you.

Q Mr. Rudner, I do not doubt that it's here, but I'm having trouble locating the exact space. Ah, here we go. We're at - we're at the top of page 507 and it is the fourth paragraph down taking the - the - the partial paragraph at the top as the first paragraph. And you see it right here, "The anti-Christ is hard at work manifesting its agenda for world control and destruction"?

A Right.

Q World destruction - sorry, "world destruction and control"?

A Yes.

Q So please continue, sir, now that we found the quote?

A To continue:

Those human beings wielding this diabolical power through the focal point of the "Israeli state" are the living emissaries of this wrathful, false deity of the ancient Levitical god of the Judahites. Their attitude toward[s] the Arabs and the rest of the world is identical to that found in Deuteronomy and the teachings of the Talmud. The results, as witnessed around the world wherever the Zionists aren't controlling the free flow of images and information, are a stark testimony to Zionism's diabolical nature and intent.

End of quote.

Q All right.

MR. JOHNSON: My Lord, I don't like rising on my feet to disturb the flow of this evidence, but at one point I understood my friend to say that we were going to be getting copies, physical copies of pages where text had been cut off. You'll notice on the top of page 507 that that has occurred. This came up in Mr. Wilson's testimony frequently and I - I think it's important if we're quoting from pages where the top portion has been cut off like that, that we have some context.

THE COURT: It looks like Ms. Johnston has some new binders, so I'm -

MS. JOHNSTON: I do.

THE COURT: - I'm guessing she may have dealt with that.

MS. JOHNSTON: I do. I'll just pull one page out. Well, I won't even actually. So, My Lord, this is, as you can see, larger. This is eight-and-a-half by fourteen, so you get a better printout, in part because it's larger. Now, there are certainly pages where something has been cut off and I'll see if I can find an example for Your Lordship. What we've done is for every single page we have added the quote. So to give you an example, at page 121, you can see that we've actually written it down. Bottom of page 121, top of page 122, and it is typed out for you and then there's an arrow showing where the line is that - that that has been truncated. So both Binders 3 and 4 are in this large binder. We actually did two copies, so we can file one as an exhibit and we have an extra copy, and that's every single line that's been truncated and as you go through - as you go through the whole binder.

THE COURT: All right.

MR. JOHNSON: My Lord, this is getting as complicated as the Talmud. I think what we're - I think what we're seeing here is a real

confusion, at least in my mind, as to how we're to read these documents that Crown is relying on. If he have to knit these pages together from yet another book, I think it's unacceptable. I - I really believe that what we need to do is have a replacement page in that binder so that we can - without having to skip all over the place to find - find the context that we're being referred to.

THE COURT: Well, we - we haven't had that much difficulty reading any of the passage that - passages that we've looked at. There - there's been --

MR. JOHNSON: Yeah.

THE COURT: -- very little difficulty and - and I appreciate there are some cut off and - and I think that if we mark this as a - as an exhibit, it will give the jury the opportunity, if there are any places where they need to look at, that they want to read beyond what we've already read into the record, they can do that. And also in the course of any cross-examination you can use it and - then that - that document, so I think that covers that issue. It's -

MR. JOHNSON: Well, if I might just speak to that, My Lord?

THE COURT: Well, if - if we're going to speak to it some more, maybe we should ask the jury -

MR. JOHNSON: Sure.

THE COURT: - to step outside and -

MR. JOHNSON: Sure.

(JURY OUT)

THE CLERK: The witness as well?

THE COURT: No, I think Mr. Rudner can stay. This doesn't directly concern his -

MR. JOHNSON: No, I think it's just -

THE COURT: - his evidence, so -

MR. JOHNSON: - a matter of clarification on the evidence and the way it's being presented.

The -- I guess the point that I have, My Lord, is that we have binders which have been marked as an exhibit in these proceedings and we've dealt with the issue of how readable these are. So we've now gone to Plan B, which was to get the thumb drives. I don't know whether it's the thumb drives that we are looking at right now on the screen, I suspect it is, but if you look at the thumb drives they don't improve upon the problem that we raised in Mr. Wilson's testimony, which was stuff being cut off at the top.

THE COURT: Well, the -- the cut off.

MR. JOHNSON: Yeah, and I understand Your Lordship's point that if they're referring to something in the middle of the page, it's probably irrelevant, but I don't know whether that's the case or not because I think the jury is entitled if they're referring to an article to read the article and certainly if -- if they can't see the top of the page they can't do that. So right now, we have a document which is not readable. Then we have the thumb drive, which has the top portion of the page cut off. And now we've got another binder that's being -- that's going to be presumably put into evidence, which clarifies or solves the top of the page problem. And for me, it's confusing to try and knit all of this stuff together. In order to find material, you're going to have to go potentially to three sources. If you can't read it off the book, you go to the thumb drive. If you can't get it off the thumb drive, you go to the -- go to this book. And I think it should be on one page.

If my friend is going to be reciting stuff, let's have a page entered as a separate exhibit and that's my -- that's my view.

THE COURT: Well, we've come this far in the way we've done it and, as I indicated, I don't think we've had that much difficulty in reading it.

Ms. Johnston, what's your response to that?

MS. JOHNSTON: Well, My Lord, if you look at -- and I'm just going back here so I can bring it up on the screen for Your Lordship. I'm sorry, My Lord.

I -- I -- personally -- on this personal article, I find the top line to be readable.

THE COURT: Mm-hmm.

MS. JOHNSTON: Now, I do have, as I've described to Your Lordship --

THE COURT: I'm sorry, which page are you on here?

MS. JOHNSTON: I'm at -- I'm at the top of 507.

THE COURT: Okay.

MS. JOHNSTON: And I've brought it up on Your Lordship's screen. Now, as I've just -- as I've indicated to Your Lordship -- and also we can hand up the books so Your Lordship can --

THE COURT: Well, why don't you show it to your friend first of all, I think.

MS. JOHNSTON: Well -- well, as it happens we made two, My Lord, so what I can do is I can file one as an exhibit, my friend can have his own copy, so -- and -- and -- I mean, I do apologize for this, I appreciate this isn't perfect and -- and --

THE COURT: No, it's certainly not ideal.

MS. JOHNSTON: I am sorry. But I can give this copy to my friend so he'll have the larger printed-out copy with all of the -- all of the inserts. And then I'll file this one as a -- an exhibit and in terms of the particular article we're looking at right now, in the Crown's submission it isn't unreadable, you can read the top line on this particular copy.

THE COURT: Does that binder have the same page numbers?

MS. JOHNSTON: Exactly.

THE COURT: Exactly the same page numbers?

MS. JOHNSTON: Exactly. Now, one thing which I didn't draw to the court's attention quite yet is -- is, as Your Lordship knows, sometimes it's the bottom line or the top line. Sometimes if you can't read the top line, you have to flip back a page because we've done it on the bottom line of the preceding page. But they're all here. They're -- they're all here.

THE COURT: Okay. Can I see the -- what you're proposing to go in, and look at Page 506, 507?

MS. JOHNSTON: Yes, you can. And I'll give the extra copy to my friend and he can just simply keep this copy as a ...

MR. JOHNSON: Do you have one for Mr. Topham?

MS. JOHNSTON: No, we only have one extra copy, My Lord. We normally just provide copies to the defence.

THE COURT: Okay. Well, this binder is much more legible than anything else that we've seen. This really clears up the difficulties that we have with the others.

I mean, the problem -- and it would have been nice to have this from the start because this is quite readable. But I think we have gone so far that it -- I mean, are you suggesting we should have this -- one for each juror? Would that be your suggestion?

MR. JOHNSON: Well, My Lord, I --

THE COURT: Because obviously -- and, Mr. Johnson, when you look at this, this is very readable.

MR. JOHNSON: Yeah, we should have had this from Day 1.

THE COURT: Yeah.

MR. JOHNSON: I agree with you. Maybe we would have had 20 binders at this size, but that's -- what the Crown was doing -- I think

what they were doing is economizing on the size by -- by putting it in the format that was in the first four binders and it made it very difficult to follow and it still is. And I think again the -- you know, if my friend wanted to create another set of documents like this in substitution for Binders 1 through 4, I'd be happy with that, but I don't know that that's appropriate at this stage of the proceeding.

THE COURT: Well, we don't -- we don't need it for Binders 1 and 2, do we? I thought they were --

MR. JOHNSON: Not -- not with the -- not with the texts that are being reproduced, Elizabeth Dilling's book, for example, but ...

THE COURT: It's just 3 and 4 that we've had the problem with.

MR. JOHNSON: Yeah. Yeah, I think if we can -- I just want the -- the jury to be able to see something and read an article for what it is, rather than trying to go through part -- part of it and skipping over a paragraph possibly because they can't read the top of the page.

THE COURT: Well, this is much, much better and this is what we should have had from the start.

MR. JOHNSON: Right. I mean, my -- my witness has had these materials, he's had a difficult problem reading the -- the matter, and this is being given to us at the last minute just before -- hopefully, just before my case opens with my expert being called. So I don't know whether anything turns on it or not. I just say that having this many interpretations of the evidence is -- or pieces of the evidence is really confusing.

THE COURT: Well, I can tell you that I -- I'm obviously -- I share your unhappiness about the way in which the materials were presented initially; however, I am also of the view that we have not run into any serious difficulties in reading it. It would have been far preferable to have the larger size and at this stage, I think it is sufficient for the jury -- if we mark this as -- this document as 3A. The only question that remains in my mind is whether we should have it available for all of the jurors so that they have extra copy. My ...

MR. JOHNSON: That's an excellent plan, My Lord.

THE COURT: Ms. -- Ms. Johnston?

MS. JOHNSTON: Well, I'll -- My Lord, as I've indicated before it's not like I didn't draw this to the RCMP's attention very early. My office did that

THE COURT: No, I understand this has been --

MS. JOHNSTON: Quesnel did that.

THE COURT: ongoing.

MS. JOHNSTON: Yes. I will do my best to get 12 copies for the jury and I'm -- I'm simply going to phone the hate crimes team and say, "Do it."

I have not been successful in that tact previously. I will do my very best. I will -- I mean, if Your Lordship says it must be done, it will be done. Is Your Lordship going that far? Or is Your Lordship asking the Crown to use best efforts?

THE COURT: I was asking for submissions as to whether or not I am going to make that order, but ...

MS. JOHNSTON: We have Constable Blount here, if we could page him into the courtroom, please.

THE CLERK: Constable who?

MS. JOHNSTON: Constable Blount.

THE CLERK: Constable Blount, attend the courtroom, please.

MS. JOHNSTON: Constable, I don't know if you were present in the courtroom or if you were not present in the courtroom where His Lordship was talking about the binders?

CONSTABLE BLOUNT: I wasn't.

MS. JOHNSTON: All right. Can -- can the hate crimes team make 12 more binders exactly like the binder I plan to enter as Exhibit 3 and 4?

CONSTABLE BLOUNT: I will contact [inaudible/not near microphone].

MS. JOHNSTON: Pardon?

CONSTABLE BLOUNT: I will contact [inaudible].

MS. JOHNSTON: All right. Thank you. Could we -- I don't know if Your Lordship will be willing to delay this question until he makes a phone call.

THE COURT: Well, it won't take you very long, will it?

CONSTABLE BLOUNT: No. No, it won't.

THE COURT: All right. Why - why don't we just stand down for - for ten or 15 minutes, however long it takes.

MS. JOHNSTON: Should we do the break then, My Lord? Is that - would that - I mean --

THE COURT: Certainly. We'll do --

MS. JOHNSTON: -- rather than stand down twice?

THE COURT: We'll do the morning break and we'll let the - the jury know that that's what we're doing.

MS. JOHNSTON: Thank you, My Lord.

THE COURT: And he can do that. Thank you.

(WITNESS STOOD DOWN)

(PROCEEDINGS ADJOURNED FOR MORNING RECESS)

(PROCEEDINGS RECONVENED)

MS. JOHNSTON: Thank you, My Lord. In terms of the -

THE COURT: Well, can you tell me --

MS. JOHNSTON: - answer to the question -

THE COURT: - where we're at on this issue?

MS. JOHNSTON: Yes, thank you. Where we're at is Constable Blount is going to the local - there's a - there's a professional printing shop in town and he's going to see whether or not they can make -

THE CLERK: You're -- you're not -

MS. JOHNSTON: I'm sorry. He's going to see whether or not they can make 12 - well, 13 actually, 13 additional copies for this court, so he's making inquiries and I should hopefully have an answer by two o'clock.

THE COURT: All right. And if the - the books are going to go in to supplement the record, is - are you going to admit that authenticity has - has been proven? Are we going to have to call -

MR. JOHNSON: No.

MS. JOHNSTON: Then I'll call the witness to -

THE COURT: Then you'll have to --

MS. JOHNSTON: -- authenticate it then, My Lord.

THE COURT: All right. All right. Well, then I guess what we do at the - at the moment is continue on with what we've got until we do that and I think if you can authenticate it, then I think the - the way to do it is to enter that binder with the first half being Exhibit 3A for Exhibit 3 and the second half 4A for Exhibit 4 and - and then we'll have - the jury can - can use whichever they wish.

MR. JOHNSON: My Lord, I mean today is the - the 2nd. My friend and I had discussed having my witness who's - who's been here for a

couple of days now, Mr. Atzmon - he's got to be on a plane on Thursday and whatever happens here, I'd like to finish up with the cross-examination if I could. We have to authenticate, maybe that could be for another day. I'd just like to have the Crown finish their case except for the authentication so that I can put my client - make my opening and put Mr. Atzmon on the stand hopefully - hopefully for tomorrow morning, because I expect that he's going to be on the stand for a day, probably a day and a half.

THE COURT: Well, as long as you - you consent to that, that -

MR. JOHNSON: Yeah.

THE COURT: -- that the Crown could break up that part of its case.

MR. JOHNSON: I don't have a problem with that.

THE COURT: All right.

MR. JOHNSON: I think that was the understanding if we did run into time problems that I was prepared to do that, but I - I'd like - I'd like to have the Crown's case finished except for the authentication.

