

<b>25166-3</b>		
<b>Quesnel Registry</b>		
<b>In the Supreme Court of British Columbia</b>		
<b>(BEFORE THE HONOURABLE MR. JUSTICE BUTLER AND JURY)</b>		
<b>Quesnel, B.C.</b>		
<b>November 9, 2015</b>		
<b>REGINA</b>		
v.		
<b>ROY ARTHUR TOPHAM</b>		
<b>PROCEEDINGS AT TRIAL (DAY 11)</b>		
<b>COPY</b>		
<b>Crown Counsel:</b>		<b>J. Johnston</b>
<b>Defence Counsel:</b>		<b>B. Johnson</b>

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EXHIBITS

**NIL**

RULINGS

**NIL**

Quesnel, B.C.

November 9, 2015

THE CLERK: In the Supreme Court of British Columbia, this 9th day of November, 2015. Continuing with the matter of Roy Arthur Topham, 25166-3.

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

THE COURT: Yes.

MR. JOHNSON: Barclay Johnson for Mr. Topham.

THE COURT: And we're ready to go?

MS. JOHNSTON: We are. I have a copy for Your Lordship to follow along. I have some other arguments I wrote over the weekend. Your -- we might as well, in the Crown's submission, deal with those after closing. And I'll have them on disc as well for Your Lordship.

THE COURT: Yes. Well, what -- what I probably would do is, after you're finished, I'd hear from both of you of whether there's any comments about the addresses to the jury.

MS. JOHNSTON: Thank you.

THE COURT: We'll bring in the jury.

(JURY IN)

CLOSING ADDRESS TO JURY FOR CROWN:

MS. JOHNSTON: My Lord, Mr. Foreman, Ladies and Gentlemen of the jury. It is now my opportunity to give the Crown's closing argument in the case of Her Majesty The Queen versus Roy Arthur Topham.

You have listened to the evidence presented by both myself and counsel for Mr. Topham, Barclay Johnson. Soon you will be given the jury charge by his Lordship, Mr. Justice Butler, and begin the work of deliberation for your verdict. My role in presenting the evidence is now over.

This is my closing argument and it is my opportunity to offer you my analysis of the evidence and what should be made of it. I hope

that my opinion will help you and assist you in determining your verdict.

At trial, you heard from the Crown's expert witness, Len Rudner. His Lordship instructed you on the use of expert evidence and I will not repeat here His Lordship's instructions.

I called Len Rudner as the Crown's expert witness in the hope that he would be of assistance to you in analyzing this case. But it is not me or Len Rudner or anyone else you heard from in this trial who determines what should be made of the facts in this case. The sole judge of the verdict in this matter rests with you.

In this course of my closing argument, I will discuss the law. But as I am not the judge of the facts in this case, nor am I the judge of the law. His Lordship, Mr. Justice Butler, is the judge of the law in this case. If I say anything different about the law than what His Lordship says, you must accept His Lordship's version.

Arthur Topham is charged with wilfully promoting hatred, other than in private communication, of an identifiable group, people of the Jewish religious and ethnic origin, under section 319(2) of the *Criminal Code of Canada*.

The hate crimes legislation, under 319(2), is reserved for expressions of unusual and extreme nature, manifestations of emotions described by the words "detestation" and "vilification", that are likely to expose the targeted group to hatred by others. The test is whether a reasonable person, aware of the context and circumstance, would view the expression as likely to expose a person or persons to detestation or vilification on the basis of a prohibited ground of discrimination.

The first book we considered in this trial was from Mr. Topham's website, *Germany Must Perish!*. It was the opinion of all the witnesses called at this trial that that is a hate document towards the German people.

As I said earlier in this closing, the fact that a witness, even an expert witness, states an opinion as to a fact does not mean you have to accept it.

The determination of whether or not that book promotes detestation and vilification of the German people rests with you. However, I suggest you may have little trouble determining that a book that calls for the destruction of the German nation and the enforced sterilization of its people is a book that promotes hatred.

Of course, Mr. Topham is not charged with promoting hatred against the German people. How then does *Germany Must Perish!*, relate to either charge? For the answer, I direct you to B2, binder 2, tab 2, page 3 of 104, which reads as follows:

The striking thing about the vileness of the text is how, today, it seems to roll off the mind's tongue as if it were as truthful and factual as the rising sun. As such I firmly believe that all of what the Zionist Jews write about others is actually but a reflection of their own inner, perverse, dislocated self. By projecting outward on to others their innate paranoid and deep-seated hatred for the rest of the world they're able to meet the requirements of the Israeli state's motto which reads, "By Way of Deception Thou Shalt Cause War" and feel a sense of superiority and self-righteousness in doing so.

Mr. Topham puts forth *Germany Must Perish!*, not as the work of a single individual, Theodore Kaufman, but as a book that demonstrates the workings of the Jewish mind and, in doing so, Mr. Topham promotes hatred against the Jewish people.

Defence might say that this submission is wrong. It's not vilifying the Jewish people, it's vilifying Zionist Jews, and Zionist Jews should not be taken as words against the Jewish population as a whole. Why then does Mr. Topham use both Zionist and Jew rather than just Zionist, in the text of his work? Why then, at binder 1, tab 2, page 11 of 14, where the author lists nine steps for the sterilization, does the author write "mass sterilization of the Jews" rather than "sterilization of Zionists"?

Back at page 3 of 104 of Mr. Topham's introduction to *Israel Must Perish!*, Mr. Topham writes:

I would humbly ask the reader to be aware of these features as they read both the text and the context in which it was first written. I have, as the saying goes, only changed the names to protect the innocent. As for any further extrapolation I will leave that up to the reader.

What further extrapolation could there be, if not that Mr. Topham is advocating that the sterilization of the Jewish people as an idea, that is just fine?

Mr. Topham tells us, in his article, who are the original creators of hate crimes and hate laws at binder 3, tab 2, page 134 and 135, that *Israel Must Perish!* is a "satirical parody".

To that I have three answers. One, not once in his original introduction to *Israel Must Perish!* does Mr. Topham use the word satire or parody. Two, it's not a satire because it's not funny. And three, even a genuine satire can be used to promote hatred.

We also looked at *The Protocols of the Learned Elders of Zion*, *The Biological Jew*, *The Controversy of Zion* and *The Jewish Religion: Its Influence Today*. These books have been discussed at length in this trial. If you are not yet convinced that these books promote the hatred of the Jewish people, then there is nothing more that I can say.

But, defence might say, the mere existence of these books on Topham's website is not equal to the promotion of these books. But the Crown submits this. The books do not merely exist on Mr. Topham's website. In the case of *The Controversy of Zion*, Mr. Topham endorses it repeatedly in his blog postings. He describes it as the book which, as he writes in "Adolf and Icke: The Long Road Back to Historical Reality", created for him an "epiphany of political realization that has since steadfastly remained and continues to wax in fullness with each passing day", leading to an understanding of "the true nature of National Socialist Germany and its illustrious and loved leader, Adolf Hitler". You will find both of these quotes in binder 4 at page 347.

