

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MR. JUSTICE BUTLER AND JURY)

Quesnel, B.C.
October 29, 2015

REGINA

v.

ROY ARTHUR TOPHAM

**PROCEEDINGS AT TRIAL
(DAY 4)**

COPY

Crown Counsel:

J. Johnston

Defence Counsel:

B. Johnson

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NIL
Quesnel, B.C.
October 29, 2015

(JURY OUT)

THE CLERK: In the Supreme Court of British Columbia this 29th day of October, 2015, continuing with the matter of Roy Arthur Topham, 251663.

MS. JOHNSTON: Thank you, My Lord. Jennifer Johnston for the Provincial Crown.

MR. JOHNSON: Barclay Johnson, My Lord, for Mr. Topham.

THE COURT: And we're we're set to go?

MR. JOHNSON: Yes, My Lord. I must take part of the blame ...

(DISCUSSION RE TECHNOLOGICAL PROBLEMS
AND SCHEDULING)

THE COURT: We'll bring in the jury.

(JURY IN)

TERRY WILSON

a witness called for the Crown, recalled, reminded.

THE CLERK: I'll remind you, you're still under oath, Mr. Wilson.

A Thank you, ma'am.

THE COURT: Now, we're about to get started. I'll just say to the jury before we start that I do apologize for some of the delay. We have been having technical difficulties with the equipment, and that's been a big part of some of the delays, and I just apologize for that.

Ms. Johnston, any further questions?

MS. JOHNSTON: No, My Lord. I have no further questions for Mr. Wilson.

Just to let the Court know where I expect to be today, obviously Mr. Johnson is going to cross-examine Mr. Wilson next. After that, I intend to call Len Rudner, and he'll be the next witness for the Crown.

My Lord, there are no further questions for the Crown of Mr. Wilson.

THE COURT: Mr. Johnson.

MR. JOHNSON: Thank you, My Lord. With your permission, My Lord, I usually set up back there but it could end up disconnecting something. So, if you don't mind, I'll just simply speak from here.

THE COURT: That's fine.

MR. JOHNSON: I wonder if -- I wonder if there's a little lectern? I forgot to ask.

THE CLERK: [Inaudible].

MR. JOHNSON: Is that it? Oh. That's okay. I'll do the I'll do what I can from here then.

THE COURT: We can set that up at the break.

MR. JOHNSON: Pardon me?

THE COURT: We can set that up at the break, if

MR. JOHNSON: Yes, thank you.

THE COURT: you'd like.

THE CLERK: [Inaudible].

MR. JOHNSON: Thank you.

CROSS-EXAMINATION BY MR. JOHNSON:

Q Good morning, Mr. Wilson.

A Good morning.

Q You have no problem with me calling you "Mr. Wilson" at this point? You've earned that.

A No, sir. Thank you.

Q Okay. The investigation that you conducted into Mr. Topham and Radical Press was started when?

A It was April when I received the first complaint, April 28, 2011.

Q And just so that we can get a better idea of the workings of the Hate Crimes Team that you were a member of, do you initiate investigations on your own or do you wait for a complaint to be made?

A Both, initially. If we become aware of a website if we become aware of a hate crime, doesn't necessarily have to be a propaganda file, we become aware of a hate crime that is reported to us from the public, then we'll take that complaint, make a decision about resources with detachments of jurisdiction, or we will take if we recognize it without a complaint, we'll take it on then.

Q In this particular case, when did Mr. Topham's Radical Press come to your attention?

A Come to my attention?

Q Yes.

A We knew of Mr. Topham's website prior to the April. We received a complaint from the public April 28, 2011.

Q Prior to receiving the complaint had you initiated any investigation on your own of Mr. Topham or his website?

A No, the BC Hate Crime Team initially, prior to my being a member of the BC Hate Crime Team, looked at that website. There was a decision made that they weren't going to enter into an investigation.

Then we received another complaint in 2011, where we did initiate an investigation.

Q Well, there must have been a tipping point?

A It was. Again, I I wasn't involved in the first evaluation of Mr. Topham's website, only in the one in April. The tipping I when I reviewed the website, there was material on the website that that gave me grounds to believe that that the offence of hate propaganda had been committed, and that's when we initiated our our investigation.

Q As I understand it, it's customary for most police files to be kept on a central database; is that correct?

A Yes, since about 2008, I believe, the majority of BC has been on the PRIME system and so we're aware of other other files. Again, the PRIME system is not a perfect system, so, there's actually three different servers in the province, and you need access to all three servers to view files all over the province. But, yes, we're all on the same data bank.

Q So if, for example, somebody else was doing an investigation, was a member of the of a police force, it should show up on your PRIME?

A Yes, sir.

Q And do you know whether there was ever any other police force involved in the investigation of Mr. Topham besides the Hate Team that you were involved with?

A None. None that I know of -- no.

Q Okay. But everything that was put onto the the computer was available to you by reading it on PRIME; right?

A On the computer? I'm sorry. Which computer are you talking about?

Q All of

A The website or the [indiscernible] data bay [sic] computer?

Q Yeah. Let's take it back. I'll make it a little clearer.

When you first started on this case, there had already been some, I guess, process involving Mr. Topham and his website? There was there was some monitoring going on; is that correct?

A There was there was some monitor [sic] going on?

No. Unless we unless we initiate an investigation, a criminal investigation into criminal behaviour, that's when we monitor the website. We weren't, as the police organization, weren't monitoring the website at all.

Q Okay.

THE COURT: Sorry. I I missed that. You are not monitoring

A We did

THE COURT: it? All right.

A Yeah, we did not monitor prior to the complaint I received in April of 2011.

MR. JOHNSON:

Q But there had been a decision made at some point not to proceed with criminal investigations or prosecutions?

A Yeah. That that point I've read that file, and at that point there was another process ongoing, and so the criminal investigation was discontinued or the criminal complaint was discontinued and not and -- and it wasn't taken up again until April of 2011.

Q Can you tell the Court why that previous investigation didn't go anywhere?

A I can only tell the Court from what I read from the original report. I wasn't involved in the decisionmaking process of the initial complaint.

The there was essentially two processes going on at the same time dealing with hate crime legislation in Canada. One, a criminal complaint under 319; and one at under the *Canadian Human Rights Act*.

As I read this report, again not being involved in the decisionmaking process, as I read the report, the *Canadian Human Rights Act* investigation continued, and the criminal process discontinued.

Q Now, somebody by the name of "Richard Warman" contacted your office on the 28th of April, 2011; is that correct?

A That is correct, sir.

Q And you'd worked with Mr. Warman in the past, did you not?

A I had.

Q In fact, when you were with the police force down in Ontario, you had some discussions with Mr. Warman concerning hate crime matters?

A Yes, sir.

Q So you were familiar with with him and had a working relationship, would it be fair to say?

A A working relationship?

Q Yes.

A He was a complainant in other criminal investigations that I conducted, yes, sir.

Q And can you tell us what became of those other criminal investigations? Did they end up in prosecution?

A They did. They one was prosecuted under the *Canadian Human Rights Act*. Other complaints that we took from Mr. Warman did not meet the standard of a criminal prosecution, and, therefore, those investigations were terminated.

Q Okay. You also had a complaint from a Mr. Harry Abram?

A Yes, sir.

Q Is it "Abram" or "Abrams"?

A Abrams.

Q With an S?

A Yes, sir.

Q Okay. And how long had you known Mr. Abrams?

A I've probably known of Mr. Abrams for about ten years prior to starting this investigation but speaking to Mr. Abrams personally or getting a complaint from him, this would be the first time.

Q And he was Jewish, wasn't he?

A He is.

Q In fact, he belonged to a Jewish organization that I think you've previously described as being a volunteer organization?

A Yes. He's he was part of the B'nai Brith Canada.

Q Do you know anything about the B'nai Brith and what their mandate is?

A Off the top of my head, I can't really tell you their mandate. I know that they are actively involved in assisting in education and assistance when it comes to hate crime investigations. One of their mandates. I shouldn't say it's their total mandates.

Q That's considered a welcome part on your part, isn't it? Where they can help you bring complaints forward with something to back it up? That they've done their own research, for example?

A Well, when we get a criminal complaint, we just take the complaint and do the investigation entirety on there. We don't rely on anybody else's gathering of evidence.

So the B'nai Brith, in the past, have made complaints to us, but we don't take the evidence that if they have any evidence gathered previously. We my investigation started April 28th, 2011, and that's when our gathering of evidence started.

Q You had a personal meeting with Mr. Abrams, didn't you?

A I did.

Q And where did that meeting take place and

A In

Q when?

A in his office in Victoria.

Q When did that take place?

A It took place if I could just refer to the exact date? I can refer to my notes, if you don't mind.

Q Sure. Go ahead.

A June the 3rd, 2011.

Q 2000 and ...

A '11.

Q '11. Okay. Now, that was in response to Mr. Warman's complaint, or Mr. Abrams's complaint, or both?

A Yeah. Mr. Warman made the complaint on the 28th. Mr. sorry -- Mr. Warman made the complaint on the 28th of April; Mr. Har Mr. Abrams made a similar complaint after that date. And at that time, I went and met with him.

Q Okay. Did you take a tape recorder with you?

A I did.

Q Is that normal practice for you to do that?

A It is.

Q And that would be to record with some accuracy your conversation with a witness?

A It would be, yeah.

Q Yes. And was it your intention possibly to have him attend as a witness, or simply to get a statement from him, or were you even at that stage?

A To get a statement from him. The calling of witnesses is not my responsibility. So, get a statement from him so it can be evaluated for its usefulness.

Q Okay. And I take it that this statement that you obtained from Mr. Abrams related to the radicalpress.com website owned by Mr. Topham; is that correct?

A It is.

Q Now, had you had prior dealings with Mr. Abrams concerning Mr. Topham and his website prior to that meeting?

A I had dealings Mr. Abrams had sent me an email concerning the website. Personal dealings faceto face, that was the first time.

Q Have you read a copy of the transcript that you took or had had prepared from that meeting with Mr. Abrams in preparation for your testimony today?

A Mr. Abrams's

Q Yes.

A transcript? No, I haven't.

Q No? Okay. Unfortunately, we have a bit of a computer glitch here. We may have to get to that after the break, but I'll come back to that.

It was clear that what was discussed at that meeting was a a prior complaint that had been made in 2007; do you remember that?

A Again, that's the initial complaint that Mr. Abrams made to the BC Hate Crime Team. I was not on the team at that time, but there was reference to that in his statement in in my conversation with him.

Q Yes. And what became of that complaint to the BC Human Rights Commission; do you remember?

A The BC Human Rights Commission or the police?

Q Or the police, pardon me.

A The police?

Q Yeah.

A That that investigation was terminated or stopped and the other process was allowed to go on.

Q Okay. And were you or any member of the BC Hate Team involved in the Human Rights Commission matter with Mr. Topham?

A No, we weren't.

Q You weren't providing or gathering evidence?

A For the Human Rights Commission?

Q Yes.

A I wasn't. Again, my investigation started in April 28th, 2011.

Q Can you tell the Court what a KGB statement is?

A It's a a sworn statement usually given by coaccused for them to essentially ensure that they're going to tell the truth during the course of that statement.

Q So it's it's basically a statement taken under oath?

A Yes, sir.

Q Did you see that it was necessary to have Mr. Abrams under oath when you took a statement from him?

A No, sir.

Q Why?

A He's a witness in an investigation. I don't, of practice, take KGB statements or sworn statements from witnesses.

Q Okay.

A There was no evidence that he was going to be untruthful to me. Excuse me.

Q But he obviously wanted an investigation to proceed against Radical Press, didn't he?

A Yes, sir. He made the complaint.

Q So he had a horse in the race, didn't he?

A He made

Q He used the --

A the complaint, that's all I can say.

Q Right. He he was he was trying to get the police to take action against Mr. Topham and his website, Radical Press; right?

A I can tell you that he made a complaint. His motivation for the complaint, I can't I can't comment on.

Q Well, didn't he discuss with you the difference in proceeding criminally versus proceeding with the Human Rights Commission complaint?

A There was discussion about his Human or the Human Rights Complaint that he's he's a party of. Discussions. And we did discuss the differences [indiscernible].

Q And wasn't it true that one of the things that he brought up was that you didn't have to prove as did I do something?

One of the things that you one of the differences between the Human Rights Commission proceedings and the criminal law proceedings is the difference in the standard of proof; is that correct?

A From my experience with the *Canadian Human Rights Act*, yes, it is. It's a different standard of proof.

Q And didn't Mr. Abrams say that he felt that that Mr. Abrams or that Mr. Topham had been heading towards a criminal act?

A He point he -- in his opinion

Q Yes.

A he believed that that Mr. Topham was committing a criminal act, and that's why he needed to report it to the police, and that's why I took the statement from him.

Q Did he leave you with the impression, at least, that the reason that he hadn't gone forward with a complaint with with Mr. Topham's case at that point was that they didn't quite have enough evidence to proceed with a hate crime criminal

A Well, again

Q complaint?

A Again, Mr. Abrams doesn't have the responsibility to collect the evidence. Mr. Abrams made a complaint to me, and at that point we collected evidence.

Q Well, I'm I'm going to suggest to to you that Mr. Abrams was the one who pointed out the tipping point to you during that conversation; the thing that made you look at this case differently from the way it was viewed prior with the BC Hates Crime, and that is he brought a document to your attention?

A He he definitely outlined some parts of the website that he believed was over the criminal line. Again, as a police officer, we're the ones that make that decision to continue the investigation, and he pointed out several documents on the website and particularly one called "Israel Must Perish!!"

Q And you also discussed *Germany Must Perish!* during that same statementgathering process; right?

A Yes, sir.

Q And, in fact, you discussed whether or not "Israel Must Perish!" was a parody of *Germany Must Perish!*; correct?

MS. JOHNSTON: My Lord, I'm just going to stand here. If we could

THE COURT: All right. Well, you'd like excuse the jury? Excuse the jury for a moment.

(JURY OUT)

THE COURT: We'll also excuse you, Mr. Wilson.

(WITNESS STOOD DOWN)

MS. JOHNSTON: My Lord, I think it's fair for my friend to canvass whether or not anything Mr. Abrams said to Mr. Wilson influenced what the RCMP decided to do in terms of investigations of Mr. Topham, but I think some of my friend's questions have come dangerously close and I think one of them crossed the line into try and get Mr. Wilson to say what Mr. Abrams's opinion was of the website, which I see absolutely no value in.

Mr. Wilson can't speak to Mr. Abrams's beliefs, and, even if he could, Mr. Abrams's beliefs have no relevance whatsoever. That is subtly different well, completely different from the other line which I think my friend is pursuing, which is: Did Mr. Abrams tell you anything which influenced the course of your investigation? Which is completely fair.

THE COURT: I guess I don't see how the last question was objectionable. What did you discuss

MS. JOHNSTON: I didn't

THE COURT: was a parody

MS. JOHNSTON: I didn't have a problem with that one. I had a problem with a couple previous. And then my friend dropped it, and I'm happy if it's just dropped, but I I I was concerned my friend was going to start down that road again. And if he starts down that road again, this is the Crown's objection.

I'm not I'm not I think one of the questions about three back did cross the line, but nothing turns on it, so I'm I'm content.

THE COURT: Well, I I think it's something you do have to watch, Mr. Johnson, that obviously asking him to comment on what

MR. JOHNSON: Yeah.

THE COURT: the the intentions or views of of the

MR. JOHNSON: My Lord

THE COURT: complainant was, I I think, you know, he'd just be speculating, and that's of no interest or relevance, but

MR. JOHNSON: I'm operating right now I'm sorry, My Lord, and maybe I can help my friend out here in terms of where I'm going.

I don't have the actual statement up on the so I can point to him as to what was asked and what was what was said by Mr. Abrams.

I hope to have that fixed. So maybe I'll leave some of this line of questioning until after the break. I'll I'll see if we can get that hooked up.

THE COURT: All right.

MR. JOHNSON: Okay. Thank you.

THE COURT: Bring the jury back in.

Oh, and and the witness, as well.

MR. JOHNSON: And the witness.

THE CLERK: Mr. Wilson.

MR. JOHNSON: Kind of lonely up here without him.

(JURY IN)

TERRY WILSON

recalled.

THE COURT: Mr. Johnson.

MR. JOHNSON: Yes. Thank you, My Lord.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q You and Mr. Abrams, during that statement-taking, had discussed whether or not "Israel Must Perish!" was a parody?

A I remember that term being used during the course of that statement, yes, sir.

Q But do you remember Mr. Abrams making any comment about whether it was a parody or not?

MS. JOHNSTON: My Lord, in the Crown's submission, what, if anything, Mr. Abrams said about it isn't relevant to these proceedings.

THE COURT: Well, I'm not sure what the next question may be and why he's asking that question. I suppose if he's looking for what Mr. Wilson's response was, I mean, I obviously, it's a hearsay statement. It's not particularly relevant, but I'm going to allow the question to be asked.

MR. JOHNSON: Thank you, My Lord.

MS. JOHNSTON: Thank you.

A Could you just rephrase the question again or give me the question again?

MR. JOHNSON:

Q Okay. I'll try my best.

The the issue of whether "Israel Must Perish!!" by comparing it to *Germany Must Perish!*, whether it was a parody or not, was discussed?

A Yes, sir.

Q Right; and you were told by Mr. Abrams that it wasn't a parody; that, in fact, it was hate?

A Yes, sir. I recall that.

Q Right. It was anti-Semitism?