THE COURT: All right.

MR. JOHNSON: Thank you.

MS. JOHNSTON: Thank you.

THE COURT: Bring the jury back in.

(JURY IN)

LEONARD RUDNER, recalled.

THE COURT: Ms. Johnston?

MS. JOHNSTON: Thank you, My Lord.

EXAMINATION IN CHIEF BY MS. JOHNSTON, CONTINUING:

Q Mr. Rudner, we're now going to discuss an article that you can find on 344 of the binder and the title of the article is *Adolf and Icke: The Long Road Back to Historical Reality by Arthur Topham*. What can you tell us about this article, sir?

A Well, it's - again it continues themes which have been raised elsewhere.

THE COURT: Can you just give us a moment to find it? I -

A My -- my apologies, My Lord.

THE COURT: -- tend to go a little too fast here.

A My apologies, My Lord.

MS. JOHNSTON: Thank you. 344 of the binder, and it's the next insert after the one we just discussed, *Dear Radical Readers*, in - in Tab M of Mr. Rudner's report.

Q All right, sir, what can you tell us about this article?

A Well, as - as noted elsewhere, the view is expressed that there is such a thing as Zionists Jew control the mainstream media, publishing houses, the moving industry and so forth. The purpose of this alleged control is to create a milieu of mind control. Now, in this particular - this, of course, conspiracy theory has a number of different applications, but in this particular case its application appears to be, and I quote - I'm sorry, to distort, and I quote, "the true nature of National Socialist Germany and its illustrious and loved leader, Adolf Hitler." End of -

Q And --

A End of quote.

Q And you actually see that, sir, do you not, on page 347, which is coming into view now and it's near the bottom of the page just before the graphic of the Holocaust? I brought it on screen:

It was now clearly obvious to me that the history of the 20th century had been tampered with to such a degree that none of its political and/or historical orthodoxies could be taken for granted any longer included the greatest, most massively pervasive deception of all, that of the true nature of National Socialist Germany and its illustrious and loved leader, Adolf Hitler.

A That is correct.

Q All right. You also have a quote at the bottom of the page and we specifically see that quote on 350 of the materials. And this was a quote about world Jewry and also it was the Jews who laid all the devious schemes that created conflicts, and I'll find that for - for you as well.

A It's at the bottom.

Q And right there at the bottom:

... It was world Jewry who first declared war upon that great nation because they broke away from the Rothschild cartel and their central banking system. It was the Jews who laid all the devious [screams that] schemes that created that great conflict and all the other major conflicts since that time.

A That is correct.

Q And you just copied it into your article?

A That is correct.

Q Thank you. So now we're at *Bellicose Bromberg Plays the B'nai Brith Hate Card Again*, which you find at 405 of these materials?

A Okay. Well -

MR. JOHNSON: My Lord - My Lord, I lost the reference on that last - what - the page number, please?

MS. JOHNSTON: 40 -- 405. Let me double check.

MR. JOHNSON: is that because you have to add one page to what's on here or - or subtract one page?

MS. JOHNSTON: Yes, at this point we have to subtract one page, so 404, and it's right at the very bottom of the page that starts with the Salvation

Army -

MR. JOHNSON: Yes.

MS. JOHNSTON: - Salvation Army -

MR. JOHNSON: Thank you, my friend.

MS. JOHNSTON: -- graphic. There we go.

Q And, sir, what can you tell us about this article?

A Okay. Well, I should - I should say for the record, ma'am, that I - I do have a - I do have a personal and a professional relationship with Anita.

THE COURT: Sorry, I - I missed that.

A My - my apologies, My Lord. I should state for the record that I do have a personal and a professional relationship with Anita Bromberg, okay? I don't believe it interferes with my comment, but I did want to make that clear to the court.

THE COURT: All right.

A I suppose the point here that I - that most attracts my attention is that the description used by Mr. Topham where he describes Jews as being - I believe I left it at the word *of*, "of the synagogue of Satan", right, is a direct - is a direct reference back to the Book of Revelations, I believe Chapter 3, verse 9. And again, from my point of view this is significant insofar as the theme which I've discussed previously regarding the demonization of - of the Jews corporately, their association with the anti-Christ. I think this - this speaks to that - to that ongoing - ongoing allegation.

MS. JOHNSTON:

Q Thank you. And you concluded a few direct quotes from the - from the article in - in your -

A Yes, and - and again it is - it is really the sort of thing which we've seen earlier, B'nai Brith and its agenda for world governance and that sort of thing.

Q And specifically, we had the synagogue statement which we see on page 408?

A Correct.

Q Thank you. And the editor's note on page 431?

THE COURT: Sorry, just - just a moment. I'm - I'm trying to find that.

MS. JOHNSTON: Synagogue of Satan? Your Lordship will see -

THE COURT: It's just below that?

MS. JOHNSTON: Yes. You can see 408 right there?

THE COURT: Yes, yes.

MS. JOHNSTON: And then as you go down to the very first paragraph -

THE COURT: All right, I've got it.

MS. JOHNSTON: - "synagogue of Satan".

Q And on page 406 it has the quote which you finish the article with, or in the second paragraph:

Everything, everywhere, always and forever must focus on the Jews and their supremacist, racist state of Israel as if they and only they ...

MR. JOHNSON: Excuse me. Excuse me again, what page are we on?

THE COURT: I think --

MS. JOHNSTON: We are on page 40 -

THE COURT: - it's 407.

MR. JOHNSON: I've got 407.

THE COURT: Not 406.

MS. JOHNSTON: I'm sorry, 407.

Q And there's a quote in the first sentence, is that correct?

A Yes.

Q Now, we have the editor's note in page 431. You can see 431 right there and there's the editor's note. What can you tell us about this editor's note?

A Well, I think the - again we see the expression of - of the machinations of the - the Zionist Jew juggernaut, and I believe I am quoting here:

... that is currently steamrolling itself over the fundamental, God-given right of all human beings to speak their mind when it comes to their individual interpretation of what is TRUTH and what is FALSEHOOD or DECEPTION.

And it appears that this part of the - at least in the mind of the writer, part of the - the agenda of the Zionist Jews for global governance at the cost of:

... reducing 99% of the world's population to the level of robotic automatons totally subservient to the Talmudic tyranny of their One World totalitarian mind-control matrix.

THE COURT: So that - that goes on to page 432?

MS. JOHNSTON: It does. It's at the top and I'm showing Your Lordship right there.

A And again, Ms. Johnston, I - you know, I - I remind you and through you the court that - that again, one of the - one of the simplest definitions offered of Anti-Semitism by Theodor Adorno was a rumour about the Jews, okay? And I think what we see here, as we have in other places in the material is, over and over and over again, rumours about the Jews being up to something, world domination, mind control, diminution of fundamental freedoms, being allied with the anti-Christ, being of the synagogue of Satan, and certainly one could argue if one - and I believe it - it ends with us being described - it's our - or with our agendas being, "the ultimate act of a psychopathic mind".

Q Yes, and you can see that on the screen in the last sentence?

A Yes.

Q *Karen Selick: Just Another Hate-mongering Germanophobe Jew*, we find that article at page 467 of the materials and I will bring it up for you. There we go, Karen Selick?

A Yes.

Q What would you like to tell us about this article?

A Well, I suppose the - the highlights, if I can refer to it in that fashion, is a reprise of the - of the view of the right of Mr. Topham, the Jews, and here we say Canadian Jews to be specific, are saturated with, "vile, satanic enmity toward the German nation", focusing on the German people as a whole and Adolf Hitler's former government. That in itself I suppose is - is again merely a reprise of what we've seen before, but I - what I would draw attention to is the notion expressed in other places that in actual fact it would appear that, in Mr. Topham's view of the universe, that it was in actual fact - it was the Jews who declared war on Hitler rather than the other way around. As noted elsewhere, there is no entity called *world Jewry*. There is no global conspiracy. There are no elders of Zion. There is no secret cabal that is controlling the - controlling the - the motions of the world. I also note, and this is I suppose as much to correct the historical record or to clarify it as anything else, that while it is certainly true that at a stage during the - during Hitler's regime there was an attempt to remove the

Jews rather than - rather than to murder them. German - German policy regarding the Jews tended to waive - waiver back and forth depending on exigencies of the time, excuse me, and also depending on which of the competing bureaucracies had ascendancy at any - at one time or another. However, it is patently incorrect in - in my view to state that the Jews were simply permitted to leave. Those Jews who were permitted to leave, were permitted to leave with all their property. In actual fact, they were stripped of their property and those who were able to leave, left with very little of what they - of what they - they had made. The vast majority of their property and their goods remained in Germany.

Q Now, sir, was there a difficulty with the Jewish people leaving Europe prior to the Second World War, say after Hitler came in - in 1933?

A Generally - generally speaking, immigration - immigration policies in - in - in the other nations of the world were extremely limited. That included Canada as well. Certainly in terms of - in terms of policies and refugee quotas, if I can use that term, that were in place, it was not uncommon for those refugees quotas for members of the Jewish community to be left unfilled.

Q Sir, is there any connection between that and the Jewish desire for a homeland in Israel?

A I - I think it is probably - it is - it is probably impossible to separate the - separate the two, but certainly the longing of the Jewish people to return to their homeland in - in Israel certainly predates Nazism. I would say that perhaps Nazism provided a - an exclamation point which pointed out the vulnerability of a - of a group that was without its own nation state. But one - it was not a - it was not a justification for it. It was perhaps additional - additional proof of why it had always been necessary.

Q And if there was - the value of having your own nation state is what in terms of immigration?

A Well, I mean again it's - it is difficult to go - to go back in time and imagine what might have been, but one hopes - one hopes that if there - that if there had been a Jewish state before the - the rise of - the rise of the Nazis to power, that those Jews who had the opportunity to escape would have been - would have been able to do so and they would not have been blocked by quotas. Beyond that, one - one really doesn't know.

Q Now, sir, we've looked at a number of quotes, most of them with a few exceptions which we've drawn the court's attention to, that were written by Mr. Topham in Binders 3 and 4 in this trial. What are the effects, the potential effects, on a Jewish person who reads such literature, such writings about them?

A Clearly the -

MR. JOHNSON: My Lord, I'm going to object to that question. I don't know that this witness is qualified to make a - a statement like that on behalf of all Jews. He's not qualified as a sociologist or a psychologist.

THE COURT: All right. Well, I'll ask the jury to step outside, to be excused for a moment.

(JURY OUT)

(WITNESS STOOD DOWN)

MR. JOHNSON: My Lord -

THE COURT: Mr. Johnson?

MR. JOHNSON: - this is clearly beyond this witness' area of expertise. He's been accepted as a witness or expert witness on Jewish history, Jewish religion, Anti-Semitism. He has certainly no expertise in the area of sociology. There's been no studies, at least to my understanding, that have been presented in the materials so far to show what the effect might be on Jews. In fact, I doubt that that even exists. According to the Ontario Human Rights Commission, no such studies exist. So for him to be asked a question which is going to provide simply a very, very subjective opinion and his own personal opinion is way - way offside here. I don't believe that he's able to answer that question and - as an expert, and I don't think he should be able to give that answer as a Jew.

THE COURT: Ms. Johnston?

MS. JOHNSTON: My Lord, Mr. Rudner has been qualified as an expert in Anti-Semitism. He's given testimony that it's part of his previous positions. He has spoken with people who - who allege Anti-Semitism against them. In my submission, it's part and parcel of being an expert in this area that you would have a knowledge of the effects it has on the maligned group to hear such things. So yes, I do think it is a - I - I do think it is a proper question.

Now, in terms of the source of the question, if Your Lordship looks at the *Watcombe* [sic] decision which I have left upstairs, it talks about - about effects. Now, as I read the *Watcombe* decision, it is not my view that when they talk about the potential effects, what they mean is that the Crown is obligated in the course of their case to provide specific direct evidence of the effects on society or the Jewish population in terms of such hate-mongering. I - and when I say hate-mongering, My Lord, I'm not trying to prejudge the evidence in this case; but that's what they're referring to, in the - in the *Watcombe* decision. What they mean, as I understand the case, is what would you reasonably expect to flow from this kind of information? Now, I do think it is well within Mr. Rudner's expertise to say what would you reasonably expect to flow from - as a member of the Jewish community from reading such pieces of writing as we've seen here. I think it's totally within Mr. - Mr. Rudner's expertise.

Now, that being said, if my friend is objecting and saying well, you know, that's beyond anyone's expertise or - or at least there's been no studies, then what is the meaning to be given to *Watcombe*. And I think we circle around and I think the Crown would - it sounds as if defence and Crown are on the same page on this, that's a - a sort of a - a question of logic. What would you logically expect to flow from these kinds of - of statements being made? And in the course of the *Watcombe* decision, the Supreme Court of Canada answers their own question. They have many, many different examples of what you would logically expect to flow and it's based on the - the nature of the materials itself.

THE COURT: So I guess I'm not understanding your - your position. Are you saying that - that it's - it's not proper expert evidence?

MS. JOHNSTON: I think it is proper expert evidence. However, if my friend objects to it, I would not expect to hear in closing argument that the Crown didn't bring any - any expert evidence as to the effects. So it can't be both. I mean he's either qualified to give effects and that's properly in the Crown's case, or he's not qualified to give effects and the Supreme Court of Canada - which I think is correct. I think it's - there's a difference between what the Crown is required to prove as an element of the case and what the Crown is allowed to prove as additional information which helps the jury decide the verdict. I do not think that direct evidence, as I read *Watcombe*, it is my - it is my position that *Watcombe* does not require specific evidence of effects as an element of the Crown's case, like for example jurisdiction. That isn't to say that it's not useful and valuable information to bring before the court.

MR. JOHNSON: My Lord -

THE COURT: And -- and to some extent, I guess we've already had some of that, Mr. Johnson.