Topham further writes of the protocols, in his article "Counterforce: Deconstructing Jonathan Kay's Lies Regarding the Design of the Protocols" at binder 1, tab 2, page 21 of 104, as an accurate portrayal of the Jewish plan for global domination, even if the authenticity of the document as the actual minutes of an learned elders' meeting is in dispute.

In addition, if you believe, as the Crown submits, that the books on Mr. Topham's website are a continuation of the ideas he expresses continuously throughout his postings, then there is no need to parse the books off individually. They are but parts of a greater whole, a website that in its totality works to promote hatred against people of the Jewish religion and ethnic origin.

I shall not go through additional quotes from the blogs on Mr. Topham's website, binders 3 and 4, on the sole issue of whether or not they promote hatred. I have read to you many such quotes in the course of this trial, and if I have not convinced you, I have little hope at this, the eleventh hour, of doing so now.

I plan instead to deal with two issues I dealt with only indirectly during this trial: whether Mr. Topham wilfully promoted hatred, and to continue to explain to you why the argument that Mr. Topham refers to Zionists, or merely to political beliefs, and not to the Jewish people themselves, should fail.

In order to be convicted of an offence under section 319(2), Mr. Topham must have wilfully promoted hatred. To be wilfully done, something has to be done intentionally. There has to be a conscious purpose in placing the material, at least some of it, on radicalpress.com.

I spoke to you earlier about how Mr. Topham, in his "Who are the Original Creators of 'Hate Crimes' and Hate Crime Laws?", called *Israel Must Perish!* a satirical parody.

I am now going to read to you an article on binder 3, page 134, starting [as read in]:

Dear Readers and Free Speech Advocates,

I am writing on the eve of the first anniversary of my arrest and incarceration last May 16th, 2012 by the B.C. Hate Crime Team when I was charged under section 319(2) of the *Criminal Code of Canada* with the crime of willfully promoting hatred against people of the Jewish religion or ethnic group.

The two complaints that led to my being charged under this specious act were laid against me by Harry Abrams, of B'nai Brith Canada, and Richard Warman, the serial complainant in numerous other cases involving "hate crimes" and the sycophantic toady of the Jewish lobby here in Canada.

Since that time I've been immersed in a legal battle with the B.C. courts because of this trumped-up charge.

On May 16th I must again appear in court to deal with more matters related to my current attempts to find myself a new legal counsel to assist me in having this spurious charge tossed out and the case dismissed. I will be providing a further legal update following tomorrow's events but for now I wish to remind readers once again of just who the real purveyors of so-called "hate" truly are and how long they've been carrying on this charade in order to cover up their own actions over the past century and longer.

One of the biggest beefs that both these two charlatans had with my website, which subsequently became perfectly clear to me when the arresting officer, Detective Corporal Terry Wilson, was talking to me while I was in jail, and which I subsequently noted in my Arrest Statement to my former lawyer, Doug Christie, was the issue of an article that I posted on my site dealing with the 1941 book *Germany Must Perish!* by Theodore N. Kaufmann.

I had written a satirical parody of Kaufmann's book back in May of 2011 and titled it *Israel Must Perish!* and took some of the more juicy, hate-filled quotations out of it and substituted the words "Nazi" and "Germany" and "Hitler" and a few other German words with synonymous Jewish words like "Jew" and "Israel" and "Netanyahu", et cetera, in order to highlight the hypocrisy of the Jews in daring to accuse the western world of being eternal haters of the poor, downtrodden Jews throughout history.

Somewhere in the shallowness of their conniving, degenerate minds, they figured that this parody/satire would somehow stand up in a court of law and prove to the world that I, rather than them, was the real disseminator of so-called "hatred" and ought to be treated like a common criminal, found guilty, tossed into jail, and to have my rights and freedoms as a Canadian citizen removed from me.

For the record I want readers to know about this classic of Jewish hate literature and I'm republishing my introduction to the original article plus the URL to the original book of Kaufmann's so that people can go and look at the abhorrent mind that first created this ugly and obscene proposal for the complete and total annihilation of the German people.

What the reader must also realize is that what is printed on the back cover of Kaufmann's book as shown in the graphic below. Three of most revered U.S. publications still operating today, all Jewish-owned, were promoting Kaufmann's book back in 1941 in order to turn the American public away from decency, justice and truth, and twist their perceptions of Germany and Adolf Hitler into the same grotesque mindset that conjured up this classic demonic-inspired book, one openly advocating the total extinction of the German people.

And these are the same folks who are desperately trying to subvert every democratic nation in the world into obeying their "hate crimes" legislation and they've surreptitiously slipped into the statutes of former free nations via lobbying and pressuring and intimidating politicians of every stripe.

Now that folks is what I call chutzpah.

Please try to pass this article on to every free-speech lover that you can. The Canadian public and the world at large needs to know just who the real originators of these "hate crimes" laws are.

Arthur Topham  
Publisher/Editor  
The Radical Press.

In here, Mr. Topham puts his mind to the issue of hate and specifically mentions *Israel Must Perish!* in connection to this, and replies with "shallowness of their conniving, degenerate minds", "classic of Jewish hate literature" and "three of the most revered U.S. publications still operating today, all Jewish-owned".

How is it possible that that is not wilful in the promotion of hatred. I also note that not once, not in the entire article, did Mr. Topham mention Zionists.

I will now refer to Mr. Topham's article, *Killing the Hundredth Monkey*, which you will find at binder 4, tab 2(1), page 514.

One response to the question of whether or not Mr. Topham promotes hatred includes the line at page 520, third paragraph from the bottom, that "I have never made any racist, hate-filled remarks against any person of Jewish or any other religious or ethnic grouping".

I submit, from our examination of radicalpress.com, we can dismiss this comment as simply untrue.

Mr. Topham also writes, at page 523, top paragraph, as follows:

For me to either admit or to accept that I am promoting hatred towards Jews would be tantamount to saying that I hate, rather than love and cherish beyond description, the one person in my life who has been wife and friend and companion to me over the last thirty years. For she too is Jewish.

In other words, I submit, in response to a direct question, the best Mr. Topham can offer on the issue of promotion and hatred is to deflect the question and speak instead about his wife.

But suppose this. Suppose you were thinking, "but, if Mrs. Topham really is Jewish, shouldn't that cause me some concern?" No. Mr. Topham is charged with the wilful promotion of hatred against people of the Jewish religion and ethnic origin. It is not a defence to that charge that, out of all the people of Jewish religion and ethnic origin, Mr. Topham makes an exception.

