

**CANADIAN
HUMAN RIGHTS
TRIBUNAL**



**TRIBUNAL CANADIEN
DES DROITS
DE LA PERSONNE**

BETWEEN/ENTRE:

RICHARD WARMAN

Complainant

le plaignant

and/et

CANADIAN HUMAN RIGHTS COMMISSION

Commission

la Commission

and/et

MARC LEMIRE

Respondent

l'intimé

and/et

ATTORNEY GENERAL OF CANADA;
CANADIAN ASSOCIATION FOR FREE EXPRESSION;
CANADIAN FREE SPEECH LEAGUE;
CANADIAN JEWISH CONGRESS;
FRIENDS OF SIMON WIESENTHAL CENTER
FOR HOLOCAUST STUDIES;
LEAGUE OF HUMAN RIGHTS OF B'NAI BRITH

Interested Parties

les parties intéressées

BEFORE/DEVANT:

ATHANASIOS D. HADJIS

CHAIRPERSON/
PRÉSIDENT

LINE JOYAL

REGISTRY OFFICER/
L'AGENTE DU GREFFE

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

HEARING HELD IN THE PARIS ROOM OF NOVOTEL HOTEL
3670 HURONTARIO STREET, MISSISSAUGA, ONTARIO
ON THURSDAY, FEBRUARY 22, 2007 AT 9:20 A.M. LOCAL TIME

CASE FOR HEARING

IN THE MATTER of the complaint filed by Richard Warman dated November 23rd, 2003 pursuant to section 13(1) of Canadian Human Rights Act against Marc Lemire. The complainant alleges that the respondent has engaged in a discriminatory practice on the grounds of religion, sexual orientation, race, colour and national or ethnic origin in a matter related to the usage of telecommunication undertakings.

APPEARANCES/COMPARUTIONS

Giacomo Vigna	For the Canadian Human Rights Commission
Barbara Kulaszka	For the Respondent
Simon Fothergill Alicia Davies	For the Attorney General of Canada
Paul Fromm	For the Canadian Association for Free Expression
Douglas Christie	For the Canadian Free Speech League
Marvin Kurz	For the League Of Human Rights of B'nai Brith

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1 Toronto, Ontario

2 --- Upon resuming on Thursday, February 22, 2007

3 at 9:20 a.m.

4 THE CHAIRPERSON: Let's go.

5 MS KULASZKA: The respondent will be
6 calling his next witness, Dr. Persinger, and Mr.
7 Christie will be qualifying him and leading his
8 examination-in-chief.

9 THE CHAIRPERSON: Okay.

10 MR. CHRISTIE: Sir, if I may, there's
11 a green binder which we have tendered which contains
12 all of the information we will be placing before you
13 with the exception of any oral testimony you might
14 allow. And the first tab of that -- that is referred
15 to as R-5, I'm advised.

16 Thank you.

17 THE CHAIRPERSON: We would like to
18 swear the witness in.

19 SWORN: DR. MICHAEL PERSINGER

20 EXAMINATION-IN-CHIEF BY MR. CHRISTIE

21 MR. CHRISTIE: I would like to
22 proceed with the process of qualification by beginning
23 with this question, if I may. Dr. Persinger, I would
24 to ask you if you have with you a green binder referred
25 to in this proceeding as R-5 to which I would ask you

1 to refer.

2 DR. PERSINGER: All right.

3 MR. CHRISTIE: And from which I would
4 ask you to examine tab 1.

5 MR. FOTHERGILL: Before we progress
6 much further, can we state what exactly it is that Dr.
7 Persinger is being qualified to give expert evidence in
8 relation to?

9 MR. CHRISTIE: If I may, I would be
10 doing that by way of questions which I will articulate
11 in a specific manner, a series of questions, and at the
12 end of that I will identify -- well, at the process I
13 will identify the areas of purported expertise. If I
14 may proceed, sir, with that in mind.

15 THE CHAIRPERSON: I find it more
16 helpful to know the expertise in advance as I hear the
17 evidence.

18 MR. CHRISTIE: All right, sir. The
19 first thing I must do, if I may, is to get a Kleenex.

20 THE CHAIRPERSON: I can't help you.

21 MR. CHRISTIE: I have one right here,
22 or a reasonable facsimile.

23 There are a number of areas, sir,
24 that I will endeavor to elicit opinion from this
25 witness in regard to.

1 The first is, the effects of hate
2 expressive opinions on the Internet.

3 Secondly, the effects of limits on
4 expression on individuals and on society.

5 Thirdly, the state of psychological
6 research before and since the Kaufman Report.

7 THE CHAIRPERSON: Cohen report?

8 MR. CHRISTIE: No, it's the Kaufman
9 Report upon which the Cohen report -- it's the Kaufman
10 report which --

11 THE CHAIRPERSON: I just thought you
12 misspoke.

13 MR. CHRISTIE: No, I didn't misspeak.

14 THE CHAIRPERSON: The state of
15 psychological research before and after the Kaufman
16 Report?

17 MR. CHRISTIE: Yes. Fourthly, the
18 strategies -- I say plural -- put forward by Dr. Mock
19 for combatting hate on the Internet.

20 Fifth, the psychological impact of
21 hate propaganda, as it was defined by Dr. Mock, on the
22 wider audience.

23 THE CHAIRPERSON: On a wider --

24 MR. CHRISTIE: On the -- I should say
25 on society.

1 THE CHAIRPERSON: Okay. So you're
2 purporting he's able to address these issues?

3 MR. CHRISTIE: Yes, and I have
4 further --

5 THE CHAIRPERSON: One more?

6 MR. CHRISTIE: Those are general
7 areas. Then I want to explore with him two specific
8 areas. This would be six and seven.

9 THE CHAIRPERSON: Okay.

10 MR. CHRISTIE: How cognitive,
11 contemporary neuroscience can support the inference
12 that suppression of some thoughts result in the
13 suppression of a broader range of related chains of
14 thought and extrapolations in human discourse.

15 And finally -- this is specifically
16 again -- this will be the seventh point relating to --
17 the cognitive neuroscientific research that can
18 demonstrate the necessity for maximum freedom of verbal
19 expression for individual and societal flourishing.
20 That is, the cognitive neuroscience that today can
21 demonstrate the necessity for maximum freedom of verbal
22 expression for individual and societal flourishing.

23 I will actually, in endeavoring to
24 qualify Dr. Persinger in each of those seven areas,
25 question him as to how he claims to have specific

1 scientific knowledge in these areas. I will spend
2 virtually no time on anything else in the qualification
3 process.

4 With that said, may I proceed?

5 THE CHAIRPERSON: Yes.

6 MR. CHRISTIE: Thank you.

7 Dr. Persinger, if we could ask you to
8 look at your curriculum vitae, which is tab 1 of
9 Exhibit HR-5 (sic). Have you done that, sir?

10 DR. PERSINGER: Yes. I have.

11 MR. CHRISTIE: Have you looked it
12 over of course previously in some detail?

13 DR. PERSINGER: Yes, I have sir.

14 THE CHAIRPERSON: Who prepared it?

15 DR. PERSINGER: I did. This is my CV
16 but --

17 MR. CHRISTIE: I understand. Someone
18 else might have photocopied it.

19 DR. PERSINGER: Yes, indeed.

20 MR. CHRISTIE: I just want to
21 question you as to the origin of the information and I
22 take it that you are the origin of that information?

23 DR. PERSINGER: That is correct.

24 MR. CHRISTIE: And can you swear to
25 its truth, sir?

1 DR. PERSINGER: I certainly can.

2 MR. CHRISTIE: I would like that to
3 be accepted as an exhibit.

4 THE CHAIRPERSON: Yes.

5 MR. CHRISTIE: And I have only a few
6 more questions.

7 Dr. Persinger, you heard me outline
8 the areas of your expertise. Did you, sir?

9 DR. PERSINGER: Yes, I did.

10 MR. CHRISTIE: Was there any
11 difficulty in transcribing the specific areas or is
12 there any area you need clarification as to what I was
13 purporting?

14 DR. PERSINGER: I understand, thank
15 you.

16 MR. CHRISTIE: With that in mind, I
17 will go through them one after the other and ask you,
18 sir, what basis do you suggest enables you to have
19 expert scientific knowledge in these areas? I'll go
20 through them one at a time.

21 In respect, sir, of the first point I
22 think I referred to was the effects of limits on
23 expression on individuals and society. Could you tell
24 the Member --

25 MR. FOTHERGILL: I'm sorry to

1 interrupt. My note is that the first subject was
2 effects of hate expression opinion on the Internet.

3 THE CHAIRPERSON: I wrote down the
4 effects of hate expressive opinions on the Internet.

5 MR. FOTHERGILL: You're right, I'm
6 sorry, "expressive".

7 THE CHAIRPERSON: I wrote them down
8 almost verbatim. I know you were reading it from your
9 notes. As you go to each one, I can read to you what
10 I've recorded verbatim.

11 MR. CHRISTIE: I would really
12 appreciate that because I'm sure your notes are better
13 than my recollection.

14 THE CHAIRPERSON: I was listening,
15 you were speaking.

16 MR. CHRISTIE: I appreciate your
17 help, sir.

18 THE CHAIRPERSON: "The effects of
19 hate expressive opinions on the Internet".

20 MR. CHRISTIE: Thank you.

21 In view of your training and
22 experience, why would the Member be assisted by your
23 knowledge in this particular area; that is, the effects
24 of hate expressive opinions on the Internet? What
25 special skill, training, knowledge or ability do you

1 have that would assist the Member on that subject?

2 DR. PERSINGER: Well, I've written
3 book called "TM and Cult-Mania", which looks at the
4 effects of various types of popular and written
5 materials on peoples' impressions, specifically in
6 terms of both cult followings as well as -- in terms of
7 how they evaluate other individuals.

8 THE CHAIRPERSON: Slow down a little,
9 please. A little bit slower.

10 DR. PERSINGER: Yes. As a professor,
11 of course, I speak quickly. I'll slow down a bit.

12 In addition to that, I've conducted
13 research that allows us to understand the nature of
14 negative or pejorative comments about religious issues
15 in terms of how people perceive not only the source but
16 also the impact of these statements on how they
17 evaluate the person's dangerousness.

18 MR. CHRISTIE: There was one other
19 thing I wanted to add, perhaps on a note of levity. Did
20 you want to say anything further on that, sir?

21 DR. PERSINGER: No, that's fine.
22 We've done other things but that's --

23 MR. CHRISTIE: I'll cover other
24 areas. The one thing was -- I understand, sir, you
25 were just voted the most popular lecturer in Ontario in

1 a public contest; is that correct?

2 DR. PERSINGER: That is correct.

3 MR. CHRISTIE: And that --

4 DR. PERSINGER: It was a privilege.

5 MR. CHRISTIE: When did that happen?

6 DR. PERSINGER: Actually the
7 announcement was just last weekend.

8 MR. CHRISTIE: And that was a contest
9 of lecturers who submitted, was it videotapes of
10 lectures from all over the province?

11 DR. PERSINGER: Students nominated
12 the professors from all over the province from all the
13 universities. There were about 130 or so. A panel
14 selected 10 finalists. Those lectures were given on
15 TVO, two lectures per week for five weeks. It was an
16 open vote. Anyone could vote for three categories in
17 terms of authority, enthusiasm, and those types of
18 objective criteria. And there were over 100,000 votes.
19 It was really nice to see education being supported by
20 TVO, and indeed I was lucky enough to be the one that
21 was chosen.

22 MR. CHRISTIE: I thought perhaps that
23 was of some interest. I'll move on, sir.

24 I just wanted to proceed to the
25 second area of expertise that I claimed for you, sir,

1 if I may. And in view of my inadequacies, I'll ask the
2 Member if he could articulate that for me. My numbers
3 are quite inconsistent.

4 THE CHAIRPERSON: The second was the
5 effects of limits of expression on individuals and on
6 society.

7 MR. CHRISTIE: Yes. This is a
8 broader topic, sir. Can you explain how any special
9 training, skill, knowledge or ability would might have
10 would assist the Member beyond the level of the
11 ordinary layman's comprehension in this area?

12 DR. PERSINGER: Yes, thank you. I
13 would be happy to.

14 My primary research area is in brain
15 function. I'm a professor of biology and psychology
16 and in the behaviour neuroscience and biomolecular
17 sciences programs, and what I do in terms of research
18 and thrust is to evaluate brain function and how this
19 influences people interacting both at a social and
20 anthropological level, as well as in terms of the basic
21 psychological and chemical consequences of those
22 interactions.

23 In terms of the specific research, I
24 have completed experiments that evaluate the effects of
25 negative contexts on expression, on creativity, as well

1 as the effects of different contexts on how people
2 remember specific kinds of experiences.

3 MR. CHRISTIE: Thank you.

4 Is there anything further you could
5 offer in assistance in this regard?

6 DR. PERSINGER: Well, in addition,
7 there is also the animal research that indicates if
8 indeed you apply punishment inappropriately, not only
9 does it suppress learning but it also interferes with
10 behaviours that are not being suppressed or punished.
11 In other words, it has a broader effect on just the
12 behaviour being punished.

13 MR. CHRISTIE: I see. Okay. Sir,
14 could we move to the third area that I sought
15 qualification?

16 THE CHAIRPERSON: Yes. That would be
17 the state of psychological research before and after
18 the Kaufman Report.

19 MR. CHRISTIE: Thank you, sir.

20 This is of some interest and I wanted
21 to know what you could offer the Member and the
22 Tribunal in respect to your knowledge of psychological
23 research in the area of the Kaufman report, which I
24 take it you've read?

25 DR. PERSINGER: Yes, I have.

1 MR. CHRISTIE: And you were asked to
2 study that?

3 DR. PERSINGER: I was.

4 MR. CHRISTIE: Do you have special
5 skill, training knowledge or ability in the area of
6 psychological research that was displayed in the
7 Kaufman Report?

8 DR. PERSINGER: Yes, I have. And
9 certainly many of the authors that were quoted were
10 stellar representations of psychology at the time.
11 That's a long time ago. And the concepts of terms such
12 as self-esteem and self-concept have changed
13 significantly since, and of course let us not forget
14 that the technology of brain function was not existent
15 at the time and the area of social psychology was in
16 its infancy when that report was written.

17 MR. CHRISTIE: Have you kept current
18 with developments in social psychology and brain
19 function research since the Kaufman Report?

20 DR. PERSINGER: Yes, I have, and in
21 addition to that, I published several articles on the
22 issue of self-esteem and the factors that influence
23 self-esteem, everything from hemisphericity to the
24 attendance to classrooms.

25 MR. CHRISTIE: So in this area you

1 suggest that you could be of assistance to the
2 Tribunal?

3 DR. PERSINGER: Yes, I could. If the
4 Tribunal wishes, yes, I could.

5 MR. CHRISTIE: If I might ask, sir,
6 please, to articulate number 4.

7 THE CHAIRPERSON: Number 4, according
8 to my notes is, "The strategies put forward by Dr. Mock
9 for combatting hate on the Internet." So I guess
10 commentary thereon.

11 MR. CHRISTIE: In this regard, sir,
12 did you read Dr. Mock's first report?

13 DR. PERSINGER: Yes, I have. The one
14 in response to my report.

15 MR. CHRISTIE: Okay. That would be
16 her second. Yes. And you read that?

17 DR. PERSINGER: Yes, I have, thank
18 you.

19 MR. CHRISTIE: And do you, as a
20 result of any special skill, training, knowledge or
21 ability, have any expert -- or do you claim any
22 expertise in response to the position she has taken on
23 those subjects?

24 DR. PERSINGER: Yes. I think I can
25 certainly offer an alternative suggestion based upon

1 brain function, And also the more contemporary aspects
2 of neurocognition.

3 MR. CHRISTIE: And in this area of
4 more contemporary aspects of neurocognition, do you
5 have expert knowledge?

6 DR. PERSINGER: Yes, I do, in terms
7 of both publication as well as being familiar with the
8 literature because of the nature of the courses that I
9 teach.

10 MR. CHRISTIE: I see. May I move on?
11 I think it's point 5, if I may, sir?

12 THE CHAIRPERSON: Yes. Number 5 was,
13 "The psychological impact of hate propaganda on
14 society."

15 MR. CHRISTIE: Yes, and in this area
16 that's a rather broad topic. But do you have any
17 special expertise that you could describe for the
18 moment that would enable you to give opinions in this
19 area that would be of assistance to the Tribunal? And
20 this I mean greater and more useful than the average
21 layman's view and understanding.

22 DR. PERSINGER: Yes. I think I could
23 offer some information based upon the scientific
24 methodology and data available with the impact of
25 aversive stimuli and stimuli that affect emotions on

1 not only behaviour but also the changes within brain
2 and also the impact on society.

3 In many respects, many of the
4 problems or many of the issues that are mentioned here
5 have analogies in other contexts such as the "TM and
6 Cult-Mania" text I wrote sometime ago.

7 THE CHAIRPERSON: Would you repeat
8 that slowly. Text is was called again?

9 DR. PERSINGER: TM, Transcendental
10 Meditation and Cult Mania. It was a book written on
11 the nature of how this particular cult began to affect
12 large numbers of people, marginalize them, alter their
13 way of thinking, but also the beneficial effects as
14 well. So basically it was a study on how data were
15 used to support an opinion that was basically a belief
16 and the belief effectively excluded other beliefs.

17 MR. CHRISTIE: So this knowledge and
18 training came from research in that area?

19 DR. PERSINGER: It certainly did.

20 MR. CHRISTIE: That might be useful
21 depending on subsequent argument, and we'll hear that
22 no doubt.

23 In order to avoid mistakes, could I
24 ask --

25 THE CHAIRPERSON: It's a longer one.

1 "How cognitive contemporary neuroscience can support
2 the inference that suppression of some thoughts result
3 in the suppression of a broader range of related chains
4 of thought and extrapolations in human discourse."
5 That's how I reported it.

6 MR. CHRISTIE: Sir, can you explain
7 what area of expertise you have which would enable you
8 to express opinions in this area?

9 DR. PERSINGER: Well, I published
10 relatively extensively in the area of brain function,
11 particularly quantitative EEG, consciousness, the
12 impact of the emotional behaviour and emotional stimuli
13 on brain function. In addition to that, I teach
14 advanced human neuroanatomy and neurobiology as well as
15 neuropharmacology, which gives us an approach that
16 allows us to understand which areas of the brain are
17 being activated when people hear or perceive aversive
18 stimuli, in the areas of brain that are involved when
19 they believe or try to empathize with other people's
20 beliefs. I could certainly comment on that.

21 MR. CHRISTIE: And may I ask, please,
22 your assistance, sir, in articulating what I did once
23 before in regards to 7.

24 THE CHAIRPERSON: "The cognitive
25 neuroscientific research that can demonstrate the

1 necessity for maximum freedom of verbal expression for
2 individual and societal flourishing."

3 MR. CHRISTIE: Could you explain how
4 your research or knowledge in this area could assist
5 the Member from what you have studied and what you know
6 that is more informed than the average layman might
7 have.

8 DR. PERSINGER: Well, in addition to
9 the material that I teach routinely in classes, I also
10 have very specific research on the impact and the
11 correlates of individuals who have very restricted ways
12 of seeing the world in terms of the belief and how it
13 affects their creativity. Also, how it affects their
14 logical capacity. And, in addition, I also have a
15 background in terms of trying to understand what
16 happens to creativity and imagination when individuals
17 are restricted because of the anticipation of
18 punishment.

19 MR. CHRISTIE: I see. Well, that
20 again might be useful. And what I'm going to do, sir,
21 having heard your answers to those questions, is I'm
22 going to sit down. And, subject to what the Member and
23 chairperson may say, you will probably answer some
24 questions, and then we will perhaps have a discussion
25 among the lawyers as to whether or not you're entitled

1 to express any opinions in these areas.

2 So I thank you, sir, and please
3 answer the questions from my learned friends.

4 THE WITNESS: Thank you.

5 CROSS-EXAMINATION BY MR. FOTHERGILL

6 MR. FOTHERGILL: Dr. Persinger, I
7 note that your CV is dated May of 2005.

8 DR. PERSINGER: Yes, it's updated to
9 2007, but I guess this is the --

10 MR. FOTHERGILL: It is updated to
11 2007?

12 DR. PERSINGER: Well, I certainly
13 have it on my website. I should by now.

14 MR. FOTHERGILL: That's fine.

15 DR. PERSINGER: We're required to
16 submit one every year to the administration.

17 MR. FOTHERGILL: But this is
18 essentially your current CV?

19 DR. PERSINGER: Well, there's another
20 30 or 40 publications, but essentially, yes.

21 MR. FOTHERGILL: You are currently
22 employed as Laurentian University; is that right?

23 DR. PERSINGER: That is correct.

24 MR. FOTHERGILL: And to continue the
25 point of levity, what was the subject of your

1 award-winning lecture?

2 DR. PERSINGER: It was the
3 psychotropic drugs on society and on human experience
4 in consciousness.

5 MR. FOTHERGILL: So certainly nothing
6 to do with hate messages or the Internet or anything
7 along those lines?

8 DR. PERSINGER: No, it was not.

9 MR. FOTHERGILL: It's a lengthy CV
10 and I certainly don't propose to review all of it with
11 you, but I do want to touch on some aspects essentially
12 in an attempt to focus on your core area of specialty.

13 If we look at the bottom of the first
14 page I see your Ph.D. thesis title was:

15 "Pre- and neonatal exposure to
16 cobalt 60 or 0.5Hz
17 electromagnetic fields and
18 delayed conditioned approached
19 behaviour."

20 Is that correct?

21 DR. PERSINGER: That is correct.

22 MR. FOTHERGILL: Am I right in saying
23 the impact of electromagnetic fields on psychological
24 response is an abiding area of interest for you?

25 DR. PERSINGER: That is correct.

1 Specifically, in terms of the context of contemporary
2 communication systems and the effects of environment;
3 primarily in terms of interaction with consciousness
4 and other kinds of subtle human behaviour.

5 MR. FOTHERGILL: If I can ask you to
6 look at page 2 of your CV and essentially what I would
7 like to do is look briefly at the different categories
8 and ask you to focus on your most recent and your
9 current areas of academic endeavor.