MR. JOHNSON: Well, sure we have and it's getting - you know, I - I think what I - the problem I've got is that this section of the *Code* deals with hatred and it's something which the jury has to determine. That's the ultimate issue in this case and now we're starting to hivel off aspects of hatred. Certainly, one aspect of hatred is how - how a - an identifiable group may feel about that. Well, that's a matter of common sense for the jury to understand and for them to come to. If my friend doesn't have a - a witness who's got a study of - of type type of response that she's trying to elicit from this witness, then she can't ask that question of this witness. She's left with having to explain to

the jury it's up to you. This witness cannot make a statement on the ultimate issue which is part of the definition of hatred. It's just not proper. Those are my submissions.

THE COURT: Well, I think I'd like to look at Watcombe -

MR. JOHNSON: *Whatcott*.

THE COURT: - with that in mind.

MR. JOHNSON: It's [indiscernible] *Whatcott*.

THE COURT: What - yes. *Whatcott*, yes.

MS. JOHNSTON: Thank you. *Whatcott*, yes, that's correct.

THE COURT: Yes. Yes.

MS. JOHNSTON: Yes.

THE COURT: As I've - I've not looked at it with this mind, so I'm - I'm going to do that. So we'll - we'll stand for -

MS. JOHNSTON: Is Your Lordship - I'm - does Your Lordship need a copy, 'cause I can obviously easily provide one to the court.

THE COURT: I - I can -

MS. JOHNSTON: Thank you.

THE COURT: I can look at it very quickly.

MR. JOHNSON: My Lord, I'm at a disadvantage here. I - I don't have internet hookup here.

MS. JOHNSTON: I'll -- I'll bring --

MR. JOHNSON: I'm going to have to go across the street.

MS. JOHNSTON: I'll bring one down for my friend.

THE COURT: Maybe - maybe you can do that and - and have - and get a hard copy for me as well. I don't need it right now, but when we come back in we'll - we'll break for let's say 20 minutes while I -

MR. JOHNSON: Thank you, My Lord.

THE COURT: - have a look at that and -

MS. JOHNSTON: My Lord -

THE COURT: - and you can have a look at that.

MS. JOHNSTON: I'm sorry, My Lord. I - I didn't intend to cut Your Lordship off. I actually have - I actually wrote out for myself, just as a cheat sheet, the paragraph references I'm referring to when I -

THE COURT: Oh, that would be - that would be useful.

MS. JOHNSTON: So perhaps if Your Lordship would like to stand down for five minutes, I'll return with my notes. I'll return with hard copies and then I can direct Your Lordship to the paragraphs that I think are relevant and that may assist Your Lordship.

THE COURT: That would be helpful and -

MS. JOHNSTON: Thank you.

THE COURT: - that might move us along a little faster.

MS. JOHNSTON: Maybe seven minutes.

THE COURT: All right.

MS. JOHNSTON: I'll be back as soon as I can.

(PROCEEDINGS ADJOURNED)

(PROCEEDINGS RECONVENED)

THE CLERK: We're back on record.

MS. JOHNSTON: Thank you, My Lord. I have a hard copy of the decision for Your Lordship and I have - I have my submissions on *Watcombe - Whatcott*. I hope Your Lordship will appreciate that I wrote these for my own use and they were not formatted as they normally would be for the Supreme Court of British Columbia, but -

THE COURT: You've provided them to your friend?

MS. JOHNSTON: Yes, right there. So - I mean I could certainly walk Your Lordship through it.

I don't know that it's -- I don't know that I could augment by much.

THE COURT: Well, why don't you walk me through it?

MR. JOHNSON: My Lord, I have notes that I've prepared to assist Your Lordship with the -- the charge and I've got an analysis in that document; however, it's upstairs being photocopied right now, I couldn't find it so ...

MS. JOHNSTON: I can phone Ms. Tilsner [phonetic] and Ms. Tilsner will bring down three copies of it if -- if Your Lordship would permit me to use the phone.

THE COURT: Well, why --

MR. JOHNSON: Like being from out of --

THE COURT: why don't we stand down?

MR. JOHNSON: Yeah.

THE COURT: I'll read this. When you get copies of that, if could hand that to me as well, I'll read them both and then we can have brief submissions.

MR. JOHNSON: Being from out of town, it's difficult to get these resources without the cooperation of the Crown and I am indebted to my friend for running that off for me so ...

THE COURT: Right. And I see I have two copies of this, which --

MR. JOHNSON: I didn't know whether or not Your Lordship wanted it filed or whether Your Lordship didn't want it filed. I don't know that it's strictly necessary to file it, but if Your Lordship wants to file a copy there is a second one.

THE COURT: I don't think it's necessary to file it, no.

MR. JOHNSON: Thank you, My Lord.

MS. JOHNSTON: Thank you, My Lord.

THE CLERK: Order in court. Court is stood down.

(PROCEEDINGS ADJOURNED)

(PROCEEDINGS RECONVENED)

THE CLERK: And we're back on record.

THE COURT: Now, I think I should hear from Mr. Johnson first probably, it's his objection, and then hear your -- your response. I mean, I can tell you that I don't think you're all that far apart on this. I mean, in your -- your notes, Ms. Johnston, you say "However, I do not think that proof of harmful facts is a necessary ingredient in hate crimes prosecution." And I -- and I think that may be the answer here is that this isn't an ingredient that has to be proved so why should we hear evidence on -- expert evidence on that?

MR. JOHNSON: Exactly.

MS. JOHNSTON: I'm content as long as my friend also agrees that's the law and there won't be any further difficulties. I'm happy with that answer, My Lord.

THE COURT: And I don't think I have to ask him to agree to the law, I could -- that is the law and so I'm -- I think that's really the short answer to this question.

And so just in terms of a ruling, the defence objected to the question, which was put to Mr. Rudner, which was "What is the impact or what are the effects of the kinds of statements in Mr. Topham's blog, which we've just been looking at in Exhibits 3 and 4, what" -- the question was, "What are the effects, what is the impact on people of the Jewish religion or Jewish ethnic origin or Jewish people generally?" And I have considered counsels' submissions on that. I am of the view that the effect on the subject of the statements is not relevant, it is not an essential element of the grievant to prove that and, therefore, the question is objectionable and it is not something that should be led from this witness either on an individual subjective basis or as an expert.

MS. JOHNSTON: Thank you very much, My Lord. I note the time.

THE COURT: Yes.

MS. JOHNSTON: I can tell the court that I'm probably finished. I would - since - since it's the time it is anyway, I'm going to request that I be allowed to check my notes over the lunch hour. I will probably simply close examination in chief of Mr. - Mr. Rudner.

THE COURT: All right. We'll adjourn till two o'clock.

MR. JOHNSON: Thank you, My Lord.

(PROCEEDINGS ADJOURNED FOR NOON RECESS)

(PROCEEDINGS RECONVENED)

THE COURT: Ready?

MS. JOHNSTON: Ready to go, I think, My Lord.

THE COURT: We'll bring in the jury.

(JURY IN)

LEONARD RUDNER, recalled.

EXAMINATION IN CHIEF BY MS. JOHNSTON, Continuing:

Q Sir, we have gone through all readings I had asked you to look at -

A Yes.

Q - so I believe I'm at the point where I can ask Mr. Johnson if he has any questions. We did - sorry. We did engage you to be the Crown's expert. I said you were being paid \$95 an hour. How much are we paying you, sir?

A One ninety-five an hour.

Q Thank you very much. And if you could please answer any questions that my friend, Mr. Johnston, has for you?

A Yes.

CROSS-EXAMINATION BY MR. JOHNSON:

Q Mr. Rudner, I'm going to be moving between here and the other podium over there, depending on whether I can get the USB stick to work properly on that computer for graphic purposes, okay?

A Sure.

Q So bear with me if I'm moving back and forth.

MR. JOHNSON: Madam Registrar, let me know if you need to have a microphone moved over there when I'm asking questions.

THE CLERK: [Inaudible]

MR. JOHNSON: Okay, thank you.

Q Now, Mr. Rudner, I understand that you were actually a last minute substitution for Mr. Farber who was supposed to be here today?

A That is correct.

Q And who's Mr. Farber?

A Bernie Farber is currently the executor director of the Mosaic Institute, but pertinent to these proceedings, Bernie Farber was a long-time employee of Canadian Jewish Congress, ending his tenure there as chief executive officer I believe in 2011.

Q What was the year that the CJC ceased to exist?

A C - Canadian Jewish Congress ceased its operation on June 30th, 2011.

Q And were the responsibilities of the CJC transferred over to another organization?

A Yes. As a result of the - as a result of the termination of Canadian Jewish Congress, a new organization was created -- excuse me -- called the Centre for Israel and Jewish Affairs, the acronym C-I-J-A or CIJA. CIJA combined responsibilities of a number of Canadian advocacy organizations, Canadian Jewish Congress, the Canada Israel Committee, and National Jewish Campus Life.

Q Would it be fair to categorize both the CJC and the CIJA as lobbyists on behalf of the State of Israel?

A No. The Canadian Jewish Congress - Canadian Jewish Congress was for the most part a - a domestic organization, although certainly the lines between domestic advocacy and advocacy for the State of Israel certainly became borrowed from time to time. If one was going to use the characterization of one of those organizations as being overwhelmingly an advocacy organization focusing on the State of Israel, that would have been the Canada Israel Committee.

Q There's also the B'nai Brith. Can you explain who they are and how they differ from the organizations that you've worked with?

A Well, B'nai - B'nai Brith was - was yet another advocacy organization operating in Canada. They were separate and apart from Canadian Jewish Congress and CIJA. Their focus, I suppose very much like that of Canadian Jewish Congress, was to focus on manifestations of discrimination and Anti-Semitism in Canada. They also - they also have a - a portion of their agenda focused on advocacy for Israel.

Q So would you necessarily be aware of say a complaint being made by them to the Human Rights Commission, would you get notice of that?

A I would not get notice of it from - from them. You know, Canadian Jewish Congress and B'nai Brith were not - were not always a

cooperative as they could have been, a difference of approach, but it certainly would be likely that I would find out or Canadian Jewish Congress would have found out about such a complaint had it been made, if not directly, through indirect sources.

Q Both organizations were engaged in preparing and actually making complaints to the Human Rights Commission, say in 2007?

A Certainly, I mean I - certainly I - I can attest to the fact that Canadian Jewish Congress was - was engaged in such work and, to be clear, we're talking about s. 13 complaints under the Canadian - under the *Canadian Human Rights Act*.

Q Those aren't criminal proceedings?

A No.

Q Right, but they are proceedings nonetheless that would have - somebody would have to answer to a complaint before a tribunal?

A That is correct.

Q All right. I'd like to know a little bit more about Mr. Farber. Did he prepare the materials that you've presented here in your index?

A May I?

Q That's - that's the - actually, the - the book that you're referring to?

A No, I - well, certainly I - I prepared the materials. Mr. Farber, since he at the time was going to be doing the - was going to actually be - be here, okay, I was working with him on this but I was the primary author of this material.

Q So - but it was a joint effort on the part of you and Mr. Farber, wasn't it?

A Yes.

Q Right. So that's not totally your own work to establish your opinion here today, correct?

A I would say that probably, as it developed, the - the actual preparation of the material was mine. Mr. Farber's involvement would have been to ensure that he was comfortable with the material as I presented it. So clearly there was going to be - there was - we had built into the process the opportunity for some - some give and go, but before that process went too far along, Mr. Farber's schedule changed and he was unable to attend, so this represents essentially all of my work.

Q Okay. Were you ever a member of the B'nai Brith?

A I was a member - I would have been a member of a youth organization operating under B'nai Brith when I was perhaps 13 years old in Montreal.

Q Okay, but certainly not when you were also working with the CJC, Canadian Jewish Congress, you weren't also a member of the B'nai Brith -

A No.

Q - at that point?

A No.

Q All right. Do you know Harry Abrams?

A Only by - only by name and reputation. I don't believe I have ever met Harry Abrams.

Q Do you understand he's one of the complainants in this prosecution?

A Yes, I do.

Q Have you spoken with Mr. Abrams about this prosecution, sir?

A I have not.

Q Have you collaborated or worked with Mr. Abrams in the past?

A At - at one point, I would say back in - and I'm not sure if - I'm not sure if - if I actually - if Mr. Abrams was involved in this, but I recall that in 2007 or 2008 Canadian Jewish Congress would have written a letter to - just let me pause for a moment - would have written a letter - we wrote a letter to Magnet, which was the service provider for Mr. Topham's site, pointing out the content of one particular article and bringing it to the attention of the service provider. I do not - I do not recall whether I did this in consultation with Mr. Abrams. I suspect it is unlikely that I did.

Q Were you the author of the document that you sent to Magnet?

A I believe - I believe I was indeed and the reason - the reason why I - I pause, is that the copy - the copy that I - that I have in my old files was not the final copy, so I'm not certain whether I assisted in the drafting of a letter that was sent to Magnet by me or whether it was sent - whether I composed it for someone else or whether it came from Canadian Jewish Congress specifically, but I certainly had involvement in it.

Q But Mr. Topham and his website, radicalpress.com, were within your radar at Canadian Jewish Congress in 2007?

A That - that's a fair statement, yes.

Q Yeah. And you felt that there was content in 2007 on his website that was inappropriate?

A That is correct.

Q And you took steps to report that matter to his service provider, Magnet?

A That is correct.

Q And what did you hope to accomplish by doing that?

A I was - it was my hope that - that Magnet would believe that the - the content was in violation of their - their terms of use and that they would remove Mr. Topham's site from the - from - from their ISP.

Q You wanted Mr. Topham's radicalpress.com site shut down, in other words?

A I wanted - I - I was under no illusion that having the site moved from one ISP to another would cause - would cause it to be shut down. I did, however, want to see if we could do something to - to, at the very least, inconvenience Mr. Topham.

Q I understand that at some point in 2007 there actually was a Human Rights Commission case under s. 13 of that legislation brought against Mr. Topham by the B'nai Brith, are you aware of that?

A No, I'm not.

Q Okay. But you are aware that in 2007 the Canadian Jewish Congress on July the 12th, 2007, made a complaint to the RCMP, British Columbia Hate Crime Team regarding Mr. Topham and his website, isn't that true?