And make exceptions he does. He writes at page 517 [as read in]:

Thus, the brave and courageous Jews who have broken away from this pack of perfidious self-chosen zealots, and have displayed the audacity to criticize the Zionist agenda are now forced to bear the brunt of what is likely some of the most scathing, vitriolic, hate-related

messaging on the net today.

In the same article, he refers to "political Zionism" as an ideology based upon the Jewish Talmud and manifesting in the policies of Israel. You will find that at page 516.

We have evidence from Len Rudner in this trial that the Jewish Talmud predates Zionism by quite a bit. The controversy of Zion, as we see from chapter 27, at page 151, in binder 2, discusses the protocols as an accurate portrayal of the Jewish plan for global domination, even while acknowledging the source of the protocols cannot be proven. The controversy speaks of a plan for one world Jewish government and traces the history of the Jewish people, at page 1, chapter 1, from 468 B.C., calling them, at line 2, the "petty Palestinian tribe of Judah", a date which also predates Zionism's start in the 19th century.

I will conclude with a quote which I believe provides evidence for many of the elements that have to be proven by the Crown: "wilfully promoting hatred against an identifiable group, people of the Jewish religion or ethnic origin". I turn now to Arthur Topham's article "Epistle to Paul", which you will find at binder 4, tab 2(i) at page 506:

Judaism:- a doctrine first conceived by the Levitical priesthood that held their god – the 'god' of Moses – Jehovah, was the only god and that he had chosen the tribe of Judah to rule over all other nations of the world. The manner in which this was to be accomplished is contained within the Judaic Old Testament of the Christian Bible in the first actual book of the Pentateuch, Deuteronomy. Tersely put the Judaic 'god' demands absolute authority over all his subjects and for those nations outside the fold their fate is to be met with genocide and destruction and abject slavery for whatever remnant might remain after the final onslaught.

Christianity:- the doctrine that the one God is the God of all nations, the Judaic as well, and that this God manifests His essence through Love and Compassion for all humanity and that foremost, His essence is contained within all His creation and [ ... ] humanity, is found in that which we designate as the I AM presence or God or Christ Consciousness which we equate, rightly so, with its physical and metaphysical aspect – Light.

On counts one and two of the indictment against Arthur Topham, the Crown is asking for conviction.  
Thank you very much, My Lord. That's the closing argument for the Crown.

THE COURT: Well, you're now done for the day today. I'm going to excuse you to 10 o'clock tomorrow morning and I will give you the charge, my instructions to you, which will be quite detailed. But I'll do that tomorrow morning, and after that, as I've told you, you will be sequestered and you'll start your deliberations. All right.

(JURY OUT)

THE COURT: Do you want a 10 or 15-minute break before we discuss any objections to the charges, or do you want to just -- dig in?  
MS. JOHNSTON: I actually have it written out, so perhaps what I could do is, I could hand it out to Your Lordship. Then if Your Lordship would like to consider it, then maybe we could come back in 15 or 20 minutes, if that would please the court.

THE COURT: Do you have any submissions on -- you've seen what Ms. Johnston has --  
MR. JOHNSON: No.

THE COURT: Oh, all right. Well then --  
MS. JOHNSTON: Not yet, no.

THE COURT: -- then why don't you give it to Mr. Johnson and then we'll come back in 15 minutes and --  
MS. JOHNSTON: Excellent. If it pleases the court, I had a -- I have an article on republication -- argument on republication which I had actually ready for Friday but we didn't get to it. So I'll give a copy to my friend, a copy to Your Lordship right now.

I didn't bind them, My Lord. I assumed you'd prefer to put them in a binder, but I would be very happy to bind them. I didn't know how many different binders Your Lordship wanted. Would Your Lordship prefer them all bound?

THE COURT: Prefer what bound? I'm not --

MS. JOHNSTON: All the -- I have three arguments I'm about to hand up.

THE COURT: All right.

MS. JOHNSTON: I can bring back a bound copy. I wasn't sure if Your Lordship would have preferred to have them in the binder that was already handed out.

THE COURT: Well, I'm assuming they're not very thick. You can just --

MS. JOHNSTON: They're very thin, two pages.

THE COURT: Yes, that's fine. I can just put them in one of the binders I have.

MS. JOHNSTON: I'll go through them -- this is the Crown's argument on republication which is one of the issues that my friend had raised, whether or not the republication of material published elsewhere. So that's the Crown's response to that argument.

THE COURT: All right.

MS. JOHNSTON: Now I have, My Lord, the Crown's submission on various issues and it includes various issues.

One of the issues is -- some of the Crown's -- is the Crown's concerns about some of the submissions my friend made in closing argument on Friday.

And Your Lordship wanted the Crown's written submissions on the various elements of the offence, which I have for Your Lordship right here.

THE COURT: That's what you've already given me, is it?

MS. JOHNSTON: No.

THE COURT: No.

MS. JOHNSTON: No, I have not. I have not. I have given Your Lordship a written argument on republication, an argument on various issues which does not --

THE COURT: No, but I mean -- I mean last week, you gave me the --

MS. JOHNSTON: Ah -- I thought -- pardon?

THE COURT: Last week you gave me your submissions on the charge.

MS. JOHNSTON: No, well, yes. These are additional submissions. This is --

THE COURT: These are additional. Okay.

MS. JOHNSTON: -- this specifically -- this isn't really a submission on the charge so much as a specific legal argument on the issue of republication which came up in my friend's legal brief on the charge. So it's my answer to my friend's submissions on republication.

THE COURT: All right.

MS. JOHNSTON: And finally, I have elements of the offence. Your Lordship will recall that you asked for elements of the offence. This is

the elements of the offence in a format -- and I have a copy, of course, for my friend -- and Your Lordship wanted everything on a disc. I have a thumb drive. The thumb drive includes a copy of everything Your Lordship received today, including the Crown's closing argument. There is case law on here as well.

In addition, My Lord, when we come back again with the 20minute break, I'll have an actual binder of hard copies for Your Lordship, but all the cases are also on this disc, so I can also put -- the thumb drive, so I can also give the thumb drive to the court at this time, if that pleases the court.

THE COURT: Certainly.

MS. JOHNSTON: So that's everything I have for Your Lordship this morning.

MR. JOHNSON: My Lord, I -- I think that's an awful lot of material to absorb in 15 minutes. I think we're going to need a little bit longer than that in view of the fact that --

THE COURT: It is.

MR. JOHNSON: -- in answer to some of the criticism that my friend is raising concerning my closing argument, I can tell you, My Lord, that I will be referring extensively to the closing argument and submissions made by Mr. Douglas Christie in the *Keegstra* case. This is a document that he wrote and it doesn't contain the entire submission, but it contains the portions that -- and they're faithful, they're true -- that I will be advising my friend and, hopefully, the court, but I've borrowed extensively from here.