10 Let's begin then with 3.1, laboratory
11 research background. I don't want to review each one
12 of these in turn, but I want to put to you the
13 proposition that generally your laboratory research
14 background over the last 25 years or so has been
15 concerned primarily with the effect of electromagnetic
16 fields on certain neurological behaviour as one thing;
17 is that right?

18 DR. PERSINGER: That's a significant,
19 but not the only component. We look at the effects of
20 belief systems. As you'll see as well, everything from
21 delusional disorders in patients to the whole concept
22 of belief systems with respect to anomalous phenomena.
23 I mean, if anything, our general thrust is trying to
24 understand anomalous phenomenon in the context of the
25 history of science and how the human brain perceives

1 and understands these phenomenon.

2 MR. FOTHERGILL: Is it fair to say
3 that the area of research for which you are best known
4 is something called Tectonic Strain Hypothesis or
5 Tectonic Strain Theory?

6 DR. PERSINGER: I have to be a bit
7 more humble. I don't know which I'm best known for or
8 not. Tectonic strain is because of my background in
9 geophysics. Certainly perhaps we're most well-known
10 for our research in understanding the brain basis to
11 God experiences and mystical experiences.

12 MR. FOTHERGILL: Well, this is
13 essentially what I want to canvas with you. When I say
14 best known, I mean best known in the popular literature
15 and media. Because in fact you have had quite a lot of
16 publicity for your research in this area. Isn't that
17 fair to say?

18 DR. PERSINGER: As far as I know. I
19 don't follow them. But as I understand in the terms of
20 the interviews we have, it tends to be in three basic
21 areas: The tectonic strain and the idea of
22 luminosities as potential not only predictors from a
23 practical point of view of earthquakes, but also in
24 terms of how people perceive them or misperceive them.

25 The second area is --

1 MR. FOTHERGILL: If I may just stop
2 you there. How do people misperceive them?

3 DR. PERSINGER: Well, for example, a
4 ball of light will be interpreted depending upon the
5 culture.

6 MR. FOTHERGILL: And some people have
7 claimed that this is essentially the sighting of a UFO?

8 DR. PERSINGER: Some people,
9 depending. This particular culture, people may
10 attribute it to other worldly sources. If we look at
11 the same phenomenon in the last century, they attribute
12 it to odd airships, the century before that to demons.

13 So the interesting phenomenon, from
14 our perspective, is the fact that you have relatively
15 natural neutral phenomenon being interpreted depending
16 upon the belief systems of the culture.

17 MR. FOTHERGILL: Can you comment for
18 us on the God experience work you've done?

19 DR. PERSINGER: Well, effectively all
20 experiences generate by brain activity -- your ability
21 to love, your ability to remember, even your experience
22 of having a memory, even your experience of being hurt
23 or not hurt. And these are all important from a
24 society point of view. But from a more fundamental
25 point of view the belief of a god or a mystical

1 experience is often used as a rationale for excluding
2 others or marginalizing others sometimes to the point
3 of death.

4 So if all experiences from brain
5 activity, it's important to understand what areas of
6 the brain or what patterns of brain activity are
7 responsible for the god experience, and for believing
8 what you hear and attribute to a god is true.

9 So we've been studying that, and the
10 only way to study that, by the scientific method at
11 least, is with the experiment.

12 So we have asked a certain question
13 which is, if the left side of the brain involved with
14 the sense of self -- that's why people fight and die to
15 maintain culture -- is language-based. What happens
16 when you stimulate the right hemisphere? What we found
17 is most people have a feeling of a sensed presence, so
18 we began to study that.

19 MR. FOTHERGILL: All right. We don't
20 need to go terribly far into that --

21 DR. PERSINGER: Please restrict me,
22 because as a prof this is not unusual.

23 MR. FOTHERGILL: That's fine. It's my
24 fault for asking an open-ended question.

25 A certain amount of your own

1 experimental activity involves the study of rats; is
2 that right?

3 DR. PERSINGER: A small component, I
4 would say about half is rats, because remember we are
5 at big picture laboratory. We integrate from the
6 molecular to the Behavioural, anthropological, so
7 before we do anything with human beings we do rats
8 first, right.

9 MR. FOTHERGILL: Right. All right.
10 Let's move forward in your CV on page
11 3 when we look at heading "3.23 Clinical Research and
12 Practice". Again, would I be right in saying if we
13 just focus on section 1995 to present, the last 12
14 years, we see repeated references to weak magnetic
15 field stimulation, geomagnetic activity, you've also
16 got something on hypnotic susceptibility. These were
17 the clinical research and practice area in which you
18 focused over the last dozen years.

19 DR. PERSINGER: To be more accurate,
20 my primary clinical neuropsychological assessment area
21 is involved with objective assessment of individuals
22 who have closed head injuries, mild closed head
23 injuries, epilepsy, complex-partial epilepsy and in
24 terms of understanding the areas of brain that are
25 involved and the adaptation of the individual. These

1 other techniques are simply those involved with
2 treatment.

3 MR. FOTHERGILL: I'm going to move
4 now close to the end of your CV towards the end of your
5 impressive list of publications.

6 My page numbers run out around 6, so
7 unfortunately I'm going to have to ask you and other
8 participants to try to locate the final page of your
9 published works before we have the heading "In
10 Submission". And I would estimate that this is roughly
11 a dozen pages in from the back and at the top of the
12 page is:

13 "Booth, J.C. Koren, S.A. &
14 Persinger, M.A., Increased
15 feelings of the sensed
16 presence".

17 DR. PERSINGER: That's right, I have
18 it.

19 THE CHAIRPERSON: I don't have it.

20 MR. CHRISTIE: Would it be of any
21 assistance to number these so --

22 THE CHAIRPERSON: It depends how much
23 we'll be using them back and forth.

24 MR. FOTHERGILL: I don't expect to
25 refer to the CV, I don't believe, after the

1 qualification questions.

2 THE CHAIRPERSON: I found this page.
3 Booth and Persinger.

4 MR. FOTHERGILL: Again, I'm going to
5 try to move through this fairly quickly, Dr. Persinger.

6 As I reviewed the titles, I found the
7 word "magnetic field" or "geomagnetic activity" in the
8 field, second, third, fifth, sixth, seventh, ninth,
9 tenth, eleventh, articles on that page; is that right?

10 DR. PERSINGER: That's correct.

11 MR. FOTHERGILL: And the other main
12 theme seemed to be experimenting on rats with dosages
13 of lithium/pilocarpine. That appears a couple of times
14 as well.

15 DR. PERSINGER: That's the seizure
16 research, yes.

17 MR. FOTHERGILL: If we go over the
18 page, just to complete the published work, there is one
19 article on childhood sexual abuse and another one on
20 the affect of magnetic fields disrupting maze
21 performance in seized rats.

22 DR. PERSINGER: That's correct.

23 MR. FOTHERGILL: Similarly, if we
24 look at the things currently in submission, I would
25 suggest the dominant themes are experimentation on rats

1 dealing with magnetic fields, magnetic energy, that the
2 sort of thing.

3 DR. PERSINGER: Mechanical impacts.
4 Some major thrust now, look at mechanical impacts for
5 closed head injuries, that's correct.

6 MR. FOTHERGILL: Thank you. You have
7 a couple of patents; is that right?

8 DR. PERSINGER: That is correct.

9 MR. CHRISTIE: Over the next page
10 you've got one on electrotherapy device using low
11 frequency magnetic pulses. So, again, in your core
12 area of electromagnetic field -- electromagnetic
13 fields; is that correct?

14 DR. PERSINGER: That's right. I
15 mean, the critical issue here, I think to give it a
16 broader context and an important one, is we are
17 interested in these fields in terms of how they
18 influence not only consciousness or decision-making. So
19 we developed a technique that allows us to investigate
20 how subtle stimuli can influence peoples' decisions.

21 MR. FOTHERGILL: And you've also got
22 a patent for an apparatus for generating
23 electromagnetic wave forms. Is that something that is
24 colloquially referred to as the god helmet?

25 DR. PERSINGER: Actually, that's

1 called the octopus. It's called the octopus because
2 it's a different technology. It's not the god helmet.

3 MR. FOTHERGILL: I see.

4 DR. PERSINGER: The god helmet is a
5 technology that was published so, therefore, it's not
6 patterned.

7 MR. FOTHERGILL: And your clinical
8 trials, which is the next heading related to something
9 done for Neuroscience Industries in San Fransisco, and
10 in Taiwan for testing the analgesic effects of
11 something called SAM 360?

12 DR. PERSINGER: That's right.

13 MR. FOTHERGILL: And potential trials
14 beginning in Sweden, Mexico, to test the efficacy of
15 affecting brain function by transcerebral complex
16 magnetic fields.

17 DR. PERSINGER: Correct.

18 MR. FOTHERGILL: I think the last
19 aspect of your CV I want to discuss with you -- no,
20 there are two more subjects. But one I think we've
21 already touched on. Community contributions. Again, an
22 unnumbered page but we're closer to the end of the CV.

23 THE CHAIRPERSON: What appears at the
24 top?

25 MR. FOTHERGILL: Top is a broken

1 sentence beginning with the words, "...application of
2 weak complex magnetic fields." And at the bottom the
3 heading, "Community Contributions".

4 THE CHAIRPERSON: I have it.

5 MR. FOTHERGILL: And this is what I
6 alluded to earlier, Dr. Persinger.

7 If I understand correctly, this is
8 the extensive publicity you've enjoyed as a result of
9 either Tectonic Strain Theory, which is the correlation
10 between seismic activity and reported UFO sightings,
11 and the so-called god helmet where you seek to
12 replicate, if I can put it this way, spiritual
13 experience through electromagnetic fields; is that
14 right.

15 DR. PERSINGER: The third one is
16 primarily involved with the whole issue of cults and
17 the influence of cults, particularly the Ompshown Rico
18 Group (ph).

19 MR. FOTHERGILL: So that if we can
20 just leave your CV with section 8 on the following
21 page, "Current Research Projects". And I suggest that
22 the current research projects in some ways --

23 THE CHAIRPERSON: I'm sorry, where
24 are you? Okay. Next page.

25 MR. FOTHERGILL: The following page

1 under the heading "Current Research Projects". And can
2 we just agree your current research projects on the
3 whole tend to be similar to your most recent
4 publications, which is to say that it deals with the
5 effect of magnetic fields on various neurological
6 phenomena and some experimentation on rats in different
7 context?

8 DR. PERSINGER: Well -- and I would
9 say that certainly is a specific subcomponent, but a
10 larger component is the effect of neurocognitive and
11 personality changes that are associated with people
12 with temporal lobe activity both in terms of creativity
13 and larger societal context. I mean, those are simply
14 the thrust. We never leave at that. We are applying
15 it to a larger context.

16 MR. FOTHERGILL: And just a few
17 follow-up questions. I take it that you've never
18 conducted any specific research or experiments dealing
19 with people's reaction to hate messages, per se; is
20 that right?

21 DR. PERSINGER: People's reaction to
22 hate messages?

23 MR. FOTHERGILL: Yes.

24 DR. PERSINGER: Well, in terms of
25 messages that can be considered hateful, what I did was

1 a study in which I took statements about killing
2 others, because they were bad, from various kinds of
3 religious texts -- the Koran, the New Testament, the
4 Book of the Dead, both Egyptian and Tibetan, as well as
5 the Book of Mormon -- and I disguised it as statements
6 from patients, disillusional patients, and asked people
7 to evaluate how dangerous they were and how the impact
8 would be on them.

9 The other half of the group received
10 the same statements, except the sources were
11 identified. And I published that some years ago as
12 well. So certainly the whole idea of does context and
13 knowing the source of the provocative information
14 influence people's decisions. I certainly published on
15 that.

16 MR. FOTHERGILL: You never conducted
17 any sort of research or written on the subject of how
18 racial minorities experience racial epithets, for
19 example.

20 DR. PERSINGER: No, I have not
21 published that specifically, no.

22 MR. FOTHERGILL: Are you aware of any
23 work in the neurocognitive, psychological area that
24 attempts to measure that?

25 DR. PERSINGER: I understand there is

1 quite a bit of literature on understanding in general
2 how aversive stimuli or controversial stimuli or
3 people's beliefs can influence brain activity. And
4 this occurs for everyone, not just particular groups
5 but everyone.

6 MR. FOTHERGILL: My question is more
7 specific.

8 DR. PERSINGER: In terms of empathy?

9 MR. FOTHERGILL: No. I'm asking you
10 specifically whether you are aware of any literature in
11 your field of study which deals with the phenomenon of
12 how members of racial minorities experience racial
13 epithets or other racial abuse.

14 DR. PERSINGER: Well, I would have to
15 look specifically at -- without trying to be
16 circuitous, I think the critical thing is that most of
17 the literature in neurocognition right now is
18 evaluating the impact of various aversive stimuli on
19 the individual. And if it's personal, social, racial
20 or groupwise, that's simply going to reflect the
21 individual's response. Individuals respond very
22 similarly to aversive stimuli.

23 MR. FOTHERGILL: But my point is you
24 are extrapolating from the general to specific; is that
25 correct?

1 DR. PERSINGER: To my knowledge,
2 right now I have no specific text I can give you.

3 MR. FOTHERGILL: Thank you.

4 In a similar vain, you are not aware
5 of any neurocognitive psychological study about the
6 effect of hate laws. And by that I mean laws that
7 restrict hateful expression on people.

8 DR. PERSINGER: I know of no
9 literature to date that I have read recently that talks
10 about the effects of hate laws on brain function.

11 MR. FOTHERGILL: So again to the
12 extent you are going to offer us your opinion on that
13 subject, you are extrapolating from general
14 neurocognitive, psychological principles and trying to
15 project how that might be applied to the phenomenon of
16 anti-hate propaganda law?

17 MR. CHRISTIE: Excuse me. May I? He
18 won't be asked to do that. That's an argument that we
19 might advance if he's allowed to testify, and it's an
20 argument about law which we feel would be the function
21 of our responsibility.

22 THE CHAIRPERSON: But the examination
23 will be on the general aspect that Mr. Fothergill is
24 referring to. The extrapolation may occur in the legal
25 sense thereafter, but the foundation on which that

1 argument will be made will be on that level of research
2 or expertise that this expert may or may not have. All
3 right?

4 MR. FOTHERGILL: Perhaps I can finish
5 then fairly quickly. I just want to confirm that you
6 have not personally conducted any research or you're
7 not aware any studies that specifically address, from
8 an neurocognitive psychological perspective, first of
9 all, the hate laws on expression.

10 DR. PERSINGER: I haven't no, I
11 haven't done any personal research.

12 MR. FOTHERGILL: Or the effect of
13 hate laws on creativity, for example.

14 DR. PERSINGER: Certainly not hate
15 laws. I mean, we can talk about aversive effects --

16 MR. FOTHERGILL: No, no, I do want to
17 talk about hate laws because that is one of the
18 categories where I gather you are going to address us.
19 But you are not aware of any studies that deal with
20 that specifically?

21 DR. PERSINGER: Not specifically.

22 MR. FOTHERGILL: And similarly you
23 are not aware of any studies, and haven't done any
24 yourself, dealing with the effect of hate laws on
25 cognitive adaptability, for example?

1 DR. PERSINGER: Not on hate laws.

2 MR. FOTHERGILL: Thank you. Or on
3 self-esteem?

4 DR. PERSINGER: Well, in terms of
5 self-esteem I've done some research, but not
6 specifically on the effect of law.

7 MR. FOTHERGILL: Thank you. Or on
8 violent behaviour?

9 DR. PERSINGER: On what?

10 MR. FOTHERGILL: Violent behaviour.

11 DR. PERSINGER: No, I have not.

12 MR. FOTHERGILL: Now, I gather you
13 are also being tendered as an expert to address us on
14 the effect of technical advances, such as the Internet
15 on social psychology, if I can put it that way. But
16 you haven't specifically conducted any studies about
17 the effect of the Internet on social psychology; is
18 that right?

19 DR. PERSINGER: Well, certainly many
20 of my students in fourth year thesis, we look at the
21 effects of the various kinds of strategies used on the
22 Internet, but in terms of specific publications that I
23 do not have.

24 MR. FOTHERGILL: And you have no
25 particular expertise in the history of certain social

1 movements, such as Nazism in World War II?

2 DR. PERSINGER: No, but I
3 certainly -- I suggest that -- which may be helpful for
4 the setting -- is the work on TM and Cult Mania, which
5 is exactly the whole idea of something starting with a
6 cult, moving to a large institution, affecting large
7 numbers of people.

8 In addition to that, significant
9 parts of my research over the years have looked to the
10 effects of people who have restricted beliefs or
11 beliefs that inhibit thinking. But I've not studied --
12 if you are asking me specifically about the German
13 movement, no, I have not studied it or published in it.

14 MR. FOTHERGILL: Thank you. Some
15 final questions then.

16 How did you start to become
17 interested in issues surrounding hate speech, the
18 effect of hate propaganda and the effect of laws that
19 prohibit hate propaganda? Is that a recent area of
20 interest for you?

21 DR. PERSINGER: Well, actually, the
22 issue is that -- I guess I must be frank about this.

23 It started many years ago because,
24 you see, where I grew up in the United States, it was a
25 time when civics was an important class and I was

1 taught and believed that we should not reiterate the
2 conditions that brought about Nazi Germany and
3 destroyed large numbers of people. So when the Vietnam
4 war began, I saw the same operation being applied; that
5 is, genocide to effectively North Vietnam. So I came
6 to Canada looking for freedom of expression and freedom
7 of the ability to pursue what I wished.

8 And so consequently that was fine
9 until I started to realize that there was an atmosphere
10 beginning that was going to interfere with a very just
11 society, so when I read about this one particular case
12 a couple years ago I began to realize that perhaps I
13 should give back what Canada was good enough to give to
14 me, which is perhaps expertise to maintain
15 open-mindedness of this society is most well-known for.

16 MR. FOTHERGILL: So when you address
17 us on issues of free speech and unintended consequences
18 of prohibitions on certain forms of speech, I take it
19 you are essentially sharing with us your personal
20 experience simply as a citizen?

21 DR. PERSINGER: No, you asked me why
22 I got started. I'm going to be contributing in terms
23 of an expert, in terms of my research, which is the
24 effects of aversive stimuli and punishment on
25 creativity and open-mindedness and thinking. I just

1 gave you my background.

2 MR. FOTHERGILL: The expert report
3 that you prepared for this proceeding, that is your
4 first written piece on the subject of applying these
5 neurocognitive, psychological principles to the subject
6 of free speech, restrictions on free speech and hate
7 propaganda; is that right?

8 DR. PERSINGER: Primarily yes, except
9 for one letter to The National Post and that was it.

10 MR. FOTHERGILL: Have you encountered
11 some difficulties with issues of freedom of expression,
12 freedom of research, in your own academic career
13 recently?

14 DR. PERSINGER: Well, yes, indeed. I
15 would say that there is always that condition in any
16 university, yes.

17 MR. FOTHERGILL: But in particular, I
18 understand that at one point your laboratory privileges
19 were revoked because of a controversy about the
20 research you were performing; isn't that right?

21 DR. PERSINGER: No controversy.

22 MR. FOTHERGILL: Oh, no?

23 DR. PERSINGER: Not at all. The
24 issue has nothing to do with controversy. The issue
25 has to do with the university over-extended, required

1 space for the new medical school, and guess who had all
2 the space? We did.

3 MR. FOTHERGILL: Wasn't there
4 something about controversy surround your
5 experimentation of rats and protests about that?

6 DR. PERSINGER: No, there was not.

7 MR. FOTHERGILL: Nothing whatsoever?

8 DR. PERSINGER: The statement was
9 that, allegedly, we had not followed protocols but we
10 had and we shall see that is certainly the case when
11 the information is presented. But there's no -- put it
12 this way no, there's no real controversy except for
13 what the newspapers say.

14 MR. FOTHERGILL: And Laurentian
15 University is being sued by a group of students for
16 permitting you to conduct your experiments on rats?

17 DR. PERSINGER: You would have to
18 chat with the students because the students were
19 impeded from completing their own research primarily on
20 the basis of a single person that was put in charge of
21 the facility.

22 MR. FOTHERGILL: But you are aware
23 there is a lawsuit?

24 DR. PERSINGER: Oh, yes, I am.

25 MR. FOTHERGILL: Thank you.

1 You also had an issue with Laurentian
2 University about your ability to speak to the Discovery
3 television channel, did you not?

4 DR. PERSINGER: I cannot speak for
5 the administration. This was a -- Discovery Channel
6 wanted to film one of our demonstrations, same
7 demonstration we have showed to over 50 different
8 television groups over the last 10 years, and they
9 suddenly decided, incidentally after the students
10 decided to sue them, not to let them in. So I'm not
11 sure what their rationale was.

12 MR. FOTHERGILL: Thank you. Those on
13 my questions on qualification.

14 THE CHAIRPERSON: Mr. Vigna?

15 CROSS-EXAMINATION BY MR. VIGNA

16 MR. VIGNA: This present semester,
17 what course do you teach at the university?

18 DR. PERSINGER: Right now? At
19 present I'm teaching behaviour neurobiology,
20 introduction to psychology. I'm also teaching the
21 thesis course. I teach a current developments course
22 for neurosciences, and I think that's the primary one.
23 Oh, yes, clinical neuropsychology.

24 MR. VIGNA: This is at Laurentian
25 University?

1 DR. PERSINGER: That is correct.

2 MR. VIGNA: When I look at your CV
3 and your testimony, is it correct to say that your main
4 interest of study is brain functioning?

5 DR. PERSINGER: The primary interest
6 is brain function applied in both a social and
7 anthropological context, and of course understanding
8 the biomolecular basis.

9 MR. CHRISTIE: I'm sorry, I missed
10 the last term. Bio?

11 DR. PERSINGER: Biomolecular.

12 MR. VIGNA: Now, in terms of your
13 studies, I don't see anything dealing with -- I see you
14 have a BA, MA, Ph.D. These are all in what subject
15 areas?

16 DR. PERSINGER: That was 40 years
17 ago, and one develops one's capacities long before past
18 Ph.Ds and MAs and BAs. My BA was in psychology at the
19 University of Wisconsin, primarily the integration of
20 psychology and anthropology and chemistry.