A That he said it was anti-Semitism?

Q Yes. Remember that?

A I remember that that word being used during the course of the statement. In the context of that I'd have to see the statement to to put it in the context of "Israel Must Perish!", but I remember that term being used, yes.

Q Well, in your prior evidence in chief the other day, you indicated that you had read *Germany Must Perish!*

A Yes, sir.

Q And that ultimately that book, which was written by Theodore Kaufman; correct?

A Yes, sir.

Q Was about sterilization of an entire population of Germans?

A Yes, sir.

Q Right? So that would probably fit anybody's understanding of the word "genocide"?

A Yes, sir.

Q Right? So if Mr. Topham had done a parody of that document and used the word "genocide," that would offend Mr. Abrams, wouldn't it?

A It would.

Q Yeah, because I think he told you that; right?

A Yes, sir.

THE COURT: And, again

MR. JOHNSON: I I'm sorry, I

THE COURT: I think you you may have crossed the line going into what

MR. JOHNSON: I tried to get

THE COURT: would offend Mr. Abram, which

MR. JOHNSON: back over that line, My Lord.

THE COURT: which is not relevant.

MR. JOHNSON: Okay. I tried to pull myself back. It was very tempting to keep going.

Q The the tipping point that I referred to, in fact, Mr. Wilson, was the word "genocide" being used by Mr. Abrams?

A The tipping point for us initiating an investigation?

Q Yes.

A No. The tipping point for us initiating an investigation is me examining the website and seeing the material there.

Q But there had been nothing on that webs about website about genocide of the Jewish population until that document was posted; isn't that true?

A No, that doc till that document was posted?

Q Yes.

A Until yeah, so *Germany Must Perish!* and "Israel Must Perish!" was on there

Q Yeah.

A and Mr. Abrams felt again, I don't want to speak for Mr. Abrams, but that was the reason that the complaint came in at that date, yes, sir.

Q Okay. You've read over all of the documents in the four binders that are marked as Exhibits 1 through 4 in this in these proceedings; correct?

A Yes, sir, I have.

Q That took you some time, I imagine?

A It did.

Q In fact, all of that documentation isn't the whole of Mr. Topham's website?

A No, it's not.

Q So I would be correct in saying that you've read way more than the texts set out in those four exhibits?

A Yes, sir, I have.

Q Right. Some of it was innocuous stuff, some of it dealt with Jewish questions, but what you felt was important in these proceedings is contained in the four documents that you gathered; correct?

THE COURT: Just a sec. You actually had about four questions there. Could you try to keep it one question

MR. JOHNSON: I will.

THE COURT: at a time?

MR. JOHNSON: I will.

Q The documents that you put together that are represented by Exhibits 1 through 4 are the documents that you felt were relevant to your investigation?

A [Indiscernible].

MS. JOHNSTON: My Lord, I'm I I agree with my friend; I hate to stand up. I'm going to stand up one more time anyway. I'm asking if we can excuse the jury, and I I do apologize for this. I I don't like jumping up and down.

THE COURT: Step out for a moment, please.

(JURY OUT)

(WITNESS STOOD DOWN)

THE COURT: Ms. Johnston.

MS. JOHNSTON: He's premised the question: The documents you selected for of you selected in binders 1, 2, 3 and 4. That premise is incorrect. I selected the binders. Now, I selected the documents for the binders.

Now, he didn't ask that question. It's the unspoken premise on which his his question is based. He's got to divide it up. I would hope the witness would catch it; I can't guarantee the witness would catch it. That is, I think, given where I think he's going with this, which I think is: And, therefore, the documents you didn't select, you didn't think were relevant, that's not fair if the premise of his original question is incorrect and that hasn't been brought to the witness's attention.

THE COURT: I I -- I agree.

MR. JOHNSON: Yeah.

THE COURT: I mean, it it should be clear that he didn't do that, and he he may have told us that, but --

MR. JOHNSON: I I think, My Lord, were I it's simply a matter of clearing that up with the witness. I'll just ask him really who gathered the who gathered the documents? It wasn't my friend. Who delivered them to her?

MS. JOHNSTON: Well, there's a difference.

THE COURT: Well, as I understand it, there that there was more documents, and you you selected some out of a larger number, is that
MS. JOHNSTON: The binders 1 through 4 are selected by the Crown. The documents in the disclosure are sent to the Crown by the RCMP.

Now, to what extent anything turns on that, my friend's entitled to entitled to explore, obviously.

THE COURT: Well, he is, but

MS. JOHNSTON: But

THE COURT: but you're saying there's a difference between

MS. JOHNSTON: Yes, yes, yes.

THE COURT: those two bundles and

MS. JOHNSTON: Absolutely.

THE COURT: and you would be aware of that.

MR. JOHNSON: Right. I'll tell you the question I'm going to ask: Is there anything outside of those binders that suggests genocide that you haven't brought here today to court?

How's that? Does that help my friend?

MS. JOHNSTON: That's that's a fair question.

MR. JOHNSON: All right.

MS. JOHNSTON: He's entitled to say that.

MR. JOHNSON: Because that's where I was going.

THE COURT: We'll bring in the jury and the witness.

THE CLERK: Mr. Wilson, Supreme courtroom.

(JURY IN)

TERRY WILSON
recalled.

THE COURT: Mr. Johnson.

MR. JOHNSON: Thank you.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q Mr. Wilson, is there anything outside of the four exhibit binders 1 through 4 that you found that suggested that Mr. Topham was advocating or reporting on genocide of the of the the Jewish of the Jews?

A For the genocide? No, sir.

Q No. Is there anything in the binders that you went through in some detail to suggest that Mr. Topham was dealing with genocide of the Jews?

A Besides the "Israel Must Perish!"?

Q Yes.

A No, sir.

Q Okay. Before you took the documentation that you had gathered to the Crown

A Yes, sir.

Q did you have an opinion about whether "Israel Must Perish!" was a parody or not?

A No, I didn't, sir. When I looked at the book and the editor's notes of that book, there was no indication that it was produced as a parody. That was a statement inside Mr. Abrams's communication with me during the initial complaint.

Q Mr. Abrams brought up the subject of a parody

A Yes, sir.

Q to you?

A Yes, sir.

Q You didn't bring up the subject of parody to him?

A I don't believe so. No, sir.

Q Right. So somebody other than yourself, in comparing these two documents, had come up with the idea of a parody that needed to be discussed with you?

A Mr. Abrams brought it up. Yes, sir.

Q Right. What is a parody?

A A layman's definition would be a satirical representation of another in this case, it would be another document.

Q I wonder if I can first get something up on the screen here for you.

A There's a jump drive right there.

Q Where is it? Ah, there. Okay.

It appears I'm competing with you to see who's more incompetent about using computer equipment.

MR. JOHNSON: I I'm sorry for that, My Lord. We'll deal with that near the break.

Q I'm going to suggest to you that Mr. Abrams made the complaint when he did because he had a concern over a genocide being discussed on Mr. Topham's website?

A Again, I don't know if I can speak to when Mr. Abrams makes a complaint and the reasons he makes a complaint.

Q Right.

A I can tell you when he did.

THE COURT: And I don't want the witness to try and speculate.

MR. JOHNSON: No, I I understand.

Q But, Mr. but you felt at some point that Mr. Topham had gone too far on his website? There was a point at which there was a need for a criminal investigation?

A Yes, sir.

Q And that was because he advocated genocide in his article "Israel Must Perish!"?

A The "Israel Must Perish!" article was one of the articles I looked at the totality of his website, which it includes the other documents that I gave in chief: *The Biological Jew*, those other documents in their totality. We looked at the at the website in its totality, which included

the "Israel Must Perish!" book.

Q Absent that document, "Israel Must Perish!", you would not have continued an investigation into Mr. Topham under section 319(2) of the *Criminal Code*, would you have?

A Again, I can't answer what I would or wouldn't have done. I can tell you what I did do and, as a result of that being on the website, I looked at the totality of his website. And in those documents, I believe, promoted hatred against Jews.

Q Had you laid any charges against Mr. Topham prior to your interview with Mr. Abrams?

A No, sir.

Q Had you conducted an investigation prior to that time?

A No, sir.

Q Would it be fair to say that you only started your investigation after speaking with Mr. Abrams?

A Yes, sir. The complaint that came in from Mr. Warman and the complaint that came in Mr. Abrams were in close proximity. At that point, we started to collect evidence excuse me, started to collect evidence on Mr. Topham and the website.

MR. JOHNSON: Okay. My Lord, I'll suggest maybe a morning break at this point, if that's okay. I I can go till quarter after, but

THE COURT: Why don't we go a little further? Because we we started a bit late, so ...

MR. JOHNSON: That that was my hope.

Q Now, part of the function of the Hate Crime Team was to not only look at hate directed against Jews but to homosexuals, other minorities in Canada, that sort of thing?

A Yes, sir. We look at the definition we look at the definition of an identifiable group under 718, which shows a whole myriad of groups that we would assist or investigate hate crimes against.

Q So let's let's assume for one moment I'm going to ask you a hypothetical question because you've had experience in dealing with complaints. I'm going to ask you a question; it is a hypothetical.

Suppose I was a homosexual man, and I came to you with a complaint saying that I felt that there was hatred directed towards me as a homosexual and that I felt that an investigation should take place. What are your parameters at that point? What are you looking at?

A Well, it would depend if we focussed on hate, a criminal act committed against the one individual because they are gay or lesbian, or we're looking at a propaganda case where it is targeting a group of individuals belonging to the gay and lesbian community or the Jewish community, the black community.

So we would look at, one, if that if the group is is included as an identifiable group under that under one of those two sections.

Q What if I told you that it was myself and my gay partner that were terribly offended by something that was raised in a church service directed we felt directed was directed towards us, would that

A We

Q exclude it or include it or would that what would you do with that?

A Again, difficult to answer a hypothetical but what I can tell you is that we have as a practice of the police provincewide, we don't turn away complaints, and so we would initially take that complaint and make a decision on its validity after collecting all the evidence.

Q Okay. I'm showing you a book that I picked up at a my hotel room. The *Holy Bible* placed by the the Gideons

A Yes, sir.

Q in my hotel room. That was I believe it's entitled *New American Standard Bible*?

A Yes, sir.

Q I don't know whether you've whether you're familiar with the Gideons or not?

A Not as familiar as I think I should be.

Q But they place Bibles, as you understand, in hotel

A Yes, sir.

Q rooms? Okay. If, as a homosexual male, I came to you and said: Look, the minister of this church, I think, was trying to discourage my partner and I from attending services, and he kept on referring to the sections out of the *Holy Bible* that dealt with homosexuality in a negative term.

A Yes, sir.

Q And I'm going to ask you to turn to the *Holy Bible* to "Leviticus," and that's 18. I'll get you get there.

I think we're looking at page 89, if that helps you.

A It does help me. Yes, sir.

Q Okay. You see page 89?

A I do.

Q And it would be "Leviticus 9" I'm sorry, "Leviticus 18," and I'd like you to read paragraph 22 out loud.

A "Leviticus 18:22."

Q Yes.

A

You shall not lie with a male as one lies with a female; it is an abomination.

Q Okay. And as a homosexual male, I I bring to your attention another section of that Bible

A Yes, sir.

Q because I'd like you to go to page 90.

A Yes, sir.

Q And that would be "Leviticus 20:13"; can you read that?

A Yes, sir. [As read in]:

If there is a man who lies with a male as those who lie with a woman, both of them have committed ... detestable act; they shall surely be put to death. Their bloodguiltlessness is upon them.

Q So I've come to you as a homosexual man, and I've pointed to this and I've told you the minister keeps suggesting that the punishment for us being a partner being partners is death, does that now fit the term "hatred"?

A Well, again, you

THE COURT: Well, I I have real trouble with with asking essentially a

MR. JOHNSON: I

THE COURT: legal question, mixed law and fact

MR. JOHNSON: Right.

THE COURT: what might have been done in some other hypothetical situation

MR. JOHNSON: That's a question of law.

THE COURT: of a fact witness. I I I just have trouble with that.

MR. JOHNSON: It's a question of law, and I withdraw that question.

THE COURT: I I I understand your argument, but I think this isn't the right person to ask the question.

MR. JOHNSON: Okay.

Q But as a homosexual male, I want you now to take action against this minister. I want criminal charges laid, and I've given you what I believe to be, in my opinion, hatred.

A Yes, sir, and and, again, as a policing organization throughout the province, we don't turn away complaints. We would take a complaint, we would investigate it thoroughly, and if at the time we thought that there was enough evidence to forward it to Crown for a charge approval, we would do that.

Q Okay. You don't make the decision whether the Bible is contains hate or not, do you?

A Do I make the decision? I don't understand the question. I'm sorry.

Q You don't you don't make any you don't decide for your own personal purposes whether the Bible contains hatred directed towards somebody?

A No, sir. The definition I use of hatred comes from *R. v. Keegstra* and the Supreme Court of Canada. So when I look at any document given to me, I compare it to the definition given to me by the Supreme Court.

Q Let's take this down the road, and you've decided, based on my complaint as a homosexual man, that that you're going to lay some charges against this minister who's who keeps suggesting that I and my partner be put to death for our relationship; that that meets your that meets your standard.

Where does it go from there? Where does the case go from there?

A Well, again, are you are you

Q It's just an assumption.

A asking me that this meets the standard? Because I can't say that. We didn't do a thorough investigation. I I can't say the process it would go through

THE COURT: I no, I and I I understand that.

MR. JOHNSON: No, I understand. I'm simplifying it.

THE COURT: I think we're going to take the morning recess. At this point, I'll ask the jury to step out.

(JURY OUT)

THE COURT: Mr. Wilson, I'll ask you to step outside now.

But, before we do that, we're now in cross-examination and so outside of the courtroom, you cannot discuss your evidence with anybody.

And we will be taking the morning break.

(WITNESS STOOD DOWN)

THE COURT: I I just Mr. Johnson, I can't see how it's of value to the jury to to ask this witness what he might do in a hypothetical situation

MR. JOHNSON: Right.

THE COURT: which is unfleshed out in any way, and and I I think it's simply irrelevant.

MR. JOHNSON: Okay. My Lord, I would like to continue with that line of questioning with this in mind to help you.

If the Bible can form the basis for a prosecution against a minister, then you could say that this Bible contains hate against a group.

That's what I want

THE COURT: That's not the case that we're we have in front of us.

MR. JOHNSON: Well, I

THE COURT: And -- and it's it's

MR. JOHNSON: This is a slippery slope, isn't it?

THE COURT: I think it's what you're trying to do is argue your case with this witness, which is not appropriate.

MR. JOHNSON: I think I'm entitled to deal with a hypothetical, though, am I not, with this witness?

THE COURT: Well, I don't see how you can deal with a hypothetical with a fact witness that I mean, you can ask what how how they apply their

MR. JOHNSON: Okay.

THE COURT: their standards but not with a hypothetical that's I mean, we don't know what it is. It's thick little bits of things, and it's easy to do that, but it's not helpful.

MR. JOHNSON: All right. I think what I'll have done, My Lord, is I've just said, look, the minister has been continually reading these two sections in in his sermon and directing them towards us as homosexual males. So what

THE COURT: This witness has never I think he certainly hasn't told you that he's ever done that, that he's had that complaint, and that complaint is not before the jury

MR. JOHNSON: Yes.

THE COURT: and the facts aren't before the jury. I if, you know, if we had to on every criminal case that came before the Court and -- go through hypotheticals on other cases officers might have investigated

MR. JOHNSON: Right.

THE COURT: they the criminal courts would go on for years.

MR. JOHNSON: Right. My Lord, I I'll I'll cease that line of questioning.

THE COURT: Well, I I I've told you to stop it.

MR. JOHNSON: Yeah, I'll cease

THE COURT: So so

MR. JOHNSON: I'll cease that line of questioning.

The balance of my cross-examination, I I'm hoping we can get it done here.

THE COURT: Well, see if you can get that set up so that you can

MR. JOHNSON: Yeah.

THE COURT: do what you wish to do with

MR. JOHNSON: Okay.

THE COURT: with the transcript and, I guess, with other things.

MR. JOHNSON: Thank you.

THE CLERK: Order in court. Court's adjourned for 15 minutes.

(PROCEEDINGS ADJOURNED FOR MORNING RECESS)
(PROCEEDINGS RECONVENED)

THE CLERK: And we're back on record, My Lord.
THE COURT: Thank you. We'll bring the jury in.

(JURY IN)

TERRY WILSON
recalled.

THE COURT: Mr. Johnson.
MR. JOHNSON: Thank you, My Lord.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q Mr. Wilson
A Yes, sir.
Q I've got a document that I've placed in front of you there. Have you seen that document before?
A Yes, sir. This is a transcription of a statement that I took from Mr. Abrams on June the 3rd, 2011.
Q Is that the statement that we've been talking about?
A Yes, sir, it is.
Q Okay. And I understand that the document was transcribed from a recording that you took?
A Yes, sir.
Q And that it consists of a total of 35 pages?
A Yes, sir.
Q And you'll notice that the each line is numbered to the end of the document, starting with 1 and ending up with 1444?
A Yes, sir.
Q Okay. So when I refer you to a portion of this transcript, I'll do that by page and by line number.
A Thank you, sir.
Q All right.
THE COURT: Certainly.
MR. JOHNSON: I'll thanks.
UNIDENTIFIED SPEAKER: For the Court.
MR. JOHNSON: Sorry. I was hemmed in there.
Okay. Do you have that, My Lord?
Q I just want to direct you to a question that you asked of Mr. Abrams on page 4 at line 145 and his answer.
A 145, sir?
Q At line 145, page 4 of 35.
A Yes, sir.
Q Okay. And you'd asked of Mr. Abrams [as read in]:

Outside of Quesnel. So in 2007, had you ever made a criminal complaint ...

and then [indecipherable]

... that website besides the one we're talking about today? A criminal complaint about the information on that website before?