THE COURT: But I don't understand how that assists me. I don't know what happened with those and what are the --

MR. JOHNSON: Well, there was a guilty -- there was a finding of guilt, which didn't help him very much.

THE COURT: No, no, I don't mean that. I mean legally.

MR. JOHNSON: No, I know.

THE COURT: What the court said about it, whether there was discussion about it, what the evidence was. It's really not of assistance to me.

MR. JOHNSON: Okay.

THE COURT: You know, what's of assistance is cases or submissions on points of law. But giving me something that was used in a different case 25 years ago doesn't help. It doesn't help what I have to do, which is decide under current law and under practice in our court what are proper submissions to make to a jury.

MR. JOHNSON: So the -- any reference to the closing argument by Mr. Christie indicate [indiscernible] is not --

THE COURT: No, no. You can make reference to it. But I'm just saying it's not a lot of help.

MR. JOHNSON: Okay.

THE COURT: And I'm not inclined to read it, because I don't know what the evidence was in that case, I don't know what the arguments were in relation to those closing submissions, I don't know what the court said about them --

MR. JOHNSON: Yeah.

THE COURT: -- it's not of assistance.

MR. JOHNSON: Well, My Lord, insofar as the charges were exactly the same under 319(2), of course, Mr. Christie in that case did raise all four defences. But I've followed those faithfully as much as I can with respect to (3) and (4). My friend may disagree, but I will be referring to that in answer to what my friend is saying and what your questions are concerning. That's the source material for much of my closing argument.

So I think that that provides a context for why I did what I did.

THE COURT: It doesn't assist on a point -- on the legal issue I have to consider. That's my point.

MR. JOHNSON: All right.

THE COURT: Did either of you do what I had suggested which was to give me one-page summary of your position because -- so that I can put that into my charge for the jury.

MR. JOHNSON: Well, My Lord, if I could speak to that. I've got it written out in my hand right now, and I have to type it up. It shouldn't take very long, it's actually probably going to come down to about a full page -- a summary of my position, without law. I've already provided Your Lordship with that.

THE COURT: No, no, and I wouldn't expect it to have law in it. It's supposed to be a brief summary --

MR. JOHNSON: Yeah.

THE COURT: -- because, as you know in the way that the charges are to be given to the jury --

MR. JOHNSON: Defence counsel says this.

THE COURT: -- we're supposed to briefly summarize -- these are the two positions, and it shouldn't have law, it shouldn't be extensive.

MR. JOHNSON: No, no, I understand.

THE COURT: It should be succinct.

MR. JOHNSON: And I've got it boiled down to about a page. But I'm going to have to put it onto a thumb drive for you.

THE COURT: All right.

MR. JOHNSON: But I think that that -- if we could break this next session up into two parts.

THE COURT: Well, I was intending to do that, and I want the second part to be in this afternoon, at 3:00. The first part I just wanted to deal with were --

MR. JOHNSON: Objections.

THE COURT: -- objections to the closing addresses, and I'd like to do that, let's say, in 20 minutes.

MR. JOHNSON: Yeah.

THE COURT: So if you can focus on that.

MR. JOHNSON: Thank you, My Lord.

MS. JOHNSTON: My Lord, the elements of defence. That is my written submission. If Your Lordship could maybe just look at it and if it's not the format --

THE COURT: All right.

MS. JOHNSTON: -- then I'll obviously reformat it.

THE COURT: All right, I'll have a look at that.

MS. JOHNSTON: Thank you. I thought that's what Your Lordship wanted and if I'm wrong, I'll fix it.

THE COURT: I'll have a look and --

MS. JOHNSTON: Thank you

THE COURT: All right. Twenty minutes.

THE CLERK: Order in court. The court is adjourned for 20 minutes.

(PROCEEDINGS ADJOURNED FOR MORNING RECESS)

(PROCEEDINGS RECONVENED)

THE CLERK: All right, we're back on record.

THE COURT: Thank you.

Now I just wanted to focus on the statements of Mr. Johnson in his address to jury, and if you have any comments about Ms. Johnston's address to the jury, and I haven't heard that yet. That's what I would like to deal with right now.

I've had the opportunity to review Ms. Johnston's notes about that, and I think what I should probably do is just ask Mr. Johnson to respond to those which --

MR. JOHNSON: Yes.

Well, I've read over the Crown's submissions on various issues and I hope I'm on the right one here. Yes, I am.

I think that the information in paragraph 9 is something that I'd like to address, where she states:

The writings of Arthur Topham are not admissible for the truth of the contents contained therein. That brings us to the issue of Mr. Johnson's resuscitation --

THE COURT: Recitation.

MR. JOHNSON: Recitation. I think I was trying to resuscitate there:

... recitation of Mr. Topham's biographical information in his closing. This information is found at page 520.

I understand my friend to say in the next paragraph, 10, that she has no great issue with the biographical information [indiscernible] having spent the majority paragraph being admitted for the truth of its contents.

And I agree with her.

THE COURT: Yes. And what I'll say to the jury on that issue is quite simply that this document is admitted so that you could have some biographical information which is before you. It's not, again, particularly relevant to the charges. It's --

MR. JOHNSON: Okay.

THE COURT: -- it's not something that's --

MR. JOHNSON: Okay.

THE COURT: -- that's of relevance.

MR. JOHNSON: The --

THE COURT: And I also understand the Crown's position, as I read this, and it helped me think through an issue that I was troubled about and that is that, I think what the Crown is saying is that all of the documents can be used as essentially circumstantial evidence of intent for both charges.

In other words, you don't have to restrict the time period of the documents to infer intent from -- to the time period of the charge because the intent, whatever it was, is evident throughout -- both before and after the times in the counts, and I --

MR. JOHNSON: That's a fair statement.

THE COURT: All right. And if that's both of your positions, which I understand it to be, then I will make clear in my comments on the evidence that it's the statements which may promote hatred for the two charges -- when they're considering that issue, they have to look at the time period which is charged -- but they can look at all of the documents on the issue of intent.

MR. JOHNSON: Right.

THE COURT: In other words, whether it was wilful. All right.

MR. JOHNSON: I think that's fair. I think otherwise they'll be sitting back there, going through the dates of articles --

THE COURT: Yes, it's --

MR. JOHNSON: It would make it impossible.

THE COURT: I think it would make it impossible, and I think the Crown's argument here makes sense that really, what we're talking about is a state of mind and so you can look at documents that aren't -- you can look at something that can infer this -- from what you can infer state of mind outside of the time period of the actual charge, given the nature of the charges here.