21 My Masters was at the University of
22 Tennessee, which I looked to the effects of radiation
23 physiotherapy. That was the big scare at the time
24 which was thermonuclear war, as you know, and impact.

25 And my Ph.D. with the University of

1 Manitoba which is again primarily on the integration
2 between the molecular, the behavioural and, of course,
3 the cytological.

4 MR. CHRISTIE: So is it correct to
5 say that your main areas of studies and of work have
6 been basically in the sciences and in opposition to
7 social sciences.

8 DR. PERSINGER: Well, since 1971 my
9 research has been both in the physical sciences and the
10 behavioural sciences and social sciences.

11 If you look at the CV you'll see a
12 great deal of the publications and perception of motor
13 skills and psych reports have to do with the impact on
14 groups, have to do and the impact on various kinds of
15 brain functions on group perception, personal
16 perceptions, group analysis.

17 So the thrust is to try to integrate
18 brain function with all the behaviour. Of course, for
19 that, that's why we look at these big problems. We
20 don't look at the small things, we look at the bigger
21 problems. So that's been my thrust, is
22 inter-disciplinary approaches.

23 If you wanted to try and summarize
24 what I do, it's taking a problem and try to understand
25 it from the molecular to the social.

1 MR. VIGNA: But you are not a
2 socialist or a historian. You are mostly a scientific
3 person.

4 DR. PERSINGER: I'm certainly
5 scientific in approach but I certainly have written in
6 terms of impact on history and history of science.

7 MR. VIGNA: But that's not your main
8 area of interest.

9 DR. PERSINGER: My main area of
10 interest is understanding the relationship between
11 levels of discourse and how they relate to human
12 behaviour, historically as well in terms of what our
13 future is like. If you look at my work you'll see
14 that's effectively the major thrust.

15 MR. VIGNA: You mentioned about the
16 god helmet. What is that all about?

17 DR. PERSINGER: That is not my name.
18 That's a newspaper name. Basically, it's a device
19 which simulates what happens when individuals have
20 powerful, personal, mystical experiences. And what it
21 does effectively -- and remember the only -- put it
22 this way, the most power tool in the history of human
23 thought has been the scientific method and the
24 application is the experiment. And what we do is we
25 apply very weak magnetic field to imitate what the

1 brain does during these states, and it generates in
2 most people a sensed presence, a feeling of an entity
3 or something centian near by.

4 And the label the person gives and
5 how they interpret is, is a function of culture and
6 belief. So natives consider -- for example, a deceased
7 member of their culture, just people attribute it the
8 local god or deceased person. Atheists, incidentally,
9 say it's their brain. So it's really interesting. So
10 the attribution is a function of the culture.

11 MR. VIGNA: Yourself, it's correct to
12 say you've never done any clinical -- you haven't dealt
13 with the victims of hate or not dealt directly with
14 people who have been the object of hate messages or
15 hate propaganda, correct?

16 DR. PERSINGER: In terms of my
17 clinical experiences, primarily individuals who have
18 been subjugated to various kinds of traumas, subject to
19 or subsequent to a brain injury and also individuals
20 who have had unusual experiences and are called crazy
21 when they are not crazy. They've just had unusual
22 experiences.

23 So I've dealt with people in the
24 context of them being given pejorative labels. I've
25 dealt with people with individuals who have been

1 marginalized by their society but not specifically
2 individuals with hate.

3 MR. VIGNA: You said -- you mentioned
4 you sent a letter to the National Post. What was that
5 all about?

6 DR. PERSINGER: That was in response
7 to an individual receiving a prison term for basically
8 expressing his or her opinion and belief. And I was
9 simply stating that if you have a society in which
10 punitive anticipations occur with freedom of
11 expression, then there's a point where new ideas are
12 not expressed because the effects of punishment is not
13 only on the response being punished, but in a large,
14 large array of related responses. And if you want to
15 destroy creativity, bring in punishment.

16 That's why in my classroom, there is
17 no punishment. They can say anything they want. They
18 to have defend it with data, but they can say anything
19 they want. Because the minute you have subtle
20 punishment of any kind, creativity is the first
21 casualty. That was the thrust of The National Post
22 article.

23 MR. VIGNA: When people don't hand in
24 their papers on time, do they get punished for it?

25 DR. PERSINGER: They're given a

1 latency, but I'm talking about in the classroom in
2 terms of verbal expression. That, of course, is
3 outside the classroom. In the classroom, at least in
4 my classroom, they can say effectively anything they
5 want, including more colourful metaphors, but remember
6 they have to defend it with data and why they are doing
7 it. They still have a right to express it.

8 Mind you, I do get into
9 administration hassles because the administration
10 doesn't like to have expression in the classroom. But
11 in my classroom they can say anything they wish as long
12 as they have the data. That's the critical part.

13 MR. VIGNA: So they -- you are saying
14 they have to have the data, but if people say in your
15 classroom it's a multi- -- there's people from
16 different cultures?

17 DR. PERSINGER: Right.

18 MR. VIGNA: And if somebody makes a
19 comment about black people and in your class it's a --
20 different cultures are present in your classroom, will
21 you tolerate that?

22 DR. PERSINGER: The first thing --
23 let's take an example. Let's take Rushton's data, for
24 example, on the idea of differences in brain size, is a
25 function of racial groups. First question I ask, okay,

1 what is the effect size? How really big is it? Is it
2 practical? Does it have any practical application?

3 And that gives me an excellent
4 example to show normal distributions and to give a
5 quick lesson in statistics and the fact you are talking
6 about a very, very small effect and that the fact the
7 correlation between brain size and intelligence is only
8 about .4, which means really that may be there, but
9 what of its practical significance.

10 So you get to deal with controversial
11 and potentially provocative issues by showing the data
12 as opposed to saying you can't say it.

13 MR. VIGNA: But will you tolerate in
14 your class comments that will slander or insult or
15 demean people of different cultures?

16 DR. PERSINGER: If they do that, the
17 first thing that we do as a group is to say, okay, what
18 is the impact and why is the impact occurring? So in
19 other words, every situation that occurs in the
20 classroom is utilized as a way of applying a principle
21 of what the impact is on people and specifically on
22 brain function.

23 MR. VIGNA: But to be a little bit
24 less technical, I'll give you an example. One of your
25 first year students says, "Blacks should be

1 second-class citizens." Would you accept a statement
2 like that in your classroom?

3 DR. PERSINGER: In the classroom, if
4 somebody stated that I would say, give me specifically
5 your evidence for it and what is the implication, what
6 is the methodological limits, and what is the impact on
7 the people perceiving it? In other words, every
8 situation in a classroom is an example to teach and
9 help people understand the consequences of their
10 behaviour.

11 MR. VIGNA: What about the impact in
12 your classroom of people in the black community? Would
13 you consider the fact that such statements in your
14 classroom can actually affect, just the statement
15 itself, those people?

16 DR. PERSINGER: That's exactly what
17 we examine. And we say, what will make you feel bad?
18 Why would a statement such as "black" or "green" make
19 you feel bad? Why, for example, if somebody says,
20 "Psychologists are idiots, psychologists are
21 incompetent", why would, for example, feel bad?

22 And I go about showing why implicit
23 chains work, how people feel bad based on the logic and
24 language being used. I use it as a teaching tool as to
25 why and what the consequences are of those particular

1 kinds of statements. The classroom is the place to
2 educate, all right, not to demean.

3 MR. VIGNA: But you'll agree with me,
4 Dr. Persinger, in your classroom you're kind of the
5 authority and you have the control of -- not the
6 control but you have to maintain a certain decorum, a
7 certain civility in the classroom. You'll not allow
8 just about anything to be said in any form, shape, and
9 people say --

10 DR. PERSINGER: On the contrary,
11 people can say anything they wish but they have to
12 defend it and, furthermore, we look at the consequences
13 of it, on the people there as well as the context in
14 which it is stated. The classroom is a situation to
15 examine all possibilities objectively, with
16 responsibility.

17 MR. VIGNA: No further questions.

18 THE CHAIRPERSON: Mr. Kurz, will you
19 be making any questions?

20 MR. KURZ: I will, yes, Mr. Chair.

21 THE CHAIRPERSON: I would ask you not
22 to repeat --

23 MR. KURZ: I'm going to try not. I
24 want to make sure I don't.

25 CROSS-EXAMINATION BY MR. KURZ

1 MR. KURZ: Good morning.

2 DR. PERSINGER: Good morning.

3 MR. KURZ: I'm just going to take
4 over very briefly from one of your most recent
5 comments. You were talking about -- Mr. Vigna asked
6 you about what would happen if certain problems arose
7 in your class, and you say let's look to the evidence.

8 DR. PERSINGER: Right.

9 MR. KURZ: The evidence is presumably
10 the key, it's the evidence that one can muster. It's
11 not a matter of opinion, it's a matter of evidence.
12 Would you agree with me?

13 DR. PERSINGER: Well, of course if
14 you look at the data. I think -- you mean evidence by
15 data?

16 MR. KURZ: Yeah.

17 DR. PERSINGER: Sure.

18 MR. KURZ: When you were talking
19 about looking at the evidence, you mean look at the
20 data?

21 DR. PERSINGER: Yes.

22 MR. KURZ: So in terms of the
23 evidence you are giving today, what's relevant about
24 what you are going to be talking about is the data, not
25 the opinion, right? Your opinion isn't what -- isn't

1 relevant, it's the data that forms the opinion?

2 DR. PERSINGER: Well, certainly. I
3 mean, presumably one's opinion would be based upon
4 data, or some basic principle thereof.

5 MR. KURZ: So to the extent that you
6 are offering us expert opinion today, it will be based
7 on data, right?

8 DR. PERSINGER: Data both from what
9 we've collected as well as in general, I suspect, from
10 neuroscience.

11 MR. KURZ: So have you collected data
12 about the effect of hate propaganda on individuals, for
13 example?

14 DR. PERSINGER: I've looked at -- not
15 specifically what would you call hate propaganda, but
16 the effects of implicit chains, which is -- for
17 example, if -- let's take an implicit chain. Classic
18 one would be logic. All men are stupid. I am a man,
19 therefore I am stupid.

20 I mean, those are implicit chains
21 involved with logic. That I have looked at -- and
22 we've also looked at, for example, the impact of
23 innuendo and subtlety and connotation on
24 decision-making. So we've done that experimentally.

25 MR. KURZ: But you haven't looked

1 specifically at the issue of hate propaganda.

2 DR. PERSINGER: No, I have not. I
3 have not published in that.

4 MR. KURZ: Have you -- no aspect of
5 hate propaganda on its effect on individuals or on
6 cultures or society, would you agree with me? You've
7 done no research on that?

8 DR. PERSINGER: No, I've only looked
9 at the effects of negative impacts of thoughts or on
10 beliefs, these kinds of things on behaviour, but not
11 specifically on hate.

12 MR. KURZ: Prior to preparing your
13 report, did you read any reports about hate propaganda
14 other than the Cohen Commission report?

15 DR. PERSINGER: As a researcher in
16 the area of neuroscience -- I mean, we look at all
17 aspects of behaviour and, of course, I'm very much
18 interested in the influence of our species on each
19 other as well as the impact from the environment. So
20 I'm certainly familiar with the connotations and the
21 impacts of anything that influences the areas of the
22 brain that have to do with aggression and dislike or
23 attraction. So I'm familiar with that research area.

24 MR. KURZ: That wasn't my question.
25 The question was, have you looked at any research that

1 was related specifically to the effect of hate
2 propaganda of racism, of racial vilification on people.

3 DR. PERSINGER: The answer would be
4 to -- and only the extent that in my first year
5 psychology course, which I teach, we have an entire
6 section on social psychology. There's a large section
7 on hate, histories of hate, histories of minority
8 groups, these kinds of things. That I am familiar with
9 because I teach it.

10 MR. KURZ: I see. Did you, for
11 example, look at the studies that were cited in Dr.
12 Mock's report in response to yours?

13 DR. PERSINGER: Which report is that?

14 MR. KURZ: The second report.

15 DR. PERSINGER: No, I have not, I
16 haven't looked at those studies, no.

17 MR. KURZ: Those are my questions,
18 thank you.

19 MR. CHRISTIE: No re-examination.

20 THE CHAIRPERSON: So what is the
21 position now, Mr. Vigna, Mr. Fothergill, Mr. Kurz, on
22 this?

23 MR. FOTHERGILL: Mr. Hadjis, it's
24 clear the witness has an expertise and I think the
25 proper way to characterize that expertise in the

1 principles of cognitive, neurological, psychological
2 science.

3 I do not agree, with respect, that he
4 has any particular expertise in applying those
5 principles more broadly. And in that sense, I took
6 some comfort from Mr. Christie's interjection that that
7 was perhaps more a matter of argument.

8 I have no objection of Dr. Persinger
9 explaining cognitive neurological psychology, the
10 principles, the methodology and some of the general
11 cause and effect or correlative links that we can draw
12 from it.

13 I do object to him being recognized
14 as an expert in the application of those principles to
15 the matters that concern us -- specifically the
16 phenomenon of hate propaganda, in particular on the
17 Internet, where there is no expertise demonstrated
18 whatsoever -- and the effect of hate laws, anti-hate
19 propaganda laws. This is all ultimately going to be a
20 matter of argument.

21 But I really do think that the
22 questions have demonstrated that his area of expertise
23 is quite simply limited of principles of cognitive
24 neurological psychology and --

25 THE CHAIRPERSON: Are you proposing

1 that at least on the part of the Attorney General that
2 you're prepared to accept the expertise as given
3 subject to subsequent argument or that --

4 MR. FOTHERGILL: No, I'm asking he be
5 recognized as an expert only in that limited area.

6 THE CHAIRPERSON: In the area of?

7 MR. FOTHERGILL: In the area of his
8 recognized field of study, and then of course he can
9 offer his opinion about application. But I don't think
10 it's been demonstrated that he has any particular
11 expertise in applying those principles to the issues
12 that concern us; namely, hate propaganda, the effect of
13 hate propaganda laws, the effect of Internet on
14 society, the extent to which hate propaganda may have
15 influenced destructive social movements historically.

16 All of these things, with the
17 greatest respect to Dr. Persinger, are clearly beyond
18 his expertise, although I can understand that some of
19 his principles of cognitive neurological psychology
20 might provide an interesting basis for discussion and
21 argument.

22 THE CHAIRPERSON: And extrapolation.

23 MR. FOTHERGILL: Possibly, yes. But
24 this is not something that he's even done in his
25 published works or his studies. This is a new-found

1 application of what his undoubted area of expertise to
2 the issues of concern us.

3 THE CHAIRPERSON: Mr. Vigna, do you
4 share the views of Mr. Fothergill?

5 MR. VIGNA: I totally share his
6 views, and I just wanted to mention in terms of the
7 hate propaganda and effects of hate laws, there seems
8 to be a lack in terms of evidence, in terms of those
9 elements that have been put forth to you in those areas
10 of expertise.

11 I'm not contesting in any way, shape
12 or form that he's an expert in neurocognitive
13 psychology. But to the extent he expresses views on
14 hate propaganda and the effects of hate laws, I think
15 it should be limited because it always comes down to
16 the fact he's an expert in a certain area, and that's
17 not necessarily hate propaganda and hate laws.

18 THE CHAIRPERSON: From which it can
19 be argued that then extrapolations can be made. It can
20 be argued.

21 MR. VIGNA: It can be argued, but
22 there has to be limits as to what can be considered.

23 THE CHAIRPERSON: Similar?

24 MR. KURZ: Similar. I'll just make
25 one or two additional points.

1 When you look to the issue of what is
2 an expert. What is an expert supposed to offer to you
3 as a Tribunal? The notion of the expert is not to give
4 you a popular opinion, is not to provide you with
5 simply their opinion.

6 When you talk about the
7 extrapolation, I agree with the point, if I understand
8 it, which is that Dr. Persinger can give you expert
9 evidence with regard to aspects of neuropsychology in
10 which he is an undoubted expert.

11 But it's not for him to tie up the
12 ribbon without his expertise. He can only speak and
13 opine to the extent of his expertise, and then it's for
14 you, Mr. Chair, as the trier of fact, to draw the
15 inferences.

16 If Dr. Persinger had expertise with
17 regard to the particular areas that he wanted to opine
18 on beyond neuropsychological precepts, if he had done
19 research or if he had done enough extensive reading on
20 hate propaganda, then perhaps he could take it a bit
21 further.

22 But what he could do is to offer you
23 neuropsychological pretext -- concepts that would be
24 outside of your ordinary knowledge and that you, in
25 particular, because you are the Chair of an expert

1 tribunal, that is a tribunal with expertise in human
2 rights law, can take his neuropsychological principles
3 and extrapolate on your own, because the whole point of
4 the expert is to tell you what you don't know.

5 Once he tells you with regard to
6 neuropsychological principles that testing showed that
7 punishment had certain effects, and what have you, you
8 can take it from that and perhaps say, you know what,
9 there should never be any punishment, or what have you.

10 THE CHAIRPERSON: I understand.

11 MR. KURZ: That, in my respectful
12 submission, is as far as it should go. Anything else
13 is like his letter to the National Post. It's his
14 opinion but it's no more valuable to you as expert
15 evidence than my opinion or anyone else's.

16 Thank you.

17 THE CHAIRPERSON: Pick your
18 microphone, sir.

19 MR. CHRISTIE: It would be wrong for
20 Dr. Persinger to give his opinion on the ultimate
21 issue, which is the effect of hate laws, upon --

22 THE CHAIRPERSON: Not necessarily be
23 wrong. Authorities say that it's permissible, it just
24 of little assistance to the trier.

25 MR. CHRISTIE: I hope some of the

1 comments and principles expressed by my learned friends
2 will be considered when you're analyzing the opinion,
3 for example, of Dr. Mock. Because some of the
4 principles they have expressed I agree with.

5 What troubles me is, I don't know
6 precisely what they mean in regard to the seven areas
7 that I tried --

8 THE CHAIRPERSON: I have them
9 separated. So it's interesting, they were speaking --
10 but my thoughts would also be prepared as I looked at
11 the seven. You should all understand what I've done
12 here.

13 Because I am very technically aware,
14 advanced, in my usage of the computer. I've separated
15 the seven. I keep them always at the top of my
16 computer screen so at all times I'm aware of what the
17 expertise is. That's why I was able to refer to Dr.
18 Mock's expertise repeatedly yesterday.

19 So I'm looking at the seven and I
20 note certainly the last two, the ones that deal with --

21 So 6 and 7:

22 "How cognitive contemporary
23 neuroscience can support the
24 inference that suppression of
25 some thoughts result in the

1 suppression of a broad range of
2 related chains of thought and
3 extrapolations in human
4 discourse."

5 It's clear that he has that
6 expertise, in my view.

7 "The cognitive neuroscientific
8 research that can demonstrate
9 the necessity for maximum
10 freedom of verbal expression for
11 individual and societal
12 flourishing."

13 There's perhaps some leeway there but
14 I think there's some indication of the behavioural
15 research.

16 Now, to counter that, however, the
17 first one that you've listed here is a very broad one.
18 I don't know if you recall it:

19 "The effects of hate expressive
20 opinions on the Internet."

21 I mean, I have some difficulty with
22 that given the fact that he has virtually no research
23 with regard to the issue of hate in itself, whereas I
24 could see that the expertise in the first two -- are
25 the latter of the items -- may allow, enable to trier

1 to draw the inferences with regard to number one. Do
2 you wish to perhaps massage this --

3 MR. CHRISTIE: I think it would be --
4 I don't mean to massage, but I was going to explain how
5 I was going to develop that, and that was with
6 hypothetical questions.

7 I don't expect the witness to either
8 know or be qualified in the issue of the Net. But if I
9 was to say, for example, and a question such as this:
10 Sir, if I were to give you a scenario where an
11 individual in any part of society could pick or choose
12 from millions upon millions upon millions of sources
13 and select a source and have access to all other
14 sources, so you might say -- I'm paraphrasing what I
15 would call the Internet, as a matter of hypothetical
16 fact -- what effect do you as an expert say would that
17 have on their perception of the truth, falsity, value
18 or belief, credibility of that source? Now --

19 THE CHAIRPERSON: That may fall
20 within one of those other categories but --

21 MR. CHRISTIE: I don't think I
22 expressed that very well, because it seemed to me --

23 THE CHAIRPERSON: Look, let's put it
24 this way: There is a record being developed here. I
25 think for the record, it's difficult for me with the

1 evidence that this witness has given for me to
2 correlate anything regarding the Internet or hate per
3 se with his expertise.

4 MR. CHRISTIE: I agree.

5 THE CHAIRPERSON: And the usage of
6 that language in some of these seven items that you've
7 listed to me, I think -- I don't want to -- it's like a
8 bit of a red flag. It stands out because by his own
9 acknowledgement he is not an expert in those areas.

10 MR. CHRISTIE: I accept that.

11 THE CHAIRPERSON: As I say, his
12 expertise in psychology and I know -- mis-stated --
13 neuroscientific research and cognitive -- all of that.

14 MR. CHRISTIE: Contemporary cognitive
15 neuroscience.

16 THE CHAIRPERSON: Half of these words
17 are Greek, so I should be able to manage them better.

18 The best way to approach this is to
19 just go item by item. It seems to me the first two
20 items, per se, fall out of his expertise.

21 Certainly the third could be
22 addressed, the state of psychological research before
23 and after the Kaufman report. He's a psychologist. He
24 can draw upon what research is out there, just in the
25 same way Dr. Mock did.

1 Now, strategies put forward by Dr.
2 Mock for combatting hate on the Internet. Perhaps that
3 need not be raised. If those strategies relate to the
4 disciplines of which he's an expert, he can certainly
5 address them. I don't know if we have to put them as
6 part of his expertise. It's interesting we would the
7 name Dr. Mock as part of a person's expertise.

8 Again, the psychological impact of
9 hate propaganda on society. That may again, it has
10 that red flag in it, which perhaps he is able to
11 address just in virtue of item 6 and 7 and 3; the
12 research that he as reviewed, both old and new, post
13 and pre-Kaufman.

14 MR. CHRISTIE: I'm happy to accept
15 those limitations and accept also the fact if I stray,
16 as I may, from any appropriate question there will be
17 objections and they will be dealt with.