And his answer was?
A "No, sir."
Q Right. And could you continue reading your portion? I'll read Mr. Abrams.
A [As read in]:

So I stated: No, um, I understand that one was made in 2007, and a decision was made, and we don't have to go into that essentially, but up until that that point the information that was on the website fell within the parameters of the Canadian Human Rights Commission and in your mind wasn't wasn't yet of criminal stuff.

Q [As read in]:

Well, no, to be on

A And I said: "Yeah."
MS. JOHNSTON: My Lord
MR. JOHNSON:
Q [As read in]:

-- to be to be -- truth be told.

MS. JOHNSTON: My Lord, I'm assuming that my friend is now reading this passage in order to get in what Mr. Abrams's opinion was on June 3rd, 2011 without the absence of Mr. Abrams being here to be able to speak to what his opinion was himself. I'm assuming there's some other purpose.

MR. JOHNSON: My Lord, I'm just

THE COURT: Is there

MR. JOHNSON: I'm just simply reading for the fact that this was these these questions were raised and answered as part of an investigation.

THE COURT: No, but I think we already went through that. But what's the point of of doing it this way? And, again, being cautious about not putting in the relevant fact, which is what Mr. Abrams' opinion might have been.

MR. JOHNSON: Well, again, I wanted to go through and give this witness an opportunity of reviewing, because he didn't have the document in front of him when I

THE COURT: But he answered your questions, and I'm just wondering is there additional questions you need to ask?

MR. JOHNSON: Yeah, these these questions have been answered.

THE COURT: Yes.

MR. JOHNSON: They have been. I'm going to move along. Okay. I just wanted to make sure that we could cover the did have a context for what comes next.

Q Now, if you could turn to page 5 of 35, at line 169.

A Yes, sir.

Q Where you state: "Okay."

A Yes, sir.

Q And then Mr. Abrams states [as read in]:

... with a lot of intensity in terms of incitement of hatred and contempt ...

And you say: "Mmm."

And then Harry Abrams says [as read in]:

... in the -- in the meaning as defined by the *Taylor* decision.

A Yes, sir.

Q Right? And so you say: "Yeah." And then Mr. Abrams [as read in]:

However, we knew or

MS. JOHNSTON: All right.

MR. JOHNSON:

Q

it was kind of

MS. JOHNSTON: I'm going to object again, because I don't see this as going to anything but try and get in what Mr. Abrams thought back in June 2011, and Mr. Abrams may or may not be qualified to offer an opinion. I don't I I have no knowledge of that one way or the other, but if he is qualified

THE COURT: But he's not here to offer an opinion, and and so

MR. JOHNSON: My Lord, I'd I'd like the jury out.

THE COURT: All right. Yes.

(JURY OUT)

(WITNESS STOOD DOWN)

MR. JOHNSON: My Lord

THE COURT: Well, just a second

MS. JOHNSTON: I I think I think

THE COURT: I want to hear the the rest of the objection.

MR. JOHNSON: Okay.

MS. JOHNSTON: I think Your Lordship understands my point. It seems to me he's reading these passages to the jury to try and get in front of the jury what whether or not Mr. Abrams thought there was sufficient to lay a criminal charge prior to "Israel Must Perish!" or *Germany Must Perish!* being on the website.

It might well be in real life that Mr. Abrams has the can offer that opinion. I have no idea. He's not here. And Mr. Abrams's opinion does not go in front of the jury this way. Mr. Abrams's opinion is irrelevant.

THE COURT: All right.

MS. JOHNSTON: And he's not here to answer.

THE COURT: I guess that's what I'm worried about is what what the relevance is.

MR. JOHNSON: Sure.

THE COURT: I mean, you you asked the questions about genocide, whether there was a discussion about it, and

MR. JOHNSON: Sure.

THE COURT: and that's clearly before the before the jury, but I I don't see the point of of putting Mr. Abrams's opinion, which is essentially what you seem to be trying to do, before the jury

MR. JOHNSON: Well, I don't know that that's the case, My Lord. I I'll tell you why, because this case involves how hatred affects the minority. Mr. Abrams is a Jew, he represents the B'nai Brith, and he doesn't use the word "I." He said: "We knew or it was kind of known." So we're talking about him representing a group of people, who are the very subject of this indictment. I believe I'm entitled to ask questions about how that may have affected them.

THE COURT: But you're you're certainly entitled to ask, you know, if he's there on his own behalf or if he feels he's there

MR. JOHNSON: Sure.

THE COURT: as part of a group and

MR. JOHNSON: But he's not here.

THE COURT: But ask if if that's what was said to to Mr. Wilson, and and you can do that easily without reading through passages, and I I don't think you can get into how what he says how they felt as a group, because then you're trying to put in hearsay evidence for the

truth of it, and -- and that's, you know -- that's something that -- it's not that the statement was made; you're putting that in for the purpose that -- for the truth behind it.

MR. JOHNSON: No, I'm saying that it -- for the fact that it was said, not for the truth.

THE COURT: All right. And -- and, sorry, which passages

MR. JOHNSON: Let's -- let's deal with those, then.

THE COURT: do you -- why don't you

MR. JOHNSON: I -- I wanted to

THE COURT: tell me what you want to put in.

MR. JOHNSON: Yeah. The -- line 177 [as read in]:

However, we knew or it was kind of known. I knew but everyone just generally understood that it takes -- it takes, um, for something to be of a level of a criminal hatred charge, it's going to have to be something [exsotential]

I don't know what that means.

THE COURT: I don't think that's

MR. JOHNSON: I think that's ex -- existential, and I -- I want that in. Existential meaning -- or existential language meaning

THE COURT: But that has nothing to do with the effect. That's -- that's his opinion of what -- what that criminal level of the charge is, which is -- is -- that's a legal interpretation, which is not relevant, what -- what he thinks it is.

MR. JOHNSON: Well, again, we're looking at context here because he's talking about genocide, which I think is much on the minds of most of the Jewish population given the holocaust.

THE COURT: Well, it -- I mean, it may well be, but how -- how is that of significance to what this jury has to decide, what Mr. Abrams said about it to Mr. Wilson?

MR. JOHNSON: Well, I said that there was a tipping point, that there

THE COURT: I thought you

MR. JOHNSON: there was a point at which -- which this witness decided to proceed with a criminal investigation of my client wasn't until after Mr. Abrams had a chat with him, not just representing himself but representing as a member of the B'nai Brith and representing, therefore, as a group of the -- of the -- that's being -- that's being the subject of hate. I don't want to really say that, but the allegation. And I want that to go in so that it's -- the jury clearly understands what Mr. Abrams said to get this investigation going.

THE COURT: Well, I think you can do that quite simply without -- without having to -- to read through this, which is, frankly, tough with the spelling errors to

MR. JOHNSON: It is.

THE COURT: what is "exsotential"? It's -- but, I mean, aren't you saying that Mr. Abrams told you that he was of the view that this reached that level of -- of a hate crime because it incited genocide and -- and he said that to you. I mean, that -- that's really what you're trying to get --

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

THE COURT: -- trying to get before --

MR. JOHNSON: -- I have to turn this off. I was expecting a call from my expert. I had this on mute. Just turn this off.

My apologies.

The -- the point is that we are discussing -- or Mr. Abrams and Mr. Wilson were talking about portions of that website. He uses the word "anti-Semitism"; he uses the word

THE COURT: Yes, yes. But you've already gone through that, and the witness has said that.

MR. JOHNSON: Yeah, I've got -- I've got that, but I also want to make it absolutely clear that -- that this was a record, a proper record, of that conversation.

THE COURT: How is that relevant? I mean, the point you want to make is that this was the nature of the discussion between Mr. Abrams and Mr. Wilson, and -- and he's already admitted that.

MR. JOHNSON: That's right.

THE COURT: That -- that --

MR. JOHNSON: I really wanted to get 177 in with the "exso" -- "exsotential" language meaning incitement of genocide. That's what I want in.

THE COURT: All right.

MR. JOHNSON: And I think he's doing that

THE COURT: And I think you simply asked him: Did Mr. Abrams say these things? And he says yes, then that's --

MR. JOHNSON: As a representative of B'nai -- B'nai Brith.

THE COURT: And -- and you can ask him if he understood that.

MR. JOHNSON: Okay.

THE COURT: I mean, I think you already have but

MR. JOHNSON: Then we're good. All right.

THE COURT: All right.

MS. JOHNSTON: But, My Lord, then what is the answer going in for? The truth of its contents?

THE COURT: Well, that -- that this was said to Mr. Wilson, and -- and I -- I gather it's going to be part of the argument that -- that that's -- that was what somehow caused the -- the charges to be laid.

MS. JOHNSTON: Well

THE COURT: Or -- or the -- the investigation to begin. And I -- I'm not sure there's -- there's a great deal of relevance to that, but that's a point that the defence wishes to make, and -- and surely the -- what -- it could potentially have some -- some relevance to how the jury accepts it. I -- I -- frankly have some difficulty with it, but --

MS. JOHNSTON: Well, I -- I -- I'm just going to rephrase that, because I think -- I think what Your Lordship is saying, which I would agree with, is that -- ... I think there may at least potentially -- I don't know that there will be actually any relevance but potential relevance if, for example, Mr. Wilson was unfairly or improperly influenced by Mr. -- Mr. -- Mr. Abrams. I agree that that has potential relevance.

If that is the sole purpose

THE COURT: And -- and I think that's what

MR. JOHNSON: That's where I'm going.

THE COURT: what Mr. Johnson's trying to say.

MS. JOHNSTON: All right.

THE COURT: All right.

MR. JOHNSON: There's some arm-twisting going on.

THE COURT: Well, we'll bring in the jury, and we'll bring in Mr. Wilson.

THE CLERK: May I get the spelling of "Abrams"?
MR. JOHNSON: It's Abrams.
THE CLERK: Abr
MR. JOHNSON: Abrams.
THE CLERK: Thank you. Witness?
MR. JOHNSON: Witness, please.
THE COURT: Yes.
THE CLERK: Mr. Wilson, Supreme courtroom.

(JURY IN)

TERRY WILSON
recalled.

THE COURT: Mr. Johnson.
MR. JOHNSON: Thank you.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q Mr. Wilson, did you understand that Mr. Abrams was speaking on behalf of Jews generally and, in particular, the B'nai Brith when you took his statement?
A I knew that he was associated to that group and it and -- and it wasn't a hidden factor in the taking of a statement that that's who he volunteered for, yes, sir.
Q Did -- did his standing with the B'nai Brith have anything to do with you continuing your investigation?
A No, sir. My investigation has continued because I gather evidence to make it go forward. I just take his initial complaint.
Q I asked you earlier, sir, if you could provide us with your understanding of the word "parody," and I'm going to come back to that, if I could.
A Yes, sir.
Q All right. Are you familiar with the *Oxford English Dictionary*?
A I am, sir.
Q I'm going to show you four pages containing two definitions. The first definition is from that dictionary; it's satire. And the second definition is parody. I'm going to hand that to you.
MR. JOHNSON: I'll provide you with a copy, as well, My Lord.
A Sir, I have I have three. Did you say four?
Q Oh.
A Sorry.
Q Okay. Can I have a look at the last page that you've got?
You now have one that says "parody" at the top?
A Thank you.
Q Okay. Now, the word "satire" in the *Oxford English Dictionary* is defined as:

A poem, or in modern use sometimes a prose composition, in which prevailing vices or follies are held up to ridicule. Sometimes, less correctly, applied to a composition in verse or prose intended to ridicule a particular person or class of [persons], a lampoon.

There's also another diction another meaning beneath that, and it appears that that may be that's part of the definition:

A satirical utterance; a speech or saying in ridicule of some person or thing.

It continues on under heading 2(a). You could have a look at that.
A Yes, sir.
Q
The species of literature constituted by satires; satirical composition.

A Yes, sir.
Q And under 2(b), it says:

The employment, in speaking or writing, of sarcasm, irony, ridicule ... in exposing, denouncing, deriding, or ridiculing vice, folly, indecorum, abuses, or evils of any kind.

A Yes, sir.
Q See that?
A Yes, sir.
Q All right. Would you agree with that definition?
A I would, sir.
Q Okay. And
THE COURT: I don't know if this witness's agreeing with the definition --
MR. JOHNSON: With the OED?
THE COURT: -- has any relevance. I
A Sorry, may I agree with what you read
MR. JOHNSON:
Q With what's read?
A with the the paper you gave me.
Q I didn't miss anything?
THE COURT: Okay.

A Yes.

THE COURT: All right.

MR. JOHNSON:

Q And under (c) of 2, the second definition:

Effect in making ridiculous.

Do you see that?

A 2(c)? Yes, sir.

Q 2(c); right?

A Yes, sir.

Q Now, the second definition that I provided to you is the word "parody"; do you see that?

A Yes, sir.

Q Again, this is from the *Oxford English Dictionary*:

A composition in prose or verse in which the characteristic turns of thought and phrase in an author or class of authors are imitated in such a way as to make them appear ridiculous, especially by applying them to ludicrously inappropriate subjects, an imitation of a work more or less closely modelled on the original [or on the or original] but [also] turned as to produce ...

THE COURT: "So turned."

MR. JOHNSON: Turned out yeah.

Q

... to produce a ridiculous effect. Also apply to a burlesque of a musical work.

Second head a second portion of that -- that definition is:

A poor or feeble imitation ... travesty.

Okay?

A Sir.

Q Does does that come close to what you had expressed in terms of your understanding of the word [indiscernible/coughing] parody?

A Yes, sir.

Q Okay. Can you now see why the question of parody arose in your discussion with Mr. Abrams?

A I don't quite understand the question, sir. I'm sorry.

THE COURT: I don't, either.

MR. JOHNSON: Okay.

Q The word "parody" came up, and it was put out there by Mr. Abrams during your discussion; correct?

A Yes, it was.

Q What was he referring to?

A He was referring to "Israel Must Perish!"

Q And and that was a parody of what?

A *Germany Must Perish!*

Q Right. And just to not go back and ask you the same question, but it was after your conversation with Mr. Abrams that you started your criminal investigation of Mr. Topham; correct?

A Yes, sir. The complaint from Mr. Warman and Mr. Abrams initiated our our investigation.

Q And how much how much longer after how much time elapsed after that meeting with Mr. Abrams before you actually started investigating?

A Well, the statementtaking process from Mr. Abrams is included in the in the investigative process.

Q That would be the start of your investigation?

A Yes, sir.

Q Fair enough. So your investigation would have started on June the 3rd, 2011; is that about right?

A Well, our our the initial invest the initial complaint came on April 23rd April 28th, 2011 from Mr. Warman.

Q Right.

A Part of the investigation was the statement taken from Mr. Abrams on June the 3rd.

Q But you actually had not started an investigation when Mr. Warman complained on the 28th of April, 2011, had you?

A Yeah. Well, yes, we had, sir. We we received his complaint, so the complaint process comes to us. Just to give you some background about the BC Hate Crime Team, there's two of us for the province of British Columbia. So during the time of taking that complaint, there are many other files going on at the same time. Therefore, a time was allotted that I could speak to Mr. Abram [sic] on June the 3rd, which was the next step in the investigative process. But the the initial investigation, the initial complaint, came from Mr. Warman on April 28th.

Q Was there any discussion between you and Mr. Warman about a parody?

A I don't recall having that discussion with Mr. Warman, sir.

Q Do you know whether Mr. Warman brought up "Israel Must Perish!" in his original complaint?

A No, I don't believe he did.

Q First time that you heard of that was through Mr. Abrams; correct?

A Yes, sir.

Q Now, I understand that your investigation involved gathering documents; correct?

A Yes, sir.

Q Did you consult with Crown counsel to get some direction on how to proceed?

A We don't consult initially with Crown counsel. What happens is is because at the end of a propaganda file we know there's a process that the Attorney General has to be involved in, so we try to engage the Crown counsel's office or the Attorney General's office as soon as as possible, so they sort of know this is coming down the pipe.

Q You can lay a charge under the *Criminal Code*, can't you?

A Yes, sir.

Q You don't need anybody's approval for that?

A No, sir.

Q And that's what happened here?