MR. JOHNSON: Right. I agree with paragraph 12 that my friend raises. The Crown would prefer to see the charge to the jury as simple as can realistically be achieved. Well, realistically achieved.

If an admission as to Mr. Topham's biographical information would simplify the charge, the Crown is willing to make such an admission, I think that's what I'm asking. That's what we had in mind --

THE COURT: All right.

MR. JOHNSON: -- when we put that document to you. So I think that's in keeping with our understanding throughout. I hope it was, anyway.

MS. JOHNSTON: I wouldn't necessarily go that far because Your Lordship directly addressed that issue and I indicated it was [indiscernible] for the truth of its contents.

But that being said, I think what Your Lordship has said solves Mr. Johnson's problem in its entirety.

MR. JOHNSON: Sure.

THE COURT: It's -- I'm going to say it's non-controversial and it's something from which you can't infer anything about the issues they have to decide, so --

MR. JOHNSON: Crown's concerns with defence's closing statement -- this is where we get into what I've said to the jury. Again, I think 14 has been dealt with, I hope.

THE COURT: I think 14 has been dealt with. That's what we were just talking about.

MR. JOHNSON: Yeah.

Defence stated that Crown seeks to make Mr. Topham a criminal and I think I could agree to wording such as, "if found guilty, Mr. Topham will be a criminal". I don't think that that's controversial.

THE COURT: But that's not helpful to the jury. They -- you know, the statement was actually fairly outrageous. The Crown seeks -- my note of it is, "the Crown seeks to make Mr. Topham a criminal and they want you to do that for them".

MR. JOHNSON: Mm-hmm.

THE COURT: That's not a valid instruction on the law and I will have to correct that by saying something to the effect of, the Crown is not seeking to make him a criminal. The Crown has the obligation to prove guilt beyond a reasonable doubt based on the facts, and if you find that Mr. Topham committed acts which you find beyond a reasonable doubt -- I'll restate the kind of things that I will say to the jury, and that your statement was an inaccurate statement of the law.

MR. JOHNSON: Um -- if we're wordsmithing to an extent here, then I'd still like to have a mention that, if he is found guilty beyond a reasonable doubt, he will be a criminal.

THE COURT: He'll be found guilty of a charge. Like any other person that comes to court.

MR. JOHNSON: But I don't think I'm asking very much. I mean, I'm stating the obvious.

THE COURT: It's --

MR. JOHNSON: I used to appear in front of a judge in Edmonton and, when he was passing sentence, he used to say, "stand, criminal"

before the sentence. And I think that that's a legitimate address to a person who's been found guilty. You don't like it, it sounds harsh. But it's nonetheless the proper interpretation of what's happening.

THE COURT: Well, I'm going to put to the jury -- I'm going to remind them of what they're here to do and how it's done.

MR. JOHNSON: Paragraph 16 really presents me with problems here, because I mentioned that Mr. Topham had the right to express himself and he had that freedom. I did not raise a *Charter* argument and the other thing I can't understand, if my friend is in fact saying this, is why Mr. Topham can only raise the issue of freedom of expression in the context of a *Charter* argument.

Well, freedom of expression goes directly to the third and the fourth grounds.

THE COURT: Well, I think I can stop you there. I'm obviously having to explain both the charge -- or the elements of the offence and the elements of the two defences, and I think in doing that, I've -- if it responds to that concern, I don't think I need point it out directly.

I mean, the closest I had -- the note that I had that you said was, "you can take this as the ultimate insult to freedom and the biggest waste of time and of the taxpayers' money". It seems to me that that's your opinion and irrelevant to the charge, and I think I have to say something about that.

MR. JOHNSON: Well, I was leading -- and I did mention that there was a cost to this trial. And I mentioned my friend's having to -- and it's not her fault, it was -- this case was put together with binders that weren't readable and then they had to be done and redone. And I mentioned that. And that's the context in which I made that comment.

This is an expensive operation. We heard -- I don't know if there was in evidence, but obviously those -- that extra photocopying, the extra time spent to do that --

THE COURT: Your comment wasn't related to that. You said "you can take this as the ultimate insult to freedom". That's not in relation to the photocopying and the costs --

MR. JOHNSON: No, but that's --

THE COURT: -- and you said -- my note is, "you can take this as the ultimate insult to freedom and the biggest waste of time and of the taxpayers' money. It is a waste of time. These matters are best left for an inquisition." That's --

MR. JOHNSON: That's right.

THE COURT: -- that's something that I think I have to correct because -- or say that it's -- that's your opinion and it's completely irrelevant. It's not something that -- that they need consider.

MR. JOHNSON: Well, I think again I'd like to bring that back to what Mr. Rudner's role in all of this was. I did mention that this was an inquisition in respect to he was doing on this witness stand.

THE COURT: And I will be making comments about both of the expert witnesses, and their -- and their --

MR. JOHNSON: Credibility.

THE COURT: -- credibility and reliability and bias. It's something that I have to do. But that's quite different from you standing up and saying that this is an ultimate insult to freedom and the biggest waste of time and taxpayers' money. That's -- you know, that's really not the sort of thing that is appropriate.

MR. JOHNSON: Okay. All right.

Seventeen, in discussing how Terry Wilson referred to only some of the sections of binders 1 through 4, defence implied --

THE COURT: I'm not going to have to say anything specific about that because I'll have to deal generally with the evidence and what they can look at and what they can't, so --

MR. JOHNSON: I think it's fair game that they can look at anything that's in an exhibit --

THE COURT: Yes. Yes.

MR. JOHNSON: -- without restricting what they have to say or what they'd have to look at.

Eighteen -- yeah, this is a problem. The defence stated that foreign government agencies are trying to take down Mr. Topham's website. There's no --

THE COURT: Now I didn't actually have that note.

MR. JOHNSON: Pardon me?

THE COURT: I didn't have a note that you said that. Did you say --

MR. JOHNSON: No, I didn't. I said that Mr. Rudner admitted that the Canadian Jewish Congress was a lobby group for the State of Israel, a foreign government. And that Mr. -- and that he said that Mr. Abrams, who he knew, was also a member of the B'nai Brith, also a lobby group for the State of Israel.

What I did say is that they were acting in that -- you know -- in that capacity in bringing the complaint. And I think it's fair to say, logically, that they are lobbying.

THE COURT: I don't need to say anything about that to the jury.

MR. JOHNSON: Okay.

"Defence stated that it was a political decision to lay charges." I didn't say that. I don't have a -- at least, if I did, I certainly didn't mean to go that far. What I did say is that the attorney general has -- as Your Lordship has directed them to say, or to understand -- takes the ultimate responsibility for these charges. And that's -- I was just repeating what you had told them. At least, I -- that's what I was hoping.