18 THE CHAIRPERSON: Everyone knows the
19 latitude I've given. I'm putting some restrictions in
20 here and I understand both arguments that have been put
21 forth today and they will be repeated at the end.

22 Of course, they can be applied to any
23 of the experts. You made that point earlier, Mr.
24 Christie. We will cite the expertise of a number of
25 experts, at the end if you feel they exceeded the

1 limits, that ultimately the decision rests with the
2 trier on some of the inferences that need to be drawn,
3 that's fine. That's exactly how it's supposed to work.

4 To repeat, then, in my view items 3,
5 6 and 7 are the appropriate areas.

6 Having said, as I indicated earlier,
7 that item 4, the one with regard to Dr. Mock, may be
8 addressed just as an outgrowth -- all of them for that
9 matter -- may be addressed as an outgrowth of what is
10 clearly his expertise. I'll repeat that for the
11 record, then as I see it:

12 "The state of psychological
13 research before and after the
14 Kaufman report."

15 And then:

16 "How cognitive contemporary
17 neuroscience can support the
18 inference that suppression of
19 some thoughts result in a
20 suppression of a broader range
21 of related chains of thought and
22 extrapolations in human
23 discourse."

24 And the third item here, but what was
25 originally number 7:

1 "The cognitive neuroscientific
2 research that can demonstrate
3 the necessity for maximum
4 freedom of verbal expression for
5 individual and societal
6 flourishing."

7 MR. CHRISTIE: I'll follow that as
8 faithfully as I'm able, within my belief system.

9 THE CHAIRPERSON: Just give me a
10 moment to take a note here.

11 --- Discussion off the record

12 EXAMINATION-IN-CHIEF BY MR. CHRISTIE (Cont'd)

13 MR. CHRISTIE: You've heard the
14 directions of the Chair, Dr. Persinger, and I trust
15 that understand them?

16 DR. PERSINGER: Yes, I do, sir.

17 MR. CHRISTIE: Let us, then, if we
18 may, deal first with the area of contemporary cognitive
19 neuroscience in support of the inference, if there is
20 any, support of the inference that suppression of some
21 thoughts result in suppression of a broader range of
22 related chains of thought and extrapolation on human
23 discourse.

24 I believe, sir, you've read and I
25 take it you adopt the report you provided which

1 consists of nine pages of text; is that right, sir?

2 DR. PERSINGER: That is correct.

3 MR. CHRISTIE: And I take it you
4 stand behind it and are ready to answer questions about
5 it if need be?

6 DR. PERSINGER: Yes, I am, thank you.

7 MR. CHRISTIE: So I won't repeat it
8 or go through it except perhaps later to explain or ask
9 you to explain some -- ask you to explain some of the
10 somewhat technical language and see about the question
11 of footnotes. But that I'll leave for the moment.

12 Could you explain, sir, what
13 cognitive neuroscience has given us by the way of
14 research, either of your own or of other research that
15 you consider credible in the field that supports the
16 influence that restricting or punishing some thoughts
17 result in the suppression of a broader range of
18 thoughts? Could you do that, sir?

19 DR. PERSINGER: Yes. In general, in
20 terms of the behavioural level, anything that involves
21 punishment or the anticipation of punishment usually
22 produces something known as response generalization
23 effects, in the sense that not only is the response
24 that's punished not likely to occur again, but you
25 affect other unrelated responses and the propensity to

1 respond again.

2 And the creativity, that is the idea
3 of having new combinations of behaviours, is markedly
4 lessened in a punitive setting. I'm not saying the
5 person is punished. It's the anticipation of
6 punishment. It may be simply the observation that
7 others are punished.

8 Now, the first thing that's affected
9 is thought, and, of course, thought indirectly through
10 verbal expression. And when we look at the brain, the
11 areas of the brain that are involved, what we find is
12 that creativity and the ability to integrate new ideas
13 and to adapt involves mostly frontal lobe function.
14 And that is the first area of the brain that's
15 adversely affected by punishment, specifically the
16 anticipation of punishment.

17 MR. CHRISTIE: What are the
18 psychological effects you've been able to study and
19 observe of punishment, or the anticipation of
20 punishment, on the function of the frontal lobes?

21 DR. PERSINGER: Well, both in terms
22 of animal research and human research, punishment tends
23 to make behaviour stereotyped, or stereotypy.
24 Punishment tends to narrow the thought, it tends to
25 increase anxiety about anticipating more punishment,

1 and as a result versatility, acceptance, general
2 abilities to solve complex problems are reduced. So
3 punishment tends to interfere with adaptability, that
4 is creative adaptability, both in humans and other
5 animals as well.

6 MR. CHRISTIE: Specifically looking
7 at punishment or anticipation of punishment for verbal
8 expression. What effect do you believe and you have
9 reason to believe as an expert that has on spontaneity?

10 DR. PERSINGER: Well, certainly we
11 know that anticipations of punishment, which is
12 basically anxiety. So if you anticipate a negative
13 stimulus, that's apprehension or anxiety. And the most
14 typical effect is called conditioned suppression, which
15 means the individuals tend to be repetitive. They tend
16 not to be creative and they tend not to ask challenging
17 questions in a classroom setting, where we studied it
18 most frequently. That's why it's very important to be
19 open and not criticize individuals for any kind of
20 comment because implicitly that's anticipation of
21 punishment.

22 So basically what it does, if you
23 apply punishment and anxiety, it interferes with
24 people's ability to verbally express what they really
25 think. But, moreover, it really interferes with the

1 ability to organize thoughts in a different and novel
2 way, which is very important for scientific discovery.

3 MR. CHRISTIE: How about the ability
4 to reason and analyze, analytical thinking? Is that a
5 function of the frontal lobes?

6 DR. PERSINGER: Certainly the frontal
7 lobes are involved with the ability to anticipate, to
8 self-monitor, extrapolate, to be aware of the self.
9 And anxiety would certainly interfere with the ability
10 to extrapolate creatively.

11 In addition to that, punishment tends
12 to -- or anticipation of punishment, particularly
13 anticipation of it, tends to restrict what people will
14 ask both in the classroom and also in terms of their
15 own thoughts. We know that anxiety tends to reduce
16 people's versatility for not only monitoring their own
17 behaviour, but also for being very creative in terms of
18 the solutions.

19 MR. CHRISTIE: In any of your
20 research have you considered or could you assist us by
21 describing the relationship of a wide variety of
22 options? For example -- and I'm going to, of course,
23 try, if I may, to paraphrase the situation that might
24 exist if one was confronted with the Internet, with
25 millions upon millions upon millions of options of

1 opinion.

2 In that state, is there any
3 psychological research you are aware of that would
4 assist us to know what is the effect of the selection
5 of a particular point of view on the likelihood that
6 would be adopted or believed?

7 DR. PERSINGER: Well, in terms of
8 belief systems -- and belief is a powerful phenomenon,
9 we've been studying it for a long time -- usually
10 people will read things which are congruent with their
11 belief systems. But in addition to that, it depends on
12 how much information that is being presented. If
13 people are inundated with lots of information, then
14 what you will find is that they will tend to select
15 concepts or ideas that are congruent with their
16 interests and their beliefs. And what we found is one
17 of the best means of equipping the observer, and this
18 is usually the student, dealing with multiple
19 information is education. To challenge, to teach the
20 person to challenge the contention with data and with
21 rational evaluation.

22 Now, that is interfered with if the
23 person is anxious. So the first casualty of too much
24 punishment, too much apprehension, is not only
25 open-mindedness, but also the ability to use rational

1 thinking in an effective way.

2 MR. CHRISTIE: I was interested in
3 your experimentation with the presentation of ideas.
4 You mentioned, in one case, from the Koran or from
5 maybe the Book of Mormon or from the New Testament
6 about killing. And the test you used to measure the
7 reaction of people to the statement, if it was given by
8 someone in authority to someone who is unidentified as
9 to authority.

10 DR. PERSINGER: Right.

11 MR. CHRISTIE: What did you find was
12 the level of credibility given to a statement when the
13 statement comes from an unsanctified or unrecognized
14 source?

15 DR. PERSINGER: Well, if I may
16 preface the reason for that experiment. What we had
17 found, and I've given this inventory for about 25 years
18 now, is called the personal philosophy inventory.

19 What we found was that 7 percent of
20 university students said they would kill in God's name
21 if they thought God told him too.

22 If the individual had a temporal lobe
23 lability and attended regular religious services and
24 was male, the percentage went up to about 35, 40
25 percent that say they would kill in God's name. Well,

1 that's pretty disturbing particularly if it's
2 university students.

3 So -- and incidentally it was
4 irrelevant of religion in terms of the -- this was a
5 general feature of human responses.

6 So the idea was to design experiments
7 to see the degree to which credibility would be given
8 based upon perceived sources. So that's that study.

9 So what we found is that in terms of
10 the people's perception of how good it was, that if
11 they were given objective data, the statements about
12 killing and -- because it's God or -- in the sense of
13 the delusional patients, this was given as a
14 delusional -- several delusional patients talking, and
15 these extracts were taken from the Koran or whatever.

16 In this instance, people would rank
17 them, being this is really, really dangerous, don't let
18 this person out. But the minute the source was given,
19 dangerousness was actually reduced from the perception
20 of the recipient, so the people participating, and they
21 said it was fine because it was an accepted source.

22 So in other words, perception is
23 often based upon how people are trained and what they
24 consider to be politically correct or not correct.

25 MR. CHRISTIE: So let me extrapolate

1 from that. If I were to give you a situation where an
2 ordinary, perhaps vulnerable person, naive person, was
3 confronted with a statement from a source that was
4 condemned generally by society, the authorities
5 referred to it as a hate site or a group of people who
6 were discredited, shall we say. And I was to give you
7 the same statement from a source that was sanctified by
8 society or approved by society, the same statement,
9 which from the result of your research, would the
10 recipient be more likely to believe and accept?

11 DR. PERSINGER: Well, first of all,
12 you have to look at the personality, and there are
13 tremendous personality differences. That's the beauty
14 of our species, we are quite versatile.

15 It would depend on the individual
16 actually. But certainly in our society we are driven
17 so much by peer pressure that it's very likely that the
18 individuals would take anything that's negative,
19 particularly would be considered I think with greater
20 significance by the typical average recipient. Usually
21 credibility is based on perceived social potency or
22 potency.

23 MR. CHRISTIE: Is that appropriate to
24 use the word acceptability?

25 DR. PERSINGER: Or acceptability,

1 yeah.

2 MR. CHRISTIE: Like, it's acceptable
3 to wear a shirt and tie, but if I were to come in here
4 in shorts and a T-shirt, it would not be acceptable.
5 So more likely, most people would conform with what's
6 acceptable?

7 DR. PERSINGER: Oh, peer criterion
8 would be critical, absolutely. Now, in this situation
9 coming in with shorts would probably not be
10 appropriate, but in a first year psych class that would
11 probably be quite acceptable.

12 MR. CHRISTIE: I haven't been there
13 but -- anyway.

14 I'll leave that area for the moment.
15 What I'm interested is in the concept of the
16 suppression of a broader range of related chains of
17 thought or extrapolation.

18 How broad a range of thought are we
19 able to determine is affected by the apprehension of
20 punishment? Have we been able to determine how broad a
21 range of thought is thereby affected?

22 DR. PERSINGER: Well, the
23 experimental data, which is primarily both the human
24 beings and with rodents, suggest it's much broader than
25 people suspect.

1 For example, let me give you an
2 canine specificity. If, for example, you are training
3 an animal to jump over a stick and it doesn't jump over
4 the stick but it goes under it and you kick it, you
5 punish it. Not only does it punish the behaviour of
6 going under the stick, but the animal may not come to
7 you any more and may show all kinds of behaviours which
8 are typical apprehension of punishment, that's called
9 anxiety, and show what we call conditioned suppression
10 of all other kinds of behaviour, including interactions
11 with other dogs.

12 This is an example I give in first
13 year psych very often. And what you find with
14 punishment is that not only is the response's
15 punishment affected, but anything related to it:
16 Related thoughts, related combinations, the ability to
17 combine thoughts in new ways. These will also be
18 decreased. They won't be eliminated but they will be
19 decreased.

20 That's why you find that very often
21 if we're talking about creativity in the classroom, and
22 creativity in research, it's very important to have an
23 open, non-punitive -- not even a hint of punitive
24 environment in order to allow creativity to continue.

25 MR. CHRISTIE: Is there any

1 relationship you've experienced or studied in relation
2 to the imperical study of a relationship between -- I'm
3 sorry for the verbal confusion -- apprehension and
4 depression.

5 DR. PERSINGER: Apprehension and
6 depression often go hand-in-hand. Usually
7 depression -- and there's lots of different kinds of
8 depression -- usually involve decrease in metabolic
9 activity in the frontal lobes, left frontal region in
10 particular. And of course the minute the frontal lobes
11 are no longer functioning adequately, for whatever
12 reason, anxiety occurs. So anxiety and depression
13 often go together.

14 MR. CHRISTIE: And the apprehension
15 of punishment, or punishment, for verbal behaviour,
16 would it be affected by the severity of that
17 punishment?

18 DR. PERSINGER: Actually, interesting
19 feature about anxiety, or apprehension, is it doesn't
20 require much punitive stimuli to be affected. In other
21 words, a study was once done looking at the ACTH levels
22 which are adrenocorticotropic hormone, which is a
23 stress hormone.

24 And what they found is that if the
25 person's exposed to a punitive stimulus, you get an

1 elevation of the stress hormone. But if they
2 anticipate something will happen, that actually
3 produces a much more elevated response even though they
4 haven't even received it.

5 So the anticipation of something -- I
6 think Roosevelt once said, "The only thing to fear is
7 fear itself". What he's talking about is an anxiety,
8 to anticipate something.

9 That is much, much more powerful in
10 terms of inhibiting creativity, inhibiting interactions
11 with others, and also simply inhibiting the capacity to
12 think clearly.

13 MR. CHRISTIE: So if I draw a line
14 about verbal communication but it's very obscure -- it
15 could be here, it could there, it could be dislike --
16 but if it goes over into intense dislike then I've
17 reached the line. What affect would that have on
18 anxiety when I don't know where that line is?

19 DR. PERSINGER: Well, there is
20 nothing more enhancing for anxiety. There's nothing
21 more facilitatory to anxiety than ambiguity.

22 Ambiguity makes anxiety even worse,
23 and it interferes with creativity even worse. Within
24 today's classroom, for example, the ambiguity of what
25 to cover in a text or cover in the lecture among many

1 of my colleagues is such -- and I'm talking about
2 dozens of colleagues -- is such that the typical
3 response is simply not to cover certain topics.

4 So simply anxiety itself and the
5 anticipation of something as small as a reprimand from
6 a dean, is sufficient to often eliminate entire topics
7 of discussion which can be quite fruitful for the
8 developing mind.

9 MR. CHRISTIE: For instance, my
10 learned friends brought up the subject, I think,
11 example of Philippe Rushton. The minute that comes up
12 in discussion is it controversial, from your
13 experience?

14 DR. PERSINGER: Without a doubt. In
15 fact, I've been told by certain administrators not even
16 to cover it in the classroom. But the whole point is
17 that the issue of Rushton has little to do with -- from
18 the science point of view his approach is basically the
19 adaptation of groups and small effects of population
20 ecology.

21 And if one wants to maintain
22 open-mindedness in an academic setting, such as
23 university, you have to evaluate all concepts
24 objectively through the scientific method. Oh, yes,
25 that is very controversial, but I cover it to point out

1 to people that these effects are very, very small and
2 have little to do with the effects on the individual.
3 You cannot apply such small concepts to the individual.

4 MR. CHRISTIE: For example, that
5 particular professor and his theories or his research,
6 can you comment on the effect of apprehension about
7 that on communication, for example, in the university
8 setting?

9 DR. PERSINGER: Well, certainly I can
10 comment about the classrooms. Many of my colleagues
11 won't even talk about it. In fact, when I asked a dean
12 of my section many years ago to read the data, just
13 look at the reports, and these were both on gender
14 differences as well as strain differences which we call
15 race differences, they won't even read it. They refuse
16 to read it. I said, how can you make an objective
17 evaluation using the scientific method unless you read
18 it?

19 So that's the kind of atmosphere. And
20 when you have sort of controversial topics the only way
21 to evaluate them is to have an open forum with no
22 anxiety so you can apply the scientific method
23 objectively.

24 MR. CHRISTIE: We're here discussing
25 what is demonstrably justifiable in a free and

1 democratic society. And I'm not going to ask you to
2 comment on that. That's something that we can all have
3 opinions on.

4 But what I'm asking, in regard to the
5 range of thoughts which might center on the subject of
6 race, which is controversial perhaps, or religious or
7 sexual orientation, is there any way of knowing what
8 range of thoughts on those subjects would be affected
9 and restricted by virtue of a law or a rule -- let's
10 say a rule that you will be punished if you expose a
11 person based on those categories to hatred, contempt or
12 even ridicule.

13 Now, let's just deal with the concept
14 of potential punishment for exposing a person in a
15 group identified by race, religion or ethnic origin to
16 hatred, contempt or ridicule. Do you, as a
17 psychologist, have a view as to the degree of ambiguity
18 connected with those words?

19 MR. KURZ: I'm sorry, I hoped not
20 to -- Mr. Chair, doesn't this come very close to
21 what -- the punishment part is great, but Mr. Christie
22 has brought explicitly in the issue of the hate laws
23 and the effect of punishment on hate laws when there's
24 no expertise, no studies, no nothing.

25 MR. CHRISTIE: I didn't bring in the

1 hate laws. I brought in the terms.

2 MR. KURZ: The terms of the hate
3 laws --

4 MR. CHRISTIE: No, no.

5 MR. KURZ: -- without making
6 reference to one particular section or another. It's
7 the back door behind your ruling, in my respectful
8 submission, and I'm --

9 THE CHAIRPERSON: Doesn't it go to
10 the ultimate issue?

11 MR. CHRISTIE: No, I want him to
12 define what is an ambiguous term in terms of
13 psychological perception.

14 THE CHAIRPERSON: We'll just ask the
15 question that way.

16 MR. CHRISTIE: I'll ask it that way.
17 That's what I'm trying to get at.

18 THE CHAIRPERSON: It's helpful to
19 avoid the red flags, or red drapes.

20 MR. CHRISTIE: I've never been fond
21 of red flags. Perhaps maybe several colours for that
22 matter. Not necessarily the whole rainbow but -- okay.

23 Sir, in terms of the concept of
24 ambiguity in language -- and I'm not asking you to be
25 an expert in language here. But say I was to give you

1 a word such as ridicule, and I say if you expose anyone
2 in this room to ridicule you'll be punished. Could you
3 give us an indication from your research what the
4 likely effect on anxiety and the range of expression
5 that would be affected?

6 DR. PERSINGER: Well, first of all,
7 you would have to look at the stimulus, and the
8 stimulus would be ridicule and the degree to which it's
9 associated with aversive association. So if you're the
10 professor, for example, or the student, and the term
11 ridicule is associated with implicitly punishment, or
12 something equivalent, then that would have a
13 restrictive effect on your free operant behaviour, your
14 verbal behaviour, quite significantly.

15 And I think it's important to look at
16 this in a historical context. The history of science
17 is very clear. You can never predict what's going to
18 be significant, what is considered foreboding, what is
19 considered forbidden, what is considered taboo in one
20 culture at one time may be the source for massive
21 discoveries in the next.

22 And so when you have an anxiety
23 environment you restrict very significantly the degrees
24 of freedom of this fantastic tool we call human
25 thought.

1 MR. CHRISTIE: Does culture play a
2 part in the perception of anxiety from your clinical
3 and professional knowledge?

4 DR. PERSINGER: Yes, indeed. In
5 fact, I've been involved with multiple settings and
6 meetings involved with the issues of what culture does
7 to how we perceive something as being negative or
8 positive. The label culture gives to a word, the label
9 culture gives to a behaviour, certainly determines how
10 the person perceives it.

11 MR. CHRISTIE: Is the term hate a
12 term that can be precisely defined in the subjective
13 perception of anyone?

14 DR. PERSINGER: Well, that situation
15 I have to do an experiment, but I can rely upon my
16 colleagues who have, such as Dr. Whistle(ph) to deals
17 with the affective dimensions of words.

18 Hate will be a subjective experience
19 for many and if somebody comes into a room and says
20 you've been hateful, and this is a hate situation, and
21 hate is associated with the possibility of retribution
22 from societal criteria. That would certainly produce
23 condition suppression and certainly interfere with what
24 the person might say or would say.

25 MR. CHRISTIE: Can we predict either

1 objectively or in any way what would be suppressed,
2 what level of speech and expression would be
3 suppressed?

4 DR. PERSINGER: That we can in terms
5 of the imperical evidence. Usually the more subtle,
6 the more fragile, the more innovative ideas are the
7 ones that are most and first suppressed by any hint of
8 anxiety.

9 So in other words, the essence of
10 creativity, which is subtlst, dream-like, if you look
11 at creativity, which we have been over the years, that
12 is so fragile that it can be totally basically
13 destroyed by even the hint of apprehension.

14 MR. CHRISTIE: Now, we've been
15 allowed to explore with you the area of cognitive
16 neuroscience and the degree to which it can demonstrate
17 the necessity for maximum freedom of verbal expression
18 for individual and societal flourishing.

19 Those are pretty broad concepts, but
20 I would like to ask you to explain in relation to your
21 training and knowledge how cognitive neuroscience today
22 has given an indication, if any, of the necessity for
23 maximum freedom of verbal communication or expression.

24 DR. PERSINGER: Well, one of the
25 important features about expression, and if -- I think

1 I should make it clear that understanding involves one
2 area of the brain, particularly the temporal lobe, but
3 the ability to organize and to believe and to solve
4 problems is really more frontal. That's 44 percent of
5 our cerebral capacity basically, the great ravelled
6 knot.

7 And in order to have maximum
8 creativity and productivity, anxiety has to be minimal.
9 Not gone, but minimal. And when you have minimal
10 anxiety and maximum opportunity, then what the human
11 frontal lobe does very effectively is it sees
12 connections between things that typically have never
13 seen before and allows us to adapt so effectively.
14 That is what creativity is.