A That is true.

Q Right. Was it you who made that complaint to the RCMP, sir?

A No, I believe the complaint - the complaint came from - came - came from a Canadian Jewish Congress specific region, however, I believe - judging from the similarity from some of the content, my guess would be that the letter which I sent to the - to Magnet, would have been used, at least in part, as a basis to the complaint to - to the RCMP.

Q Okay. Did you ever speak to anybody with the RCMP Hate Crimes Section in relation to Mr. Topham at any time, do you remember?

A In - in 2007?

Q At any time?

A To the best - to the best of my knowledge, no; the - certainly the only - no.

Q No?

A No.

Q Would Mr. Farber working with you, would he have done that?

A I have - would have no way of knowing that.

Q Okay. You never discussed anything like that with Mr. Farber?

A Not -- to the best of my knowledge, no.

Q Okay. I understand that the complaint to the RCMP Hate Crimes with regard to Mr. Topham's site was that there was some Anti-Semitism material on that site?

A I don't have a clear recollection of - of the letter, but the fact that we would have written such a letter to the RCMP, okay, that would have been one of the only reasons why it would have been done.

Q Do you know who with the CJC would have actually contacted the RCMP Hate Crimes Section?

A As I recall - as I recall the letter - the letter that - if my recollection is correct, a letter that came from - from the CJC Pacific Region would have been signed by Lena McLeod, who at the time was I believe a community relations person for Canadian Jewish Congress. Although, again I - I would point out that in terms of the copy of that letter that I have in my file, I do not have the final version on CJC letterhead, so I can't vouch for whether or not any changes were made after that.

Q Sure. What was your position with the Canadian Jewish Congress when that complaint was made, do you remember?

A 2007.

Q I'm just going to refer you back to your CV, if you could?

A Yeah.

Q And maybe that'll help you, unless --

A Well --

Q -- you've got a recollection of -

A My --

THE COURT: So that's -

A Okay.

THE COURT: -- that's Exhibit 8?

MR. JOHNSON: Yes, Exhibit 8.

A I --

MR. JOHNSON: And that would be at Tab Number B?

A Sure. I would have been - excuse me - depending when in 2007 the letter was sent, either National Director of Community Relations or Regional Director for Canadian Jewish Congress in Ontario.

Q All right. My - let's - let's take it for - for the purposes of this next question, that the complaint was actually made in the summer of 2007, July 12th. Would - would you have been in that position as National Director of Community Relations?

A I - I honestly don't recall when - when I moved from one position to another, so -

Q But all you do is remember that there was a complaint made?

A Yes.

Q Right. Did you have to sign off on that complaint?

A No. The - my responsibility at the time would have - would have been that I would have - I would have prepared a draft of the complaint and it would have been - it would have had to have been approved by not only my superior, in this case Bernie Farber, but it also would have had to have been approved by

Q So -

THE COURT: Sorry, by - I missed that, by -

A I'm sorry, my apologies, My Lord. It would have had to have been approved both by my professional supervisor, in this case Bernie Farber, but in order for the letter to be filed it also would have had to have been approved by our national lay leadership.

MR. JOHNSON:

Q Okay. But you were part of the process of making the complaint to the RCMP?

A That's correct.

Q All right. Now, you were with the Canadian Jewish Congress for how many years, 11 years was it?

A I - I joined in late February of 2000 and I was with Canadian Jewish Congress until the organization ceased operation on June 30th, 2011.

Q What were your responsibilities as Director of Community Relations in Ontario?

A Primarily I was the - I - I was the primary contact for those - for people in the Jewish community in Ontario who had concerns about matters relating to discrimination or Anti-Semitism, representations of the Jewish community in the media. I was also a primary contact between the organization and school - and school boards and other - and other organizations. I suppose one could say relationship management, stakeholder management as well as advocacy.

Q You would be sort of a front line person with the Canadian Jewish Congress dealing with complaints made with respect to matters brought to the attention of the CJC, correct?

A That is correct.

Q That was part of your job?

A That is correct.

Q And were those complaints right across the country or just restricted to Ontario?

A When I was the Director of Community Relations for Ontario, they - they tended to be focused, you know, as the name would imply, in - in that area. When my mandate increased as I - when I became National Director of Community Relations, while my primary responsibilities remained in Ontario, I was seen - I was seen as being a resource that members of Canadian Jewish Congress and other parts of the country could call upon.

Q You'd mentioned on your - in your evidence on Friday, the 30th of October, as I understand it, you'd drafted four complaints to the Human Rights Commission?

A Yes, I think that's probably a - a fair estimate.

Q Do you remember any of the names that -

A Let's see. One involved - and I am going from memory, so you'll forgive me here.

Q Sure.

A One was a complaint involving the - I think it was called *The Arab News*. A second one was a complaint involving a website variously called *Save the Males* or *Henry Makam*, M-a-k -

Q Makow?

A Yes, thank you, makow.com. And there was - there was - there was another complaint which we - which we resolved before it went to Tribunal, and part of that resolution was that we would make a publication of that name. Okay. And - and I'm afraid the fourth - the fourth one, I am simply drawing a blank on.

Q All right. But - so just to sum up, you'd agree that the Canadian Jewish Congress and you in particular were involved in initiating complaints against those whom you thought were spreading hate against minorities in Canada?

A That is correct.

Q And that would have included Mr. Topham and Radical Press back in 2007?

A Yes.

Q And you were personally involved?

A Yes.

Q Did you ever learn what became of the complaint that was made about Mr. Topham and his radicalpress.com website to the RCMP Hate Crimes Section in 2007?

A I don't recall ever receiving a response back from the - from the Hate Crime Unit. And I should say that that was not - that is not all uncommon. Quite - quite often we would - we would file complaints, as much - as much to be on - be on the record to express our concerns, right? So sometimes we would hear back, sometimes we would not.

Q Okay.

A But in any event, the response probably would have gone back to - to Canadian Jewish Congress Pacific Region, if indeed my recollection is correct, and it was Lena McLeod who signed the - who signed the document.

Q Sure. I'm going to see if I can move over here, maybe show you the report that was done by - can you hear me over here?

A Yes, I can, thank you.

Q Thank you, Mr. Rudner. This isn't a great copy, but - it's just been scanned. This is a -

MS. JOHNSTON: My Lord, I - I'm not saying I have a problem, but I - I don't know whether I do or whether I don't, so if I could just see that document before it's -

MR. JOHNSON: Sure.

THE COURT: And I - yes, and I think we should do that before it's shown to the - the jury.

MR. JOHNSON: Sorry, I - I thought I had already given my friend a copy, but I - I don't know if she's been able to -

THE COURT: I mean as we've done with all other documents --

MR. JOHNSON: -- been able to read it.

THE COURT: -- we should first decide if it's going to be marked before the jury sees it.

MR. JOHNSON: Yeah, I - I would -

MS. JOHNSTON: Does my friend have a hard copy [indiscernible/coughing] hard copy?

MR. JOHNSON: I think I -

MS. JOHNSTON: Otherwise I can just -

MR. JOHNSON: I gave the hard copy to the police officer who just scanned that onto the disc, so I'm hoping that - My Lord, I'll just unplug the cord and I can look at it on the screen.

My Lord, it may be well that Mr. Rudner can personally attest to some of the documents in the affidavit that are written by other people and of course, if he can, then it can come into evidence. But it's the Crown's submission - and I don't even have an objection, My Lord, to Mr. Johnson personally showing Mr. Rudner the document to see if that triggers any memories on the part of Mr. Rudner. What I do have an objection to is that the document be shown to the jury before we know whether or not Mr. Rudner is in any position whatsoever to say -

THE COURT: I think I just indicated that -

MR. JOHNSON: I - I think that's fine.

THE COURT: -- to Mr. Johnson.

MR. JOHNSON: I was just seeing if it was going to even come up on this document here. Thanks.

Q Mr. Rudner, I'm showing you a - a portion of the Crown's disclosure that was provided relating to a - an affidavit that was sworn by - I'm going to mispronounce this name, but it's Corporal Normandie Levas?

A Levas.

Q Levas. There we go. I'm - got the wrong pronunciation already. At any rate, the police officer makes a number of depositions and I'm wondering if you could have a look at the first two pages. This is just to put it into context of what was going on. This was in support of an application for a search warrant. I'm going to draw your attention to paragraph 63 to see if you can recall CJC's involvement in that complaint?

A Of course. One moment, please? Did you want me to look at the other pages as well?

Q You can if you like, if it helps you get an idea of the date that - that it was sent out? I guess, Mr. Rudner, we've been speaking about a complaint that was made by the Canadian Jewish Congress to the B.C. Hate Crimes Team?

A Mm-hmm.

Q And I wonder if this fairly represents that complaint?

A Well, I mean the - the context -

Q At least from their side?

A Well, I mean I - I can't speak to their side, but I mean the - the content - the content of the pages you've shown me is fairly bare bones. It indicates that a complaint was made by Canadian Jewish Congress alleging [sic] Anti-Semitic comment on - on Mr. Topham's Radical Press website. That certainly conforms with my - my recollection.

THE COURT: Sir, can - can I ask you to try and slow down a bit, Mr. Rudner?

A Oh, I'm - I'm --

THE COURT: I have trouble hearing you.

A I'm - I'm sorry, My Lord. Let me try again. The - the information in the - in the document that Mr. Johnson has shown me indicates a very bare bones description and that is that a complaint was made by Canadian Jewish Congress indicating that the content of Mr. Topham's website, Radical Press - excuse me - had contained instances of Anti-Semitism, okay? That conforms with my recollection of a complaint that Congress would have sent on or about that time.

MR. JOHNSON:

Q So, Mr. Rudner, just to clarify things for me and perhaps for the jury, the Canadian Jewish Congress and acting in that - acting on behalf of the CJC, you had started or had hoped to start a criminal investigation, correct, into Mr. Topham and his website, correct?

A If the - if the letter would have been - if - yes.

Q Right. And were - you were aware as well that there was in addition to the criminal proceeding, a Human Rights Commission action at the same time going on against Mr. Topham, but not involving the CJC?

A I - I likely would have been aware of it in some fashion.

Q Right. So we have in - in effect, two things going at the same time. We have a complaint being made to the police and a complaint being made to the Human Rights Commission?

A So it would seem.

Q Or so it would seem, right.

MR. JOHNSON: Do you have any problem marking that?

MS. JOHNSTON: My friend's wondering if it can be marked. If - if we could just delay that question, we could certainly mark it afterwards, My Lord.

THE COURT: All right. Well -

MR. JOHNSON: That's fine.

Q All right. Do you feel, Mr. Rudner, that you were in any way biased towards Mr. Topham and Radical Press because of your prior involvement with him, making complaints to the police and actively trying to put him - put his website down and now appearing in this courtroom?

A I - I don't think so. I mean, but - but let me explain. I mean - so first of all, I - it would be difficult for me to have a bias against Mr. Topham since we have never met before and nor have we ever corresponded in any way that I can recall. The only - the only sense I would have of Radical Press or - you know, or of any - either writings which Mr. Topham got in or his own writings would be what - what I have read. So what I - what I would say is rather than having a bias on the matter, I would say that I have - I have a history of - I have a history of read - of reading material on the site, not - not an ongoing history since after 2007 I don't think I had much involvement with it, but I evaluate the content based - based on the content itself rather than bringing any preconceived notion to it.

Q Well, prior to writing your complaint to the RCMP crimes team in 2007, you had an opportunity of looking at Mr. Topham's website, didn't you?

A I would have before - I would have before I would have filed a complaint, of course.

Q Sure. You're not just going to write a letter not having looked at the site?

A I would have - well, quite often when a complaint was filed - I mean the complaint would not be filed - on the entire website. Quite often what would happen would be, I'm not speaking simply of Mr. Topham's site, but of others, if a community member was to - would have reached out to Canadian Jewish Congress and they would have said I've seen this - I've seen a particular order or a particular series of articles on a website, they would draw our attention to those and I would look at those. So sometimes my analysis of the site would go beyond what was - what was brought to my attention. Other - other times it would not.

Q Mr. Rudner, you're here as an expert today acting in an unbiased and, I guess, un-influential way in terms of this jury. That's what you're supposed to be doing, correct?

A Correct.

Q Well, how can you say that that's what you've done when you actually were actively involved in a criminal investigation of Mr. Topham and his website back in 2007? How do you square that?

A I think it's easily - I think it's easily squared, Mr. Johnson. The - the assum - the assumption - the assumption that - that I make is that when I review material, I review it on the basis of the content. If I do not feel that content justifies a complaint, then I don't make it. To suggest that there is bias would be to suggest that I would have decided beforehand, before even looking at the material, that this was going to end with a complaint, right? If that would have been the case, I would agree with you, but that was not the case so respectfully I do not agree.

Q So it's okay to have been involved in a criminal complaint against Mr. Topham and - and his website in 2007 after looking at the material and now you appear as an expert who's supposed to be unbiased and making comments about his site?

A I am making - I am making comment on the content of particular articles which were included in the book of evidence. I have sworn an oath to tell - to tell the truth, right, and that - and that - which is - which is what - which is what I am doing. More to the point, right, I have a personal obligation beyond what goes on in this court, right, to - to speak the truth and to be honest in - in my - in my presentation of material. If there was material here which I felt - which I feel does not meet - meet the test as I understand it for hate, right, then I will certainly testify to that effect. If there is material here that does qualify as hate, then I am obligated to testify to that effect as well.

Q But you wanted the RCMP to take steps to do a criminal investigation into Mr. Topham and his website in 2007, didn't you, based on the material on his website that you viewed?

A I - perhaps I'm - perhaps I'm - I'm not clear on the process here, but again if my responsibility is to review material and if, once I review the material, I determine - I determine that further steps should be taken, then I have a responsibility to do that. The fact that I make that decision in 2007 does not - does not mean that I am going to make that decision again in 2011 -

Q Oh.

A -- or 2015.

Q Oh, okay. So, for example, when you go through, as you did with my friend Crown counsel, through - through these binders and looking at Mr. Topham's editorials and his comments, you're actually assessing those same materials in terms of Anti-Semitism that you looked at back in 2007. You used the same criteria, didn't you?