THE COURT: I didn't make a specific note of that. I mean, I -- I do have a note and it may have something to do with what Ms. Johnston was saying, which says that -- this is my note on what you said is, "consider the section of the *Criminal Code*. Who is behind this section and the prosecution. If you don't have mainstream views, we will take you to court. That was like saying, make peace or we will blow you up. That's not tolerance and in the interests of the general public."

MR. JOHNSON: I said that.

THE COURT: Yes. So did Mr. Christie in the *Keegstra* case, but I know you're not interested in that. But I --

THE COURT: No, I mean -- that's not relevant here. I mean, I -- if there was a ruling on what you said, that you could give me, that would help, but I --

MR. JOHNSON: Yeah. No, I don't [inaudible].

THE COURT: You don't, no. Anyway, and I may have to say something about that.

MR. JOHNSON: I'm okay with number 20. And just for the benefit of Mr. Topham, that's where defence referred to experts in his trial providing an opinion on guilt or innocence. Innocence is not a verdict in Canada. The accused are either guilty or not guilty.

THE COURT: Well, I don't think --

MR. JOHNSON: I don't think it's a big --

THE COURT: -- I can say anything about that. I obviously am going to give the usual charge which talks about what they do and what their verdicts are and I think that's sufficient.

MR. JOHNSON: Yeah, it'll be clear from your charge.

THE COURT: Yes.

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

Number 20 -- just, I don't know if I've got a note on that. I think I --

THE COURT: Sorry, that was 20 we were just talking about.

MR. JOHNSON: Right.

"Defence made numerous misstatements of Mr. Atzmon's evidence", and I don't know what she's referring to here.

THE COURT: All right. I don't either.

You haven't commented about 21, which is --

MR. JOHNSON: Oh.

THE COURT: -- "defence stated that Mr. Rudner was a member of the prosecution"?

MR. JOHNSON: I'm not sure that I said that. I said -- what I meant to say was that it appeared as though -- because of his evidence and his bias, that he may be looked upon as part of the prosecution, rather than, "here is an expert witness". But I think that can be addressed by Your Lordship with regard to --

THE COURT: Well, that comes into whatever comments I make about bias and --

MR. JOHNSON: Yes. It'll be covered, I think. I'm not sure what my friend is referring to with Mr. Atzmon and his evidence.

23 -- "The Crown submits that defence invited the jury to acquit without applying the law to Mr. Topham's case." There were numerous examples of that. A reference to ulterior motives in the prosecution of Mr. Topham, foreign government --

THE COURT: That's the one we already talked about.

MR. JOHNSON: We talked about that.

"Defence's dire and numerous warnings throughout his closing and the consequences to free speech if Mr. Topham is not" -- it should be "not acquitted". But again, that -- I think we've got to tell the jury of my respectful submission, My Lord, that his ability to communicate freely, and, with that, freedom to express himself, deals directly with the third defence, what's in the public interest for the public benefit. And if they choose to say that that's not in the public benefit, for him to make those statements, he may be free to say them, but if he's showing hate towards a group, that's going to lead to a conviction.

But I'm suggesting that his right to say things, not necessarily his right to say hateful things, I didn't -- I'm not saying that at all. I'm saying that he does have the right to make comments. And I hope I made it clear to the jury that if he's talking about Jewish political identity, that -- and that's something that Mr. Atzmon talks a lot about, distinguishing Jews, the hereditary nature of their existence and their religion, Judaism -- but he does say that political matters can be, and should be --

THE COURT: All right. We're getting away from what you said to the jury. And, I mean, I also had some notes about saying that, you know, there are sort of dire consequences if they find him guilty. And again that's not appropriate.

And I think I have to say that -- which I've already told them, that the dark consequences to the concept of free speech, if he is found guilty -- and I think I have to say, you're not here to make a judgment about free speech. You're here to make a judgment about the charge and the defence.

MR. JOHNSON: But I think it's also very necessary, My Lord, to say that, in Mr. Topham's defence, under the third defence, that he has to be able to express himself on matters of public interest for the public benefit.

THE COURT: All right. I'm spending a fair bit of time trying to set out the elements of that defence and that will be -- that will be there.

MR. JOHNSON: Okay. It's tough. It's very, very difficult, I think. I couldn't find any law.

THE COURT: Well, I think --

MR. JOHNSON: Not on what equals the public benefit and public interests. I think it varies in each case.

THE COURT: I think what the -- I think it was in *Keegstra*, the Supreme Court said that there probably won't be any defences that deal with those because it's really just another way of saying what was the intent here. And that's why -- not going to see it, so it really comes down to intent.

MR. JOHNSON: Yeah. Well, Mr. Atzmon was not -- again, if we're comparing what happened in this case --

THE COURT: We're here to talk about what you said to the jury.

MR. JOHNSON: I know.

THE COURT: We're not here to talk about the evidence at this point.

MR. JOHNSON: Okay.

"Defence statements, the jury shouldn't be put in the position of having to decide a verdict." Um -- I did say that.

THE COURT: And I -- you know, again that's --

MR. JOHNSON: Or words to that effect.

THE COURT: I mean I took what you said as probably going further than that. I think you also implied that Crown had chosen the jury to do this task, as opposed to having Mr. Topham have the election for a jury. You said, "Juries shouldn't be put in this position. A man shouldn't be put in the position of having to defend himself against the mass of wealth and power in the state", and I have to say something about that.

MR. JOHNSON: Okay.

THE COURT: That's (c) and (d) on --

MR. JOHNSON: It's taken care of.

The biblical reference. "Defence stated, let he who is without sin cast the first stone." I don't see anything wrong with that.

THE COURT: Well, I'm going to leave that one alone.

MR. JOHNSON: Pardon me?

THE COURT: I'm going to leave that alone. I'm not going to say anything about it. I --

MR. JOHNSON: Well, I mean, yeah, I mean, take it for what it is.

"Defence said Mr. Topham put his character in issue." Mr. Topham did not -- well, I think we've dealt with that as well, with respect to his state of mind. And I -- and proof of the -- truth of the consequences.

THE COURT: I think that goes back to that [inaudible].

MR. JOHNSON: Yeah.

"Defence said words to the effect the Crown says it doesn't matter if Mr. Topham intended to promote hate or not." I did miss the word "wilfully" in my first paragraph of my opening statement, and that was a mistake.

But she then says, "However, I do not agree that the error constitutes the Crown stating that it doesn't matter for the conviction if Mr. Topham is not guilty of one of the requisite elements of the offence." I think that's covered by your charge.

THE COURT: Well, it will be covered by my charge, but you did say, quite directly, that the Crown says it doesn't matter if Mr. Topham intended to promote hate or not, and I think I'll say you said that, that's not an accurate statement of law. The Crown must prove intent. Simple as that.

MR. JOHNSON: Well, wilful -- I think it goes further than that, My Lord. It's wilful.