15 So effectively anxiety being
16 minimized, no anticipation of punishment within reason.
17 You'll find that creativity is certainly maximized.

18 MR. CHRISTIE: What part does the
19 capacity to hear and consider a variety of thoughts
20 opinions, beliefs and ideas have on creativity?

21 DR. PERSINGER: Well, in some of our
22 experiments, and also other experts by other people,
23 the minute in a free operant setting, which means you
24 are talking freely, you set certain boundaries saying
25 that this cannot be said or you will be punished, or

1 that cannot be said or you'll be punished. You'll find
2 that three things take place: One, there's a decrease
3 in verbal fluency; secondly, there's a decrease in
4 confidence in the speaker; and third, there is actually
5 less exploration of possible solutions to a problem.
6 So that is typically what happens.

7 MR. CHRISTIE: In regard to societal
8 flourishing, what does that got to do with cognitive
9 neuroscience today?

10 DR. PERSINGER: Well, we're living
11 from a species point of view, in certainly more
12 challenging times. And in order to be adaptive we have
13 to use all of our potential in terms of brain function,
14 and that requires maximum creativity, maximum
15 adaptability and maximum freedom of expression, because
16 freedom of expression gives ideas to others. It allows
17 you to adapt. It allows to put new ideas together and
18 old ideas together in different ways.

19 So the freedom of expression, and
20 indeed allowing our frontal lobes to do what they do
21 best, is essential for us to flourish as a society, and
22 the more complex the problems become, which they are,
23 the most verbal expression, free expression has to take
24 place. Because the first thing that suffers with
25 anxiety and verbal suppression, verbal repression, is

1 you lose your ability to solve complex problems.

2 Let me give you an example. If you
3 take an experimental task where you have multiple
4 solutions and they are complicated solutions, and you
5 make the situation anxious by anticipating punishment,
6 human beings no longer use their intuition, they no
7 longer use their creativity to solve the problem. What
8 they do is they become zero one. They become very much
9 all-or-none responded, what we call restricted --

10 MR. CHRISTIE: I didn't --
11 under-responded?

12 DR. PERSINGER: All-or-none,
13 all-or-none responding. In anxiety situations when
14 they have all of these complexities that they could use
15 to solve the problem, instead they use a zero one
16 solution. It's called a bull solution. They use
17 force, they use power. They don't use their mentality.
18 Anxiety, in anticipation of punishment, does that
19 frequently. These experiments go back 30 or 40 years.

20 MR. CHRISTIE: What part do frontal
21 lobes play in judgment? I have a variety of phrases,
22 words or things to say and I have to pick and choose
23 between them. What part do the frontal lobes play in
24 that process?

25 DR. PERSINGER: Well, there's a

1 myriad of imaging studies that indicate the frontal
2 lobes are absolutely essential for the kinds of things
3 you select.

4 To clarify, the brain is always
5 inhibiting. If the brain was not inhibiting all the
6 time, you would be thinking about everything you've
7 experienced and probably engaging in any behaviour you
8 could. So the brain is, by its nature, inhibitory and
9 what we do, what the brain does, when you think about
10 something, it inhibits the inhibition and you get
11 excitation.

12 So that allows us to specifically
13 select various ideas and to self-monitor. If you
14 interfere with that subtle process, and anxiety or the
15 anticipation of punishment will do that, then your
16 ability to be versatile is remarkably reduced.

17 MR. CHRISTIE: We're talking here,
18 sir, about words, what we should and shouldn't be
19 allowed to say. And I only say that to explain why I'm
20 asking that question. What part does the frontal lobe
21 play in the selection of words?

22 DR. PERSINGER: Well, it's very
23 important because one of the tests of verbal fluency
24 could be, for example, to say think of every word that
25 begins with the letter "F" or "A" or "S". That's a

1 classic neuropsychology procedure, and it's a frontal
2 lobe indicator. So it's very important for selecting
3 words.

4 MR. CHRISTIE: When you express --
5 I'm sorry.

6 DR. PERSINGER: But in terms of the
7 emotions of it, that involves an area of frontal lobe,
8 the orbital frontal region, which gives the emotional
9 significance. So you think of a word and you say well,
10 I want to kill somebody, for example. Why don't you?
11 Because those words also have emotional impacts related
12 to your society and your punishment schedule, which has
13 to do with another area of the brain.

14 So the selection of words also have
15 to do with intrinsic punishment or reward value that's
16 learned by the society.

17 MR. CHRISTIE: Do societal values
18 determine our selection of words?

19 DR. PERSINGER: Oh, without a doubt,
20 they certainly do, and they are highly contextual. For
21 example, people may cuss like a sailor in the dormitory
22 room, but blush to the same word when they are in a
23 group of mixed company.

24 MR. CHRISTIE: Are the selection of
25 words in the formation and expression of ideas, are

1 they complex or a simple function?

2 DR. PERSINGER: Oh, the expression of
3 words is particularly more than just salutations like
4 hello, good-bye, but the complexity of thought and
5 discovery in everyday thinking is a very complex
6 process that is subject to all types of innuendo,
7 subject to the effects of context and certainly can be
8 influenced by even the hint of apprehension or anxiety.

9 MR. CHRISTIE: I think I'm allowed to
10 explore a little bit in this area, since I'm moving
11 into it, I raise the alarm.

12 But if we were to try and discourage
13 certain verbal behavior or expression that we
14 considered wrong, and we had a variety of options, one
15 of which was to require reasons for an expression to
16 respond with contrary or other data, and another
17 response was to say, you will be punished. Which would
18 result a more likely rational or, shall we say,
19 sophisticated response?

20 DR. PERSINGER: I think it's very
21 clear both in terms of the history of the science as
22 well as the neuroscience that punishment --

23 THE CHAIRPERSON: Hold on.

24 MR. KURZ: Obviously Dr. Persinger
25 understands the question better than I do. But

1 certainly the sophistication of responses is not within
2 the area of his expertise. I thought he was going to
3 ask about it in the context of punishment or something
4 like that but, whether we get -- Dr. Persinger has not
5 been qualified to offer expert evidence on what Mr.
6 Christie has asked about.

7 MR. CHRISTIE: I think I'll try to
8 rephrase it.

9 THE CHAIRPERSON: Okay.

10 MR. CHRISTIE: In the context of
11 individual flourishing or societal flourishing, which
12 is most likely to be effective for societal flourishing
13 and individual flourishing --

14 THE CHAIRPERSON: I didn't hear --
15 let's hear the whole question first.

16 DR. PERSINGER: Yes.

17 MR. CHRISTIE: Whenever you stand up,
18 I will sit down. If you wish to object, please do.

19 THE CHAIRPERSON: I can see this is
20 creating the anticipation of punishment. It's creating
21 anxiety in Mr. Christie.

22 MR. KURZ: I don't think Mr. Christie
23 has ever considered me a punishment. I don't think
24 that I have that --

25 THE CHAIRPERSON: Let's hear the

1 question.

2 MR. CHRISTIE: Punishment when he
3 gets up.

4 THE CHAIRPERSON: Mr. Christie,
5 please return to the microphone. You can make your
6 objection from that microphone in the back.

7 Let's hear the whole question, Mr.
8 Christie.

9 MR. CHRISTIE: I'll try. From the
10 perspective of cognitive neuroscience, can cognitive
11 neuroscience demonstrate which response would be more
12 likely to result in individual and societal flourishing
13 if we were to respond to some form of inappropriate
14 speech in either of these two ways:

15 The first way would be as you
16 mentioned, to require data, reasons, and to provide
17 counter reasons. That's option number one. Or,
18 alternatively, to advise the individual they will be
19 punished for saying that or leave the impression with
20 the individual that they might be punished for saying
21 that, as I now perceive my state to be.

22 Which of these two options, the first
23 or the second, from the point of view of cognitive
24 neuroscience can it be demonstrated would result in
25 individual or societal flourishing to a better degree?

1 That's my question.

2 THE CHAIRPERSON: I'm going to allow
3 it based on the research. I know where you are going
4 with your objection, Mr. Kurz, but --

5 MR. KURZ: The only term is the term
6 societal flourishing.

7 THE CHAIRPERSON: As perhaps
8 determined through cognitive neuroscientific research.

9 MR. CHRISTIE: He has explained what
10 he meant by societal flourishing.

11 THE CHAIRPERSON: I want to back up
12 at one point, just to be mindful. Dr. Mock also in the
13 last portion of her expertise, sort of went into sort
14 of an area where she was sort of was discussing some
15 policy considerations to be considered in the best
16 manner to deal with the problem as she expressed it.

17 I think we're in a bit of a -- the
18 fringes of expertise in both areas, so I'm going to
19 allow this type of questioning. Okay? Go ahead, if
20 you remember the question.

21 DR. PERSINGER: I think I do because
22 if you ever read Herbert Spencer from the 19th Century
23 where a sentence is a paragraph long.

24 MR. CHRISTIE: I apologize.

25 DR. PERSINGER: I understand it

1 totally.

2 Your answer is that in a situation
3 where you have an opportunity for debate and for open
4 expression, that allows for other kinds of
5 conversations and for the exploration of potentially
6 new ideas that had not been thought about. Under the
7 hand if you have -- - and that facilitates not only the
8 flourishing of the individual and the group, but also
9 society. That's why we have debates.

10 THE CHAIRPERSON: Do you have
11 research in support of this?

12 DR. PERSINGER: Indeed. I could
13 certainly have that and certainly you can see
14 historically that when you have -- well, let's take a
15 classic example of Pavlov's laboratory. Everyone's
16 heard Pavlov and the dogs.

17 His laboratory initially was known
18 for it's -- how should we say this delicately --
19 scatological humour, and its creativity and occasional
20 breaks for skinny dipping in the sea.

21 But then when the society changed and
22 became much more suppressive, two things happened.
23 One, the spontaneity of the laboratory deteriorated
24 significantly, and so did the discoveries.

25 So there's a sort of anecdotal case.

1 But the issue is that we could go to many experimental
2 studies to show you when you have a free opportunity,
3 or open opportunity, the brain becomes more active,
4 certainly frontal lobe wise, and the number of possible
5 combinations that are generated to solve a problem are
6 more. And, of course, the more combinations that are
7 solved that allows us, as a species, to be more
8 effective in terms of adaptability.

9 Punishment restricts that. Even the
10 anticipation of punishment will restrict the degrees of
11 freedom. By that I mean the kinds of different
12 behaviors that can occur.

13 MR. CHRISTIE: Does the apprehension
14 of punishment in neuropsychological research affect
15 judgment?

16 DR. PERSINGER: Oh, without a doubt,
17 it certainly does.

18 MR. CHRISTIE: How?

19 DR. PERSINGER: Well, in terms of the
20 studies of anticipated punishment, it depends on that
21 individuals. But in general, judgment tends to be much
22 more restricted. Again, the general effect of
23 punishment is to decrease the versatility of options
24 the person will consider.

25 MR. CHRISTIE: I'm not going to go

1 through the entirety of what you wrote, there has been
2 a criticism and I'm going to raise it here with you and
3 no doubt it will be raised later.

4 There's no footnotes, there's no
5 source studies, the usual quotation of a name and a
6 year isn't there, as we've noticed in some
7 psychological papers. Could you explain why that was?

8 DR. PERSINGER: Well, effectively
9 that was written on the basis of 35 years of lecturing
10 to Introduction to Psychology students and Brain and
11 Behaviour students. It effectively is the synthesis of
12 hundreds of studies involving punishment, both in
13 humans and in non-humans. And the reason I wrote it in
14 that manner is because I was giving a general
15 statement.

16 For example, if I was talking about
17 gravity and the effects of gravity, and I was
18 describing it to a first-year class, I would deal with
19 the general principles. I would not want to
20 necessarily quote Newton.

21 And this was basically the synthesis
22 and compilation of what I've been teaching for the last
23 35 years which is the integration of the fundamental
24 data and books that have been written about these kinds
25 of issues in a general way. That's why I wrote it that

1 way.

2 MR. CHRISTIE: There was one
3 paragraph which I'm told was incomprehensible to
4 someone, Dr. Mock actually, and I want to go to it.

5 That was page 8, and perhaps we could
6 put it in other words so that it might be more readily
7 understood. And that paragraph began with the words
8 the "Concordance Concept". Quote:

9 "Psychological distress is so
10 vague that it is meaningless."

11 Now, can I just ask a couple of
12 questions?

13 DR. PERSINGER: Sure, go ahead.

14 MR. CHRISTIE: Where were you quoting
15 the word "psychological distress" from?

16 DR. PERSINGER: This particular one
17 was from the -- some of the Cohen Report
18 sub-components.

19 MR. CHRISTIE: I'm sorry, what that
20 last part -- sub?

21 DR. PERSINGER: The components of the
22 report. Dr. Kaufman.

23 MR. CHRISTIE: Dr. Kaufman's
24 sub-components. Yes, okay.

25 And you were concerned about that

1 term why, sir?

2 DR. PERSINGER: It's like the word
3 phlogiston in the days of --

4 THE CHAIRPERSON: Say again?

5 DR. PERSINGER: Phlogiston. Before
6 chemistry came along, people were asked why things
7 burned. Things burned because they contained
8 phlogiston. Because the concept of atoms and oxygen
9 and combustible reactions are not known.

10 And we no longer use that term
11 because it's not useful because we now realize that
12 matter is made up of atoms, not fire, earth, air and
13 water.

14 The term psychological distress is so
15 vague it's very much like phlogiston. It can be
16 defined by anyone depending upon how they define it,
17 and it's so unbelievably subjective that it has no
18 value except as a catch-all term for a vague concept.

19 MR. CHRISTIE: So it's
20 psychologically useless as a measure?

21 DR. PERSINGER: Well, you could start
22 defining it by having tools, such as psychometric
23 tools, but if you say that --

24 MR. CHRISTIE: Did Kaufman do that?

25 DR. PERSINGER: In his original work

1 a long time ago, they did not have those kinds of tools
2 around. They had some self-esteem -- beginning
3 self-esteem tools, but in the sixties they certainly
4 would not have had these kinds of tools.

5 THE CHAIRPERSON: Am I interrupting
6 your questioning?

7 MR. CHRISTIE: Do you want to take a
8 break?

9 THE CHAIRPERSON: Time just flew by.
10 Return to this point.

11 MR. CHRISTIE: I'll try. I can
12 assure you I have no particular plan. Any interruption
13 is welcome.

14 THE CHAIRPERSON: So we'll take a
15 fifteen-minute break.

16 --- Recessed at 11:30 a.m.

17 --- Resumed at 11:53 a.m.

18 MR. CHRISTIE: When we broke we were
19 discussing the term psychological distress from the
20 Kaufman report, and I wanted to ask you if you knew the
21 origin of the term stress in psychological research?

22 DR. PERSINGER: Well, the term stress
23 was actually borrowed in large part from the Canadian
24 physiologist Hans Selye, who applied it as any kind of
25 distraction from homeostasis, that is any kind of

1 perturbation. Stress, of course, is a highly
2 subjective concept, a very subjective experience.

3 MR. CHRISTIE: Now, in
4 neuropsychological, do you use the term hate?

5 DR. PERSINGER: We don't use the term
6 hate. We use the term aversive stimuli. Hate is a
7 subjective experience and is just simply one of the
8 many labels that people apply to aversive experiences.
9 So we study aversive experiences very, very
10 significantly and frequently including looking at the
11 correlates of brain function. But the term hate is
12 simply one of the many labels that can be applied to an
13 aversive experience.

14 MR. CHRISTIE: Why wouldn't you use
15 the term hate in any of your research?

16 DR. PERSINGER: Primarily because
17 it's arbitrary. Secondly, because it's highly
18 subjective, and third very difficult to quantify
19 because it's a term that's used so indiscriminantly
20 that you really can't use it effectively. The term
21 aversive stimulus also is not as pejorative. In other
22 words, it doesn't have connotations.

23 MR. CHRISTIE: Have you done any
24 research in whether culture defines aversive stimuli?

25 DR. PERSINGER: Oh, we certainly

1 have. Certainly culture gives the label to
2 experiences. A classic example is with our mystical
3 experience studies. The culture gives you the label by
4 which you explain it, or even perceive it or understand
5 it.

6 Certainly we know in psychological
7 literature that if a traumatic event happens to an
8 individual when they are young, how they respond to it
9 will be a function of how the culture defines it and,
10 effectively, how other people treat them around.

11 MR. CHRISTIE: Just to go on with
12 this paragraph which Dr. Mock referred to as
13 incomprehensible, I want to -- that is on page 8 the
14 second full paragraph beginning of the words, "The
15 Concordant Concept Psychological Distress." We've
16 dealt with that.

17 Next sentence:

18 "Any word from any person can
19 produce in another person an
20 elevation of arousal and the
21 release of intrinsic chemical
22 reactions that can be considered
23 distressful."

24 Could you explain that?

25 DR. PERSINGER: Well, yes. Because we

1 are an emotional brain in large part, that means that
2 depending upon context and circumstance almost any kind
3 of word can produce distress in the experient and the
4 chemical changes that take place. The most typical
5 ones are the stress hormones.

6 Let me give you an example. If
7 somebody fails a course or fails an exam or on a bus
8 somebody tells them that they -- move over, I don't
9 like you because you're dressed with a three-piece
10 suit. All of these can be distressful to the person.

11 The point is, it's the nature of the
12 biological system, called the human being, to respond
13 often with all types of chemical changes to almost any
14 kind of stimuli depending upon how it's perceived.

15 One example, to show you how powerful
16 this is, we happen to be measure some routine EEGs few
17 years ago when we were assessing students that had
18 recently been assessed in the nursing program. And
19 they had been told that their particular project was
20 not effective. We had -- that particular event was
21 associated with tremendous disruption and distress,
22 electroencephalographically, in these individuals. So
23 here's something that would make no difference to
24 anybody else, had tremendous impact depending upon the
25 perceiver.

1 MR. CHRISTIE: So are we entitled
2 then, from your research, to equate perception with
3 stress?

4 DR. PERSINGER: Certainly stress, in
5 large part, is influenced by how the person perceives
6 it, the label the society gives and how they are
7 reinforced for it.

8 If, for example, an individual hears
9 something and they feel distressful and then they go
10 around and talk to their friends and their friends say,
11 well, yeah, you have a right to be distressful and they
12 get social kinds of reinforcement and social support,
13 that actually enhances the effect.

14 So in large part, the term stress and
15 experience of stress is a subjective phenomenon that
16 can be reinforced by society.

17 MR. CHRISTIE: If I could give you
18 another example, and ask a question afterwards. If I
19 was to go for seven weeks' training as a drill
20 instructor at Camp Borden, and the first week getting
21 up at 6:00 o'clock and being screamed at very
22 distressful, but at the end of the six weeks it was
23 normal. Is that a normal reaction of humans to
24 stressors?

25 DR. PERSINGER: Well, ultimately

1 human beings do habituate, and even Selye mentioned
2 that. Ultimately, one does adjust if indeed people are
3 given the opportunity to express themselves. In other
4 words, if you are given an opportunity and the more
5 opportunity you have to respond and to use your own
6 individual resources to respond, the more effective you
7 can adapt.

8 MR. CHRISTIE: This leads me to the
9 next sentence, where it says:

10 "However, desensitization of the
11 impact of words by equipping the
12 person with the opportunity to
13 express opinion freely and by
14 accessing strategies and allow
15 the person to individually
16 accommodate the distress as
17 repeatedly" --

18 Sorry.

19 -- "has been repeatedly shown to
20 facilitate adaption."

21 The example I gave you, did that
22 provide any relationship to this sentence?

23 DR. PERSINGER: Well, that certainly
24 would be one potential application. Alternatively, we
25 can have an individual, let's say, who feels that their

1 parents or their friends are treating them badly and
2 dislike them, maybe even hate them.

3 By giving this particular
4 individual -- and this could be a patient for example
5 or a client -- teaching them the tools that allow them
6 to say and to respond appropriately, teaching the tools
7 to evaluate these aversive experiences differently, and
8 also giving them the repertoire to say, well, there are
9 other explanations for my behaviour or your behaviour,
10 actually allows the person to adapt. So the more
11 explanations a person has and the more tools you give
12 them to freely express themselves, the more they can
13 adapt.

14 MR. CHRISTIE: If in the example I
15 gave you, after the first week I was approached by
16 someone who said, they shouldn't be yelling at you like
17 that. You having to stand out in the hot sun is likely
18 to give you sun stroke and maybe even brain damage, and
19 there are a lot of other people to feel similarly
20 offended by the treatment you received, can your
21 research indicate what likely effect that would have on
22 my response to the stress?

23 DR. PERSINGER: Yes, indeed. In
24 fact, not only my own research but also the research in
25 the published literature would suggest that would

1 reinforce the behaviour and the individual may be even
2 more offended and may feel the symptoms increased.
3 Social expectations and social context are powerful,
4 powerful stimuli that influence how one perceives if
5 something is negative, aversive or not.

6 MR. CHRISTIE: The next sentence
7 indicates:

8 "From an operational perspective
9 it is not the painful"

10 And this is a quote:

11 "painful reaction from hatred
12 that undoubtedly distracts from
13 an individual's ability to make
14 himself or herself the life he
15 or she is able or wishes to
16 have."

17 In that sentence, sir, what was it
18 you were quoting?

19 DR. PERSINGER: I was quoting a
20 reference to Dr. Kaufman's statement within the Cohen
21 Report, and again I was emphasizing that the whole
22 statement "painful reaction to hatred" or hateful
23 stimuli, is highly subjective kind of experience, and
24 that if one was to adapt -- I mean, people feel
25 uncomfortable all the time.

1 People, like I say, fail courses,
2 they are told they aren't wearing the appropriate suit,
3 they are told their breath doesn't smell well, they are
4 told that because they are left-handed they are marks
5 of Satan. People are showing all kinds of experiences
6 all the time that are potentially personally
7 distressful.

8 What we have found in the technical
9 literature is that if you teach the person tools and
10 strategies that allow them to adapt and respond and to
11 have the open-mindedness and free opportunity to
12 respond, then of course the impact is less. Our
13 technical word is conditioned helplessness. When you
14 don't have an option to respond, that's where the
15 problems become.