A That's what happened? No, sir.
Q Did you charge Mr. Topham without sending it to the Crown first?
A No, sir.
Q Okay. Did you arrest him at some point?
A Yes, we did.
Q Okay. Was that after he had been charged?
A No, sir.
Q You arrested him before he was charged?
A Yes, sir, and then and part of the investigation was his arrest and subsequent search of his home.
Q So you got a search warrant?
A Yes, sir.
Q You went to his home?
A I didn't personally go to his home.
Q You seized his computers? And by "you," I mean the Hate Crimes Team?
A The investigative party, yes.
Q And were those the computers that Mr. Topham was using to post and operate radicalpress.com?
A Well, I didn't do the computer examination of that. I received a report from the computer technician that confirmed the material on there, but I didn't do the examination myself.
Q But you you knew that Mr. Topham's computers had been seized?
A Oh, yes, sir.
Q And it would be fair to say that that would have impacted his ability to post on the Internet; correct?
A It may have. I know that you can post from the Internet from multiple different locations without having a personal computer.
Q All right. You were concerned that he was going to continue posting and operating Radical Press after he was arrested, weren't you?
A Yes, sir.
Q And what was your concern?
A The concern was to eliminate the exposure of our victims from the message being put forward by Mr. Topham.
Q Was there a specific message that concerned you?
A Yeah, the hateful messages on his websites. The ones that we determined in the totality of his website to be hate propaganda.
Q Okay. Mr. Topham wrote and put on his website "Israel Must Perish!", correct?
A Yes, sir.
Q There were also some introductory or editorial comments ahead of some of these books that were that were put on and some of these articles; correct?
A Yes, sir.
Q Right. And then he also had some postings of his own?
A Yes, sir.
Q Right. So it was the totality of everything on his site that concerned you?
A No. Because some of the material, as I gave in chief, wouldn't have contravened the hate propaganda section. You know, his his articles on BC Hydro were not included in that.
So, when I did the examination, I examined it and compared it to the definition of what we had for hate propaganda, and that's the material.
Q Okay. But part of the hate propaganda was putting up certain documents like "The Protocols of the Elders of Zion"; correct?
A Yes, sir.
Q But wasn't the centrepiece of your investigation his document "Israel Must Perish!"?
A No, sir. We didn't rely on one document in totality. As you can see by these binders, there's multiple documents that we looked at that promoted the hatred or gave me grounds to believe that Mr. Topham was promoting hatred.
Q But there was nothing in the four binders that you went through with Crown counsel to indicate that Mr. Topham was proposing genocide against anyone; correct?
A That's correct, sir, but that's not the definition under the hate propaganda section that we looked at. 319(2) says a hateful message, and defined under *Keegstra* again, I'm don't have it memorized, but it's causing a detestation or vilification towards an identifiable group.
Those other binders, those other documents in those binders, cause that detestation or vilification.
Q That wasn't my question. My question was, was Mr. Topham saying anything about genocide outside of that "Israel Must Perish!"?
A No, sir.
Q Thank you. Now, as part of your job as a an investigating police officer, you are to move things towards either a resolution through the court system or resolution short of that; correct?
A My job is to do a complete investigation and make a decision at the end of that on the evidence.
Q At what point did you decide to go to Crown counsel with with the charge
A [Indiscernible]
Q that's now before the Court? The the two the two counts.
A When did we go with a whole package?
Q Yes.
A The whole package would have been submitted to Crown counsel after Mr. Topham's arrest and the search of his home.
Q Which would have been what date; do you remember?
A I don't I don't have the exact date.
Q Have you got your notes here?
A I do.
Q Could you check your notes, please?
Mr. Wilson, I note that we're taking a bit of time here. I'm going to have you answer that question after you've had an opportunity of looking through your notes. I see you've got
A Yes, sir.
Q a number of them there.
A I I apologize. I wasn't prepared for that particular question.
Q No, that's okay. I'll just continue on.
At some point
THE COURT: Well, are you almost there or
A No, I'm I'm sorry
THE COURT: You're not? Well, then

A My Lord, so

THE COURT: continue on, Mr. Johnson.

MR. JOHNSON: Yes.

Q Mr. Wilson, I'm showing you a document that was provided through disclosure, I believe, and it appears to be a document composed by you. There's a space for your signature. Have you seen this document before?

A Yes, sir, I have.

Q Okay. There's no date on this document. Do you remember when it was sent or if it was sent?

A It was sent. This document is actually was the body of an email.

THE COURT: So it was what?

A It was the body of an email.

THE COURT: All right.

MR. JOHNSON:

Q Was it a an attachment to an email?

A No. I believe it was in the body of the email itself.

Q Okay. Can you read that letter, please?

A It states:

Dear Sir or Madame: I am Detective Terry Wilson of the BC Hate Crime Team [of] the Royal Canadian Mounted Police EDivision Major Crime. [I'm] the lead investigator into a Hate Propaganda investigation involving the above internet site.

So the above Internet site, because it's in an email, it would have been listed in the subject line.

I understand that on May 31st ...

And it's supposed to be 2012.

... 12 we have requested, through the US Department of Justice, to preserve [the] website as we [are looking on looking --]

Q "Working."

A

... were working on a mudule [sic] Mutual Legal Assistance Treaty ... I wish to confirm that this website is still being [preserved] as the MLAT process [has] has taken longer than anticipated.

THE COURT: As the what process?

A

... the MLAT

THE COURT: MLAT.

A

process has taken longer than anticipated.

Secondly I would like to advise you that the administrator/owner of the website Mr. Roy Arthur Topham has now been charged criminally with Section 319(2) [of the *Criminal Code*] of the *Canadian Criminal Code of Canada* for [the Wilful Promoting] Wilful Promoting Hatred, over his website www.radicalpress.com. [I see by] I see by your [website's] policy that this may in fact contravene your policy, section 4(b)(i) by using the website for "Hate Speech or other offensive speech or content".

If you have any questions please don't hesitate to contact me at the above email or at 6045434903.

And

MR. JOHNSON:

Q And you signed it as?

A Detective Constable Terry Wilson, BC Hate Crime Team, with my email address and the same phone number.

Q So it being a part of an email, you didn't actually sign this document, did you?

A No. No, that's that's a signature block on the email.

Q Right. And do you have a date that this went out? Or you're going to have to look that up through your notes again?

A Going to have to look if I had that copy, the the header of the email, I would be able to tell.

It would have been sent post or after Mr. Topham had of had of been formally charged.

Q Okay. What was your purpose in sending this email?

A Just like the email says, I sent it to the the Internet Service Provider and advising them that Mr. Topham may have been in contravention of their policy.

Q With a view to them taking his website down; is that right?

A What whatever the ISP, the Internet Service Provider, did with the information I provided them was up to the ISP.

Q But you wanted them to take down Mr. Topham's website, didn't you? That was the purpose of this document?

A No, the purpose of that document was informing them that they have a contravention of their policy.

Q And what did a contravention of their policy state on their website that you looked at?

A There was a series of remedies that their policy could have have done.

Q And what was one of those remedies?

A One of the remedies would be notification of the operator to remove material. One of the remedies was that that would terminate their agreement with the ISP.

Q You sent this email out to put Mr. Topham's website out of business, didn't you?

A No, sir.

Q You weren't trying to get any information from the website providers, were you?

A No. We were going through a legal process to get that information through the MLAT process.

Q And what information were you trying to get from the Internet provider?

A I wasn't getting any information from the Internet provider. I was informing them of a policy breach.

Q You wanted them to take action against Mr. Topham?
A Again, sir, I was informing them of a policy breach.
Q Well, why why bring this to their attention just to tell them that, if you didn't want to put them in a position to have to respond to a breach of the policy?
A It just it just it was the right thing to do, to tell that company that they're in a breach of policy.
Q Is that
A We we would do that with other investigations, as well; notifying ICBC of breaches of their policy is something that the police do on a regular basis.
Q Is it police practice during a an investigation of a hate crime to write this kind of a letter?
A It was my practice for this one, yes.
Q I'm going to put it to you, sir, that this was done for personal reasons rather than for police reasons?
A No, sir.
Q You were upset and felt angry with Mr. Topham for having put the things on his website that he put on there, weren't you?
A No, sir.
Q You were completely unemotional about it?
A My job is to investigate criminal offences and to gather the evidence. I know where the boundaries of my job end. What happens when it goes to Crown counsel, the Attorney General's office, and they make those decisions -- my job is to do an investigation, which I did.
Q How did this document help in the prosecution of a crime against my client?
A Remember, the police do a lot of other things besides investigation, right? We notify the public of policy breaches. A strata council that people are parking in the wrong spots. We would notify the strata council. There -- this would be no different than that.
Q What kind of response, if any, did you get from sending out this email?
A It's my understanding that Mr. Topham's website was removed from that ISP.
Q Did you get copied with any communication between the Internet provider and Mr. Topham?
A Did I get any communication concerning the removal?
Q Yes.
A I recall getting a CC email of ISP directing Mr. Topham to remove some of the material.
THE COURT: Sorry, what's a CCE?
A Sorry. ISP, Internet Service Provider. So I I got a a carbon copy email.
THE COURT: Carbon copy.
MR. JOHNSON:
Q [Indiscernible] was another way to make sure that Mr. Topham's website could be taken down, wasn't there, besides doing that?
A There was another way?
Q A legal way.
A My goal in sending this email wasn't to have the website taken down; my goal was to notify them of a policy breach.
Q Well, you could have gone to the Court to try and get terms of his bail conditions modified?
A Yes, sir. That still wouldn't have stopped me from sending that email notifying an ISP that they had a breach of their policy.
Q Well, did you know that the prosecutor actually went ahead with an application to try and amend Mr. Topham's bail conditions so that he couldn't operate his website any longer?
A Yes, sir. As a matter of fact, when he was arrested and released, we released him on a document that he couldn't operate his website except for work.
Q What was the result of the first application to amend the bail conditions to restrict or to prevent him from using that website?
A If you refer to the first as the document that we released him on as being the first or the first
Q No, the first the first application to in front of a Provincial Court judge to amend the terms of his bail conditions?
A I believe the if again, I apologize if I don't quite understand the question. If you're talking about the amendment Crown was trying to have him off the Internet, I it's my understanding that that was declined by a Provincial Court judge.
Q It was unsuccessful?
A Yes, sir.
Q That was when Mr. Topham was represented by counsel?
A Yes, sir.
Q Were you present when that application was being made?
A No, sir.
Q Now, his counsel died?
A Yes, sir. Unfortunately, he did.
Q Yes. And shortly after he died, a second application was made to amend the terms of the bail conditions; are you aware of that?
A Yes, I was.
Q And, again, that application was refused; correct?
A Yes, sir.
Q We have two judges, were they different judges?
A I believe they were different judges.
Q Okay. Both refusing to restrict, or to take down, Mr. Topham's website?
A Yes, sir.
Q Okay. And you would agree with me that that was the proper approach in terms of doing something about him ceasing and desisting the operation of radicalpress.com?
A Yes, sir, that's appropriate approach. Yes, sir.
Q That's that's the legal approach; correct?
A Yes, sir.
Q Right. And what you were doing in sending out this letter was not a legal approach, was it?
A The goal of that email was to notify that ISP that they had a policy policy breach. What they did with that information was up to the pol was up to the ISP.
MR. JOHNSON: If I could have that marked?
THE COURT: Any objection?
MS. JOHNSTON: No. That's fine. Thank you.
THE COURT: That will be the next exhibit.
MS. JOHNSTON: 7, I believe.

EXHIBIT 7: One-page document entitled "Dear Sir or Madame"

MR. JOHNSON: Are we ready? I was just waiting for Madam Registrar to mark

THE COURT: Well, you can go ahead with while she does that.

MR. JOHNSON: Okay. Sorry, I was

THE COURT: We can multitask here.

MR. JOHNSON: Okay.

Q Now, you had mentioned that, in this particular case, this charge required the consent of the Attorney General before the matter could proceed to the courts; is that right?

A Yes, sir. It's part of the legislation.

Q Who is the Attorney General? Not by name but by function?

A By function, they are the overseer of the Attorney General's office, the Crown's office. They are the ones for legis in this legislation that approve that are legislated to approve this charge.

Q And the Attorney General is a member of the cabinet of the governing party in this province?

A Yes, sir.

Q All right. And that's a political position, is it not?

A It is, sir.

Q Right. So before this case could come before this this Court, a decision had to be made by the Attorney General to proceed; is that correct? Or do you know that?

MS. JOHNSTON: My Lord, I'm just going to stand at this point. I'm going to ask that the jury go out.

THE COURT: Why don't we excuse the jury for the lunch recess, given the time? So if we're going to send them out for another minute or two, it will be 12:30. So you're excused till 2 o'clock.

MR. JOHNSON: So that will be 2 o'clock.

(JURY OUT)

(WITNESS STOOD DOWN)

THE COURT: Ms. Johnston.

MS. JOHNSTON: My Lord, my friend is asking Terry Wilson questions of law. Somewhat analogous to the Abrams's decision, there may be some relevance as to whether or not Mr. Wilson himself followed proper procedure, but it seems to me that where Mr. Mr. Johnson is going at this point is to point out the person who approves charges against Mr. Topham is an elected representative of cabinet.

Unfortunately, that is beyond Mr. Wilson's knowledge and actually is not is not accurate, because the *Criminal Code* defines the Attorney General as including his lawful deputy and, although it's not at my fingertips and I did look through this, the Crown but I'm doing it from memory now, the *Crown Counsel Act* allows the Assistant Deputy Attorney General to sign such documents. The Assistant Deputy Attorney General is not an elected representative.

So the line of questioning is leading to an incorrect result.

THE COURT: Mr.

MS. JOHNSTON: And and the basis

THE COURT: And I guess I don't I don't really see the relevance of it, either, Mr. Johnson.

MR. JOHNSON: My Lord well, My Lord, whatever she's raised could be done through redirect.

MS. JOHNSTON: Well

THE COURT: But if you could tell me what what the the relevance is.

Now, as I understand it, and and I may be wrong about this, that with the admission of jurisdiction, the there's there's no question that this was done; that the AG's consent to the prosecution was obtained. I mean, this this isn't about that issue, is it?

MR. JOHNSON: No, no. It's just about how we got to where we're at, and I think the jury's entitled to know that.

MS. JOHNSTON: But not through this witness because that's

THE COURT: But how

MS. JOHNSTON: a question of law.

THE COURT: Well, and it's not something that presumably this witness was

MR. JOHNSON: Well, all he has

THE COURT: personally involved in.

MR. JOHNSON: All he has to say: "I don't know." You know, I I'm just I'm just asking how what his understanding of this process was. That's all.

MS. JOHNSTON: Which brings the Crown to the point these are legal questions. I'm sure Terry Wilson thinks he's correct. I mean, he may very well think that the Attorney General, the elected representative, signs the document.

MR. JOHNSON: Well

MS. JOHNSTON: He's wrong about that. And and it's a question of law. He's not an expert in law, and that is the basis of the Crown's objection.

I don't know. Maybe maybe he's read

THE COURT: Well, I I

MR. JOHNSON: the *Crown Counsel Act*, I don't know, but it seems to me that the question is trying to get a legal answer in from the witness who is not qualified to give it, and it appears as heading in the wrong direction.

MR. JOHNSON: Okay.

THE COURT: Well, it strikes me --

MR. JOHNSON: Let's just --

THE COURT: -- that's what's what's being done, and if you want me to instruct the jury that that of the particular subsection of the Act that

MR. JOHNSON: Well, I'll just read it to them.

THE COURT: requires the ...

MR. JOHNSON: It's right in here. I'm not I'm not

THE COURT: But there's no point asking this witness that question. He has nothing to do with that.

MR. JOHNSON: No. I'm asking him where in the chain of process he fits. I'm going to ask him if he had anything to do

THE COURT: Well, I think he's told you

MR. JOHNSON: with that decision.

THE COURT: what what he's done.
MR. JOHNSON: I'm going to ask him whether he had anything to do with that decision or not.
THE COURT: All right. Well, why don't you read the section
MR. JOHNSON: Okay.
THE COURT: and ask if he's aware of it and say: Were you involved in in --
MR. JOHNSON: Sure.
THE COURT: -- the process of that?
MR. JOHNSON: That's where I was going.
THE COURT: All right.
MR. JOHNSON: I'm not here asking legal questions.
THE COURT: And
MR. JOHNSON: But by the same token, we're going to get into this when we start discussing discussing hatred, because he has to interpret he's already said he reads law; he reads the *Keegstra* decision.
THE COURT: Yes, yes.
MR. JOHNSON: And I don't know how my friend can sit there and say, well, let's just deal with the facts here, because this is more than the investigation involves looking at the legislation, looking at the case law to determine whether the charge should be laid in the first place.
THE COURT: That
MR. JOHNSON: So ...
THE COURT: that's [indiscernible] up to up to a point
MR. JOHNSON: Sure.
THE COURT: but it's not it's not really particularly relevant. It's certainly I mean, you can ask him about those things, and I've and I've let you do that, about things like, you know, how did he come
MR. JOHNSON: Sure.
THE COURT: to the conclusion that he should continue this investigation. You can obviously do that. But this one seems to me to be a long ways away from from relevance that is
MR. JOHNSON: Well, with all due respect, I I understand, My Lord. I'm not here to argue. I accept your I accept your decision.
THE COURT: Well, no, you have to.
MR. JOHNSON: Pardon me?
THE COURT: You have to accept my decision.
MR. JOHNSON: Well, no, I do.
THE COURT: But but what I'm -- what I'm simply saying is you could ask if he was involved in that, but before you do that, I think that if you could bring me the the section of the Act, I should tell them that it's not the the elected minister. It's it's either the elected minister or the Deputy Attorney General or the designate of the
MS. JOHNSTON: Well, the Crown I haven't memorized the *Crown Counsel Act*, but I believe that is the Act that gives the authority to the Assistant Deputy Attorney General to sign permission for such acts [sic] to be laid.
THE COURT: Right. I mean, I'm I'm obviously not aware of that, but
MR. JOHNSON: Well
THE COURT: but so if you could bring that section in, and I'll and I'll tell the jury that that that was a question of law that you asked that a wrong answer was given to it, which is that it has to be minister of government
MR. JOHNSON: Correct. Sure.
THE COURT: and and it's not. So I think I should clear that up. If you and particularly if you're going to go and proceed further with that line of questioning.
MR. JOHNSON: Well, my my line of question's been answered. I wanted to refer to the the charge, the indictment and that the Attorney General had to approve.
If my friend wants to elaborate on that through redirect, it's up to her. I I don't I'm not here to cure something that this witness has said. I don't think he was under miss any misapprehension.
THE COURT: Well, but that's a question of law.
MR. JOHNSON: But the statements
THE COURT: That's a that's a and -- and -- and I think that, you know, it's it's strikes me to have little relevance, but but we should not you shouldn't put an incorrect statement to him
MR. JOHNSON: Right.
THE COURT: that's a question of law and and get an in an incorrect answer and and leave that with the jury.
MR. JOHNSON: I agree.
THE COURT: So I want to clear that up
MR. JOHNSON: That's correct.
THE COURT: if Ms. Johnston is correct.
And we'll call in the witness, because I should remind him again of his
MR. JOHNSON: Sure.
THE COURT: obligation being under cross examination.
MS. JOHNSTON: My Lord, I'm wondering since Your Lordship would like to end early tomorrow, and we have restrictions on starting early tomorrow, do we want to divide it in half and perhaps sit till quarter after 4:00 today and then only make up 15 minutes tomorrow, if necessary? I mean, do we want to consider that as an option?
THE COURT: Yes, that that would be fine for me, if if Madam Registrar and the sheriffs can deal with that, so and that would probably be better. It would give everyone a little more time at lunch tomorrow.
All right.
THE CLERK: Mr. Wilson, Supreme courtroom.
THE COURT: Although, I will ask the jury if that would inconvenience any of them.