A Well, and I - and I -

THE COURT: Sorry, there is two questions there. You said that it was the same materials -

MR. JOHNSON: Okay.

THE COURT: - and then you said same criteria. I think you should ask those separately.

MR. JOHNSON: Right.

A If there is a - if there is a - if there's a - in your files, if there is a record of what it is I evaluated for the 2007 complaint, I certainly would be - be happy to look at that and to be able to compare that to the content which I reviewed for this one. If - if that is simply because I went to the same website, does not mean I reviewed all the material. I think as the Crown - the Crown has assembled four binders worth of evidence. I think it is probably a bit of a - a bit of stretch to assume that those precise four binders were the ones that were reviewed by me in 2007.

Q Okay. But your process was exactly the same, wasn't it? The analysis of the material was exactly the same today in preparation for this case as it was in 2007 when you made a complaint to the police against Mr. Topham in his website?

A The - the process - the process may be the - may be the same, but simply because the process is the same does not preordain that the result is going to be the same.

Q You didn't have any control over what the RCMP was going to do with your complaint, correct?

A Obviously not.

Q No, but you had a lot of control over how that complaint was phrased because you took part in that?

A Yes.

Q Right. So you used an analysis of his website and his personal comments in 2007, correct?

A I would have, yes.

Q That would have led you to writing a letter if you felt that it was necessary, right?

A I think - I think we are confusing again process versus result. I mean a process - there are - there is a - there is a process which I'll certainly - I follow which - which permits me to analyse the content. However, following the process does not necessarily mean you are going to end up with the same result.

Q How did you - how did you analyse Mr. Topham and his website in 2007, what was your process? How did it differ from what you're doing here today?

A It didn't differ. Well, I - my - I'm perfectly prepared to concede that even though I have no clear recollection of the process that I would have followed. But again, I - I make - I make the same point, right? If - if my process, for example, is to consider the - consider the language of the *Criminal Code*, right, and to - and to - and to review the contents of a website in Mr. Topham's or - or another one, right,

then clearly the process - the process has to be - has to be the same indeed. If a process is not - is not - is not the same and if it is not applied as - as similarly as possible across multiple cases, right, then really it becomes impossible for - for me - for me to do my work. Indeed, I would suggest it becomes impossible for anyone who is engaged in analysis to do their work if they use - if they use a different process with every case that arises.

Q So the process was the same in 2007 when you were with the Canadian Jewish Congress as you used as an expert witness being called by the Crown in this criminal prosecution today?

A I would imagine it is the same, although - although again we're looking at a - we're looking at an analysis that took place eight years ago.

Q Sure.

A Okay. So I - I would - I - I will assume that it was the same, although I do not recall the details of that analysis with - with perfect precision.

Q Well, in terms of representation, the only difference was that you were representing the Canadian Jewish Congress in 2007 and now you're representing the Crown -

A And -

Q Isn't that true?

A And therefore?

Q Isn't that true?

A The - the - that is - that is one difference in term - if we say that my - if we assume for the moment that my analysis was - that my process of analysis was the same, okay, then we say the - the - that back in 2007 I was working with Canadian Jewish Congress, okay, today I'm with the Crown. Whether there are other differences or similarities, okay, I do not know.

Q Well, back in 2007 you're getting paid by the Canadian Jewish Congress, correct?

A Canadian - yes.

Q And today you're getting paid by the Crown?

A Yes.

Q And you've told us how much you're getting paid?

A Yes.

Q Right. So you're a paid witness?

A Yes.

Q All right. And as a paid witness, sir, aren't you going to say exactly what is needed to get a prosecution of Mr. Topham and Mr. Topham's website?

A No.

Q What's going to stop you from doing that, sir?

A The oath that I took.

THE COURT: Sorry, I - I don't understand that question. Maybe you can -

MR. JOHNSON: I - I think -

THE COURT: - just phrase it again.

MR. JOHNSON: Oh, he was starting to answer it, My Lord, sorry.

THE COURT: I know and then I stopped you because I didn't understand.

MR. JOHNSON: Okay, all right.

THE COURT: I want you to phrase it again.

MR. JOHNSON: No, that's fine. I - I can - I don't have to go there. I think the point's made.

Q You've made a number of comments about Mr. Topham's website going through especially Books 3 and 4 which are Exhibits 3 and 4 filed in these proceedings, right?

A Correct.

Q Right. And the analysis that you used in going through those books was the same analysis or the same process that you used in assessing whether you were going to make a complaint in 2007, correct?

A It's the same - the same - the same process result - the same process and the same form of analysis result and I - and it came - allowed me to come to the same result, however, that was not a foregone conclusion.

Q Okay. I'd like you to turn to your index, please, if you could?

A Mm-hmm.

MR. JOHNSON: My Lord, that's exhibit number -

THE COURT: Exhibit 8.

MR. JOHNSON: 8, right.

THE COURT: All right. If - I think that's what you're referring to.

MR. JOHNSON: I - I think it is, yeah.

Q And I wonder if you could direct me to any - any definition in here of Anti-Semitism? I'll let you lead me to that, please.

A Of course. One moment, please? Yes, just one moment. We are in Section F.

Q Okay.

A And in that section there are a number of definitions and the one which I think is most pertinent to your question is "Semitism".

Q Okay. Is there actually a definition of Anti-Semitism in that section?

A Yes, there is.

Q Can you read it for me?

A Yes, of course.

Within [within] the context of the current proceedings, the term may be more commonly deployed as Anti-Semitism, while in other cases it may be useful to define a term by reference to its opposite. This is not possible in the case of Anti-Semitism. The term "neologism" was coined by William Marr in the early 1870's, is accepted to mean a prejudice against, hatred of, or discrimination against Jews as an ethnic religious or racial group. In creating this new word, Marr sought a way of deemphasizing the religious mode of hatred, in German, "Judenhass", in favour of a more "scientific" term.

Q Okay. I'm going to read you the Oxford English Dictionary - that's Oxford University Press 2004, definition of Anti-Semitism which I have in my hand and if I - I'm going too fast or if you want it repeated, let me know.

A Yes.

Q It's pretty straightforward. The dictionary that - the dictionary sets this out:

Theory or action or practice directed against the Jews, hence anti-Semite, one who is hostile or opposed to the Jews; anti-Semitic.

MR. JOHNSON: I'm just going to approach the witness, My Lord, and show him the definition, see if - if that helps.

Q Need some glasses?

A You can never have too many pairs.

Q Okay.

A Thank you.

Q Yes?

A Yes.

Q And you can see from the definition of our dictionary, the Oxford English Dictionary, that there's no reference to hate in that dictionary at all, is there?

A Not in that particular definition.

Q So when you use the word "Anti-Semitism", you seem to elevate the term to include hate, am I not mistaken?

A Based on - based on other definitions that I read, yes.

Q But you've got your own definition of Anti-Semitism which differs from the Oxford English Dictionary, right?

A I don't describe it as being my own definition, rather - although it is a definition that isn't - that is not 100 percent in - in accord with that one.

Q But according to the definition, if we were to use your term "Anti-Semitism" throughout your testimony, you'd have to agree that it does not make any reference to hate whatsoever, isn't that true?

A I'm sorry, if we were going to use that definition?

Q Yes?

A That definition does not use that term, that is correct.

Q Right. So would care to revise what your definition of Anti-Semitism is based on that definition, sir?

A No.

Q Okay. You're sticking to your guns, you're going to say that it involves hatred?

A Yes.

Q All right. So that's a non-standard definition, wouldn't you agree?

A I would say - I would say at the moment we have two definitions. We have your definition and mine based on a sample of two. It's difficult to say at this point which one is not a standard.

Q Oh, I don't think we've got two different definitions. We have the Oxford - Oxford English Dictionary. Do you recognize that as being an authoritative dictionary in the world?

A I recognize it as being one authoritative dictionary in the world.

Q Okay. Are there any other dictionaries that you can refer to that include the word "hatred" in the - in the term "Anti-Semitism"?

A I would have to - I would - I would have to consult.

Q You didn't bring any definition with you today that would help us establish that there is that additional aspect to Anti-Semitism that includes hatred, correct?

A I do - I did not bring one with me today, no.

Q No.

THE COURT: I notice there's four - four references to that definition.

MR. JOHNSON: Yes.

THE COURT: I - I'm -

MR. JOHNSON: None of which are dictionaries, My Lord.

A Merriam -

THE COURT: Merriam Webster?

MR. JOHNSON: Let's have a look.

Q Are you referring to the Merriam-Webster in your text or in the footnotes?

A When I - when you see footnote - footnote number eight, footnote number eight refers to the Merriam-Webster Dictionary.

Q Okay. Okay. Does the Merriam-Webster Dictionary that you've cited make any reference to the word "hate" or "hatred"?

A Since I do not have the definition in front of me right now and because I did not include it in quotations, right, I - I cannot testify that that is the case.

Q Well, isn't that why you didn't put the definition in, because it does not refer to hatred in that definition in the Merriam-Webster Dictionary, sir?

A No.

Q Okay. I believe that you, in your evidence in direct examination - and please correct me if I'm wrong. If my understanding is wrong, I'm - I'm the first one to say that I don't make perfect notes, sir, okay? But my understanding from your testimony was that you did not use the binders that were provided here in evidence, Binders 1 through 4, in looking at the material that you gave your opinion on. You went to the website in my understanding, is that correct?

A Not - not in all cases, but in - but in some cases and my reason for doing that was that where I was quoting significant portions of either articles appearing on Mr. Topham's site or his own, right, in order to be faithful to the content. You know, I thought it would be easier to cut and paste from there than - than to retype. And indeed, in many cases when we - we recount them, some cases I fail to footnote with - with sufficient precision the - that is why you see in many cases a - a footnote with a URL to Radical Pres.

Q Okay. So you're going beyond what's in these binders to come up with your opinion about Mr. Topham and his website, isn't that true?

A No, because - well, because the process that I tended to follow was I did - my initial review of the material was on the binders. I would go through the binders and I would - I would highlight them to determine the sections that I thought were appropriate. Once I had highlighted them, I would then go onto the website and I would cut and paste them that way.

Q You were working off of a physical copy of the binders?

A That's correct.

Q You weren't working off of a thumb drive?

A No. As a matter of fact, the - I was - I was sent - I was sent a box with - with the four binders.

Q And you had some trouble reading the content in those binders, I take it?

A In saying - in one particular case, I believe it was controversy - the Douglas Reed book, *A Controversy of Zion*, for - for whatever reason, I found that the - there were paragraphs that were repeating themselves, so in order to - so in order to get a - a clean view of that, I - I went to - I went online and I found a PDF of *A Controversy of Zion* and I used that. And I believe that I did note that in a - in a footnote to that particular piece.

Q But there was additional material that's not before the jury here that you looked at in forming your opinions that you bring to this court today, isn't that true?

A You have - you have to explain exactly.

Q You didn't restrict your opinion to those four binders, did you? You went to the website and you looked at other material?

A On Mr. - on Mr. Topham's website?
Q That's right.
A No, I did not.
Q Well, you certainly did that in 2007 though, didn't you?
A Do we have - if - if you have a copy of the complaint that was filed, I'd be very happy to look at it and review it.
Q But you had a familiarity with the material on Mr. Webb - Mr. Topham's website from 2007?
A I think it is - I think it's particularly important that you - that we able to determine precisely what I based my complaint on in 2007. Did I base it on all of the content on the website or did I base it on a particular - on a particular article or articles that form part of the current proceedings. I do not have a recollection of that.
Q You're telling us that you didn't prejudge Mr. Topham's website before you looked at the Crown's four binders?
A That's correct.
Q You disabused your mind of everything that you had read on that website from 2007?
A As I - as I've said - as I've said before, Mr. Johnson, I mean - okay, I think you have to be able to show me what it is I based my - my - based my complaint on, right? But what I - what I will say is that when I sat down to look at these binders, I - I did not have in my mind any previous history that I had with Mr. Topham. As a matter of fact, like to be honest with you, it was only after I filed my submissions that I recalled, and this was as much by chance as anything else, that there had been - that there had been a previous encounter. I vaguely remembered something, but I did not go back and refresh my memory of - of what it is that we had - we - I had submitted in 2007 before I proceeded to review the material that was provided to me by the Crown.
Q Mr. Rudner, that's pure sophistry, isn't it?
A Why don't you tell me what sophistry means?
Q You are simply coming up with an explanation so that your evidence here is not tainted with what you knew about Mr. Topham's website from 2007?
A That's nonsense.
Q But you've said that it's up to me to bring information to you from 2007 so that you could look at it to see if you were in any way influenced by what you were going through, your thought process, as in 2007, correct?
A I'm - I - I remain under - I remain under oath, right, and I - I - I'm providing you the information to the best - to the best of my ability. And what I - what I will say is - since you have me at a point of - a point of observing that I have been paid for this, right, there's no amount of money that is going - that is going to allow me, right, to - to be honest in the court.
Q I hope I didn't give anybody that impression. I just - I gave - I just asked you if you were getting paid that amount by the Crown as opposed to receiving a - a pay from the Canadian Jewish Congress, isn't that fair to say?
A If there are no further implications, of course that's fair.
Q Sure. Have you written any memos inside the Canadian Jewish Congress concerning Mr. Topham or his website?
A None that I would recall.
THE COURT: I'm - what do you mean inside the Jewish -
MR. JOHNSON: Memos, like in a office that would be - I'm sorry, memos that would be used within that office, say to Mr. Farber or somebody else?
A None - none that I would recall, although there may - there may - there may have been emails, but given that Mr. Farber's office was right next to mine, generally speaking there was no need for emails. We would simply wander back and forth.
Q You got the file on Mr. Topham and Radical Press, didn't you?
A There would - there would have been a - there would have been a file of some description, but again if the - okay, if our active involvement on the file essentially ended with the letter that went to - that went to the B.C. Hate Crimes Unit and if there was no further correspondence, then that really would have been the end of the file and it simply would have remained closed after that.
Q Is that true, sir? Is that a true statement?
A That there would have been - that there was no further file?
Q Yes?
A I have no - I have no - I have no recollection of - of us continuing a file on - on Mr. Topham.
Q Well, weren't you continually - continually investigating Mr. Topham on your own as a member of the Canadian Jewish Congress?
A No.
Q In other words, when the police perhaps didn't go anywhere with that investigation, you just simply stopped looking at his website?
A If there was no further - if there was no further avenue to follow, then there was no reason for us to continue and it certainly is - it's not as if there were not other things for us to do. We - Canadian Jewish Congress, contrary to what somebody may believe, was not - was not a huge multibillion dollar organization. We were a small organization, small staff, right, and we were - we were spread across a number of issues.
Q Sure. Do you have any kind of a relationship or did you have any kind of a relationship between the Canadian Jewish Congress and the ABL?
A I - I suspect that there - there were times when I might have called on - on colleagues and the ADL to ask for particular information or advice on something, but the organizations were not joined together in any - in any formal way.
Q The ADL was represented in a cartoon that was demonstrated here or - or a graphic, do you remember that?
A I do.
Q Yes. And the ADL is a - an American organization, is it not?
A That is correct.
Q But you have in the past, as a member of the Canadian Jewish Congress, had communications with the ADL concerning matters involving Anti-Semitism, correct?
A That is correct.
Q So they have somewhat the same kind of concerns that the CJC, as it then was, use to have?
A I would say that's fair.
Q All right.
MR. JOHNSON: My Lord, I wonder if we could break for -
THE COURT: Certainly. We'll take the afternoon recess.