16 MR. CHRISTIE: If I were to give you
17 a hypothetical where there are messages in one location
18 which you must go and find, but you also have the
19 option of placing messages equally accessible to the
20 whole world about your own point of view, could you
21 explain how that would affect the ability of an
22 individual to adapt to aversive stimuli?

23 DR. PERSINGER: I think I understand
24 the context. If, for example, there is an aversive
25 message posted?

1 MR. CHRISTIE: That's correct. If I
2 could use a specific example, hoping not to offend
3 anyone if I were to say, I saw a message somewhere that
4 said, all scots are mean, bitter, vicious, dower,
5 penny-pinching, overly aggressive individuals. But I
6 had the option of putting up a message that said that
7 that's only me and a few other scots and there are some
8 good ones, would that affect the capacity to adapt to
9 what was an aversive stimuli?

10 DR. PERSINGER: Certainly. There are
11 two options here. One, if it's a free operant society
12 in the sense that you have choice to read it or not,
13 okay --

14 MR. CHRISTIE: That's one premise?

15 DR. PERSINGER: That's the important
16 feature. I mean, if you read it and become offended,
17 you also have an opportunity in a free operant setting
18 not to read it and to avoid it. That's also your
19 choice, if you had that opportunity.

20 On the other hand, you also have a
21 chance to respond to overcome what I guess would be the
22 most appropriate explanation, the categorical error.
23 And a categorical error is over-inclusiveness, to say
24 all scots are this way, all scots are that way. That's
25 the limit of human language.

1 Sadly, human language is a nominal
2 scale. You either belong to a group or not. You are a
3 male or a female. You are either dead or alive. And
4 the problem with nominal scaling is that it's
5 over-inclusive.

6 Let me give you an example. In the
7 19th Century any respiratory problem, what we could now
8 call emphysema, or pneumonia, or lung cancer, common
9 cold, even the flu -- excuse me?

10 MR. CHRISTIE: I was going to say
11 asthma?

12 DR. PERSINGER: Or asthma. This was
13 all called the vapors, one single over-inclusive term.
14 Can you imagine what it would have been like if Fleming
15 would have developed penicillin in the late 19th
16 Century? They would have applied penicillin to all
17 these vapors and only a sub-part of vapors would be
18 affected. In this case what we now call pneumonia.

19 They probably would have dismissed
20 penicillin as being ineffective because it didn't cure
21 all the vapors. And the problem is not penicillin.
22 The problem was the category is over-inclusive.

23 So the limit of language is because
24 it's categorical. So the first thing that's important
25 is to respond by saying, you cannot say all one thing

1 and all the other. You have to have -- know the fact
2 people are different. You have to have different
3 options for multiple responding and the more opinion
4 you have, the more heterogeneity you have and the less
5 categorical error.

6 MR. CHRISTIE: So if we were to try
7 to create a refinement of over-inclusive categories, or
8 a refinement of categorical error, for example you
9 mentioned including too many people in one category,
10 what effect would diversity of opinion have on that
11 refinement?

12 DR. PERSINGER: Oh, I think the --
13 again, the approach would be that the more opinion the
14 better because you have more information, and the more
15 you challenge the more you can look at the data. The
16 critical thing is always to look at the data.

17 MR. CHRISTIE: Now, the final
18 sentence in this paragraph reads:

19 "Instead, such diminishment is
20 due to the absence of the
21 capability to respond freely and
22 the limited opportunities that
23 interfere with the full
24 development of the person's
25 potential."

1 Could you elaborate on that, perhaps
2 explain it as to what you might mean by it?

3 DR. PERSINGER: Well, in a situation
4 which is allegedly inescapable or hurtful, if a person
5 has tools or options to respond, respond freely -- it's
6 only in a situation where the situation is constrained
7 where you remove all the opportunities for free
8 expression that you start to get the physiological side
9 effects. But if you have opportunity to respond and
10 people have taught you how to respond, then of course
11 that's much more beneficial.

12 Incidentally, this is not unique to
13 human beings. Our rodent studies suggest something
14 very similar.

15 MR. CHRISTIE: Now, that's, I think,
16 the best I can do. Perhaps, is there anything else you
17 feel is necessary to help explain what you meant by
18 that particular paragraph which apparently caused some
19 difficulty of comprehension by Dr. Mock? Anything else
20 you feel is necessary?

21 DR. PERSINGER: I don't understand
22 why it would be ambiguous. But I guess the critical
23 factor is the issue that -- terms like "distress" and
24 "hatred". These are all subjective terms, subjective
25 experiences which, are in large part, determined by the

1 reinforcement history and expectations and social
2 reinforcement of the society.

3 When people tell you that's wrong
4 then you tend to have experiences that, I should be
5 feeling bad and everybody else says you should feel
6 bad, then people will feel bad.

7 But when you have an opportunity to
8 respond and you are taught that you can respond and you
9 have free on operant opportunity, that you don't have
10 to sit there and take it, that you can respond with
11 data and other techniques, that allows the
12 adaptability.

13 MR. CHRISTIE: I just want to briefly
14 and quickly, if I can, go to the previous paragraph
15 where you start to deal with the assertions of the
16 Cohen Committee, that individuals subjected to
17 racial -- and this is a quote:

18 "Individuals subjected to racial
19 or religious hatred may suffer
20 substantial psychological
21 stress, damaging consequences
22 including a loss of self-esteem,
23 feelings of anger and outrage."

24 You say, "...is confounded by archaic
25 concepts of psychological processes."

1 Can you tell us what are those
2 "archaic concepts of psychological processes"?

3 DR. PERSINGER: I think one has to be
4 respectful to the level of science at the time Dr.
5 Kaufman wrote this, in the 1960s. In the 1960s, the
6 psychological concepts were dominated by primarily
7 Freudian theories and various kinds of very primitive
8 sociological theories, social psychology theories
9 which, in large part now, have been shown to be
10 inaccurate or simply more complicated aspects to the
11 whole process.

12 So those were archaic types of
13 concepts. For example, the term self-esteem is a term
14 that's primarily a psychometric test and we now realize
15 that almost all of the things that were claimed here
16 are correlational. They are not experimental, they're
17 correlational studies.

18 And even the strength of the effects
19 are really, really small. For example, self-esteem and
20 correlations with these types of things are smaller
21 than the self-esteem effects associated with being
22 left-handed or right-handed.

23 These are all very small effects, but
24 they are all based on psychological ideas that were
25 very prominent in 1960s. And neuroscience and

1 neuropsychology and cognitive neuroscience has gone a
2 long way. Now we know how the brain works much more
3 effectively. And many of these ideas were great ideas
4 at the time, but are just out-of-date.

5 MR. CHRISTIE: What if modern
6 neuropsychology had as tools to, shall we say, refine
7 and re-examine these concepts more effectively at the
8 present time than we did in the past?

9 DR. PERSINGER: Well, at the present
10 time now, for the first time certainly in the last 10
11 years, if you are interested in studying hatred or
12 aversive stimuli you can actually evaluate what goes on
13 in the brain at the time when a person is having
14 experiences. You can now look at the changes
15 throughout the brain, in different areas of the brain
16 that are involved with not only perception but empathy,
17 with emotion, with hurt, with rage, with love. You can
18 look at all of these emotional behaviours in a
19 real-time way without relying on verbal report only.

20 MR. CHRISTIE: Or anecdotal?

21 DR. PERSINGER: Or anecdotal
22 evidence, yes.

23 MR. CHRISTIE: Can you explain the
24 significance of correlational effects to, for example,
25 subjective and anecdotal evidence? Is there some

1 relationship between those?

2 DR. PERSINGER: Well, subjective
3 experiences are simply experiences that the person
4 reports. And one thing we do know about human
5 experience is that individuals are relatively good
6 measurers of their internal states, relatively good.

7 They are not very good, not very
8 accurate about telling you the reasons for it. In
9 other words, in a clinical setting very often you
10 listen to a person's experiences. If they say, I've
11 got unusual lights in the upper -- flashing lights in
12 the upper left visual field, you pretty much know that
13 it's a right temporal lobe phenomenon.

14 But if they then say it's because an
15 angel is visiting me, or if it's because of this or
16 that reason, most of the time people's attributions for
17 why they have an experience are not correct, most of
18 the time.

19 So attributions are really, really
20 erroneous.

21 So I would say that whenever we are
22 looking at subjective experiences one has to
23 accommodate that.

24 Now, correlational studies, that
25 simply means you have two variables and they are

1 related. It doesn't mean cause/effect and because
2 somebody listens to something and you expose them to --
3 they're exposed to literature or to a stimulus it's
4 correlated, for example, with self-esteem changes, that
5 doesn't tell you that it's a causal phenomenon. Let me
6 give you an example, an everyday example.

7 If you start with a fever and then
8 after a couple days you start getting a cold, then
9 start to sneeze, you'll be totally inappropriate to say
10 the fever caused the sneezing. There's a third factor
11 producing both. And one of the limits of correlational
12 studies is you almost never know what the third factor
13 is, especially when the effects are very weak and the
14 correlations between self-esteem and many of the
15 variables suggested by Kaufman are very, very weak.

16 I'll give you an example as well. In
17 over 300 studies in the Mecca Book on Self-Esteem, the
18 actual correlation between things like achievement and
19 self-worth and self-esteem, the correlation
20 co-efficient on average is about .2, which means only
21 about 4 percent of the variability in self-esteem,
22 that's not very much can be explained or accommodated
23 by feeling bad or their achievements or whatsoever.

24 So correlational studies are a nice
25 indicator but the real test is the experiment. And when

1 you are looking at correlational studies it's always
2 important to ask, how big is the effect, the effect
3 size? Statistical significance is no longer the only
4 criterion.

5 Am I being too obtuse?

6 MR. CHRISTIE: Not for me. Let me
7 ask this: What do you mean by effect size?

8 DR. PERSINGER: Effect size is how
9 much variance is explained. Let me give you an
10 example. Suppose you run a correlation between
11 self-esteem and exposure to racial slurs. If the
12 correlation is .3, which is considered significant if
13 it's a large sample size.

14 MR. CHRISTIE: If it's a large sample
15 size?

16 DR. PERSINGER: Yes, the larger the
17 sample size the more likely something is statistically
18 significant.

19 MR. CHRISTIE: What if the sample
20 size is pre-selected for sensitivity?

21 DR. PERSINGER: If it's pre-selected
22 for sensitivity then your effects would be -- you have
23 what's called a subject selection bias, and as a result
24 the effects may be even larger.

25 Certainly the mean differences would

1 be even larger. The classic example was TM and Cult
2 Mania. When I wrote that book I looked at
3 transcendental meditation. The transcendental
4 meditation group, to demonstrate their point, selected
5 people who were highly anxious, highly anxious compared
6 to controlled groups.

7 So when they gave them their
8 technique, the highly anxious showed a tremendous
9 improvement, whereas the control group, which weren't
10 anxious to begin with, showed no change at all. So the
11 conclusion was, see, the treatment had this big effect.

12 So by selecting your population you
13 can certainly affect the direction. But even without
14 that, the critical thing is how big the effect size is,
15 how much variance, how much variability in the measure,
16 in this case self-esteem, can be explained by whatever
17 manipulation or whatever correlate you are looking at.

18 MR. CHRISTIE: You then say:

19 "There is no direct experimental
20 evidence that listening to
21 verbal behaviour that directly
22 or indirectly identified the
23 experiment, diminishes to any
24 significant extent the
25 self-esteem of a person."

1 DR. PERSINGER: That's right. That's
2 experimental work, yeah.

3 MR. CHRISTIE: You've been shown what
4 Dr. Mock produced in the way of what do you call them,
5 correlational studies?

6 DR. PERSINGER: Right.

7 MR. CHRISTIE: Could you comment on
8 their probative value or significance in a
9 neuropsychological set?

10 DR. PERSINGER: I certainly could. I
11 think the critical factor is in both those studies,
12 which I enjoyed reading actually, is that the actual --
13 and I'm referring to the Boeckmann Report, the Boekmann
14 study, is again the effect size was about 10 percent of
15 the variance, which means it was a very, very small
16 effect from a practical point of view.

17 This kind of change would be
18 comparable to having a fight with a spouse or just
19 having a bad day in terms of comparing it to an
20 objective situation.

21 The second question you have to ask
22 is, okay, how long does it last if it does have a small
23 change? Those are the kinds of questions that have to
24 be asked. Yes, you can be irritated for a while, and
25 you may feel bad for 15 minutes. How long does it last,

1 and does the feeling bad for 15 minutes have any large
2 impact and long-term impact on you?

3 MR. CHRISTIE: Did the study answer
4 that question?

5 DR. PERSINGER: No, it did not. It
6 did not. And the second study, which was Racist
7 Incidents-based Trauma, again --

8 MR. CHRISTIE: Is that the --

9 DR. PERSINGER: That's the one by
10 Bryant-Davis. That was an interesting one, I thought,
11 and almost all of these were correlational studies,
12 post hoc correlational studies. And what I was
13 interested in is there seems to be a confusion between
14 verbal behaviour and assault. We're talking about
15 verbal behaviour in this sitting, right?

16 MR. CHRISTIE: Yes.

17 DR. PERSINGER: Totally different
18 story.

19 MR. CHRISTIE: I hope so. So that is
20 my understanding. We're dealing here with a
21 communication of thoughts, beliefs and opinions by
22 verbal means, either electronically, through the
23 Internet -- I think it has to be repeatedly -- I won't
24 go the section because you are not here to comment to
25 central issue. But, please, carry on.

1 DR. PERSINGER: So, effectively those
2 were interesting correlational studies and, again, they
3 are typical of what's been published previously. Their
4 effect size is very small and in all of these kinds of
5 correlational studies one has to look at what's called
6 the comparative variable.

7 Okay, you have even a 10 percent
8 effect size but what does it mean? Is it the same
9 effect as feeling bad when you wake up in the morning?
10 The same effect as having an argument with your spouse,
11 the same effect as, for example, not getting a job that
12 you are not qualified for but you wanted it anyway?

13 I mean, that's the kind of questions
14 that have to be addressed if they want to understand
15 the impact of anything on behaviour. How much and how
16 long does it last?

17 MR. CHRISTIE: You conclude that
18 paragraph by saying:

19 "The term self-esteem is a
20 hypothetical construct"

21 Then you use that term again:

22 "like phlogiston was to alchemy
23 and has limited validity only
24 within a specific model of human
25 behaviour."

1 Can you explain that in other words?

2 DR. PERSINGER: Sure. Most of the
3 psychology are what are called -- they're called
4 constructs. I mean, when you have lots of variables
5 taking place, lots of brain activity, hundreds of
6 structures, billions of neurons, you can't describe
7 each of them. So we use these over-inclusive terms
8 like I mentioned before.

9 One of them is a term like
10 self-esteem and self-concept. Crudely, it's related to
11 the fact the left hemisphere is involved with language
12 and your self-awareness and that is self-concept,
13 whereas the right hemisphere is involved with emotion
14 and meaning and self-esteem. That's why right
15 hemisphericity tends to be associated with self-esteem.
16 In fact, we've done many studies, I think there's one
17 I've included in the articles.

18 So these are all over-generalized
19 terms for very complicated processes. So they are
20 subject to the same kind of over-inclusion errors as
21 vapors I gave you earlier.

22 MR. CHRISTIE: The only part of this
23 last sentence I want to ask you, if you would, to
24 explain is where it says:

25 "Unfortunately the concept of

1 self-esteem has now been
2 re-affied."

3 And I don't know the meaning of that
4 term re-affied.

5 DR. PERSINGER: Let me ask you, to
6 give an example. One of the most clever
7 neuroscientists of this day was Sigmund Freud. If
8 Freud was alive today he could call himself a
9 neuroscientist. I saw on one of the articles that it
10 actually had been his mistranslated. His word was "der
11 treeb" (ph), not instinct, meaning drive. And drive is
12 what he was talking about.

13 If you read some of his work that
14 nobody likes to read, he was very, very
15 neuroscientific. But the only thing he could really
16 get into popular press was his id, ego and super ego
17 concepts which are still alive today in many people's
18 minds.

19 And there was a group of
20 neuroscientists -- actually not neuroscientists, but
21 neuroanatomists in the 1930s and '40s, who began
22 looking for the brain to find the id, define the ego.
23 In other words, the term, which he did not suggest at
24 all to be real, it was an abstract, became re-affied in
25 the sense that people were trying to look for the

1 objective real thing.

2 And I'm sorry to say that self-esteem
3 has become something similar. People actually think
4 that it exists as a thing. It's a word, over-inclusive
5 word used for variety of inferences from psychometric
6 tools.

7 MR. CHRISTIE: Thank you.

8 Now just to deal quickly with the
9 last paragraph on page 8. The statement that:

10 "Subjugation to language
11 designated as racial or
12 religious hatred produces
13 feelings of anger and outrage,
14 ignores the necessary
15 involvement of two critical
16 controlling variables."

17 And then you list them on the next
18 page. And I just want you to tell us, please, what is
19 frustrative aggression and how is it a variable.

20 DR. PERSINGER: Well, frustrative
21 aggression occurs when an opportunity to respond freely
22 doesn't occur. And when you're frustrated, which
23 usually means there's a conflict, aggressive behaviour
24 is one type of mode of expression.

25 Aggression can be generated by lots

1 of sources. That's one of them. If there is no
2 opportunity to express behaviours freely then, of
3 course, the aggression is often displaced to other
4 forms. And Miller and Dollard, which is one of the
5 individuals that Dr. Kaufman quoted, actually specified
6 that too.

7 MR. CHRISTIE: I want to see if my
8 understanding is correct on this term, frustrative
9 aggression, and whether expressive opportunity is
10 reflected in this example which I'm about to give you.

11 Say, for example, someone goes into a
12 locker room at an athletic club and says, it's a little
13 cold out. There's a nip in the air, just like Pearl
14 Harbour. And that's deemed by someone else to be a
15 racist joke and they say, you know, I'm offended by
16 that and I'm shocked by that. And you shouldn't be
17 making comments like that.

18 The joker, or the person who thinks
19 it's a joke, is silent, shocked, alarmed, apprehensive
20 and somewhat afraid, says nothing. That's example
21 number one.

22 Example number two is the person
23 accused of a racist joke says, well, look, don't be
24 offended. It's simply a way of referring to cold with
25 a reference to Pearl Harbor. There were Japanese in

1 the air. It's a play on words. I meant nothing more.
2 I hope you aren't offended. Well, the first person
3 says, I'm Chinese and I am offended by that. But it
4 was the Japanese, not the Chinese. This is not a
5 reference to Chinese or Japanese, it's a joke.

6 And this exchange takes place. That's
7 example number two.

8 In which situation is frustrative
9 aggression likely to be the greatest?

10 DR. PERSINGER: I think frustrative
11 aggression is more likely to be in the first one
12 because if you have an opportunity to express
13 yourself -- and one thing you find, if you have an
14 opportunity to express yourself, there's a tendency to
15 interact more and to have other kinds of responses.
16 And one thing we find repeatedly if people interact and
17 stay close proximitywise for a given length of time and
18 can exchange points of view, actually the amount of
19 hostility actually decreases. And we're not talking
20 about people being angry because they're at a pub.
21 We're talking about people have a misunderstanding.

22 As a result of the misunderstanding,
23 they interact, they clarify, both point out they are
24 human, they both point out there is no particular
25 personal intent. That allows for more degrees of

1 freedom, more versibility and more adaptation to the
2 setting.

3 MR. CHRISTIE: To give you another
4 hypothetical: Two mediums, two mediums. One, a
5 telephone answering machine where you have to listen to
6 a message that you can't respond. You get a message
7 that upsets you.

8 Second medium, you have words
9 communicated to you, to which you can immediately type
10 a response or to which you can respond in the same form
11 with equal opportunity for others to hear.

12 In which of those two mediums will
13 frustrative aggression be the greatest?

14 DR. PERSINGER: Well, frustrative
15 aggression would -- the first one was coerced,
16 listening to the telephone conversation.

17 MR. CHRISTIE: Well, actually, no
18 that be would optional as well, we'll say.

19 DR. PERSINGER: Obviously they had no
20 opportunity to respond, that would be probably
21 associated with the most aggressive ideation. But if
22 they have a chance to respond, you will find that the
23 frustrative aggression would be less because they are
24 expressing their opinion, expressing their point of
25 view. In fact, that's very much a part of creativity.

1 I mean, people very often can be upset or see something
2 that's disharmonious to them personally and one they
3 sit down or interact or have a freedom of expression,
4 they feel that much better afterwards and the
5 aggression is less subsequent to that.

6 MR. CHRISTIE: Moving on to the
7 second variable, and there are two critical controlling
8 variables, you said.

9 The second is:

10 "Any behaviour including beliefs
11 that has been continuously
12 rewarded by group consensus is
13 followed by outrage and a mode
14 of behaviour, if the behaviour
15 is suddenly no longer rewarded
16 such as by an alternative
17 explanation to the belief."

18 Could you explain that in other
19 words, perhaps?

20 DR. PERSINGER: That's right. Well,
21 for example, I mean, when you have -- I think in terms
22 of context here, the first thing is that when you have
23 groups of people saying, I feel offended and they
24 reinforce each other, then it reinforces, increases the
25 impact on the individual.

1 But if these individuals aren't
2 rewarded by other people, then the behaviour just
3 stops. I mean, it's no longer rewarded so it basically
4 extinguishes. That's different from punishment.

5 Not rewarding a behaviour by saying,
6 okay, we're not going to pay attention you to, is
7 markedly different from saying, we're going to pay
8 attention to you and we're going to punish you.

9 MR. CHRISTIE: In the example I gave
10 you of the seven-week drill instructor's course where
11 the first week was occupied with griping about the
12 food, the early hour, the hard work and the hot sun, if
13 there was compliments or encouragements to that type of
14 complaint, would that be a reward or a suppressant for
15 the belief that we're oppressed?

16 DR. PERSINGER: If people start to --
17 if you have groups of people who say, yes indeed you
18 are correct, that's going to be definitely rewarding
19 for the person.

20 MR. CHRISTIE: And if I was looking
21 at it objectively and from a neuropsychological point
22 of view, what is the likely result of my feeling or the
23 subjective awareness of my alleged oppression?

24 DR. PERSINGER: Well, one thing we
25 have done in -- certainly in social psychology and

1 experimental setting, is that the more the group
2 reinforces what you believe if you've been offended,
3 the more offended you will be.