TERRY WILSON
recalled.

THE COURT: We're about to break for lunch. I just wanted to remind you, Mr. Wilson, that you're still under crossexamination, so you cannot discuss your evidence with anyone during the break.

You can, however, look up those matters that were raised with you, and you were going to look at your your notes to see if you could provide answers for that.

A Yes, My Lord.

THE COURT: All right.

THE CLERK: Order in court. Court's adjourned till 2 p.m.

(WITNESS STOOD DOWN)

(PROCEEDINGS ADJOURNED FOR NOON RECESS)

(PROCEEDINGS RECONVENED)

(JURY OUT)

THE CLERK: We're back on record.

THE COURT: Thank you. We can --

MS. JOHNSTON: Thank you, My Lord. We can pick up with where we left off, which was the discussion about the *Crown Counsel Act*. I've got a copy of the Act for Your Lordship and a case which I'll refer to here [inaudible/away from microphone].

My Lord, section 319 of the *Criminal Code* sub 6 says that:

No proceeding for an offence under subsection (2) shall be instituted without the consent of the Attorney General.

And then the Attorney General is defined in sub 2 of the *Criminal Code*, which is defined under sub under the definition censor section Attorney General. It says that it means:

The Attorney General or Solicitor General of the province in which those proceedings are taken and includes his or her lawful Deputy.

Then we turn to the *Crown Counsel Act*, which I've given Your Lordship a copy of.

THE COURT: Yes.

MS. JOHNSTON: And under at page 2 of 5, sub 3, the Assistant Deputy Attorney General:

The ADAG is charged with the administration of the Branch and with carrying out the functions and responsibilities of the Branch under section 2.

(2) The ADAG is [designed], for the purposes of section 2 of the *Criminal Code*, as a lawful Deputy of the Attorney General.

So what that means is -- is that the Assistant Deputy Attorney General of the Criminal Justice Branch has the authority to give permission for charges under 319(2) that is not an elected official.

And just to answer the question that nobody asked, there is the presumption of consent, which is set out in the case I handed out. It's a British Columbia Court of Appeal decision from 2015, and at paragraphs 22 through 31, it says that in the absence of defence specifically raising the issue, the Crown does not have to prove in the course of their case that they, in fact, had the consent to lay the charge that's before the Court.

Thank you, My Lord.

MR. JOHNSON: My Lord, I with all due respect, I'm happy to receive information from my friend, but she's missed the point entirely.

The point is that the *Criminal Code* states clearly that the charge cannot proceed without the consent of the Attorney General. My point is that the Attorney General must take ultimate responsibility for anything done. That's it. That's all I'm driving at, and

THE COURT: But the way it was asked makes it sound like the minister is somehow directly involved

MR. JOHNSON: Well, as I say

THE COURT: and I think that's a miss a misstatement.

MR. JOHNSON: Well, I as I say, I think that my friend can raise that in reexamination to clarify if there's any I don't think it was a deliberate attempt certainly on my part that

THE COURT: No, no. I'm I'm just saying that you may not have been aware of the provision that your friend read out.

MR. JOHNSON: I think that will clear it up.

THE COURT: But but it seems to me it will.

MR. JOHNSON: My point that it's ultimately the responsibility of the Attorney General, I don't think there's any doubt that that person is an elected representative of this province and sits in cabinet. I don't think there's anything that we've done incorrectly here.

MS. JOHNSTON: Even if that's a valid point, is this the witness that's qualified to give that answer?

THE COURT: I mean, this witness really isn't the person to be

MR. JOHNSON: All he has to say

THE COURT: (indiscernible/overlapping speakers).

MR. JOHNSON: "I don't know."

THE COURT: Well, but but that's that's not a matter for this witness to even be asked about, is it?

MR. JOHNSON: Well, he's interpreting law. He has to look at this section. He's brought up the fact he's been reading law, the *Keegstra* case, as to what constitutes hatred. He must certainly be aware of

THE COURT: Certainly has to be

MR. JOHNSON: section 319

THE COURT: aware of that in terms of his investigation. He doesn't have to be aware of the the this other

MR. JOHNSON: Whether it's whether it's --

THE COURT: parts that you're talking about.

MR. JOHNSON: the ultimate responsibility of the Attorney General or not.

THE COURT: I mean, that's not part of what he does.

MR. JOHNSON: So I you're telling me my not to ask that question?

THE COURT: Well, no. I'm going to I'm going to instruct the jury on on a point of law which I think was misput -- misstated to the witness, and and you have indicated you wanted to ask a followup question --

MR. JOHNSON: Yep.

THE COURT: -- which I said you could.

MR. JOHNSON: Yeah.

THE COURT: But but I want to make that that clear for the jury.

MR. JOHNSON: Sure. We can do that right on the record, if you like. I don't mind. And you can tell them

THE COURT: No, I'm going to instruct the jury when they come back in.
MR. JOHNSON: Oh, okay. Fine.
THE COURT: That's that's what
MR. JOHNSON: I thought you were talking about
THE COURT: When I say I'm going to instruct the jury
MR. JOHNSON: when you're when you're doing your charge.
THE COURT: that's what I mean. No.
MR. JOHNSON: Oh, I thought you were speaking about your charge.
THE COURT: No.
MR. JOHNSON: Okay.
THE COURT: No.
MR. JOHNSON: I'm ready.
THE COURT: All right.
THE CLERK: Mr. Wilson, as well?
THE COURT: Yes, we'll we'll bring in ...
THE CLERK: Mr. Wilson, Supreme courtroom.

(JURY IN)

TERRY WILSON
recalled, reminded.

THE CLERK: I remind you, you're still you're still under oath.

A Thank you.

THE COURT: Now, before we continue with the cross-examination, I'm going to give you a brief instruction about a matter that was covered just before lunch.

The witness was asked and there's a section in this part of the *Criminal Code* that we're dealing with, that requires the consent of the Attorney General before proceeding with charges, and the witness was asked and he's answered yes, that the the Attorney General is a minister of government and implied that he consented to this.

It's a slight misstatement of the law, and this is getting very technical, but I want you to know that, in fact, the way the -- the *Criminal Code* reads, and there are other sections involved, there's a definition of Attorney General which says that it means the Attorney General of the province in which the proceedings are taken and includes his or her lawful Deputy, and then under the *Crown Counsel Act*, the the Assistant Deputy Attorney General is designated for the purpose of the *Criminal Code* as the lawful Deputy of the Attorney General. So the Attorney General is ultimately responsible, but the Assistant Deputy Attorney General is the lawful Deputy for *Criminal Code* matters.

That's a small point, perhaps, but I just wanted to clarify that there was a misstatement about that.

Mr. Johnson.

MR. JOHNSON: Thank you, My Lord.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q Mr. Wilson, have you read everything that's on Radical Press?

A Everything? No, sir.

Q Is it fair to say that your evidence you gave in chief represents a thorough overview of the Crown's case against Mr. Topham?

MS. JOHNSTON: I'm going to object to that. It's not it's not for this witness to say whether or not

THE COURT: I I think that's right.

MS. JOHNSTON: he is correctly ...

MR. JOHNSON:

Q Are you aware of any other evidence that would support this charge?

A I'm aware of any other evidence? The evidence we gathered during the investigation was presented to Crown to Crown counsel and to the Attorney General to to get sworn the information.

Am I am I aware of any other evidence outside of our investigation? I don't know if that's what you're asking or other evidence that's inside the investigation that I haven't talked about?

Q Is there any other evidence that you're aware of that would be used in these proceedings against Mr. Topham?

A The evidence that we provided during our investigation

Q From -- let's make it simple. From the from the BC Hate Crimes Team, are you aware of any other evidence?

A No, sir.

Q Okay. You're being you're not being brought here as an expert, are you?

A No, sir, I'm not.

Q So you're not an expert in hate propaganda, are you?

A Not for this file, sir; no.

THE COURT: Sorry? Not for ...

A Not for this file. Not for this investigation. Sorry.

MR. JOHNSON:

Q And so you're not an expert in the likely effects of hate propaganda on any group, are you?

A No, sir, I'm not.

Q So you can't speak to the likely effects of this material that you've brought forward upon its audience?

A No, sir, I can't.

Q You're also not an expert in psychology, are you?

A No, I'm not.

Q So you can't speak to the question of why a person might post such material?

A No, I can't.

Q Basically, all you can say in your testimony is that you looked at Radical Press and found some books and articles?

A Basically what I'm saying is we did a complete investigation into Radical Press and provided that information to Crown counsel.
Q You haven't provided any opinion about what you found; you just brought that information, didn't you?
A My job's not opinion; my job is bringing evidence forward.
Q Correct. Let's deal with one of the books that you brought forward, and that is *Germany Must Perish!*
A Yes, sir.
Q You said that you've read it?
A Yes, sir.
Q And you provided a short synopsis?
A I did, sir.
Q Both at the preliminary inquiry and here?
A Yes, sir, I did.
Q And the preliminary inquiry was another proceeding in relation to this investigation
A Yes, sir.
Q and this file; correct?
A Yes, sir.
Q Okay. I'm just going to show you the transcript. Just a short proceeding -- a court matter -- if you could turn to page 31, of the transcript dated January 22nd, 2014.
A Yes, sir.
Q Okay. See where it says:

And [you are] able to provide the court with a ... short synopsis of what it's about?

You see that?
A Line 40, sir?
Q Yes.
A Yes, sir.
Q And your answer was:

Yeah, I can. *Germany Must Perish!*; again Theodore Kaufman [wrote it] wrote [in the 19 or] in the 30s, it essentially articulates the destruction of the German people through a method of castration, so that the German people no longer existed on the planet. The reason Mr. Kaufman wanted this to happen, is he believed that essentially the German people were the result of ... wars the world wars that were occurring.

A Yes, sir.
Q That was your evidence?
A It was.
Q And that's still your synopsis?
A Yes, sir.
Q Okay. There's nothing that you wanted to add or change?
MS. JOHNSTON: My Lord, I'm going to object to that as unfair. We've got a book. It is a synopsis. Could he do a different synopsis? Probably.
THE COURT: I -- I think the the jury can take the comment for what it was, is that was his very, very, very brief synopsis.
MR. JOHNSON: My Lord, we're going to be here till the cows come home if we continue along this road. I must insist that we go ahead here.
Q Would you consider personally consider *Germany Must Perish!* to be hate propaganda?
A *Germany Must Perish!*?
Q Yes.
A Yes, sir.
Q It's directed at German individuals, isn't it?
A Yes, sir.
Q Mr. Topham has not been charged with wilful promotion of hatred against Germans, has he?
A No, he hasn't.
Q Why not?
A The pre the preface in *Germany Must Perish!* is a reflection of what he views the German author to write about. It's it's again the same sort of mindset to the to the antiSemitic, antiJewish the rest of his his website.
His website is concentrated as an antiSemitic, antiJewish themed website.
Germany Must Perish!, you're right, it is hate propaganda, but there was nothing else to lead us to believe inside his website that that there was more antiGerman propaganda in there.
Q So he's showing hatred towards somebody by posting that, in your view?
A He the contents of the book itself we would look as a hate propaganda file. We would investigate that, and we investigated the the totality of the website and found it to have a preponderance of antiSemitic material with one book of *Germany Must Perish!*
Q Mr. Kaufman, the author of that book was [indiscernible/coughing]
THE COURT: Sorry. I I missed that because of the coughing.
MR. JOHNSON:
Q Mr. Kaufman, the author of that book, was Jewish, wasn't he?
A That's that's what I believe, sir; yes.
Q And it was written by him in a lead up to World War II, wasn't it?
A It was.
Q And in that book, from your reading of it, Mr. Kaufman was concerned about the threat posed by Nazi Germany, wasn't he?
A Yes, sir.
Q And he proposed a solution in his book?
A Yes, sir, he did.
Q He felt that the destruction of Germany was the only solution?
A Yes, sir.
Q And he was very outspoken about those views, wasn't he?
A In that book, that I read, yes, sir.

Q The book became a best seller in United States?
A Again, I only read it from from the website, but that -- that's my understanding, sir, yes.
Q That's part of the advertising that goes with that book that's on the website?
A Yes, sir. It's on the back cover.
Q So would you not agree with me that *Germany Must Perish!* was written by a Jew in the 1930s, and that that provides an important context for the words that are written?
A Again, I'm not too sure I understand the question.
THE COURT: Sorry, I don't understand that question. I ...
MR. JOHNSON:
Q Okay. The fact that *Germany Must Perish!* was written by a Jew in the 1930s provides important context for the words written in that book, doesn't it?
A If you're asking me if the title reflects the content of the book
THE COURT: No, I don't think that was the question.
MR. JOHNSON: No.
A Sorry. Then I then I miss then I'm misunderstanding again. I apologize.
Q I'll read it to you one more time.
A Thanks.
Q The fact that *Germany Must Perish!* was written by a Jew in the 1930s provides important context for the words written, doesn't it?
A Yes, sir. If you're asking me that Mr. Kaufman's background is a is one of the ingredients of why he wrote it, I don't know if I can answer what Mr. Kaufman's motivation was.
Q But that's the context; correct?
A It would appear on the face of that book, yes, sir.
Q Okay. Let's move on to Mr. Topham's book or the document "Israel Must Perish!" that's on his website.
A Yes, sir.
Q And could you turn to page 35?
A 35 of
THE COURT: Of what?
MR. JOHNSON: Of the -- of the transcript.
A You took it back.
Q Oh, did I take it back?
A Yes, you did.
Q Do you still have it there?
A No, it's right there, I think.
35, sir?
Q Yeah. That's at page 35, lines 7 to 40.
A Yes, sir.
Q Okay. And starting with the question at line 7:

Are you able to give the court a synopsis of what it is about?

A Yes, sir.
Q Your answer was:

I am. *Israel Must Perish!*, is a reproduction of *Germany Must Perish!*, by Mr. Topham.

A Yes, sir.
Q
Q Now, you say by Mr. Topham, [that makes] what makes you think it was by Mr. Topham?
A Because essentially the front of the book says by writer Arthur Topham. The book itself, not un-similar to the *Germany Must Perish!*, the difference is instead of the words "Germany" and "Nazi" inside *Germany Must Perish!*, they have been replaced by "Israel" and "Jews" in *Israel Must Perish!* So in *Germany Must Perish!* they targeted the German population and the Nazi group. In *Israel Must Perish!* the book targets Israel and the Jewish population to be exterminated from the earth.

A Yes, sir.
Q
Q Okay. So if I understand you correctly, and please correct me [if I don't] if I do not
A Okay.

Q -- in *Germany Must Perish!* as compared to *Israel must perish*, what they've done is replaced some words?

Your answer is "Yes"?
A Yes, sir.
Q See that?
A Yes, sir.
Q
Q They've replaced Israel with Germany from the original?

Your answer was:
A They replaced Germany with Israel.

Q Germany with Israel?
A Yeah.

Q And replaced

A Nazi or German with ... Jew or Jewish population.

Q Okay. So they used those terms interchangeably?

A Yes. Yes.

That was your evidence?

A Yes, sir.

Q Okay. So do you consider "Israel Must Perish!" to be a book?

A In the ter looking back at my testimony now, no, it's excerpts from a book. And I think that in my examination in chief, I I tried to make that as clear as possible, as well. It's excerpts from the book *Germany Must Perish!* with the two terms interchanged.

Q So your evidence here in this courtroom is that it's not a book; it's excerpts?

A Yes, sir.

Q Okay. You've never seen a physical printed copy of "Israel Must Perish!", have you?

A No, sir. It's only been electronic.

Q Right. You stated at the preliminary inquiry that it mirrored *Germany Must Perish!*, and I'm going to put it to you that "Israel Must Perish!" is the same as *Germany Must Perish!*

A The yes, so the excerpts from *Germany Must Perish!* or, sorry, the excerpts from "Israel Must Perish!" are taken directly from *Germany Must Perish!* with the interchanging of the words.

Q And the only difference is that it's published on a website with a few words changed?

A Yes, sir.