THE COURT: Well, I will be discussing what "wilfully" means in some detail and how it's proved.

MR. JOHNSON: But my --

THE COURT: But I'm just talking now about correcting what you said, and you did say, "The Crown says it doesn't matter if Mr. Topham intended to promote hate", and the Crown doesn't say that. They can't, because as a matter of law --

MR. JOHNSON: Except in her opening, and maybe we can just say that the comments made by counsel --

THE COURT: Well, if that -- I don't recall that from the opening, but if it had been said in the opening --

MR. JOHNSON: I should have raised it then.

THE COURT: -- you should have raised it and I should have corrected it at that time.

MR. JOHNSON: Okay.

"Defence did not state -- correctly state the law concerning the defence to charge 319. Defence stated that Mr. Topham was trying to present evidence that 'the Jews hate Christians and, I believe, Muslims'". Um -- maybe I'm getting old, I don't remember saying that.

THE COURT: I frankly don't have the note of that either.

MR. JOHNSON: No, I --

THE COURT: And I think -- I think I'm going to leave that one alone.

MR. JOHNSON: I think that pretty well covers all of the objections, unless my friend has something else to add.

THE COURT: Ms. Johnston, do you have anything to -- Any reply to that?

MS. JOHNSTON: I'm just looking up 26, My Lord.

My Lord, I'm absolutely positive he said, "endeavour to remove hatred against Christians". I might have missed the Muslims and/or Arabs. That is possible. And it was --

THE COURT: I mean, I have a recollection of something like that being said. I didn't really understand the -- I thought it was a bit confusing. But I don't know if I need issue any correction because, obviously, I have to talk about -- I have to give them instructions on the defence and there it is.

MS. JOHNSTON: And in terms of [indiscernible/coughing] statements, I believe there were some, and I could go through it in more detail. But presumably Your Lordship is going to have some question about if the evidence is different from what counsel said it was, which I think would deal with the issue, My Lord.

THE COURT: Yes. Well, obviously, that's done in every jury trial so --

MS. JOHNSTON: Exactly.

THE COURT: -- that will be said.

MR. JOHNSON: My Lord, I don't have a written statement, as my friend did, outlining her closing statement. I just didn't have time to do that. I don't know if you wish to have me put something formally in front of you.

THE COURT: No.

MR. JOHNSON: But I think we can discuss her closing. She's written it out, and maybe we can cover a couple of the things that I noted.

THE COURT: All right. Just a moment, I may not have that.

MS. JOHNSTON: I have another copy if Your Lordship just --

THE COURT: Do you have another copy? That would help.

MS. JOHNSTON: Yes, I do. This one's not signed. I'll just sign it.

THE COURT: Thank you.

MR. JOHNSON: Okay. I think that my friend's handling of the issue of satire was very confusing to the jury in my view. I think that it was -- I understand her position, and that is that, if he didn't say it was satire --

THE COURT: So where are we in the --

MR. JOHNSON: Oh, the second page, 1, 2, 3 from the bottom. It says, "Defence might say I have that wrong. It's not vilifying the Jewish people, it is vilifying Zionist Jews, and Zionist Jews should not be taken as words against the Jewish population as a whole."

Um -- oh, I'm sorry. It's the paragraph before that that I have some trouble with. "Mr. Topham puts forth *Germany Must Perish!* not as a work of a single individual, Theodore Kaufman, but as a book that demonstrates the workings of the Jewish mind and, in doing so, Mr. Topham promotes hatred against the Jewish people."

She does go on, later on, in fairness to her, to say that, "was this a satire or not".

But I think it's clear that -- what I'd like to happen in the direction is that defence says it's a satire, the Crown says it isn't a satire. It's that simple.

THE COURT: You said that, she said the opposite. Obviously that's there --

MR. JOHNSON: Just leave it --

THE COURT: -- that's not a -- but it's not an error. It's not something I need to correct them about. I --

MR. JOHNSON: No.

THE COURT: It's part of a general direction as to what your positions are and --

MR. JOHNSON: Well, I --

THE COURT: What I'm looking for, what I really want you to comment on, is whether there's a misstatement of law or a --

MR. JOHNSON: Personal statement.

THE COURT: -- or an incorrect reference to facts as opposed to an argument which is --

MR. JOHNSON: Right.

THE COURT: -- what that is that you just referred to.

MR. JOHNSON: I -- we get down to the second paragraph from the bottom on page 3, where she says, "In addition, if you believe, as I do, the books on Topham's website as a continuation of the ideas expressed continually throughout his postings, then there is no need to parse the books off individually. They are but parts of a greater whole, a website that in its totality works to promote ...". And I don't think that that's what's before the court, or before the jury. It's those binders, not his entire website.

THE COURT: Well, I think -- at least I understood that as a reference to the documents from the website that are before the jury.

MR. JOHNSON: She says a website that "in its totality works", and I think that might be misleading, because they don't -- they haven't seen the totality of the website. If they're to take that statement as an argument or as a summary, they should -- I think it should be that -- a direction that their understanding of the website is what is in evidence --

THE COURT: They'll be told that -- very clearly.

MR. JOHNSON: -- rather than a website that in its totality.

I have trouble with, on page 4, 1, 2, 3, the fourth article, where she read from -- just after 134, "Mr. Topham put his mind to the issue of hate", and specifically mentioned *Israel Must Perish!* I think that that left me, at least, with the impression that he was talking about his own hate when in fact what he was talking about was hate by Jews, not by him. That's what I got from that. And I don't get that from that statement. He put his mind to the issue of hate, which seems to suggest wilfulness on his part.

THE COURT: And this is the Crown's argument, just as you argued -- it's not a misstatement of law, it's a submission to the jury.

MR. JOHNSON: Nonetheless, I think it's not correct. It's not -- the way it's set out. "He put his mind to the issue of hate." And then she ties that with the following, "and specifically mentioned *Israel Must Perish!* in connection to this and replies with "shallowness of their conniving, degenerate minds, classic of Jewish hate literature, and three of most" -- should be, I guess, "the most", "revered U.S. publications still operating today, all Jewish-owned".

I'd just like a clear indication that he's talking about Jewish hatred, not his own hatred. And I think that's what I'm getting.

THE COURT: I'm not going to go there on either of your comments. You both made statements about what he's doing --

MR. JOHNSON: All right.

THE COURT: -- and what he's not doing, and what he's intending to do. And that's for the jury to decide. I'm not going to give any corrections on that kind of a submission.

MR. JOHNSON: Well, okay.

And we get down to where she starts talking about parts of what Mr. Topham is writing. She speaks about it on page 4, at page 523, there's a reference. There's also a reference on the next page at 517.

By the way, I was trying to following along with the large binder, and I couldn't find those -- that those pages lined up. So it may be that there's some direction necessary as to where to find these things.