4 MR. CHRISTIE: Now, I'm just going to
5 skip quickly through these articles that are attached
6 to your report, and I'm not going to go into any length
7 with them. But I'll ask why they were included. I
8 will produce the full binder once I've gone through it.
9 I think that will be the proper order.

10 The report to the Minister of Justice
11 of the Special Committee on Hate Propaganda. You read
12 this?

13 DR. PERSINGER: Yes.

14 MR. CHRISTIE: You considered it?

15 DR. PERSINGER: Yes.

16 MR. CHRISTIE: And that's something
17 upon which you gave your opinion, I take it?

18 DR. PERSINGER: Yes, I did.

19 MR. CHRISTIE: There's a whole lot of
20 footnotes and studies that Dr. Kaufman referred to.
21 Could you generally comment on the nature of all those
22 citations? Are you familiar with all those works?

23 DR. PERSINGER: Well, I mean, I hate
24 to admit my age, but these would be the authorities
25 40 years ago, right.

1 MR. CHRISTIE: So you are familiar
2 with them?

3 DR. PERSINGER: I am. Many of them,
4 Al Bort (ph), these individuals, Bendura (ph), some of
5 these are actually -- Berkowitz -- some of these are
6 actually at Wisconsin when I was there.

7 In addition to Miller and Dallard, or
8 Dallard's work, these were all splendid theories, and
9 they are theories at the time.

10 MR. CHRISTIE: Were they accepted as
11 immutable truth at the time?

12 DR. PERSINGER: I would have to go
13 back to that time. Science 40, 50 years ago was a bit
14 more science than politics is today. They would have
15 looked at it as the best approximate guess and they
16 would have realized that it was a theory, a construct,
17 hypotheticals, to try and understand this big complex
18 thing that we had just begun to study called human
19 behaviour.

20 MR. CHRISTIE: And so they wouldn't
21 have thought that their views should necessarily at
22 that time be considered the final word or anything?

23 DR. PERSINGER: On the contrary,
24 people like Dallard and Miller were refining their
25 hypotheses almost yearly.

1 MR. CHRISTIE: And then you included
2 an article called "The Perception of Action to the
3 Understanding of Intention", almost philisophical.
4 Could you explain --

5 THE CHAIRPERSON: Go back, produce
6 tab 3?

7 MR. CHRISTIE: Yes. Do you want me
8 to do them one at a time?

9 THE CHAIRPERSON: Yes, why don't we.
10 It will ensure we won't make any errors.

11 MR. CHRISTIE: So for the record, I
12 would like the introduction then -- we have agreed on
13 the introduction of Dr. Persinger's CV, which is tab 1,
14 the opinion which is tab 2.

15 MR. FOTHERGILL: Excuse me. I have a
16 concern about entering the report as written in view of
17 the manner in which Dr. Persinger was ultimately
18 qualified to give evidence.

19 There are a number of opinions
20 expressed in that report that, in my submission,
21 clearly fall outside the area of expertise as we
22 discussed this morning. We have a number of principles
23 which are unobjectionable, but then there are attempts
24 to apply those principles to the very subject matter of
25 our hearing which, based on the discussion we had

1 earlier, the Attorney General at least would object to.

2 And in my view, we can deal with this
3 in two ways. I can simply register the objection and I
4 can address you on it at the appropriate time, that
5 certain conclusions found in the report are beyond the
6 witness's expertise and therefore ought to be
7 disregarded.

8 The alternative, which I must say I
9 would prefer, would be at another time to redact or
10 remove those paragraphs that attempt to apply the
11 principles to the subject matter of this hearing.

12 THE CHAIRPERSON: Either option could
13 be done. For the purposes right now, we are trying to
14 identify the document. It is the document, and his
15 evidence is coming in. I think it might be helpful to
16 wait until your cross-examination to go through this
17 material and see which portions will be addressed by
18 any of counsel that will be looking at his study.

19 At this point -- either option looks
20 interesting, but let's save it for another time. So I
21 will allow it to be introduced as it is.

22 MR. CHRISTIE: So that's tab 2.

23 Then, Dr. Persinger, you've
24 identified and you've indicated you read the report to
25 the Minister of Justice of the Special Committee on

1 Hate Propaganda in Canada, which is tab 3. Is that
2 correct, sir?

3 DR. PERSINGER: That is correct.

4 MR. CHRISTIE: So if we could include
5 that in the binder.

6 Then if I could, I would move to
7 tab 4 which is called from "The Perception of Action to
8 Understanding of Intention", by Sara Jane Blakemore and
9 Jean Decety.

10 Could you just tell us whether you
11 regard this as a -- well, how you regard this in terms
12 of neuropsychology? Is it credible in your
13 understanding and belief?

14 DR. PERSINGER: It's quite credible
15 and quite relevant, because it shows the areas of the
16 brain that are involved with what happens when one
17 thinks and their own mental states as opposed to other
18 mental states. In other words, it tells you the areas
19 of the brain that are activated differentially when
20 people are thinking themselves or about what other
21 people might be thinking.

22 MR. CHRISTIE: Okay. Could you
23 explain how that's relevant, the assessment of the
24 response to aversive stimuli?

25 DR. PERSINGER: Indeed. Because the

1 area of the brain that's involved is also one that is
2 associated with interpretation of aversive stimuli.
3 This gives us a greater understanding with a technology
4 that we now have that allows us to determine what goes
5 on in a person's brain when they are thinking about
6 what makes them have motives versus giving motives to
7 other people.

8 MR. CHRISTIE: Attributing motives?

9 DR. PERSINGER: Yes.

10 MR. CHRISTIE: So it would have
11 something to do with your judgement and appropriate
12 reaction to other people's aversive stimuli?

13 DR. PERSINGER: Indeed, without a
14 doubt. Interestingly enough, the area involved is the
15 same area that's involved with how you interpret
16 negative experiences, or aversive experiences.

17 MR. CHRISTIE: So does it have a
18 relationship to what we call judgment?

19 DR. PERSINGER: Without a doubt. This
20 is definitely involved with judgement.

21 MR. CHRISTIE: So it's the faculty of
22 the human brain to make judgements on how other people
23 think of about us?

24 DR. PERSINGER: It's called the
25 theory of the mind, of all things. Certainly our

1 ability to not only monitor our own behaviour and our
2 own judgement, but to try to infer what other people
3 are thinking is definitely a clear brain activity.

4 MR. CHRISTIE: Is it a brain activity
5 of a higher or other lower nature?

6 DR. PERSINGER: It's very well
7 developed in our species and involves the specific
8 areas -- not just one, but specific areas of the
9 pre-frontal regions of the brain.

10 MR. CHRISTIE: So that's why the
11 injury to the frontal lobe is such a serious
12 consequence.

13 DR. PERSINGER: Indeed. If you look
14 at the death row inmates right now in the U.S., 19 out
15 of 20, or 20 out of 20, have had serious brain injury
16 historically. Usually in the frontal lobe. That
17 doesn't obviously excuse their behaviours, but it gives
18 you some idea what happens when you don't have that
19 area of the brain functioning.

20 MR. CHRISTIE: Now, turn to the next
21 study, which is -- you have included this for a reason,
22 and I want to establish what reason, if I may to start
23 with. It's called tab 5?

24 THE CHAIRPERSON: We'll introduce
25 tab 4?

1 MR. CHRISTIE: Thank you, sir.

2 I appreciate being reminded. I
3 apologize for forgetting.

4 Tab 5 is entitled:

5 "Greater Hemisphericity Is
6 Associated With Lower
7 Self-esteem in Adults"

8 By yourself and Catherine Makarec.

9 DR. PERSINGER: Makarec.

10 MR. CHRISTIE: Now, could you explain
11 how this relates to the reaction to aversive verbal
12 stimuli?

13 DR. PERSINGER: Well, yes,
14 individuals who tend to show right hemispheric
15 dominance --

16 MR. CHRISTIE: Who would they be,
17 artists?

18 DR. PERSINGER: Artists, musicians,
19 creative people, writers. They tend to be more
20 left-handed. These individuals tend to have lower
21 self-esteem. And the reason I brought this in here --
22 it's just not university students, we did it with high
23 school students and non-university adults and so forth.

24 The reason I brought this article in
25 is because the correlation is really strong. It's much

1 stronger than the correlation between any of the claims
2 about self-esteem associated with racial hostility,
3 achievement types of things.

4 MR. CHRISTIE: What correlation is
5 really strong?

6 DR. PERSINGER: For example, the
7 correlation between some of the things mentioned on
8 exposure to hatred or exposure to aversive stimuli and
9 how it's correlated with lower self-esteem.

10 MR. CHRISTIE: Yes?

11 DR. PERSINGER: Those correlations
12 are about .3, .4. They are very weak. Whereas
13 something that's every day, such as if indeed you use
14 your right hemisphere or not all the time, or if you
15 are left-handed, it's associated with self-esteem
16 that -- with the correlation is much, much more
17 powerful. I think I mentioned that earlier. You have
18 to know the context before you start saying
19 something -- lower self-esteem and, hence, is therefore
20 bad.

21 MR. CHRISTIE: Could you give
22 examples of what causes more effects on self-esteem
23 than, for example, verbal epithets? You mentioned
24 left-handedness or --

25 DR. PERSINGER: Using your right

1 hemisphere more often. Being right-hemispherically
2 dominant. Well, there is -- in terms of this
3 psychometric measure, there a million of them, but most
4 of them are associated with the greatest source of
5 variance of all, which is differences between people.
6 Not difference between race, not differences between
7 gender, not differences between religions, just
8 differences between people. That's the big source of
9 variance.

10 MR. CHRISTIE: I see. And there's
11 lots of differences between people, I guess.

12 DR. PERSINGER: In fact, it always
13 amazes me how people exaggerate differences between
14 groups, between genders, between races, between
15 religions, when the biggest source of variance has
16 always been individual differences between people,
17 between individuals.

18 MR. CHRISTIE: If I could ask then to
19 include tab 5, for the purposes of reference.

20 Is there anything in tab 5, sir --
21 I'm sorry. Thank you.

22 Is there anything there that you
23 would wish to refer us to indicate why you have
24 expressed your opinion this way?

25 DR. PERSINGER: Why I included that

1 article?

2 MR. CHRISTIE: Perhaps that would be
3 a similar question. But the real question was anything
4 here you want to refer to to explain your opinion?

5 DR. PERSINGER: That's the
6 self-esteem article, right?

7 MR. CHRISTIE: Well, it's called,
8 "Greater Right Brain Hemisphericity As Associated With
9 Lower Self-esteem in Adults".

10 DR. PERSINGER: I just wanted to
11 demonstrate that correlational studies are interesting,
12 they have limits, and that some variables, more
13 conspicuous ones, such as if you use your right
14 hemisphere more than your left, have much greater
15 effects on this particular thing called self-esteem
16 than any other variables.

17 MR. CHRISTIE: Thank you.

18 Moving on then, if I may, to tab 6:

19 "Left temporoparietal junction
20 is necessary for representing
21 someone else's beliefs".

22 Can you explain the meaning of that
23 word. Tempor- --

24 DR. PERSINGER: I would be happy to.
25 The temporoparietal junction is -- refers to an area of

1 the brain that has to do with understanding. So this
2 particular study, which is published in 2004, tells you
3 that with looking at a technology that's now capable,
4 such as imaging, you can actually understand what goes
5 on in a person's brain when they reason about other
6 people's beliefs. In other words, it gives you a more
7 objective measure as opposed to subjective arbitrary
8 conclusions about what goes on in the brain of somebody
9 when they are relating to someone else's beliefs, or
10 they can even understand someone else's beliefs.

11 MR. CHRISTIE: So we can now, with
12 this technique, objectively measure the activity in the
13 brain on that subject?

14 DR. PERSINGER: The activity and the
15 agree to which the reasoning about another person's
16 belief is accurate or fallacious.

17 MR. CHRISTIE: That's amazing. That's
18 part of, what, modern technology?

19 DR. PERSINGER: That's the modern
20 technology. That's what neuroscience is all about now.

21 MR. CHRISTIE: Has there been any
22 studies using neuroscience and modern technology to
23 assess what Kaufman alleged was true in the 1960s?

24 DR. PERSINGER: Well, in terms of
25 almost directly would be the areas of the brain that be

1 involved with what happens when people are exposed to
2 aversive stimuli. Remember, the interpretation of
3 something being hate is subjective. But it's still an
4 aversive stimuli, and that we can study and we have in
5 terms of the impact of aversive stimuli on brain
6 function.

7 MR. CHRISTIE: Is this study part of
8 that?

9 DR. PERSINGER: This would not be.
10 This would be simply looking at how people can evaluate
11 other's beliefs. In other words, can you understand
12 another person's beliefs? Can you relate to it? Can
13 you be empathetic to it? Can you logically draw
14 conclusions about it? This tells you the area of the
15 brain involved and the processes involved with it.

16 MR. CHRISTIE: If I would ask then
17 for the inclusion of tab 6?

18 THE CHAIRPERSON: Yes.

19 MR. CHRISTIE: Again, did you refer
20 to and, if you wish to refer us for the purpose of
21 understanding your view, to tab 7 which is "Lever
22 Attacking By Rats During Free-Operant Avoidance". I
23 take it you've included that for a reason. Could
24 explain that, please?

25 DR. PERSINGER: Well, yes. It was

1 directly relevant to Dollard and that was one of the
2 quotes from Dr. Kaufman. And the issue is that if
3 punishment is applied you get frustrative aggression.
4 And that aggression very often occurs when punishment,
5 or the anticipation of punishment is delivered and it's
6 not just unique human beings, you find it even in
7 rodents.

8 MR. CHRISTIE: I was going to explore
9 with you a word that's quite common in the English
10 language and many languages, the concept justice. And
11 if punishment is applied which one considers unjust,
12 does any have bearing upon frustrative aggression?

13 DR. PERSINGER: Indeed it does. I'm
14 not quite sure if that's the same with rats, but
15 certainly with human beings who can make comparisons,
16 it certainly has a big effect. If it's perceived as
17 unjust, then the frustrative aggression can be even
18 greater.

19 MR. CHRISTIE: Are there any studies
20 of that -- the concept what might be called morally
21 wrong. For example, if someone has a theory about
22 race, about a religion, about any sexual practice and
23 they honestly and morally believe it's right, as people
24 sometimes want to do, and they advance it and they are
25 punished for it, would the frustrative aggression be

1 greater or less if they believed it was true and it was
2 unjust to be punished, or if they believed it was just
3 for the purpose of stirring up reaction and animosity?

4 DR. PERSINGER: If something is
5 really believed -- and I have an article in here that
6 talks about beliefs. If something is really believed
7 and a person believes it -- and it could be anything.
8 I mean, you can take this particular instance of
9 hatred, you can take the exotic ones that people
10 dismiss. Like, if people -- and we've assessed many of
11 these individuals who believe they were abducted.

12 MR. CHRISTIE: Okay, alien abduction?

13 DR. PERSINGER: That's right. They
14 actually believe it. Their polygraph is normal, they
15 actually believe it. They are not crazy, they are not
16 psychotic. They are normal individuals who have an
17 unusual belief.

18 If you contest them by saying this is
19 wrong, you'll get much greater frustrative aggression.
20 If somebody believes something to be true, and that's
21 not the same as being true, they believe it's true, you
22 get much more frustrative aggression if you deny the
23 belief or contradict the belief.

24 MR. CHRISTIE: For example, if you're
25 a school teacher who says -- you believe in this idea

1 of God, and God says homosexuality is wrong.
2 Therefore, you write a letter that says homosexuality
3 is evil, and you are punished for it, what's the likely
4 level of frustrative aggression as opposed to someone
5 who says it simply to stir up debate?

6 DR. PERSINGER: The frustrative
7 aggression and the long-term impact would be greater
8 because it's part of the person's belief system.

9 MR. CHRISTIE: And as long as that
10 belief system exists what would happen to the
11 frustrative aggression if they're silenced on their
12 opinion?

13 DR. PERSINGER: I would say in large
14 part it probably -- the aggression is probably not
15 going to dissipate totally. It will come and go
16 intermittently, be brought about by particular stimuli
17 and it would be much more protracted.

18 MR. CHRISTIE: Is there any
19 correlation between frustrative aggression and
20 violence?

21 DR. PERSINGER: Well, it depends on
22 context. But in general, frustrative aggression -- I
23 mean, it depends where the options are. If your
24 options are to freely express yourself, like I'm going
25 to vent, I'm going to talk, I'm going to say it, that

1 actually diminishes the likelihood of being physically
2 aggressive. And that's been known for a long time.

3 The freedom of expression saying, I
4 disagree with this, you are wrong, the ability to write
5 letters, even to the Attorney General, these are kind
6 of options that give you a way of minimizing the more
7 intense aggression associated with motor damage, that
8 is actual assault.

9 MR. CHRISTIE: I'm sorry, I got
10 slightly sidetracked. That article, "Lever Attacking
11 By Rats During Free-Operant Avoidance." Can you
12 summarize what this provides in the way of information?
13 Could you summarize that?

14 DR. PERSINGER: It suggests that if
15 you want to minimize aggression you don't punish
16 behaviour simply because it's being displayed freely.
17 See, this was a free-operant setting which means the
18 animals responded freely in order to obtain
19 reinforcement.

20 When they were punished what they did
21 was they showed frustrative aggression. They attacked
22 the Lever. And what that suggests is if you interfere
23 with free ongoing behaviour with punishment, or the
24 anticipation of punishment, which is what this study
25 was, aggression goes up.

1 MR. CHRISTIE: Was this one of
2 these -- was it an experimental, an objective study
3 or --

4 DR. PERSINGER: It certainly was. It
5 was completed at the University of Manitoba many years
6 ago. It was one of the first.

7 MR. CHRISTIE: And it wasn't sort of
8 a comparison of variables?

9 DR. PERSINGER: No, it wasn't. It
10 was an experimental study.

11 MR. CHRISTIE: Is there some reason
12 which might have been earlier suggested that studies of
13 phenomenon of this kind with rats has no relationship
14 or bearing upon humans? Is there --

15 DR. PERSINGER: I've heard that so
16 many times I often become vociferous in response. The
17 rat is probably the closest in terms of basic behaviour
18 and neurochemistry and receptor sub-types to the human
19 brain. That's why we use the rat so routinely. In
20 fact, the overlap between the many, many receptor
21 sub-types that sequester the chemistry of the brain
22 between rat and human are so exact that that's again
23 why we use them as models.

24 MR. CHRISTIE: If I could ask for the
25 inclusion of that article by way of explanation?

1 THE CHAIRPERSON: Yes.

2 MR. CHRISTIE: If we could move onto
3 tab 8, you've included an article called "Neural
4 Correlates of Feeling Sympathy."

5 DR. PERSINGER: Right.

6 MR. CHRISTIE: Could explain the
7 substance of this study and what you say we could we
8 derive of it?

9 DR. PERSINGER: Well, the primary
10 thrust here is when you see somebody hurt, I would hope
11 most people would stop and help them. When you see
12 somebody in distress feeling badly because they had
13 been offended -- many people feel bad when people fail
14 a course, they feel bad. When people have a divorce
15 they feel bad.

16 So the critical question, what area
17 of the brain allows us to experience sympathy? Where in
18 the brain does sympathy take place and is that area
19 related to social interaction and social bonding? And
20 that's what the point of this article was.

21 MR. CHRISTIE: Does it assist us to
22 know what social interaction is more likely if there is
23 a large group identity to reinforce our reaction?

24 DR. PERSINGER: Well, if indeed a
25 large group of people after you've been aroused tell

1 you why you are aroused, and says it's because that
2 group or that person made you feel bad, that tells
3 us -- this particular study tells us a great deal about
4 the dangers, or perhaps sometimes the benefits, of
5 having groups of people telling you how to respond and
6 how to feel. But, moreover, regardless of the social
7 implications, it tells you what part of the brain is
8 involved so you can realize what other things, what
9 other variables may influence empathy and sympathy.

10 MR. CHRISTIE: Is this a
11 correlational study?

12 DR. PERSINGER: No, this is an
13 experimental study.

14 MR. CHRISTIE: Sorry?

15 DR. PERSINGER: Experimental. They
16 actually manipulated the variables that allowed them to
17 understand the sympathy and looked at the areas of the
18 brain that were activated.

19 MR. CHRISTIE: Now, these
20 experimental studies, are they looking at cause and
21 effect?

22 DR. PERSINGER: They certainly are.

23 MR. CHRISTIE: Are correlational
24 studies probative of cause and effect in
25 neurophysiological terms?

1 DR. PERSINGER: Correlational studies
2 are always a splendid beginning. Observation is the
3 first step of science, but after that you need the
4 experiment for verification. So ultimately you need
5 the experiment.

6 MR. CHRISTIE: Moving on, if I could
7 ask for the inclusion of tab 8 as part of the
8 professor's basic opinion.

9 Moving on to tab 9, I believe:

10 "Wars and Increased
11 Solar-Geomagnetic Activity:
12 Aggression or Change in
13 Intraspecies Dominance".

14 And that's an article by yourself?

15 DR. PERSINGER: That's correct.

16 MR. CHRISTIE: Could you give us a
17 summary of what this article addresses and its
18 conclusion?

19 DR. PERSINGER: Well, yes. I think
20 like most of us here, we're concerned about the future
21 of our species. We're a very warring species. We're
22 the most aggressive animal. We are the T-Rex of the
23 mammals, when the most aggressive animals ever existed.
24 We have the largest amigdula (ph). We kill and
25 basically reproduce faster than any other species.

1 So the big question is, most of time
2 it's assumed that war is an aggressive behaviour due to
3 social processes. Is it just possible that there are
4 extrinsic variables that determine these aggregate
5 behaviours? So this is what this paper was written
6 about. The fact there may be variables outside us that
7 we don't understand that are associated with aggressive
8 behaviours and that we end up attributing aggression to
9 the -- really the wrong variables.

10 Particularly one was written in 1999,
11 and interestingly enough it indicated the next change
12 in organization would have been 2001, about summer.
13 Suggesting that there are probably environmental
14 variables that drive our species' social intersection,
15 as well as some economic ones.