(JURY OUT)

THE COURT: Mr. Rudner, you're now under cross-examination. What that means is when you're not in the witness stand here giving evidence you can't discuss your evidence with anybody.

A Yes, My Lord.

THE COURT: We'll take the afternoon recess.

(WITNESS STOOD DOWN)

(PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)
(PROCEEDINGS RECONVENED)

THE CLERK: And we're back on the record.

THE COURT: Bring in the jury.

(JURY IN)

LEONARD RUDNER, recalled.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q Mr. Rudner, I'm going to show you some things on a very badly prepared PowerPoint.

A Okay.

Q But I'd just like you to identify some of the symbols that you referred to earlier in your testimony, okay?

A Of course. Okay, these are - we have the menorah, which is the seven-branched candelabra on the left, and we have what appear to be Israeli fighter planes marked with the Star of David.

Q Right.

THE COURT: I'm sorry, Mr. Johnson, before you go on, I - I'm not sure what we're looking at.

MR. JOHNSON: Okay. I think he's described the menorah on the left.

Q There's some Hebrew writing around that, sir, can you -

THE COURT: No, no, no. I - I don't know what document this is. We don't usually show documents to the jury until -

MR. JOHNSON: Oh.

THE COURT: - they've been marked as an exhibit and so it's -

MR. JOHNSON: Yeah, I -

THE COURT: I --

MR. JOHNSON: I - I've been at a bit of a disadvantage because, My Lord, I don't have an office here in Quesnel and I'm relying very much on my friend and the ability to generate things upstairs. Perhaps what I could do is have her paralegal run off a copy of the PowerPoint demonstration before getting into that then.

THE COURT: I mean if - if - if I understand from this, Ms. Johnston, that there's no objection in proceeding this way, it's - it's just not the way we do it and --

MR. JOHNSON: [Indiscernible/rapid speech]

THE COURT: - and I -

MR. JOHNSON: No.

THE COURT: But - but if - if that's - if you've got an agreement to do that, I suppose we could do it and then mark it afterwards, but -

MR. JOHNSON: Sure.

THE COURT: - but we shouldn't be showing the jury something that's not marked as an exhibit except by consent or agreement of the parties.

MS. JOHNSTON: What I can do - what I can do is I can just go to my friend's computer and look through them and if I do have an objection, I will certainly say so.

THE COURT: Well, why don't I - I ask the jury to step outside for a moment?

(JURY OUT)

THE COURT: And Mr. Rudner, can you also step outside the courtroom?

A Of course, My Lord.

(WITNESS STOOD DOWN)

THE COURT: Now, before - before you start talking, Mr. Johnson, we - we started this earlier in your cross-examination. You can't do that --

MR. JOHNSON: I -

THE COURT: -- with a jury.

MR. JOHNSON: I understand.

THE COURT: You can't suddenly start showing images.

MR. JOHNSON: I understand.

THE COURT: We need to have a document shown to the court and then - and then identified and proven in - in evidence and then we'll --

MR. JOHNSON: I understand that.

THE COURT: -- show it to the jury.

MR. JOHNSON: If I - if I can get my friend to agree, however, this may be the quickest way of getting through it.

THE COURT: And - and that's fine if -

MR. JOHNSON: Okay.

THE COURT: - if she's had an opportunity to see it and she agrees and then there's going to be something made available for the jury -

MR. JOHNSON: Yes.

THE COURT: - and for me, then - then that's fine, but that should be dealt with before we start doing it in - in court in front of the jury.

MR. JOHNSON: Well, let's move on to the next topic then.

THE COURT: Well, we - we can stand down for a moment and you can look at it and see if it's okay to do it that way.

MR. JOHNSON: No, I don't think it's fair to my friend or the court to proceed without having that agreement in place ahead of time.

MS. JOHNSTON: I can tell Your Honour that - sorry - I'm sorry - Your Lordship that it is Mr. Rudner's profound hope that he be finished

today, so I wouldn't mind taking a look and if the answer's yes, it's quick. If the answer's no, that's [inaudible/not near microphone]. And I'm [inaudible] appreciate that.

THE COURT: I guess my - my guess is Mr. Rudner's not going to be finished today from what I've heard.

MR. JOHNSON: I'm going to try.

THE COURT: You're going to try? All right, but --

MR. JOHNSON: We might --

THE COURT: -- do I do that?

MS. JOHNSTON: Well, why don't we see. I mean it's four o'clock anyway, then my looking at it now is difficult. Why don't we just go through the balance and he can return to this.

THE COURT: All right.

MR. JOHNSON: Okay.

THE COURT: Okay, we'll bring in the jury.

(JURY IN)

THE CLERK: Mr. Rudner?

THE COURT: And - and Mr. Rudner, yes.

LEONARD RUDNER, recalled.

THE COURT: Mr. Johnson?

CROSS-EXAMINATION BY MR. JOHNSON, Continuing:

Q Mr. Rudner, you were describing some of the symbols that are - they're relevant to a discussion of - I guess Jewish identity would be the best way of describing it, correct?

A Yes, sir.

Q Right. And would you not agree that the Star of David is used on Israeli fighter planes?

A It is - it is used there and - and in other places as well.

Q In fact, the Star of David is used as a political symbol, is it not?

A Political statement is one of the interpretations of it, yes.

Q It represents the State of Israeli?

A Well, is one of the things it represents.

Q Okay. So if it was on an attack helicopter over Gaza with a Star of David on that plane, you would identify that as an Israel helicopter?

A That's correct.

Q Right. And a menorah is also a symbol of the Jewish religion, correct?

A That is correct.

Q And you've given some idea of what - what that represents as well.

A That's correct.

Q However, it's also used as a symbol for the Mossad, correct?

A Yes, it is on - it is one of their symbols?

Q Can you tell the jury what the Mossad is?

A Mossad is - is an Israeli - Israeli intelligence service.

Q So it's a government intelligence service?

A Correct.

Q Does it operate outside of Israel?

A I don't know, but I - but I - but I would assume it does.

Q But their symbol is clearly the menorah which is a religious symbol, correct?

A Their - the - the menorah is a religious symbol, but - and it is also used by the Mossad.

Q All right. You looked at Mr. Topham's website and were able to point out some things that you felt were Anti-Semitism, correct?

A Correct.

Q I'm going to ask you if you can identify this quotation [as read in]:

The wealthy Jews control the world, in their hands lays the fate of governments and nations. They sent governments one against the other. When the wealthy Jews play, the nations and the rulers dance, one way or the other, they get rich.

Have you heard that before?

A I have not.

Q Is it Anti-Semitic?

A It's - if it is accurate, it certainly - it certainly portrays Jews according to - according to the Anti-Semitic tropes.

Q So it would pretty much fit the analysis - or if you're using the analysis that you employed in looking at Mr. Topham's website and Radical Press, this is Anti-Semitism, isn't it, correct?

A I would say it is.

Q I'm going to tell you, sir, that that is the -

MS. JOHNSTON: All right, I'm just going to pause here, because he can't authenticate it, so it doesn't get authenticated through this witness.

MR. JOHNSON: No.

THE COURT: I - that's - that's fair, Mr. Johnson.

MR. JOHNSON: Okay.

THE COURT: You can do it some other way.

MR. JOHNSON: All right.

Q If I was to tell you that that was Theodor Herzl, would that surprise you?

A It would - it would surprise me, but the question - but the question I would ask would be what is - what is the context of the statement and indeed has it been verified that indeed Mr. Herzl made that statement.

Q Who's the father of Zionism?

A Theodor Herzl is - is credited with beginning the Zionist movement.

Q And he's a Jew?

A He is.

Q Or he was a Jew?

A Well, he is no longer - he's no longer alive.

Q Right, Jews have been able to explore his ideas about Zionism for, what, about a hundred years or so?

A Let us say.

Q Right, and is it only Jews who can explore his ideas or can non-Jews?

A Well, I see no reason why non-Jews cannot explore his ideas.

Q So why couldn't Mr. Topham explore those same words in the same way that a Jew could?

A Well, again, it depend - I - I would have to be - I would have to be able to determine that first of all those statements were made by Mr. - by Mr. Herzl, but - and again, the context would have to be taken into account as well. Because I have no knowledge of that statement, I cannot judge either.

Q Sure: I'm going to give you another quote, sir:

The Jew is a caricature of a normal, natural human being, both physically and spiritually. As an individual in society he revolts and throws off the harness of social obligations, knows no order, nor discipline.

Have you heard that before?

A I have not.

Q Okay. Have you heard of the Hashomer Hatzair?

A Hashomer Hatzair?

Q Yes?

A Okay. It is a - it's a Jewish organization.

Q Okay. Is it a man or is it a - an organization?

A Could I see the - can I see the spelling of it?

Q It's H-a-s-h-o-m-e-r, and then the second word is H-a-t-z-a-i-r. That's an organization?

A It is an organization.

Q Right. And have you heard of Lenni Brenner?

A No.

Q No, okay. If I told you that that was a Jew who said that, would that surprise you?

A No.

Q Okay. So Jews quite often amongst themselves talk in this manner, don't they?

A Again, you - again, you're presenting me with - presumably with quotations and you're depriving me of - of context, so I really can't comment.

Q Well, there's some things that you would describe as Anti-Semitic that are discussed by Jews in a negative sense against Jews, wouldn't you agree with that?

A Again, con - again, it plays into context. I mean I would not - if, for example - in terms of some of the comments that I have made regarding material that are found on Mr. Topham's site, either written by him or elsewhere, I was not mining the - these particular pieces for - okay, for - for quotes that supported my position, but rather I was reading the - I was reading the entire article or - or in many cases the entire text, right? So I mean I felt that if I was going to represent a particular piece as being Anti-Semitism, okay, then it's because not only the content of the quotation, but indeed the context in which it was seated supported that - supported that conclusion.

Q But Mr. Topham is surely able to explore the same things that a Jew would have - would be able to explore?

A Again - again, I - I take you back to where - I take you back to what I said previously and that is you are - you are asking me to - you're asking me to compare statements made by Mr. Topham or statements which he placed on his website for which I have a context with - with statement that you are presenting to me for the first time for which I have no context. And to say that well, surely he has the same right as this person - as - as this other one, okay, you're asking me to come to a conclusion that I cannot possibly reach.

Q Well, wouldn't Mr. Topham have the same right as anybody to look at the two quotes that I have just given you?

A I don't think I - I see no reason why he could not look at those two quotes.

Q Right. I'm going to give you another one [as read in]:

The fact is undeniable that the Jews collectively are unhealthy and neurotic. Those professional Jews, who wounded to the quick, indignantly deny this truth, are the greatest enemies of their race, for they thereby lead them to search for false solutions or at most palliatives.

Are you family with that quote, sir?

A No, I am not.

Q All right. Have you heard of Ben Frommer, *The significance of a Jewish State* -

A No.

Q - *Jewish Call*?

A I have not.

Q No? I'm going to give you another quote then, perhaps you can remember this one [as read in]:

The enterprising spirit of the Jew is irrepressible. He refuses to remain a proletarian. He will grab at the first opportunity to advance to a higher rung in the social ladder.

Have you heard that before?

A No, I have not.

Q Have you heard of per - or Burakoff [phonetic]?

A No --

Q No?

A - I have not.

Q One of the original Zionist thinkers, you haven't read any of his stuff?

A No?

Q No, but you're an expert on Zionism?

A Okay. I am - there are many - there are many writers on Zionism. Well, I was not aware that one had to read everything from every author in order to qualify as one.

Q Okay. There's a tradition in the Jewish religion called the Passover Haggadah?

A Yes.

Q I'm going to read it to you. Tell me whether it fairly represents the statements that are made at a synagogue. First of all, what is a synagogue?

A Jewish house of worship. It also has a study.

Q Right. So Jews meet there for their - would they - would you call them religious services?

A Synagogue, the - the Jewish - Jewish religious practice requires attendance at synagogue three - three times a day for morning, afternoon and evening services. Also from -- the main services, I suppose, are on the Sabbath and - and some other Jewish holidays.

Q Are those prayers said in Hebrew or in English?

A It depends. In - in Orthodoxy the - the liturgy is performed in Hebrew. In conservative and reform, it's a mixture of English and Hebrew. However, many excellent translations have been - have been made of the liturgy and they are available either in book stores or they are provided in the synagogues themselves so people are able to pray in a language which allows them to understand what it is they are saying.