Q You're not here as a witness to speculate on what Mr. Topham's intent might be in preparing "Israel Must Perish!", are you?

A I can't speak to his intent, no.

Q No. So you certainly can't tell this Court today that Mr. Topham's intent was to promote hatred, can you?

A I can tell you that with the preponderance of evidence from his website, it's consistent with the message the antiSemitic message he put out on his website.

Q I'm I'm speaking specifically of "Israel Must Perish!"?

A And speaking specifically "Israel's Perish [sic]" is difficult to answer because it's in the context of a website that contains a preponderance of antiSemitic material. So talking about it in isolation is very difficult.

Q Absent "Israel Must Perish!", is the rest of the website or does it contain the type of hatred that you would that you find in "Israel"

A It

Q "Must Perish"?

A Yes, sir. *The Biological Jew, The Controversy of Zion, The Jewish Religion: As [sic] Influenced Today*, those three books also cause detestation and vilification towards the Jew the Jewish population.

Q So those books are off limits for anybody who puts them up on a website; is that true?

MS. JOHNSTON: My Lord, that's again a legal conclusion.

THE COURT: That's that's that's a question of law. That has nothing to do with

MR. JOHNSON:

Q As far as

THE COURT: what this witness can answer.

MR. JOHNSON:

Q As far as the BC Hate Team is concerned, any time that you saw somebody posting those three books, would it cause you to investigate them?

A It would cause us to yeah, it would cause us to initiate an investigation. How that investigation ended, I I couldn't tell you.

Q Do you go to Google and type in: *The Protocols of the Elders of Zion* to find out if somebody is running a website that you might have to investigate?

A Not not usually. Usually we have complainants all over Canada that notify us long before we actually go and find it ourselves.

Q You've had many complaints from Jews across British Columbia about the posting of *The Protocols of the Elders of Zion* on the Internet, haven't you?

A We've seen several complaints about it, yes.

Q Has anybody, other than Jewish people, made those complaints? Or do you know?

MS. JOHNSTON: Is he asking in his personal experience as an investigator or or beyond his knowledge to

THE COURT: Oh, I think

MS. JOHNSTON: What's my friend asking?

THE COURT: he was just asking about --

MR. JOHNSON: I think --

THE COURT: -- his personal experience as an investigator and -- and if he knows if people who complained were were Jewish, I think, is the question.

A Well, in this instance, I don't believe and I've never asked, but I don't believe Mr. Warman is Jewish.

MR. JOHNSON:

Q I'd like you to turn to page 37 of your transcript of the preliminary inquiry held on the 22nd of January, 2014.

THE COURT: And before we do that, Mr. Johnson, I think I'm going to just take this opportunity to give a brief instruction to to the jury because it wasn't covered earlier on.

What I want to tell you is that during the course of a trial, counsel may refer to a preliminary inquiry, which is what Mr.

Mr. Johnson is is doing here.

A preliminary inquiry is held in this province before a Provincial Court judge, and a number of witnesses were examined and crossexamined under oath. Nothing is decided at that type of an inquiry as to whether an individual an accused is guilty or not guilty.

When reference is made to the transcript of the evidence at the preliminary inquiry, what you should know is that the transcript contains the written record of the testimony of the various witnesses who testified under oath at the preliminary inquiry and that their evidence was given under oath as it is here today.

So I just wanted to

MR. JOHNSON: Thank you, My Lord.

THE COURT: to let the jury know that.

MR. JOHNSON: I should have covered that.

Q Are you at that point?

A 37, sir? Yes.

Q Yes. Now, do you see where at line 34, it states:

Now, sir, is this something which exists independent of the radicalpress.com website?

A Yes, sir.

Q Your answer was:

It does, it's been reproduced and talked about since the early 1900s, as a and I've read the protocols, so I can give you sort of a general feeling of what protocols. The protocols have been set up as a road map of how Zionism or the Jewish population is going to take over the world. It's a road map -- each protocol is a road map, or a part of the road map of how they are planning to control the rest of the world, and they are going to use the term "One world government." That's essentially what the protocols are. They are ... fictitious -- they were first put out as ... real [a] sort of minutes of a Jewish meeting of the heads of of the Jewish population. It is really a fictitious account, and it was held up by many people in the past as a true document to show that this is what the Jewish population does --

And then the answer or the next question is:

I see.

And then you state:

-- or wants to do.

Do you remember giving that evidence?

A Yes, sir.

Q So you were aware that *The Protocols of the Elders of Zion* you were aware of *The Protocols of the Elders of Zion* long before you ever visited Mr. Topham's website, weren't you?

A Yes, sir.

Q And as part of your investigation, you took a copy of *The Protocols* from Mr. Topham's website, didn't you?

A We did.

Q So I'm going to direct you to page 38.

A Yes, sir.

Q Line 20.

A Yes, sir.

Q The question was:

Q I see. Now, you, in the course of your investigation of this matter, took a copy of the protocols?

And your answer was:

A We did. [When we looked] when we took the we took the protocols directly, even though it's found in many different sections of the Internet, we took the protocols as -- and copied them from radicalpress.com.

A Yes, sir.

Q Okay. So you compared that copy that you took from Radical Free Press to other copies from other places on the Internet; correct?

A Yes, sir.

Q That's what your evidence was?

A Yes, sir.

Q Okay. I'd like you to also look at page 38, lines 32 to 46.

A Yes, sir.

Q Have you got that?

A Yes, sir.

Q

Q Now, sir, I understand that you are familiar with the protocols from other sources, besides just radicalpress.com?

And your answer:

A Yes, ma'am. They are held up by many antiJewish antiSemitic writings, and people throughout the world as a truthful document of the road map of the Jewish dominance. So I've read it multiple times, long before I became aware [that it] that it that it appeared on [radical dot] radicalpress.com

Q Have you also read the version that's put forward on radicalpress.com?

A Yes, I have.

Q And is it consistent with protocols that you've read from other ... sources?

And your answer was:

A It is.

See that?

A Yes, sir.

Q Okay. Now, I understand that another item on Mr. Topham's website that you investigated was a book called *The Biological Jew*; is that correct?

A Yes, sir.

Q And like *The Protocol, The Bio -- Biological Jew* is available on other websites aside from radicalpress.com; correct?

A Yes, sir.

Q And I'd like you to go to page 39 at the preliminary inquiry transcript, please. Lines 24 to 30.

A Yes, sir.

Q And the question:

Q I see. Now, sir, we are going to go through the same format. *The Biological Jew*, are you aware of this document separate from radicalpress.com?

Your answer:

A I am. I am. The document that is on radicalpress.com is consistent with other times that I've seen *The Biological Jew* produced in other forums or other persons.

And that's your evidence?

A Yes, sir.

Q Yet another item that you investigated was *The Jewish Religion: Its Influence Today*; is that correct?

A Yes, sir.

Q And that, too, is available on other websites aside from radicalpress.com; isn't that right?

A Yes, sir.

Q I want you to turn to page 41 of the transcript that's in front of you.

A Yes, sir.

Q Lines 9 to 21.

A Yes, sir.

Q

Q Now, [is] is *The Jewish Religion: Its Influence Today*, by Elizabeth Dilling, is this a book you have [heard of separate] heard of separate from radicalpress.com?

The answer:

A Yes, ma'am.

Q All right. And [have you] read *The Jewish Religion* on radicalpress.com as well?

A Mhmm.

Q And can you tell me whether or not this version is consistent with this book that you have read from other sources?

The answer:

A Again, not comparing line to line, but it does appear to be the same book that I've read from other sources as well.

So, Detective or, pardon me, Mr. Wilson, I'm going to suggest to you that all of the books that you investigated are available from other websites aside from radicalpress.com; isn't that true?

A Yes, sir. The majority or the books that you're referring to are available on web on other websites and other materials on the Internet.

The majority ones, from my recollection, have been Americanbased and, therefore, no jurisdiction for me.

Q Okay. Have you heard of Amazon.com?

A I have, sir.

Q And there's an Amazon.ca?

A Sir.

Q What does Amazon.ca how does it differ from Amazon.com or do you know?

A I believe that is the Canadian business version of Amazon.com.

Q Sure. Have you heard of AveBooks.com?

A AveBooks?

Q AveBooks?

A No, sir, I have not.

Q I'm going to show you a document that I've taken from Amazon.ca.

THE COURT: Can you show it to your friend first and then

MR. JOHNSON: Yes.

MS. JOHNSTON: My Lord, this doesn't go in through this witness.

THE COURT: I I can't see how it does. I'm not sure what what what it is, I haven't seen it, but but certainly it's ...

MR. JOHNSON: I can't call the person who's selling that book online, My Lord.

THE COURT: Well, but this this witness isn't the person to do this through. I mean, presumably, you can have somebody that comes and says: I've gone to a website, and this is what I found on the website. Here it is.

I mean, this by showing a piece of paper to this witness, that's that's not proof of anything.

MR. JOHNSON: It's proof that that exists.

THE COURT: Well, it's not, but

MR. JOHNSON: Well, we maybe

THE COURT: It's hearsay and it's and it's --

MR. JOHNSON: Well, then, My Lord, what we should do

THE COURT: not been proved properly.

MR. JOHNSON: I'm going to ask at this point that we have the Internet set up in this in this courtroom, so that we can go online to Amazon.ca and have a look for ourselves.

THE COURT: What what we can do is mark this for identification.

MR. JOHNSON: Okay.

THE COURT: And then you can raise the issue with your friend, and and see if it's if you can have some agreement about it or if you need to call somebody.

MR. JOHNSON: Yeah. Well, okay. We can do that.

THE COURT: All right.

MR. JOHNSON: Thank you, My Lord.

THE COURT: And I'd expect you to do this before we get to this point in the trial, that you raise these matters before we're in the courtroom in front of the jury.

MR. JOHNSON: That's fine. I'll I think it's important to raise it through the Crown witnesses, because I certainly intend to raise this through Mr. Topham, and I'll ...

Q Mr. Wilson, are you personally aware that all of the books that you copied from Mr. Topham's radicalpress.com are available in book form on the Internet?

A Every every book except for "Israel Must Perish!" is available.

Q Did you yourself order any books?

A Did I order any books

Q On the Internet?

A None of these books.

Q So you were working off of copies that you had from the Internet, were you?

A I was working on copies from radicalpress.com for this file.

Q But to compare those books with other books, you compared them with those books as they appeared in other Internet sites?

A The majority of my knowledge concerning these books are in relation to other investigations I've done in the previous 20 years.

Q You don't have a copy of *The Protocols of the Learned Elders of Zion* in your office, do you?

A I'm retired, so I don't have an office now. But back then back then, no, we didn't.

Q No. And you don't have a hard copy of *The Jewish Religion: Its Influence Today* by Elizabeth Dilling?

A No, sir.

Q So you didn't compare that book with what was on Mr. Topham's website, did you?

A Well, I think my testimony in the prelim says I didn't compare the books line for line, but I've read them before. It's consistent with the books that I read from Mr. Topham's website.

Q My question was, did you compare them to a hard copy? No?

A No, sir, I didn't.

Q No, you didn't. You didn't compare any of the books that you found on radicalpress.com with an actual hard copy of that book?

A No, sir.

Q Even though they may have been available to you?

A Their comparative value wasn't evidentiary for us, so, no, we didn't.

Q Now, when you go online to Amazon.com first of all, have you been on or have you ever made any purchases on Amazon.com?

A I have not.

Q Never?

A Never.

Q Is it a free website?

A From my knowledge, not ever being on there, I believe it is.

THE COURT: Don't ask him to speculate on what he doesn't hasn't done or know.

MR. JOHNSON: No. Well, I think it's almost in the

THE COURT: If you're going to call Mr. Topham to give this evidence, as you just indicated

MR. JOHNSON: Yeah.

THE COURT: that's that's sufficient.

MR. JOHNSON: I I think we're [inaudible]. I think just in fairness to Mr. Wilson.

Q When you go onto the Internet to I think I'm going to rephrase that.

When you went onto the Internet to do a search of *The Protocols of The Elders of Zion*, did you use a search engine?

A Yes, sir. I usually in in practice, I usually use Google.

Q Google. So I'm going to suggest to you that when you when you do a Google search for *The Protocols of the Elders of Zion*, it produces about 433,000 results; would you agree?

A It's a lot of results, yes, sir.

Q Okay. And I'm going to suggest to you that a Google search for *The Biological Jew* produces about 20,500 results; would you agree with that?

A I wouldn't disagree with it, sir, no.

Q A Google search for *The Jewish Religion: Its Influence Today* produces about 9,620 results; would you agree or disagree?

A I wouldn't disagree. I haven't I haven't run it on Google, so ...

Q But you'd agree? Correct?

THE COURT: I think he said

A I would I would not disagree.

THE COURT: he's not disagreeing

MR. JOHNSON: I just got that.

THE COURT: which is the best he can do.

MR. JOHNSON: I just got that.

Q A Google search for *Germany Must Perish!* produces 26,600 results; would you agree?

A Again, I wouldn't disagree with that.

Q As a result of your investigation of radicalpress.com, your colleague, Normandie Levas, sought and obtained a warrant to search Mr. Topham's home; is that correct?

A Yes, sir.

Q Now, this morning you said that you were going to look up some dates from your notes. Did you have an opportunity of doing that?

A I did. I can tell you so the question, I believe, was when we first forward information to Crown counsel. Corporal Levas was the file coordinator, so it would be sometime after May 25th an initial package went to Crown counsel.

Q May 25th of ...

A May 25th, 2012. Mr. Topham's initial court date, his first appearance date, I believe was October the 9th, 2012. And I haven't had it noted in my book, but I know that the the initial information of the first propaganda charge was laid in in and around that date.

THE COURT: Sorry, which? Which of those dates?

A October the 9th, 2012.

And again, the I haven't noted that email I sent, but I know that it would have been after the information was sworn because then the information becomes a public document, and I'm more comfortable in sending that email to the ISP when I know that the information is is a -- is a public record then.

MR. JOHNSON:

Q So do you have a date for that email?
A No. It would have been very closely after the sworn date of the information. I know that Mr. Topham's website went down for several weeks, and I know that he went back up online on a new ISP November the 2nd, 2012 with the same material that was on the original.
Q Separate IP?
A Yeah. Separate server altogether. So he I guess in layman terms, he moved companies.
Q Okay. So he moved from the company that you sent the letter to?
A Yes, sir. Yes, he did.
Q Did you share that email with anybody?
A Share that email with anybody? My partner is the file coordinator. She would have got a copy of it, as well as my action. The ISP would have got a copy of that. It's my understanding that as a result of the ISP, what they did, Mr. Topham received a copy of it. But we don't usually send out investigative material or other material associated to the investigation to other people that are not associated to the investigation.
Q So you wouldn't have sent a copy of that to Mr. Abrams; is that right?
A No, sir. No, we wouldn't.
Q Or to Mr. Warman?
A No, sir.
Q And they had no part in helping you draft that letter, did they?
A None whatsoever.
Q Did you tell Mr. Abrams or Mr. Warman that you were going to send that kind of a letter out?
A No, sir.
Q Did anyone else direct you to send that letter out or did you act totally on your own?
A Totally on my own, sir.
Q Was the only reason that the search of Mr. Topham's home was to find out whether he was the publisher of radicalpress.com?
A The reason the search warrant was done was to collect evidence to support the investigation.
Q That was something you could have obtained off the Internet without a search warrant, though, wasn't it?
A No, sir, to do a thorough investigation, that was an essential part to a thorough investigation.
Q In taking his computers, there was a lot more information on there than simply his postings and his material on radicalpress.com; isn't that true?
A I'm sure there was.
Q Did you have an opportunity of looking at any of his private emails?
A No, sir. The only emails we would have been in search of were correspondence between him and the ISP, the Internet Service Providers, which would have documented things like pay schedules for owner of the website, that material. Things linking him to the website. Personal emails were no concern of ours. They're not part of the charge.
Q But you read them, though, didn't you?
A No, I didn't.
Q Would you look at the preliminary trans preliminary inquiry transcript at page at page 11?
A 11, sir?
Q Yeah.
A Yes, sir.
Q You've got the question:

Q So you did not look at any of the emails?

A Sorry, could you give me a line number, sir?
Q That's at line 11.
A Oh, line 11.
THE COURT: Sorry, line 11
MR. JOHNSON: I'm sorry. Page page 11, line 4.
A 4. Line 4 is blank for me on page 11.
THE COURT: And mine, as well.
MR. JOHNSON:
Q The question starts with:

Q [So did] so you did not look at any of the emails?

That should be on page 11
A Page
Q or page 12.
A page 11, my testimony doesn't start till 38.
Q Okay. Let's have a look at page 12, then.
MR. JOHNSON: My Lord, I've only got the one copy. If I might approach the witness for just a moment?
A Be on a different day, maybe.
Q On January the 23rd. I think you're looking on the wrong day.
A January 23rd
THE COURT: This is January 22nd.
MR. JOHNSON: Yeah.
A So, January 23rd, page 11, line -- line 4.
Q Do you have it there? Page 11, line 4, all the way through to 12, line 6.
Is this the 23rd that you've got?
A This is the 23rd. There's the 23rd. Here's page 1 of the 23rd there.
Q Hang on. I'm going to direct you to the bottom of the page.
MR. JOHNSON: I'm afraid what's happened here, My Lord, is we've I got these copied onto the Adobe program, and it tends to truncate some of the text, so it goes on different pages. I'm going to direct the witness to line 40 on page 11 of that same date, January the 23rd, 2014.
A Yes, sir.
MR. JOHNSON: You have that, My Lord?