THE COURT: Well, I'll ask Ms. Johnston to confirm those by looking at Exhibit 3(a) and 3(4) and tell me this afternoon when we get back together if they're accurate.

MR. JOHNSON: Especially on the readable portions, so they've clearly -- it would be a shame, really, if they gave up trying to read this because it wasn't readable and there wasn't a clear thing either. A thumb drive --

THE COURT: I mean, I was following along and I was able to follow along --

MR. JOHNSON: Okay.

THE COURT: -- for those that I found, but I didn't find all of them because I -- it was easier to just look at what was here.

MR. JOHNSON: Me too.

THE COURT: But I did find the two that I looked at, so --

MR. JOHNSON: If there could be a reference, My Lord, to the -- you know, if you're not able to read something, go to the larger volume, especially if the line's cut off. But -- I mean, I don't know if there needs to be a direction on that, but --

THE COURT: I would think they'll automatically do that.

MR. JOHNSON: Yeah, okay. Well, and here's where this becomes important because my point is that, in addition to it sometimes being difficult to find these things in a readable format, my view is that, in order to appreciate the context of these quotes, that the entire article should be -- they should say, "if you want the entire context, read it. Read the article."

THE COURT: You've made that argument, and I'm going to tell them that they should look at whatever they need to look at in order to come to their -- to the --

MR. JOHNSON: But the context is important, I would submit.

THE COURT: I -- and -- but that's up for them -- up to them to decide how much context they need for each thing and I'll tell them that.

MR. JOHNSON: But -- okay. But I guess - I just want to see the word "context" being used, My Lord, so that they understand that it's not just something that they focus on, take for what it is; that there should be a concern about the context.

THE COURT: I'll mention your position that context is very important and I'll tell them that context is important.

MR. JOHNSON: Okay.

I don't think there's much more that I can point to.

THE COURT: All right. Well, what I'll do is --

MR. JOHNSON: If I could have a just a quick word with Mr. Topham. He may have caught something that I didn't. I'll just be a minute.

Yeah, Mr. Topham was just indicating that, when we were referring to him being married to a Jew, that I think that that should just go in for what it is, without trying to understand what his intention was in talking about his wife as a Jew. I think that the -- getting into what was inside Mr. Topham's head by referring to that in that article I think is going beyond what my friend should have done. I think you could just say, well, it's part of his biographical sketch and it's for you to decide what -- where it all lies.

THE COURT: I thought it was fair game, you know. You used the argument -- how could Mr. Topham hate Jews, he's married to one -- that Crown is entitled to say that that doesn't matter. I think that's fair game, both sides.

MR. JOHNSON: Okay.

MS. JOHNSTON: My Lord, I checked 517. It's correct. 516, it's correct. Chapter 27, page 151, I know from memory, was correct. "Epistle to Paul", 506, is correct. They're all correct.

THE COURT: Right.

MS. JOHNSTON: All my references. Now my friend only started to complain at a certain point. Does he want me to go back through the rest of it and just double check?

MR. JOHNSON: Yeah.

MS. JOHNSTON: I'll be happy to do it.

THE COURT: Well, I think the ones I've looked at were closer to the start, so I probably was able to follow those.

In any event, I was about to say that what I'll do is I will email you where the charge is at, at say 2:30 today. It's not going to be finished. We'll get together at 3:00 and certainly we'll have most of the important legal points in it, but not necessarily my review of the evidence which is not going to be very extensive in this case because I'm basically telling them how to look at the documentation, but I review evidence on some points which --

MR. JOHNSON: My Lord, I wonder if we could have, say, an hour to read your materials. I don't know how long they're going to be, but I'd like to really go over them.

THE COURT: Well, I can tell you right now, it's about 45 to 50 pages is what it is, so -- but it's -- but a lot of it is stuff that you'll be able to skim pretty quickly cause it's standard form.

MR. JOHNSON: Yeah, the basic stuff from CRIMJI --

THE COURT: Yes.

MR. JOHNSON: -- but, my view, My Lord, the other thing is that I'll try and get the one-pager to you -- I'll give it to the Registry. I don't know if they're closed for lunch, over the lunch hour, but I'll give it to a registrar or somebody else in the Registry. It'll be on a thumb -- it'll be on a thumb drive.

THE COURT: Well, I don't need to have it done til -- you know -- 3:00 this afternoon or 3 --

MR. JOHNSON: Okay.

THE COURT: So why don't -- I'll try to get something to you by 2:30. We'll get together at 3:15, and if you -- you're going to need some time over the evening to think about what's in the charge. Obviously we can talk at 9:00 tomorrow morning as well, so.

MR. JOHNSON: You know, I'd actually prefer that. I don't know what you're going to say, but maybe I can deal with it in 45 minutes, but I'm pretty sure --

THE COURT: Well, why don't we do this. Why don't we say that I will -- and I'll take longer then to get it to you so that I'll get you something that's more final. I'll try and -- I'll send it off wherever I am at by 4:30 this afternoon.

MR. JOHNSON: Good.

THE COURT: And then we'll get together at --

MR. JOHNSON: 9:30?

THE COURT: At -- no. No, because after it is -- after I have your final comments on it, and if I decide to change something -- I may not -- then it has to be printed out for the jury, so that takes some time, so -- 8:45.

MR. JOHNSON: 8:45 is fine.

MS. JOHNSTON: Thank you, My Lord. 8:45 -- now that's in addition, I'm understanding, to the 3 o'clock as well, right?

THE COURT: No, I -- we were just saying we're not going to do 3 o'clock.

MS. JOHNSTON: Okay, I see. I see. Now did Your Lordship wish my summary of the Crown's position in some sort of different format?

Was it what Your Lordship had --

THE COURT: That's okay. I can use it. I may change it a little bit, which is what I'll do with -- with Mr. Johnson's as well.

MS. JOHNSTON: And My Lord, I forgot to bring down the case law book. If I could please just drop it off at the Registry. Thank you.

THE COURT: Certainly. Certainly.

MR. JOHNSON: My Lord, will that be on a thumb drive? It would be -- it would help me if your charge is on a thumb drive. I could then

--

THE COURT: Well, what I'm going to do is, I'm going to send it to you at the email addresses I was given --

MR. JOHNSON: Okay.

THE COURT: -- so you'll have it electronically.

MR. JOHNSON: Okay. Thank you.

THE CLERK: So tomorrow morning then at 8:45.

THE COURT: So tomorrow morning at 8:45.

THE CLERK: Thank you.

Order in court. Court is closed today. Return tomorrow morning at 8:45.

(PROCEEDINGS ADJOURNED TO NOVEMBER 10, 2015, AT 8:45 A.M., FOR CONTINUATION)

Transcriber: L. Jamieson