Q I hope I - I'm doing justice to the English translation of the Hebrew, but I understand that the statement is, in the synagogue [as read in]:

Pour out your wrath on the goyim that do not acknowledge you, on the kingdoms that do not call on your name.

Is that a fair statement?

A Actually, it's - a more correct translation of the Hallel prayer would be pour out your - pour out your wrath upon the nations, okay? Goyim - "goyim" means - goyim is translated as nations, okay? I've never seen - I've never seen it translated using the word "goyim".

Q Okay. So "goyim" means nations, not people?

A In - well, yeah, I suppose if one is going to speak of Canada, does one refer to Canadians as well when one speaks of Canada? Okay, so - but - but when you say pour out - pour out your wrath upon the nations, you're not - not upon the individuals.

Q Well, when you use the word *Canadians*, we're talking about people, not countries, aren't we?

A I know, but when we talk about - when you talk about Canada, are we talking about Canada - Canada or are we talking about Canadians?

Q Well, if we're talking about goyim, aren't we talking about people, sir, not nations?

A The translation of the - of the word "goy", right, is - is nation, not people.

Q What about goy?

A Oh, I just said - I just said - so, for example, when one speaks of ohr goyim, it means to be a light unto the nations, not a light unto the people of the nations.

Q Is there a difference between goyim and goy?

A One is a plural, one is a singular. Goy is - goy is singular. Goyim is plural.

Q Why is this text, which is part of the Passover Haggadah -

A Mm-hmm?

Q - literally being read by every secular Jew and religious Jew at least once a year?

A Well, actually, it's read - it's read more often than that, but - but the purpose - the purpose of the quote is - and again, it was written at a time when the Jewish people experienced significant persecution, right? And so this is - so the Passover - the Passover prayer or the Passover service represents the time - the time of freedom, of liberation from bondage, right? At this time, which begins the process which led to the giving of the Torah at Mount Sinai, right, what we're saying is let us - what - okay, let us remember that we are not - that - that we will rise again. Let us remember, right, that we are not - that we will not be oppressed forever, right, and that - and that God remembers the promises that he made to us.

Q But this is - isn't it an exhortation on the part of Jewish people to pour out their wrath on the goyim, isn't that what this says?

A Okay. And I - and I - no, because the prayer is not - because the prayer is not - is not phrased as Jews pour out your wrath, but rather is - is - rather it is a prayer - it is a prayer to God and the prayer is saying pour out your wrath upon those who - those who do not recognize you.

Q So you want God to pour out their wrath on the goyim, not other Jews?

A Okay. Well, God is - God - God is there to be called upon. Whether he chooses to answer or not is - is a - is a different - is a different matter.

Q You'd agree that that's a passage out of the Old Testament, isn't it, or what you call your Torah?

A I don't where the - I don't - I don't know specifically where the quotation comes in Hebrew scripture, but - but I will - I will assume for a moment that it is.

Q Okay.

A Well, while you're - while you're flipping for it, Mr. Johnson, I just point out in - just point out in passing that while historically Jews may have used this - this prayer to call upon God to right - to right the wrongs that were done against them, right, that the history of the Jew - of the Jewish people, certainly in Europe, is one where temporal forces did more than an adequate job of pouring wrath upon the Jews.

Q The -

A So - so perhaps - so perhaps a - perhaps the Jewish people who phrase - who phrase this and who recite it can be forgiven if they were looking for - if they were looking for a little bit of support from above.

Q The Gideon Bible, which you swore your oath on, which -

A Oh, no. Actually, I swore my oath -

Q Did you bring your own Bible?

A No, but I swore my oath upon - upon this one.

Q Okay. Well, let's - let's go to that Bible then. So this Bible that you swore your oath on states [as read in]:

Pour out Thy anger on the nations that do not know thee and on the kingdoms that do not call on Thy name.

Right? Is that what you say in your synagogues?

A It is as - it is - it is a somewhat different translation, but - but it is more or - more or less what we say.

Q You use the word "goyim", though, instead of "nations", don't you?

A We use - in Hebrew - in Hebrew we - we have the word - the word *goyim* is what is - is used. However, the translation is nations.

Q Are you familiar with the practice of - I'm going to butcher this one, "metzitzah b'peh"?

A I - I should - I should be. It was probably done to me at one point.

Q Okay. How was my pronunciation, okay?
A Yeah, it's okay.
Q All right. It's a practice carried out by different Jewish Orthodox sects, is it not?
A It is. Yes, it is part of the circumcision practice.
Q Right. And there's a person who's a - a mohel?
A Mohel
Q Mohel?
A Yes.
Q Is that sometimes a rabbi?
A Can be.
Q Yeah. And part of that requires that they - mohel carried out the circumcision of the male penis and that would be an infant boy, correct?
A Correct. At - at the age of eight days unless - you know, unless illness makes it necessary for it to be delayed.
Q That's done in the presence of probably a number of people?
A Yes.
Q It's called a "bris"?
A It is.
Q All right. The penis is cut, the foreskin?
A Well, I will say I am not - my recollection of mine is - is somewhat dim and -
Q It should be.
A And --
Q I hope it is.
A And - and generally - and just as matter of course when I would - when I have attended these, I have tried to be as far away from the - from the action as possible. But let us say the - the - the foreskin - foreskin of the penis is removed. I am not aware of - many of the technical processes involved in this.
Q So you've never seen a rabbi flick the foreskin off with his finger and then suck the blood from the penis --
A Okay -
Q -- you never seen that?
A Well, in - well, in actual fact the - the require - the requirement is to - is to draw blood away from the wound and - and indeed more modern - more modern medical - medical practice suggests that indeed the practice has some merits in terms of - in terms of promoting healing. Now, the - the controversy, if you will, over the - over what we will call the - the suction, right, is that in some sects within Judaism the blood is drawn away to direct contact with the penis and the mouth, right? However, in many - in many - I would say in most sects or most streams of practice within Judaism that is no longer performed and indeed the blood is - the blood is drawn away from the wound using a - a pipet, which I think is like a kind of a straw or a - or - or a syringe, okay?
Q But - but this blood - this is really referred to as a blood ritual, would you not agree?
A I've never heard of it referred to as - as a blood ritual, but certainly it is a ritual and there is - there is blood.
Q Right. And Canadian people could certainly make comment about that ritual, couldn't they?
A Yes.
Q That's not -
A Sorry, yes, they can.
Q That's not Anti-Semitism to talk about circumcision by Orthodox Jews sucking the blood of a circumcised penis?
A I'd say it would depend on how the comment was made.
Q Okay.
A But it would not - but it would not necessarily - to - to comment on the ritual of circumcision is not - is not - is not necessarily problematic.
Q Well, in fact, there have been comments made about non-Jews about that practice, haven't there?
A Yes.
Q In the newspapers as recently as the New York Times talking about the death of a - a young boy who bled to death as a result of the circumcision ritual, is that not correct? Do you remember that?
A I don't - I don't remember that, but - but I - but we will continue from that.
Q But we've had - we've had H-I - pardon me, we've had herpes passed along to little infants from mohels -
A Mm-hmm.
Q -- correct?
A I have - I have - I have read accounts of that, yes.
Q Right. Mr. Rudner, is Yad Vashem an authority as far as Holocaust scholarship is concerned?
A Yes.
Q All right.
THE COURT: Sorry, can - can you say that again for my benefit?
MR. JOHNSON: It's Y-a-d, V-a-s-h-e-m, two words.
Q Where is Vad - or Yad Vashem?
A Yad Vashem is located in Jerusalem.
Q Yes. And I understand that you'd indicated in your earlier testimony that the number of Jews who perished in the Holocaust was somewhere between five to six million based on scholarship that had been presented in the 1960's by Mr. Raul Hilberg, is that right?
A Raul Hilberg was - was one of those who - was one of those who came up with that number. There have been other estimates that have - that have been made by other individuals such as Christopher Browning, Zygmunt Bauman, Timothy Findley, and others. All the estimates that - that I have found tend to fall within the range of five to six million.
Q At Yad Vashem, they have a names database, do they?
A Yes, they do.
Q And that's the world's single largest computerized database of Jews murders in the Shoah?
A That is correct. It is - and it is a work in progress. I believe the database first began I think ten years ago, give or take.
Q Right. Are you aware that Yad Vashem has only managed to collect 2.6 million names?
A Actually, I don't think that's correct. I believe the number that they have collected is four million.
Q How many?
A Four million.
Q 4.3 million recorded to-date, would that seem fair?
A No. No, I'm sorry. The number that I am aware of is - is approximately four million.
Q Okay. It could be as high as 4.3?

A Possibly.

Q Right.

A But I would have no way of knowing that.

Q But 2.6 million records, about 55 percent, come from the pages of testimony. Do you know what I'm talking about?

A I believe the pages of testimony are - are submissions that were made by individuals who wished their name - who - who wished the names of their - their lost relatives to be memorialized or included in the database.

Q Okay. How do you explain the discrepancy in numbers between your estimate in your testimony and the Israeli Supreme Holocaust Memorial Institute?

A Well, I think their - well, there are a couple of reasons I think. First of all, the - families for example were wiped out entirely. There was no one - there was no one to provide names - names in terms of a testimony. The numbers come - the numbers come from - come from different places. The numbers from Mr. - from Professor Hilberg and others are based on - are based on census data and other data collected both before the war and - and after the war. That information has been unearthed - those documents have been unearthed through research over the last number of decades. The - the Yad Vashem database is ultimately, I would imagine and certainly in the case of pages of testimony, is voluntary. Some people will choose to do it, some people will not.

Q But if they come up with a number that differs from yours, are they guilty of Holocaust denial?

A No, because as I said - as I believe I said at an earlier point, it is - it is legitimate I think for us to - for us to have discussions over what - over what the numbers are - over what the numbers are. What is not legitimate, I think, is for us to - for us to deny some of the basic facts of - of the Holocaust [indiscernible] it was a state-sponsored attempt to - to eradicate the Jews in Europe.

Q So we can - we can historically go back and have a look at the number of the Jews who were actually killed in the Holocaust. That wouldn't bother you?

A Again, I think it - for - to take an extreme case, and I'm not for a moment suggesting that this is your position, if one - if we were to have an argument or a discussion about whether the number is six million or five - or 5.3, then - but I think that those sorts of discussions fall into a range of - a range where interpretation is impossible. If, on the other hand, we are saying that our - our disagreement is between let's say six million and a hundred thousand, right, then I - then I think the - in order to have that discussion, I think the - you would have to be able to demonstrate why you believe a hundred thousand is the correct number and you would have to be able to back that up with the same level of factual information that other historians have got to the discussion.

Q Okay, but if I back that up with the numbers from Yad Vashem, would you have any problem with that?

A Yad Vashem? Well, my problem would be that Yad Vashem does not present their number as being - as being the official total. Yad - Yad Vashem, I believe, is presenting their number as being these are the names that we have in our -

Q Okay.

A -- these our the names we have in our database, okay? If they say something otherwise, then, you know, I'm - I'm happy - I'm happy to take a look at that.

Q Would you not agree with me that the Holocaust has actually elements of a religion?

A I would - I would not even know how to be - how to respond to that. You'd have to tell me more.

Q Have you heard - have you heard the expression, "The Holocaust Religion?"

A I've - I have perhaps heard - I have perhaps heard the - heard the phrase, but I do not - I don't warrant it.

Q Okay. But some people believe that it is so deeply ingrained in the Jewish experience that it has become a religion to many Jews?

A I think it is - I - I think I would rather characterize it as being an open wound than a religion.

Q Okay. Who is the father of Communism?

A Karl Marx.

Q Is he a Jew?

A Yes, he is.

Q Who is Leon Trotsky?

A Leon - Leon Trotsky was - was a revolutionary Bolshevik and he was, I believe, the Minister of War following the Bolshevik Revolution.

Q Are you aware, sir, that a great preponderance of the revolutionaries who started the Russian revolution in 1917 against Tsar Nicholas and his family were in fact Jews?

A Could you tell me what you mean by preponderance?

Q That they - for the most part, the revolutionaries who carried out the Russian revolution were Jews?

A Well, if by most part you mean 51 percent or greater, than I would say, although without checking further, I would say that that is probably incorrect.

Q All right.

A And I'm talking about the people - not the people with guns shooting people in the streets, I'm talking about the leaders of the revolution, sir?

A Well, what I can - what I can say is that certainly a number of - a number of the notable leaders of - of the revolution were - were Jewish, okay, but they were not all Jewish. What I - what I'd also say, and again this is a bit of a reprise from what I've said earlier, Mr. Johnson, that having - that having Karl Marx - Karl Marx and others being Jews, okay, being - participating in the Communist revolution, does not make Communism quintessentially Jewish any more than - any more than Albert Einstein's physics was Jewish physics.

Q Have you heard of a man by the name of Schiff?

A Schiff?

Q Yeah.

A No, I have not.

Q You've never heard of anybody who might have financed the Communist revolution in Russia, 1917?

A You're speaking of - of Schiff?

Q Yes.

A Schiff was a - Schiff was a - was a - was a banker.

Q Yes?

A Okay. And I believe - and - and I have read - I have read accounts that he - he helped finance the - the revolution and also perhaps I believe that he may have also provided financial assistance to the - to the Japanese in the 1905 war against - against Russia.

Q And he resided in New York, correct?

A I don't know, but I know he - he - he resided in the United States.

Q Right. And that's something that people can discuss, isn't it? It's an historical fact?

A Yeah.

Q That's not Anti-Semitism, is it?

A Not - not - not in terms of the recitation of that - of that particular fact. If one wishes to - if one wishes to point out - and again, I will say that my - I have not researched it, so I do not know if indeed this is - Mr. Schiff did indeed finance the Russian revolution or what the

nature of his support was. Let us presume for the moment that that is correct. To say - to make that statement is not problematic.

Q But if Mr. Topham and Radical Press was to delve into the beginnings of Communism and it happened that there were some Jews involved, wouldn't it be fair for him to be able to raise that -

A Well -

Q - without being accused of hatred?