THE COURT: Yes.

MR. JOHNSON:

Q

Q So you did not look at any of the emails?

A I think your emails were available, but again, that wasn't the objective of our search. Our objective was to look for material that was posted on radicalpress.com. Your emails were not posted on radicalpress.com.

Q Yes. But that -- Detective Wilson that wasn't my question. My question was, did you look at any of the emails in my computer?

A Well, I think your emails were seen, yes. Did we use them in as part of the evidence? No.

Q No. Yeah, I didn't ask you that, but thank you for confirming that you did look at them.

A Yes, sir.

Do you see that?

A Yes, sir.

Q So you did look at the emails?

A Well, to and and the question was asked by Mr. Topham at prelim, a general question to the team, and to sort through the emails to determine which ones were evidentiary to his ownership of the website, emails had to be looked at to filter through. Private emails are not part of public communication of hatred.

Q But you looked at the emails?

A We looked at the emails to collect evidence, yes.

Q Now, sir, we spoke this morning about Crown counsel bringing an application to vary Mr. Topham's bail conditions

A Yes, sir.

Q correct? And the first application was on December the 19th, 2012?

A That's

Q Do you remember that?

MS. JOHNSTON: My Lord, I'm not sure this is a proper witness to be speaking to that, unless he was personally there, personally made the application, and I'm not sure whether or not he did either.

THE COURT: Maybe we can start with that. Establish

MR. JOHNSON: Okay.

THE COURT: a foundation for the question.

MR. JOHNSON:

Q Are you aware of the application taking place on that day?

A I'm aware of it, yes, sir.

Q You weren't personally present?

A No, sir, I wasn't.

Q Did you read a copy of the decision of the Honourable Judge Church?

MS. JOHNSTON: My Lord, that can go in some way. It can't go in through this witness.

THE COURT: Perhaps it could go in by agreement if you want it.

MR. JOHNSON: It would have to go by agreement. I take it my friend's not agreeing, so that's fine.

MS. JOHNSTON: Well, I'm not I

MR. JOHNSON: No, that's that's okay. I'd like to continue on.

THE COURT: Well, I'm I guess I have a problem with with maybe I'll ask the jury to step out for a moment.

(JURY OUT)

THE COURT: And -- and I'll ask you to step out as well, Mr. Wilson.

UNIDENTIFIED SPEAKER: Thank you, My Lord.

(WITNESS STOOD DOWN)

THE COURT: I'd just like to know where where we're going with this, because I'm not sure how this witness can answer

MR. JOHNSON: I want to know

THE COURT: how how his response to anything in that application

MR. JOHNSON: whether he read the Reasons, because

THE COURT: How is that relevant?

MR. JOHNSON: obviously it's a direction. It's a direction from the Court as to the appropriateness of trying to shut down Mr. Topham's website, and I think

THE COURT: His

MR. JOHNSON: that he's tried to do this personally already.

THE COURT: Well, you've you've -- you've suggested that to him, and and that's fine, and you can make that suggestion, but I I think once we've got to this point, that the charge has been laid and the point that it's somehow I just don't see any relevance that

MR. JOHNSON: Well, I

THE COURT: -- with with that with those Reasons.

MR. JOHNSON: Well, if I can help you, My Lord, I think it has everything to do with this case because this is about Mr. Topham's freedom of expression. We've dealt with one of these issues in the pretrial application back in July. You said that there was going to be some problems with regard to bringing evidence in relation to his section 2 rights.

That was covered by a judge pardon me, the Honourable Judge Church in her Reasons for dismissing the Crown's application. It's a matter of public record. All I can do is I have a right to refer to it. I'm not asking him to give an opinion on what was said. I just want to the jury to understand what was said and why that application was denied.

And all he said or all she said was:

I cannot conclude that the restrictions on Mr. Topham's freedom of expression sought by the Crown are no more than is necessary to achieve the objective of ensuring the safety and security of a victim or victims in this case.

While the Crown has provided some evidence that Mr. Topham continues to publish material that is offensive, the evidence in this case falls short of establishing that these additional conditions should be added to Mr. Topham's current bail conditions. In my view, Crown has not provided me with enough information to establish that the conditions sought are necessary to ensure safety and security of any victim or witness, or that the extent of the restriction is no more than is necessary to achieve that objective.

I think that that's important.
THE COURT: But I I guess the problem is we'd have to put it all in context, know what was put before the the Court on that bail application and
MR. JOHNSON: Yeah.
THE COURT: and and I I I just think it it doesn't help us decide the issues here.
Now, I understand that that you're also suggesting that there's some some bias, personal bias, here
MR. JOHNSON: Sure.
THE COURT: and and you're certainly entitled to to do that, but I don't see how reading that decision out assists in that, because it's it's then inviting the jury to -- to take into account something that they haven't had the materials before them, and and and that's clearly not proper.
MR. JOHNSON: That's I agree.
THE COURT: So I I I would encourage you to find some way to to do that, that a little short of reading out. You can ask him if he if he read it, if he I I mean, I'm not really sure how you how you go at it, but I
MR. JOHNSON: I think I all as far as I can go is have you read the decision?
THE COURT: And and, I mean, the the Crown has said perhaps it could go in by consent. Is there any
MS. JOHNSTON: Well, Your Honour I'm sorry. I'm sorry, My Lord. It may or may not go in. I need more than a minute to think about it. I don't see it as relevant to any possible issue at trial. I agree with Your Lordship in terms of of tying it into bias, but if that's going to be merely a cloak to read in the statements which the improper purposes are obvious, then the Crown has a concern.
THE COURT: And I I I haven't seen it, either, so I'm I'm operating a bit in in the dark here myself. Why don't
MR. JOHNSON: Well, I I'm trying to establish clearly that he was going about this on a personal basis, possibly at the prompting of B'nai Brith, and that that was not something that was proper in terms of being a a police officer; that he should have sought the advice and counsel of Crown counsel to bring the applications that they ultimately did bring.
He was a rogue investigator at that point, taking matters into his own hands.
THE COURT: But I think I think it best that you make those suggestions to him, and you can say that you're aware that this
MR. JOHNSON: Yeah.
THE COURT: decision was handed down. This was the result of a decision.
MR. JOHNSON: Sure. He's just going to say no.
THE COURT: And and
MR. JOHNSON: That's fine.
THE COURT: But
MR. JOHNSON: I I know
THE COURT: but I I I don't see how reading that out assists, because it really goes to what the evidence was before that that Provincial Court judge on
MR. JOHNSON: I I agree
THE COURT: that bail application.
MR. JOHNSON: I agree entirely, but I -- the point is, and this is an important point, My Lord, is that there's a proper procedure for a police officer to take in terms of getting the result that he felt was necessary under the circumstances, which was to restrict Mr. Topham prior to trial, restrict him from operating that website. He went ahead on his own.
THE COURT: And he's told you why, and you've crossexamined him on it, and you're entitled to do that, but --
MR. JOHNSON: Yeah.
THE COURT: but I I don't really see how this is is a proper way to go about that, but
MR. JOHNSON: Well, I can show him the wrong way and the right way, and this is the
THE COURT: And and you've already done that.
MR. JOHNSON: Okay.
THE COURT: You suggested that to him this morning
MR. JOHNSON: All right.
THE COURT: and said that's that's the way to do it. I mean, if you'd like if you could give me a copy of the Reasons and if you could tell me what questions you wanted to ask after we have the break, we'll do that, but I I should look at the Reasons first.
MR. JOHNSON: Yeah, I've got a copy here. My friend's got a copy, as well.
THE COURT: And and I'll ask you to advise the jury that we're taking the afternoon recess at this point.
THE CLERK: Order in court. Court's adjourned for 15 minutes.

(PROCEEDINGS ADJOURNED FOR NOON RECESS)
(PROCEEDINGS RECONVENED)

THE COURT: We're on the record. Now, I've had an opportunity, Mr. Johnson, to read the Judge Church decision. The other one was actually a *Robowtham* application, which didn't help me a lot.
MR. JOHNSON: Oh. Did I give you the wrong one?
THE COURT: But and I thought about it, and I really can't see how these Reasons are relevant to anything that this jury has to decide, and I think it's improper to read out parts of it, given that the issue that's before the Court on this application is so different than what's before the Court here.
And there are other ways you can raise the issue you want to raise with the witness without referring specifically to Reasons for Judgment, and you've already done that somewhat. You can do it some more, if you wish.
MR. JOHNSON: Yeah.
THE COURT: All right.
MR. JOHNSON: Thank you.
THE COURT: We'll bring in the jury.
Oh, we won't. Just a moment. I don't have my computer. Step down for a moment.
THE CLERK: Order in court. Court is adjourned briefly.

(PROCEEDINGS ADJOURNED)

(PROCEEDINGS RECONVENED)

THE COURT: We'll bring in ...

(JURY IN)

TERRY WILSON
recalled.

THE COURT: Now, before we get started again, I just want to raise a scheduling issue. We're going to stop early tomorrow at about 3:30, and in order to make up that time what I would propose is that we start the afternoon session tomorrow at 1:45, rather than at 2 o'clock, and that we go an extra 15 minutes today.

But I didn't ask you that before. If there's anybody and I'll just do this by raising your hand. If anyone cannot sit past 4 o'clock today, just raise your hand, and if that's the case, I'm not going to ask any questions as to why it is. We won't go past 4 o'clock. But is there anybody that has a difficulty with that?

No. All right. We'll go to 4:15.

Mr. Johnson.

MR. JOHNSON: Thank you.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q I'll speak up. Can you hear me okay?

A Yes. Thank you.

Q Mr. Wilson, I noticed that you used the term "antiSemitic" on a number of occasions yesterday during your testimony and again today?

A Yes, sir.

Q What do you mean by that word?

A "AntiSemitic," in my mind, is antiJewish.

Q Is that it?

A That's it.

Q Okay. I'm just showing you on the screen the *Oxford English Dictionary* definition for "antiSemitism." Do you see that in front of you?

A I do.

MR. JOHNSON: I wonder if that could be shown to the

THE CLERK: Yes.

MR. JOHNSON: members of the jury, as well.

Everybody see that? No?

THE COURT: Not very well.

MR. JOHNSON: No. I'll see if I can

THE COURT: Why don't you read it out? I think if you read it out

MR. JOHNSON: Oh, yeah, I'll read it out. Maybe I can get this thing to enlarge. I think I can.

Better? Okay.

Q "AntiSemitism" is defined as:

Theory, action or practice directed against the Jews, hence antisemite, one who is hostile or opposed to the Jews.

A Yes, sir.

Q Okay. Thank you. The definition of antiSemitism then that we've got sort of conforms with your understanding of the term?

A Yes, sir, it does.

Q Right. But it doesn't when you speak of antiSemitism, it doesn't imply hatred towards anybody, does it?

A It it applies well, from this definition, an opp an opposition to Jews and and some opposition to Jews is hatred.

Q But no, but I mean the when you're looking at an investigation

A Yes, sir.

Q as a Hate Team Member

A Yes, sir.

Q you're looking at at hate, as you understand it and as you've been asked to investigate it?

A Yes, sir.

Q And I believe you mentioned that you followed the definition of hatred in *R. v. Keegstra*, which is a Supreme Court of Canada decision?

A It is.

Q Right. And that would be what you would judge Mr. Topham's site for the purposes of your investigation?

A Would be the definition of "hatred," yes.

Q You weren't going on the basis of him simply being antiSemitic?

A No.

Q Right. Because to be antiSemitic doesn't necessarily mean that you're showing hatred towards Jews?

A That's correct.

Q I want you to turn to Exhibit number 1.

MR. JOHNSON: If Madam Registrar could provide the witness with the first binder.

A Yes, sir.

Q I'm just going to wait for the jury to get their copies.

A Yes, sir.

Q You have that in front of you?

A I do, sir.

Q I wonder if you could turn to tab number 5, which is *The Jewish Religion: Its influence Today* by Elizabeth Dilling.

A Yes, sir.

Q Okay. Now, you were led through portions of this text

A Yes, sir.
Q by Crown counsel yesterday?
A Yes, sir.
Q But you didn't go through the entire book, did you?
A I didn't go through the entire book in my testimony or
Q Right.
A In my testimony? Yes, sir.
Q Yeah.
A That's correct.
Q And but you have read the whole
A Yes, sir.
Q book? Okay. Did you find anywhere in Ms. Dilling's book that there was some inaccuracies in what she might have been saying, as far as you're aware?
A Inaccuracies? Yeah, I
THE COURT: That's a very, very broad question.
MR. JOHNSON: Yes.
THE COURT: And I and I don't think it's a fair question for the witness because
MR. JOHNSON: I I meant it to be broad.
THE COURT: I gather it's a fairly long I mean, we didn't look at many parts of it, but I gather it's quite a thick book.
MR. JOHNSON: Well, let's let's get right to it.
Q Did you check any of the sources that she cited in her text?
A No, sir, I didn't.
Q So you didn't have a copy of the Talmud to look at to see if she was fairly representing the text that she was referring to?
A No, sir, I didn't.
Q Right. So you couldn't sit here or stand here today and tell the jury whether her statements made in this book were an accurate statement of the Talmud or not?
A No, sir, I couldn't.
Q Some of the statements made in this book were highly offensive, weren't they?
A Yes, sir.
Q I wonder if you could turn to tab number 5M under the heading on page 4 of 16, "Talmudic Immorality, Asininity and Pornography: The Reprobate Mind."
A This was ...
THE COURT: Can you give us a page number on the bottom left?
MR. JOHNSON: Yeah. It was 416.
THE COURT: Sorry. M
A Tab M?
THE COURT: or N?
MR. JOHNSON: I've got to look at this again.
Oh, you know what it is. It's N. I'm sorry.
THE COURT: Right.
MR. JOHNSON:
Q All right. I believe that you had emphasized certain passages in Ms. Dilling's book?
A Yes, sir.
Q And I take it that those sections were found to contain hate?
A Yes, sir.
Q Okay. And let's have a look here. I wonder if you could turn to the section on 5 of 16 where it says "Bestiality"?
A Yes, sir.
Q And I'm going to read it to you. It says:

Although Moses commanded that if a woman have intercourse with a beast, both should be killed (Leviticus [2 or] 20:16), and that a priest must not marry a harlot or woman who is profane (Leviticus 21:7), the Talmud teaches that [unnatural or] "unnatural intercourse does not cause a woman to be forbidden to marry a High Priest," since then "you will find no woman eligible..." (See Exhibit 157, from the Talmud book of Yebamoth, Folios [9] 59a59b)

So you never checked that reference?
A No, sir, I didn't.
Q Okay. Is there any reason to to tell this jury that that may not be accurate?
A I
MS. JOHNSTON: My Lord, I don't think [inaudible/away from microphone].
THE COURT: I'm not sure he -- he has said that any of them is is accurate.
MR. JOHNSON: If he hasn't read the book, then there's no way for him to say whether it's accurate or not. I want him to put it on the record.
THE COURT: Well, what he said is that this is what the book is; this is accurate in that sense. I mean, this is what it says, but but I think he's already answered that he he hasn't done other investigation.
MR. JOHNSON: Okay.
THE COURT: I I think that was
MR. JOHNSON: I'm not sure whether
A Yes, My Lord.
MR. JOHNSON: My Lord, I'm not sure whether my friend intended to restrict a discussion or a look at that portion of Ms. Dilling's book to simply the passages that
THE COURT: No, no. You can take you can high it was just I thought your question was asking something other than: Did you read it correctly? Which is what Ms. Johnston asked when she
MR. JOHNSON: No, it was.
THE COURT: went through it.
MR. JOHNSON: It was because I wanted to know whether he had actually had reason to -- to say that it wasn't accurate based on that footnote of hers. He didn't check the footnote.

THE COURT: No. And you're perfectly entitled to ask that, but ...

MR. JOHNSON: Okay.

Q Continuing on in that same paragraph:

Rulings of the "sages" follow: "A woman who had intercourse with a beast is eligible to marry a priest even a High Priest." Unless specifically warned in advance and the act seen by two witnesses, she is acceptable also. If she had intercourse with a dog while [sleeping] sweeping the floor, she is likewise reckoned to be pure, and suitable. For, "The result of such intercourse being regarded as a mere wound, and the opinion that does not regard an accidentally injured hymen as a disqualification does not regard such as intercourse either."

That's

A Yes. Yes, sir, that's

Q that's accurate?

A accurate in the book.

Q And then she states:

This alone gives a fair idea of the systematic deformation of [the] Scripture by the Pharisees and the truthfulness of Christ's [denunciation] about their making God's commandments of none effect by their Tradition.

And then he cites ([Matthew 15:6](#)).

Then we go to the bottom of the page. I think under "Babies," there was there were two paragraphs referred to by my friend, and that was the second one dealing starting with "Baby boys," and then the next one "When a grown up man has intercourse with a little girl ..." I'm going to read the last three paragraphs of that with the context for those remarks which she has put in her text:

This is the standard doctrine of the whole Talmud on baby girls. Sodomy and intercourse with babies is the prerogative of the adult Talmudic man, in contrast to Christ's beautiful teachings concerning little children.

The following is also typical concerning the fictitious [aid] of sexual maturity of baby girls set by the Pharisee "sages:" "A maiden aged three years and one day may be acquired in marriage by coition ..." See [Exhibit 55](#) (Sanhedrin 55b) ...

MR. JOHNSON: My Lord, I have a copy of that section. I'd like to show it on the screen to the jury.

THE COURT: Can I ask the jury to step out for a moment?

(JURY OUT)

THE COURT: So Mr. Wilson, as well. Thank you.

(WITNESS STOOD DOWN)

THE COURT: It strikes me that this material is material that should be gone into with the experts rather than this witness, who all he said is: I've read it and it's accurate. And at least when it's read out, the portions that are read have been accurately read. That's all he says.

MR. JOHNSON: Right, right.

THE COURT: And he said he didn't go and do any research into anything else. And so it seems to me that if we're going to get into that, this is certainly not the witness to do it because he probably does haven't a clue, and I'm guessing, as to what the Sanhedrin is or whether this is the Sanhedrin that

MR. JOHNSON: Well, there's

THE COURT: that you're referring him to. And whereas, presumably, the the expert witnesses will be able to say yes or no to that.

MR. JOHNSON: Well, if they've read the Talmud, yeah, possibly. I don't think anybody in this room has read the Talmud from this section.

What I'm trying to do here, My Lord, is quite simply show one thing, and that is one of the defences to this charge against Mr. Topham is truth, and that is whether the documents set out in his website are true or not true.

If Ms. Dilling is quoting something and being inaccurate in making that quotation, this jury should be able to figure that out. If I show them the original Sanhedrin quote that she's referring to, it's up to them to decide whether this is a true representation or not. I don't think we need an expert to tell them. But Mr. Topham believes that it's true, and this witness has not checked himself to see whether the footnotes

THE COURT: But I I guess I'm going to step further, and I'm saying how do we know that with this witness doesn't have a clue what the Sanhedrin is, and I'm I'm guessing at that admittedly

MR. JOHNSON: What's the

THE COURT: but but he says he hasn't he hasn't looked into any of the sources.

MR. JOHNSON: I've got the book here.

THE COURT: Well but we would need to have somebody who who knows that, it strikes me

MR. JOHNSON: Well, I can introduce them. I mean, I can I can show if my friend wants to object

THE COURT: But that's but that's what we do with experts. We say is this a particular kind of text

MR. JOHNSON: I

THE COURT: and and and this guy is not an expert.

MR. JOHNSON: I understand that, but we don't ask experts to go to the issue of whether it's the truth or not in terms of a defence. And I think that that's the job of the of the jury here.

So is it is it a clear is she is she telling the truth or is she giving her own version of things?

THE COURT: But that's whether she's telling the truth or not isn't an issue before the the Court -- before the --

MR. JOHNSON: I didn't raise the Sanhedrin; my friend did. I'm responding to that.

THE COURT: But but I'm I'm just saying that if we're going to do that, it should be done with someone who might know the Sanhedrin and recognize it when it's put to them; whereas, this witness won't be able to do that. So you better do it with a witness who can, and I'm I'm guessing that we'll we'll have well, that's we've agreed that we're going to have expert witnesses, and that's where it should be done. Not with a witness who has simply gathered material and said: Yeah, this is the material I gathered.

MR. JOHNSON: Well, why

THE COURT: You can ask him, as you have: Did you check these materials? Do you have any idea as to whether that's an accurate

MR. JOHNSON: I've got that.
THE COURT: And you've got that. And I think that's all you can do with this witness, because by showing a document to him, that's not proving that's the Sanhedrin or its accurate.
MR. JOHNSON: Well, how do I
THE COURT: You need to have somebody who may have some familiarity with it, and I'll let you do that with the expert.
MR. JOHNSON: Yeah. Okay.
THE COURT: I gather we have one about to take the stand tomorrow.
MR. JOHNSON: All right. Thank you, My Lord.
THE COURT: Bring the jury back in.

(JURY IN)

TERRY WILSON
recalled.

THE COURT: Mr. Johnson.
MR. JOHNSON: Thank you, My Lord.

CROSS-EXAMINATION BY MR. JOHNSON, CONTINUING:

Q So I'll continue, if you've got the exhibit in front of you, Mr. Wilson.
A Thank you. 5 and 16 --
Q Yes.
A -- sir?
Q The next paragraph:

Baby girls of three can invoke sadistic punishments on those who have intercourse with them when they are "Niddahs" (menstruating), a physical impossibility, of course.

And then she has in the in the quote or in parenthesis:

(Talmud, Sanhedrin 55b [Exhibit 55](#); Sanhedrin 69a [Exhibit 81](#))

Then she goes on and says:

And, at three, a baby girl is always rated as "one who is fit for cohabitation that is one who has attained the age of three years and one day."

Again, more citing here:

(Talmud, Yebamoth 60b, [Exhibit 159](#)) But, in the case of a baby girl who is not Jewishborn, or a so-called [proslight or] "proselyte," ...

That's pronounced "proselyte":

... she may be "married" thus by a grown priest: "A proselyte who is under the age of three years and one day is permitted to marry a priest;" although "one who is fit for cohabitation," as stated on the same page, is "one who has attained the age of three years and one day." (See [Exhibit 159](#))

The next paragraph:

This Talmud Yebamoth passage continues with the ruling in the case of a baby under three married to a grown man priest, and declared eligible to continue as his wife. (See [Exhibit 160](#)) The baby girl was a [proselyte.] of course, so age did not matter. But "under eleven years and one day" a little girl "[carries on her marital] carries on her marital intercourse in the usual manner." (See [Exhibit 152](#), Yebamoth 12b of the Talmud ...

The next line:

Adultery is permitted with the wife of a minor, and [the] wife of a nonJew. (See [Exhibit 53](#)) The pretense is that a minor not being a "man" yet, and the nonJew having nonhuman status, Talmudically, the Biblical law does not apply.

Mr. Wilson, I have a couple more to read, but did you agree that that was a fair reading?

A They are. What you what you read was correct, sir.

Q Yes. The next heading is "Incest," and Ms. Dilling writes as follows:

Moses ordered the priests that: "They shall not take a wife that is a whore, or profane ... for he is holy unto his God." ([Leviticus 21:7](#))

That's in parenthesis that quote or that cite.

The laws against incest are most vehement: "The nakedness of thy mother, [shall] thou not uncover; she is thy mother ... ([Leviticus 18:7](#)) And in the Talmud the Pharisee...

which she says in open quote

... "sages" reverse these Biblical injunctions;

"If a woman sported lewdly with her young son, a minor and he committed the first stage of cohabitation with her Beth Shammai say, he thereby renders her unfit to the Priesthood." Here a footnote explains that she could not marry a priest, if this made her profane and ... above [Leviticus 21:7](#) is cited precisely. (See [Exhibit 82](#))

We then learn that the dispute concerns only the age of the son, not the lewdness of the foul mother: "All agree that the connection of a boy aged nine years and one day is real connection whilst that of one less ... eight years is not [[Footnote](#): "So that if he was nine years and a day more, Beth Hillel agree that she is invalidated from the priesthood, whilst if he was less than eight, Beth Shammai agree that she is not.]"

And that's a closed caption -- or a closed parenthesis.

Here silliness reigns supreme, and one understands why Christ called the Pharisees "fools and blind:" "Beth Shammai maintaining, we must [based] our ruling on the earlier generations" [[Footnote](#) states: "When a boy of that age could cause conception."] "but Hillel holds that we do not."

And that's a fair representation of what I

A It is.

Q It is? Okay.

"Incest with Lot":

The Bible tells us that after the destruction of Sodom with all of its inhabitants, except Lot and his two daughters who took refuge in a cave: "The firstborn said unto the younger, our father is old, and there is not a man in the earth to come in unto us Come, [let's] make our father drink wine, and we will lie with him, that we may preserve the seed of our father. And they made their father drink wine that night: and the firstborn went in, and lay with her father; and he perceived not when she lay down, nor when she arose." The next night the same events took place for the younger: "Thus were both the daughters of Lot [with father] with child by their father." ([That's] [Genesis 19:318](#))

I'm sorry. Yeah, closed parenthesis.

The abominating tribes of [Mo Mohab] Moabiteg and Ammonites were the products of these two sons, at first spared, then demolished by the fourth king of Judah, Jehosaphat. ([11 \[Corinthians\] 20](#))

And then the next line:

But the [Talmudic] Talmudic "Sages" take anything but a critical view of this incest:

"A man should always be ... alert as possible to perform a precept, for as a reward for anticipating the younger by one night, the elder daughter of Lot was privileged to appear in the genealogical record of the royal household of Israel four generations earlier." (See [Exhibit 166](#), Nazir 23b24a of the Talmud)

And that is a correct

A Yes, sir.

Q reading?

A Yes, sir.

Q Okay. Finally, on that page, "Nieces":

The Jewish press in 1954 reported attempts to alter state laws so as to legalize marriages between uncle and niece, which is common in rabbinical circles. The Bible prohibits marriages between uncles and aunts, and with nieces and nephews, as incest. ([\[Leviticus\] 18:13,14](#)).

Under "Talmudic Eugenics" in Baron's [A Social and Religious History of the Jews](#) (Jewish Publication Society, 1952), is this on incest: "In Egypt the "[Polemiaic]

I'm spelling I'm pronouncing that incorrectly. It's

THE COURT: "Ptolemaic."

MR. JOHNSON: "Ptolemaic," I think is the way

THE COURT: Ptole Ptole Ptole

MR. JOHNSON: Yeah.

Q

... Ptolemaic rulers themselves, for the most part, married --

THE COURT: -- Ptolemaic.

MR. JOHNSON:

Q

-- their own sisters. In Parthia/Persia, marriages between [children] parents and children were valid, and those among brothers and sisters were quite customary. [page 24] The Parsee religion ... [encouraged] encouraged such marriages as the fittest means of preserving family purity [cf. 'Yasna' 12.9] ... Artaxerxes 11 had married his two daughters, and ... Mithradates ... had married his mother. Ardea Viraz is said to have married his seven sisters." (page 229, Volume 11) This was not harmful, we are told!

And that's a fair representation?

A It is.

Q Of what what's on the page?

A Of what's on the page, yes, sir.

Q That's what I mean.

Next paragraph deals with "Harlots and Dogs":

The creative powers were worshipped in all ancient pagan countries as the procreative powers of male and female, with sex rites to match. Men who became priests to the female goddess Venus, Mylitta, Astarte, or by whatever name, in a wild orgy of drugged frenzy would castrate themselves with "sacred [words] swords" and then contribute part of their earnings as sodomists to the upkeep of the pagan cult

and temple, and would train, sell and rent dogs for immoral purposes. Girls who became priestesses to the pagan temples earned their keep and contributed to a cult's upkeep through their earnings as "sacred prostitutes."

That's a fair
A Yes, sir.
Q statement?

But Moses taught that the worship of God was not to be maintained on such earnings. "Thou shalt not bring the hire of a whore, or the the price of a dog, into the house of the Lord thy God for any vow: for even both of these are abomination unto the Lord thy God." ([Deuterotomy/sic] [Deuteronomy 23:18](#))

The Talmud, citing [Deuteronomy 23:19](#), [makes this out] makes this out of the ruling: "There is not adultery in connection with an animal, because it is written, 'Thou shalt not bring the hire of a harlot or the wages of a dog,' etc., and it has been taught: 'The hire of a dog and the wages of a harlot' are permissible, as it is said, 'Even both of these are an abomination unto the Lord' the two specified in the text are abominations but not four." Then the permission [to give] ... given to [use] use for the temple: "Money given by a man to a harlot to associate with his dog. Such an association is not legal adultery. If a man had a female slave who was a harlot and he exchanged her for an animal, it could be offered." (Sotah 26b Talmud, [Exhibit 168](#))

That's a fair representation [indiscernible]?
A It's accurate in the book, sir.
Q The bottom of the page, "[Possible] Adultery and Intercourse with the Dead":

"None of you shall approach [to here --] to any that is near of kin to him, to [uncover] uncover their nakedness: I am the Lord," says the Book ([Leviticus 18:6](#)). Scripture references are also cited which denounce a married woman who lies "carnally" with a man not her husband. But say the sages: "That in connection with a married woman excludes intercourse with a relaxed membrum since no fertilization can possibly result. This is a satisfactory interpretation in accordance with the view of him who maintains that if one cohabited with forbidden relatives with relaxed membrum he is exonerated." [And another Talmud source] and other Talmud sources are cited. "The exclusion is rather that of intercourse with a dead woman [Footnote 15] even though she died as a married woman." Thus one is "exonerated" for, or permitted, intercourse with dead relatives or with relatives, married or single, "with a relaxed membrum," because "no fertilization can possibly result."

Then in open parenthesis:
(Talmud, Yebamoth 55b, See [Exhibit 163](#).)

And that's a fair reading of that section?
A That's accurate in the book, sir.
Q Then if you could turn to 8 of 16.
A Yes, sir.
Q "The Jewish Talmud and Legally Murdering Your Neighbor":

As noted elsewhere, regarding murder of the nonJew, it is good and meritorious, providing you do not get caught and thus get the Talmudic religion exposed for what it is.

However, permissible murder in Judaism embraces more than just killing Gentiles. Murder by suffocation is permissible. Here shyster hairsplitting is inserted in the Talmud, it being permissible to seal up a neighbour in an airtight "alabaster chamber," providing one does not put in a lighted candle to help eat up the oxygen, but merely allowing the victim to expire by breathing the oxygen up himself unaided, this is acceptable. (See [Exhibit 86](#) from Sanhedrin 77a77b of the Talmud)

Under Talmudic "law" other forms of murder are also permissible:

Binding up your neighbor so that he dies of starvation. Just bind up the neighbor before it is hot or cold enough to kill him and all is well you are guiltless of what follows. (See [Exhibit 85](#))

[Building] binding up your neighbor so that he dies of sunstroke. (See [Exhibit 85](#))

Binding up your neighbor so that he dies of cold. (See [Exhibit 85](#))

Binding up your neighbor so that a lion may kill him. (See [Exhibit 85](#)) He could not have fought the lion anyway, so, it is acceptable, says the Talmud.

Letting mosquitoes bite your neighbor to death. As for the mosquitoes, they come and go, so, since the ones which bit him when you tied the victim go away and others end his life, you are pure and blameless. (See [Exhibit 85](#))

Throwing your neighbor into a pit and leaving him to die there. (See [Exhibit 86](#))

Killing your neighbor with arrow wounds. (See [Exhibit 86](#)) Shooting the neighbor with an arrow is acceptable, since if there is balsam for sale somewhere, he presumably could have sent for some and thus have been cured instead of dying. (See [Exhibit 86](#))

The top of 916:

You can also drown your neighbor and yet be "guiltless" of his death! Remember to follow Talmudic law, however, and cause the water to travel a little distance before it drowns the neighbor then you are guiltless of his death! (See [Exhibit 87](#))

Now, if you could that's a fair representation of what was on the page?
A Yes, sir.

Q Okay. Page 14 of 16 in that same section

A Yes, sir.

Q where "Sodomy [is] Approved"?

A Yes, sir.

Q

Despite the thunderings and prohibitions of the Bible, sodomy in general, and specifically with little children, dead bodies, neighbors' wives and one's own wife is permitted by the Talmud.

The argument for this last is in Nedarim 20b of the Talmud (page 58 of Soncino translation): "Our Sages said ... a man may do whatever he pleases with his wife at intercourse: Meat which comes from the abattoir [stockyards] may be eaten salted, roasted, cooked or seethed; so with fish from the fishmonger. ... A woman came before Rab and complained [of] [of her husband's sodomy with her], "Rabi replied: 'Wherein does it differ from fish?'"

Then the that's a fair reading of the section?

A It is.

Q Okay. And, finally, "The Talmud Today":

After reciting the [denunciation] and condemnation of the Talmud down [through] the centuries, Rodkinson, in his [introduction] to the Talmud states:

"Such was the past of the Talmud which we hope will never be repeated. Now [a glimpse] a glance at the end of the last century and the beginning of this one.

"The colleges for the study of the Talmud are increasing almost in every place where Israel dwells, especially in this country where millions are gathered for the funds of the two great colleges, the Hebrew Union College of Cincinnati and the Jewish Theological Seminary of America in New York, in which the chief study is the Talmud and its postTalmudical literature."

This was written early in the present century. Is what Rodkinson wrote true today?

The answer is "yes." Not only are Hebrew Union College of Cincinnati and the Jewish Theological Seminary of America more active than ever, but a network of schools to teach the Talmud to young Jews [now is exist] now exists from coast to coast.

For example, in the Chicago area, the Associated Talmud Torahs of Chicago oversees some 57 schools where the Talmud is taught to young Jews, commencing with their tender years.

If you are told by anyone that the Jewish Talmud is merely ancient history concerning Judaism, don't be fooled. The Talmud is presentday Judaism and without it so-called Judaism would not exist.

And that's a fair reading?

A It is.

Q Thank you.

MR. JOHNSON: My Lord, those are all of the questions that I have of this witness.

THE COURT: Any reexamination?

MS. JOHNSTON: I don't believe so.

No, thank you, My Lord.

THE COURT: All right. Thank you very much. You're excused from the witness stand, Mr. Wilson.

(WITNESS EXCUSED)

THE COURT: And I'll let you out five minutes early today. The jury is excused for the day.

(JURY OUT)

THE COURT: So tomorrow

MS. JOHNSTON: We'll start with Mr. Rudner, who is here, and he will be ready to go at 10 o'clock.

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

THE CLERK: Order in court. Court's closed for the day.

(PROCEEDINGS ADJOURNED TO OCTOBER 30, 2015, AT 10 A.M., FOR CONTINUATION)

Transcriber: D. Parker