A Well, I think yes, but - but again in terms of my - my reading Mr. Topham - Mr. Topham went further than that. He was - he was characterizing - he was not simply pointing to, you know, the - the role of Karl - Karl Marx or - or others in the Russian revolution, but rather he was drawing a - he was drawing not a dotted line but rather solid lines between the Russian revolution, catastrophes - catastrophes, wars and revolutions waged elsewhere in the world and pointing out, you know, with a fair degree of consistency that there was a Jewish hand - a Jewish hand behind all these things. As I said before, this speaks back to my - my previous point which is that whether Marx - whether Marx is Jewish or not, whether Trotsky is Jewish or not, right, there is a big difference between identifying the religion of - of individuals and same with their movement. The movements themselves do not have religions.

Q So did you see anything in Radical Press that would indicate that he was being insincere in mentioning anything about Communism?

A I have no way of evaluating sincerity.

Q No, okay.

MR. JOHNSON: I'm sorry, My Lord.

THE COURT: Is that --

MR. JOHNSON: I think we're just --

THE COURT: -- a good time --

MR. JOHNSON: -- about getting to the end here.

THE COURT: -- to stop for the day?

MR. JOHNSON: Pardon me?

THE COURT: Is that a good time to stop for the day?

MR. JOHNSON: No, I - I'd like to ask a couple more questions, see if I can finish with this witness.

THE COURT: All right.

MR. JOHNSON: If - I don't know if we can agree to go a couple minutes late. I - I don't want to prevail on the jury or Madam Registrar or the Sheriff.

THE COURT: Well, are we talking five minutes or ten minutes or -

MR. JOHNSON: About ten minutes.

THE COURT: Ten minutes? Is there anyone in the jury that can't do that today, just put up your hand. I won't ask any questions. All right, we'll go till ten after four.

MR. JOHNSON: Thank you, My Lord.

THE COURT: Then we'll adjourn.

A Sorry, Mr. Johnson, before you begin, could I trouble you -

MR. JOHNSON:

Q Oh, sure.

A -- to pass me the water?

Q Sure, yeah.

A Thank you, sir.

Q Okay. I'd like you to pick up the Bible that you swore your oath on, sir, and turn to Deuteronomy 7 and paragraphs 1 to 2. If you could read that out loud, please?

A I'm sorry, Deuteronomy?

Q Deuteronomy 7?

A Yeah.

Q One and two, paragraphs 1 and 2.

A Hmm, just one second. Okay, so just to be sure, this is when - "When the Lord Your God brings you into the land?"

Q Yeah.

A [As read in]:

When the Lord your God brings you into the land which you are entering to take possession of it and clears away many nations before you — the Hittites, Girgashites, the Amorites, the Canaanites, the Perizzites, the Hivites and the Jebusites, seven nations greater and mightier than yourselves, and when the Lord your God gives them over to you and you defeat them, then you must utterly destroy them. You shall make no covenant with them, and show no mercy to them.

Q Would that be a fair description of the word "genocide" to you?

A Certainly if we transpose that into - into the 20th or the 21st century, yes.

Q You're wiping out an entire people or - right?

A That is what it says.

Q If you could look at Deuteronomy 20, paragraph 16, could you read that?

A Yeah.

THE CLERK: Could you spell Deuteronomy?

MR. JOHNSON: D-e-u-t-e-r-o-n-o-m-y.

A I'm sorry, Chapter 20?

Q 20 - 20:16?

A Okay, 20:16.

Q Correct.

A [As read in]:

But in the cities of these people that the LORD your God gives to you for an inheritance, you shall save alive nothing that breathes.

THE COURT: Sorry, I - I didn't hear that. Speak up, please?

A Sorry, I - I will put my glasses back on and try not to have my mouth in the way.

But in the cities of these people that the LORD your God gives to you for an inheritance, you shall save alive nothing that breathes.

THE COURT: You shall -
A Save alive -
THE COURT: Save alive.
A -- nothing that breathes.
MR. JOHNSON:
Q In other words, another act to wipe out everybody, wouldn't you agree?
A And so it reads.
Q Right?
A Yes.
Q Okay. So as a Crown expert on Judaism and Zionism and - I wonder if you - if we can elaborate on the Jewish state war crimes in Gaza in light of the above Biblical passages, sir?
A Well, I suppose the first - I suppose one thing I would point out is that - that Israel is not a theocracy, that is to say it is a - it is - it is governed by - it is governed by its own - its own rules which is established through the basic law. There - it has a - it has a Supreme Court. It - it is a - it is a functioning democracy. I - I - I make these comments because - to point out the - to point out the connections between scripture - and since the scripture is what animates - is really foreign policy today, I think is a rather long leap.
Q You're -
A I - it's a - it's a leap of several thousand years, in fact.
Q You're familiar with Operation Cast Lead?
A I am familiar with Operation Cast Lead.
Q Right. And there were some 13 or 1400 Palestinians killed by the Israeli IDF forces, is that right?
A I don't know the number, but - but certainly there were - certainly there was a fair number who were murdered.
Q Okay. And did you view that as a war crime, sir?
A I - I'm not familiar - I'm not familiar with the - okay, with the way that war crimes are - are defined in international law. What I - what I do observe is that the relationship, put it that way, between - between Israelis and Palestinians and their - and their immediate neighbours, terrorist organizations such as Hezbollah and Hamas, right, create - create a very dangerous neighbourhood, okay? I also - I also note that while the claim has been made that - that Israel engaged - engaged or practiced war crimes, I - a contrary claim is also put forward that Hamas and Hezbollah deliberately embedded themselves within civilian populations, right, and waged war against Israel from within those populations making it impossible for - okay, for Israel to defend itself without - without causing civilian casualties.
Q Okay. Maybe it's incorrect to characterize it as a war crime then because there's really no war going on there, is there, between Israel and Palestine?
A Explain, please?
Q Is there a war going on between Palestine and Israel?
A There is a - well, I suppose it - it depends how - how precise one wishes to get, right? There is no - there is no national entity called Palestine at - at this time.
Q So if you went and wiped out 1300 men, women and children, it would be better termed a massacre, wouldn't it?
A I think there is a difference be - when you say if you went in and you wiped out 1300 - 1300 children, right, you are creating a - you are creating a false comparison between those people who - those people who are deliberately targeted and those - and those people who are - who are involved in a fight between two - between two opposing forces, okay?
Q All right. But the Star of David that appears on your airplanes and your bombs -
A I'm sorry, Mr. Johnson, they're not my airplanes and they're not my bombs. Okay, I -
Q On the State of Israel.
A I am a Canadian.
Q On the State of Israel. Those are symbols on planes that are used as weapons of war against Palestinians, correct?
A The - the air - the aircraft bearing the Star of David --
Q Yes?
A - of the aircraft of - of Israel defence forces.
Q And the tanks that they use, same thing?
A If - if those tanks bear - bear the Star of David as well, then yes.
Q And the bombs, if anybody writes on them with the Star of David?
A I would assume so.
Q All right.
A Although I have no knowledge that bombs - that bombs are marked in that fashion.
Q And it's okay for Mr. Topham to refer to those symbols being used by the State of Israel in that conflict, would you not agree?
A Again, as I - as I've noted - as I've noted elsewhere, if - if Mr. Topham wish - wishes to - to criticize the - the policies of the State of Israel, that is - that is legitimate. However, when - when Mr. Topham or indeed anyone else, right, chooses to - chooses to characterize, you know, Israel's actions as other than they are, right, then we have the potential to run into a problematic area, okay? So - so again to compare - to say that Israel is engaging in a disproportionate use of force, we - that is - that is an argument or a discussion that - that - that we can have and I think that's legitimate. When, however, Mr. - Mr. Topham, or anyone else for that matter, says that Israel is - Israel is engaging in - in - in genocidal behaviour, right, or they're - or they're the new Nazis - I'm not suggesting by the way that Mr. Topham said this, I have no specific recollection of it, but to use those as examples, okay? Okay. As - as a - as a [indiscernible] we - we move away from - we move away from discourse, right, and - and we - and we move into problematic areas.
Q All right. The articles that you looked at that were not of Mr. Topham's authorship are set out in your - in your report, is that correct?
A That is correct.
Q And you'd agree with me that you could find most of those articles in numerous places on the internet?
A So we're talking about articles such as *The Controversy of Zion* -
Q Yes?
A - the - I would say that generally speaking correct, although I will say that *The Biological Jew* is a - is - is a - is a little bit hard to find.
Q Okay.
A But certainly the - *The Protocols* are - are readily found online.
Q They've been available for over a hundred years, haven't they, in book form and online?
A Well, over - over a hundred - over - probably since - I think they were first serialized in a series of Russian articles in the early part of the 20th century. Serge Nilus' first edition -
Q Okay.
A - I believe was 1905.
Q All right.
A Yeah.

Q I'm showing you some documents.
THE COURT: Before -
MR. JOHNSON:
Q I just want to make sure that -
THE COURT: Before we do that -
MR. JOHNSON: Pardon me?
THE COURT: Before we do that, we're - we've used up ten minutes.
MR. JOHNSON: I know. I'm just about --
THE COURT: How much more are you going to be?
MR. JOHNSON: -- finished. I'm just about finished, My Lord, and I mean right down the home stretch here.
Q I'm just showing you some documents, sir, from AbeBooks.com.
A Oh.
Q Have you ever purchased anything from AbeBooks.com?
A Abe Books? This is -
Q Yeah.
A Yeah, this is the antiquarian book exchange.
Q Right.
A Yes, I have.
Q Do you see *The Biological Jew* there for 55 bucks?
A Not a bargain at that price, but yes, I see it.
Q Yeah. And then there's another one for \$10.21, Eustace Mullins, *The Biological Jew*, hardcover -
A Mm-hmm.
Q - you see that?
A Mm-hmm.
Q And returned to the third page we see, *Germany Must Perish!* -
A Yeah.
Q - you see that? *The Book that Hitler Fears*, Theodore Kaufman, bargain at \$7.96, do you see that?
A I see the book, yes.
Q Okay. And there's quite a few pages of selections there, aren't there?
A Mm-hmm. Yes, there are.
Q In fact, one of those sites is amazon.ca which would be Amazon Canada, correct?
A Amazon.ca is Canada, yes.
Q Yes. So you can buy online from amazon.ca according to this, *The Biological Jew* for \$15.17, do you see that?
A I - the price - the price is not relevant, but I did see *The Biological Jew* here.
Q Yeah, okay. And I wonder if you've got the next one there, the -
A Oh, which one? Which one are we on?
Q The - *The Protocols of the Learned Elders of Zion*?
A Okay.
Q Is that not on yours?
A Give me a sec. *Protocols of the Learned Elders of Zion* -
Q Right.
A Yeah.
Q You can buy that for \$10.88 online, right?
A So it says, yes.
Q Okay. And the last one, sir, *The Jewish Religion: Its Influence Today* by Elizabeth Dilling?
A Yeah.
Q Five stars, you see that --
A One -
Q -- for \$25?
A One - one wonders how many ratings it had, but okay.
Q All right. But you can order these online, correct?
A Yes, obviously.
MR. JOHNSON: All right. No further questions of this witness. I'm going to have that marked as an exhibit, My Lord.
THE COURT: Well, we'll mark it as an exhibit for identification -
MR. JOHNSON: Yes.
THE COURT: - at this point.
MR. JOHNSON: Okay.
THE COURT: All right.
MS. JOHNSTON: My Lord, I do appreciate the time. I'm going to be -- still quick and I only have one question.
THE COURT: All right.
MS. JOHNSTON: Thank you.

RE-EXAMINATION BY MS. JOHNSTON:

Q Sir, do you still have the book in front of you? At F, you have "Semitism", the definition of Semitism?
A Just one moment, please? Yes.
Q All right. So you can see the quote that my friend read out to you, "prejudice against, hatred of, or discrimination against Jews as an ethnic religious or racial group"?
A Mm-hmm.
Q And you see ten, 11, 12, 13?
A Yes.
Q Go down to the bottom of the page. Those are the footnotes references, is that correct?
A That is correct.
Q And you see ten, 11, 12, 13?
A Yes.

Q Did you do these yourself, sir?

A I - I extracted these myself, yes. This is based on - this is based on - on a reading that I did in preparation for this.

Q I see. So if we go to, say for example, number 11?

A Yes.

Q HTTP://www - Merriam-webster.com/dictionary/anti-semitism?

A Yes.

Q Are you - are you indicating that you got that definition in part from Merriam-Webster?

A The definitions which I cite marked as - marked as those footnotes, right, represent - represented what I - what I felt was a general agreement between those sources.

Q That's why there's four?

A Yes.

MR. JOHNSON: Thank you. Those - that is my only question, My Lord.

THE COURT: Thank you very much, Mr. Rudner, for giving evidence. You're excused from the witness stand.

A Thank you, My Lord.

(WITNESS EXCUSED)

MR. JOHNSON: My Lord, I'd like to thank the jury and the -

THE COURT: I - I -

MR. JOHNSON: - staff as well.

THE COURT: That's fine. I allowed the court to sit long. The jury is excused.

(JURY OUT)

MR. JOHNSON: My Lord, I apologize for going a bit over my time --

THE COURT: Well, that's -

MR. JOHNSON: -- and not giving a lot of time for my friend.

THE COURT: No, no, that's fine. You asked and -

MR. JOHNSON: Okay.

THE COURT: - and I don't like to have the jury sit long.

MR. JOHNSON: Yeah.

THE COURT: What you should have apologized for is thanking the jury. You've practiced long enough to know that -

MR. JOHNSON: No, I know.

THE COURT: - that's not counsel's role -

MR. JOHNSON: No, that's true.

THE COURT: -- and you shouldn't do that.

MR. JOHNSON: That's your role.

THE COURT: All right. We'll adjourn for the day.

MR. JOHNSON: Thank you, My Lord.

(PROCEEDINGS ADJOURNED TO NOVEMBER 3, 2015, AT 10 A.M., FOR CONTINUATION)

Transcribers:

N. Bomback: Pages 1 - 15; 20 - 31; 34 - End

A. Paisley: Pages 16 - 20; 31 - 34