16 MR. CHRISTIE: So this a study you
17 conducted. Was it experimental or --

18 DR. PERSINGER: No, this one was
19 correlational. We're looking at the relationship
20 between episodes of wars and various kinds of
21 environmental events.

22 MR. CHRISTIE: Am I correct in
23 understanding that the experimental studies focus in
24 the left brain and the correlational ones are right
25 brain studies?

1 DR. PERSINGER: Actually, to
2 reinforce your interest in neuroscience, I would say
3 that right hemisphere is in large part involved with
4 observation and intuition. Left hemisphere more
5 involved with logic and verbal language. So the
6 correlation would be very weak but it would be there.

7 MR. CHRISTIE: I see. Thank you. I
8 was attempting to be humorous.

9 DR. PERSINGER: I appreciate that.

10 MR. CHRISTIE: I, unfortunately,
11 realize my shortcomings in that area.

12 Moving onto to final tab -- if I
13 could ask for the inclusion of tab 9 as part of the
14 professor's opinion.

15 Tab 10, an article entitled:

16 "Short Communication Neural
17 Correlates of Religious
18 Experience".

19 And why did you refer to this?

20 DR. PERSINGER: I refer to that to
21 point out that even the most complex personal and
22 provocative experiences, that is religious experience,
23 which is probably the most provocative on the planet to
24 this point, could be understood in a common sense,
25 clear and balanced way if we understand the areas of

1 the brain that are activated.

2 MR. CHRISTIE: I see. So did the
3 inquiry lead you to any conclusion as to the source of
4 these religious beliefs or how they are developed?

5 DR. PERSINGER: Well, this particular
6 article will tell you which areas of the brain are
7 involved, and they also reflect that all brains -- I
8 mean, after all, think about it. We are six billion
9 humans on this planet. We are basically the same copy
10 of DNA six billion times. So what makes us different
11 in large part is when somebody comes along and says,
12 that's what that experience means; when society comes
13 along and says, that's what that means.

14 So this allows you to understand the
15 fundamental changes in the brain that we all have and
16 how society comes along and tells you what to think
17 about it.

18 MR. CHRISTIE: Is that a significant
19 process in neuropsychology, society tells you how to
20 interpret your experience?

21 DR. PERSINGER: Certainly would be.

22 MR. CHRISTIE: The example you gave
23 of the various explanations for the stimulation by
24 electromagnetic waves of the right side of the brain,
25 you gave as cultural effect; is that correct?

1 DR. PERSINGER: Well, what we've been
2 doing, if you are asking that, is that we use the
3 experiment to actually turn on and turn off the sense
4 presence, so-to-speak. That's really the only
5 experimental proof, and it's the right hemisphere
6 involved with that primarily.

7 How you interpret it depends upon
8 your culture. And when you walk into the laboratory,
9 what you expect.

10 MR. CHRISTIE: Which would be part of
11 your belief, I suppose.

12 DR. PERSINGER: Oh, without a doubt.
13 We can manipulate that. We do. We say, this is a
14 relaxation study or this is a study on hypnosis or
15 whatever. And the label you give will influence very
16 significantly how you experience things.

17 MR. CHRISTIE: So what other people
18 tell you about the effect of an event has some bearing
19 upon your belief and perception?

20 DR. PERSINGER: Oh, without a doubt,
21 very significantly.

22 MR. CHRISTIE: If I keep telling you
23 that you're an oppressed minority, you are
24 vulnerable --

25 MR. FOTHERGILL: Can I just point out

1 this is examination in-chief. These questions were
2 very leading.

3 MR. CHRISTIE: But hypothetical
4 questions are, and experts are one of the few
5 exceptions to the rule, that hypothetical questions are
6 improper. I won't proceed.

7 Anyway, the final article which I can
8 perceive here, it appears to be "Spontaneous
9 Confabulation and Adaptation of Thought to Ongoing
10 Reality".

11 Before I go further, I'm reminded --
12 and thank you for reminding me. I would ask for the
13 inclusion of the article entitled tab 10, "Short
14 Communication, Neural Correlates of Religious
15 Experience", as part of the professor's opinion, if I
16 may.

17 THE CHAIRPERSON: Yes.

18 MR. CHRISTIE: Sir, the last article,
19 "Spontaneous Confabulation and the Adaptation of
20 Thought to Ongoing Reality", by Armin Schnider. That
21 was something you produced for a reason. What was
22 that, sir?

23 DR. PERSINGER: The reason is people
24 can believe things to be true, they are not lying. At
25 one time it was dichotomy, right, it's either truth or

1 false. But people can believe things to be true when
2 they are not factual.

3 So the important feature is to
4 understand the area of the brain that's involved when
5 people believe something to be totally true even though
6 they never experienced it or it's a confabulation, that
7 is a misunderstanding, and why they would believe that
8 way. And, of course, is there a way to modify it.

9 So that's why I included this one.
10 Again, all of these articles, the brain articles at
11 least, were included to demonstrate that we now have a
12 technology in our society that will give us a much
13 clearer, much more valid and much more accurate
14 understanding of what happens when people perceive
15 things that they find disquieting, hurtful and also
16 will give us an idea how other people experience other
17 people's feelings. This all reflects this particular
18 sample. There's actually thousands of articles that
19 could potentially be included.

20 MR. CHRISTIE: You seem to indicate
21 that honesty of belief is possible without reference to
22 truth?

23 DR. PERSINGER: Without a doubt.

24 MR. CHRISTIE: So does honesty of
25 belief have any relationship to frustrative aggression

1 if the belief is suppressed?

2 DR. PERSINGER: Well, one of the
3 things you find about belief if it's suppressed is the
4 individuals will find other forms and other ways to
5 manifest it. And when they cannot freely express it,
6 then you get the motor behaviour, the physical
7 behaviour taking place.

8 I mean, human beings -- that's what
9 we do, we talk. Fish wag their tails, rats gnaw, we
10 talk. And if you interfere with free expression, then
11 the other option is crude, physical behaviour.

12 MR. CHRISTIE: Could I produce that
13 last study, "Spontaneous Confabulation and the
14 Adaptation of Thought to Ongoing Reality"? Two
15 articles in tab 10.

16 THE CHAIRPERSON: Yes, my book at
17 least has an 11 attached to it. So I'm considering it
18 a tab 11.

19 MR. CHRISTIE: Yes, please. Thank
20 you very much. Please answer questions from my learned
21 friends.

22 THE CHAIRPERSON: Are you ready to
23 proceed or would you like a small break?

24 MR. FOTHERGILL: If we could take a
25 break. What we'll try and do is confirm among the

1 three of us and we'll try to make sure there is no
2 duplication.

3 THE CHAIRPERSON: Do you need a
4 little more time for that? Would fifteen minutes be
5 sufficient?

6 MR. FOTHERGILL: If we could make it
7 a bit longer --

8 THE CHAIRPERSON: Twenty minutes?

9 MR. FOTHERGILL: I'm confidently
10 speaking for myself that we're easily on track to
11 finish by 5:00 o'clock today, if not earlier.

12 THE CHAIRPERSON: I'll give you
13 twenty minutes. We've give you some opportunity to
14 converse.

15 MR. KURZ: I assume before we go that
16 Ms Kulaszka will not be asking any questions.

17 THE CHAIRPERSON: I made that
18 assumption as well.

19 MS KULASZKA: No, I think I made it
20 clear --

21 THE CHAIRPERSON: She made it clear
22 at the beginning.

23 MR. KURZ: I just wanted to make sure
24 because Mr. Kulbashian, who is here from Mr. Fromm's
25 group --

1 THE CHAIRPERSON: Oh, no, Mr.
2 Kulbashian is just as an agent. He is here as an
3 observer.

4 MR. KURZ: Just want to clear.

5 THE CHAIRPERSON: I want to make it
6 clear to you, Mr. Kurz, so you don't have any
7 misunderstanding. Early on in the other hotel, some of
8 the people requested they be able to sit at tables in
9 back that were not being used. I had no issue with
10 that, including Mr. Kulbashian. And if your group
11 expands at some point, I will ask the people to not sit
12 at the tables. Given the size of this room, I have no
13 issue.

14 MR. CHRISTIE: One final thing. If
15 you may, sir, please tell Dr. Persinger why I may not
16 speak to him and he may not speak to me about anything
17 to do --

18 THE CHAIRPERSON: You are about and
19 enter into cross-examination, so please refrain from
20 speaking -- well, I've allowed pleasantries to being
21 exchanged.

22 MR. FOTHERGILL: Should we leave
23 until 2:30.

24 THE CHAIRPERSON: Till 25 past?

25 MR. FOTHERGILL: 25 past.

1 --- Recessed at 2:00 p.m.

2 --- Resumed at 2:30 p.m.

3 MR. FOTHERGILL: Mr. Hadjis, I've
4 conferred with my colleagues and we think we may be
5 content not to ask any questions at all, but it's
6 dependent on a couple of procedural matters which I
7 would like to discuss in the absence of the witness, if
8 that's possible.

9 THE CHAIRPERSON: It's possible.

10 MR. FOTHERGILL: Could I ask Dr.
11 Persinger to step out just for a moment, please.

12 First request we have is we would
13 like to apply the questions and answers that were given
14 on the cross-examination of Dr. Persinger on his
15 qualifications applied to the record properly so that
16 they could form the basis for submissions on his
17 evidence generally.

18 THE CHAIRPERSON: I know you defined
19 it as a voir dire yesterday, and technically it is, but
20 in practice -- at least my experience with the
21 Tribunal, we've never made such a great distinction.
22 Evidence comes in, as it does, in as informal way as
23 possible at the Tribunal. To that extent, I have no
24 problem with that, in any event.

25 Does anyone else have any problem

1 with that? I don't see any objection.

2 MR. CHRISTIE: Before I answer, and I
3 think I should, consider what the purpose of that is to
4 accomplish? Let me reserve, if I may, my submission
5 until I hear why this is.

6 THE CHAIRPERSON: That's fair.

7 MR. FOTHERGILL: I wasn't going to
8 say much more about it. It's obvious in the course of
9 qualifying Dr. Persinger we did establish some
10 limitations on the extent to which his field of study
11 has already dealt with the subject that concerns us.

12 We know we are dealing with
13 extrapolations from general principles to specific
14 instances where I think there will be room for
15 argument, if I can put it that way.

16 And I think by and large rather than
17 arguing with the witness, which frankly would be
18 inconsistent with an earlier position I took, which is
19 that it's beyond his expertise, there's no sense in
20 making that argument through the witness. I prefer to
21 make it to you directly.

22 THE CHAIRPERSON: Arguably, you would
23 just ask the same questions over.

24 MR. FOTHERGILL: Indeed I would.

25 THE CHAIRPERSON: So we've already

1 heard the answers once. There's no reason to hear them
2 again.

3 MR. FOTHERGILL: That's right. And
4 the other point that I would wish to have established
5 is that if we do not cross-examine Dr. Persinger, this
6 is without prejudice to our ability to argue that
7 certain conclusions contained in his report are, in
8 fact, beyond his expertise and therefore ought to be
9 disregarded by you. And as I said, our preference
10 would, in fact, be for them to be struck from the
11 report.

12 So the extent he applies these
13 principles that are clearly within his expertise to
14 matters that are essentially matters of argument, or
15 logical inference, we do object to those opinions
16 appearing in his expert report, and we would either
17 wish to argue that they ought to be disregarded or
18 preferably, in fact, removed from the report.

19 THE CHAIRPERSON: Well, even at the
20 final stages of the case, we would remove it -- you
21 would make an argument that it would be removed even if
22 that argument takes place at the final stages?

23 MR. FOTHERGILL: Yes, so it does not
24 appear as part of the record.

25 THE CHAIRPERSON: I understand your

1 position. Ms Kulaszka? I don't know who to turn to
2 first.

3 MS KULASZKA: I think Mr. Christie is
4 handling it.

5 THE CHAIRPERSON: Go ahead, Mr.
6 Christie. Please approach the microphone.

7 MR. CHRISTIE: Thank you.

8 Because we don't know what aspects of
9 this report the Attorney General or Minister of
10 Justice's representative wishes to have excluded, it's
11 impossible to know whether or not it would be
12 appropriate to cross-examine the witness to try and be
13 a foundation for that claim of expertise.

14 And because the witness is here and
15 my friends choose not to cross-examine him in respect
16 to any aspect of his report, my position would be that
17 they have waived the most excellent opportunity to
18 explore whether that aspect of his report is within the
19 qualifications of his expertise or not. And that would
20 result, I would hope, in an adverse inference as to its
21 admissibility.

22 I would take the position that my
23 friends are certainly welcome and within their right to
24 argue the weight to be given to any part of it. But if
25 there is going to be a suggestion, a specific part of

1 this report should be excluded at any point in time,
2 the first position I take is they should cross-examine
3 him on that now to be a foundation for their argument.
4 And, secondly, I would like to know what they say they
5 want to exclude so I could at least take a more
6 intelligent position on it.

7 THE CHAIRPERSON: I will hear Mr.
8 Fothergill, but a thought does spring to mind that I
9 don't know how the rest of their case was planning on
10 going.

11 This is hypothetically speaking, it's
12 certainly possible that part of the foundation for some
13 other evidence they intended to introduce on that side
14 would have been based on an aspect of that report that
15 you intend to argue is not properly before me.

16 It might be, just as a matter of
17 fairness, helpful to the other side that at least those
18 sections that you challenge be made clear to them. And
19 perhaps just be put to the witness as -- in a simple
20 way, do you agree with our submission that this falls
21 outside your expertise?

22 The later point I'm willing to hear
23 you on, but on the first point it certainly is a
24 fairness issue, I can see quite clearly. If there's no
25 cross-examination on that and there is sort of an

1 indication that you will challenge portions of this
2 report without specifying which ones, it can affect
3 their approach both with their own evidence and
4 cross-examing perhaps Dr. Mock, or completing her
5 cross-examination.

6 I'm perfectly willing to give some
7 time to you, if you would, to sit down amongst
8 yourselves and say, essentially, our issue is with
9 paragraphs 4, 5, 6, 7, 8 or whatever it is, and leave
10 it there. But I would like to hear on the other
11 aspect, too, that it would be fair to the witness to at
12 least put that to him, without necessarily getting into
13 the nitty-gritty of what's said.

14 If it's a threshold issue that your
15 raise, that in your submission doesn't fall within his
16 expertise, as a matter of fairness to the witness it
17 might be helpful to just put it to him.

18 MR. FOTHERGILL: Well, essentially,
19 all I'm seeking to do is apply your earlier ruling on
20 the extent of his qualifications. And I appreciate it
21 may be a matter for argument. I have no difficulty
22 disclosing to my friends which portions, in my view,
23 transcend his expertise and go into logical inference
24 and like the things which are more the subject of
25 argument.

1 I have some misgivings about, in a
2 sense, arguing with the witness about that given that
3 we have already established the extent of his
4 expertise. So essentially we would be allowing the
5 witness to revisit that.

6 And if I can just make one final
7 point. Fairness to the witness, with respect, doesn't
8 really arise here. The witness is in no jeopardy. He
9 has no case to meet.

10 THE CHAIRPERSON: Fairness issues
11 between the parties.

12 MR. FOTHERGILL: I think that's
13 right.

14 THE CHAIRPERSON: I think the bigger
15 issue arises when you are talking about excising
16 portions of it. If we're limited to argument, if it's
17 there, and just as part of the ongoing duty of
18 disclosure, if you will, you inform the other side that
19 we intend to argue that the Tribunal should not take
20 into account pages 3, 4, 5 and 7 because they fall out
21 of the declared expertise of this individual. That's
22 fair.

23 And I think then we avoid the
24 secondary issue. I mean, it's in the record. It's
25 there. If you want to tell me just ignore it, I will.

1 If -- not because you tell me, but if I find that way I
2 will.

3 And it will give ample opportunity to
4 the other side to argue to the contrary that it falls
5 well within his competence to make that assertion or
6 this assertion. I think it's a fair a middle ground.

7 MR. CHRISTIE: I certainly agree with
8 that because it's a position I would have liked to have
9 taken vis-a-vis Dr. Mock. I'm not suggesting she cut
10 out parts of her report.

11 THE CHAIRPERSON: We did cut out a
12 part but we may get back to it now, for another reason.

13 MR. CHRISTIE: That's true. We may
14 have opened the door. But I think, with all due
15 respect, the absence of a jury entitles us to presume
16 that you, within the scope of your expertise as a
17 member of this panel, can decide the weight to be given
18 to it. And I recognize in respect that although I was
19 sort of reactive to the suggestion that you decide that
20 weight, because of both expediency and your own
21 expertise, I recognize that's the proper way to
22 proceed, and it's quicker that way.

23 THE CHAIRPERSON: Let's be clear,
24 which weight may be nil. Achieve the same result. I've
25 certainly written that way, and not just with that

1 expert we referred to earlier but with other experts.
2 I have done that from time to time. And when I've
3 determined after hearing all the evidence in the case
4 that indeed an expert account should not be taken into
5 consideration.

6 MR. CHRISTIE: I'm content with the
7 conclusion, if it please you, that you may in fact
8 decide that none of it has any weight or that part of
9 it does or that some of it falls beyond the scope of
10 his expertise, or that none of it does. Or whatever
11 way you assess the value and use of that evidence,
12 applying that principle to all witnesses, both factual
13 and expert.

14 And I don't have a problem with that
15 at all. And that argument I don't expect my friend to
16 tell me. He can make that argument.

17 THE CHAIRPERSON: At the end. Are
18 you --

19 MR. FOTHERGILL: I hope this isn't
20 too fine a distinction, but my learned colleague points
21 out that we may in fact be arguing not only that it
22 should be given no weight but it is in fact
23 inadmissible, certain portions.

24 I must confess from my own
25 perspective I assumed that that was included, that we

1 might argue before you that certain extrapolations by
2 Dr. Persinger in his report not only should be given a
3 little or no weight, but in fact as a matter of
4 evidence, they are in admissible.

5 THE CHAIRPERSON: It may be a
6 question of semantics.

7 MR. FOTHERGILL: This was my
8 reaction, although I do respect the distinction in law.

9 THE CHAIRPERSON: There may be a
10 distinction in law --

11 MR. FOTHERGILL: -- distinction in
12 practice is that it would be disregarded. And, of
13 course, my friends would be free to argue the opposite.
14 So I think on that basis we have no questions.

15 THE CHAIRPERSON: But I think I'm all
16 right with that, but I would ask if you have the
17 opportunity to indicate to all the parties, even
18 amongst yourselves -- I don't know if there's an
19 agreement on that, or if this is just a position that
20 is being led by the Attorney General's office or anyone
21 else -- of which portions you take issue with.

22 MR. FOTHERGILL: We can certainly do
23 that.

24 THE CHAIRPERSON: That's a matter of
25 fairness, I think, to the other side. When could you

1 be able to do it? By the end of the day?

2 MR. FOTHERGILL: We can probably do
3 it this afternoon.

4 THE CHAIRPERSON: Because I gather we
5 have no other business here today in that case, because
6 unfortunately it's the afternoon -- the one afternoon
7 Dr. Mock is not available, so we could not continue
8 with her evidence, right? And I notice not even Mr.
9 Fromm isn't here today where we could have finished off
10 his evidence.

11 MS KULASZKA: Well, Mr. Fromm knows
12 when to disappear. I just want to make the point, what
13 Mr. Fothergill suggests is unfair because in fact any
14 cross-examination of the parts he feels Dr. Persinger
15 doesn't have expertise in fact may reveal he does have
16 expertise in. He should cross-examine.

17 And Mr. Christie is right, this is
18 the time now to challenge the statements and to show
19 there is no expertise. In fact, they should
20 cross-examine him.

21 THE CHAIRPERSON: I think they
22 intended to argue that I will be able to draw the
23 conclusion myself from the material, and that the
24 degree to which they have asked questions already will
25 be sufficient, because the record is there. I'm not --

1 that I'm clear on. Whatever questions have been asked
2 to this moment form part of the record.

3 I guess they would have asked the
4 same questions, is their point. And you can make any
5 additional arguments at that point. I'm not saying
6 that your arguments will be found to be well-founded,
7 if that's the approach you intend to follow. The only
8 issue of fairness I see here at this point is that the
9 other side be informed of what sections you intend to
10 challenge.

11 MR. CHRISTIE: There may be one
12 problem that arises, because we are trying to foresee
13 the unknown here a little bit. But maybe if they tell
14 us what they are talking about it will help.

15 But the other problem is, if for
16 instance there was an argument to be made and they tell
17 us it's this part of the report is to be ruled
18 inadmissible, and on the possibility that --

19 THE CHAIRPERSON: On what basis? That
20 wasn't made clear to me.

21 MR. CHRISTIE: I don't know myself,
22 but let me say for the sake --

23 MR. FOTHERGILL: I can clarify that.
24 It's on basis it's opinion evidence offered by an
25 expert who has not been qualified to give that opinion.

1 THE CHAIRPERSON: Which comes up to
2 almost the same thing as what we discussed earlier.

3 MR. CHRISTIE: And let's say for the
4 sake of argument which we can't foresee, that you might
5 agree. If the decision was made today we would have to
6 opportunity, possibly, to explore that either in
7 cross-examination with Dr. Mock or possibly to call an
8 expert to fill that gap. I'm not saying we would or
9 necessarily could, but it would really help that issue
10 resolved one way or the other.

11 We take the position that weight and
12 merit and significance of that evidence is entirely for
13 you and that we are prepared to accept the proposition
14 that you may find whatever, some part of what he said
15 is beyond the scope of his expertise and you should
16 give no weight. That, of course, is for you to say
17 after argument. But if it's to be stricken we could do
18 nothing about it later if we find out.

19 THE CHAIRPERSON: We're not striking
20 anything, although --

21 MR. CHRISTIE: It seems to amount to
22 rendering it inadmissible.

23 THE CHAIRPERSON: It's an argument
24 that will be made at the end. As you say, I'm not
25 striking it. The record is there, the documents are

1 all there, and they are going to advise me that
2 pursuant to my earlier statement of what his expertise
3 is, I guess on the basis of his evidence that has
4 already been given and my reading of the material and
5 the answers that he gave pursuant to that material in
6 examination-in-chief, I should conclude that it is
7 beyond the scope of what I've seen and to what I've
8 declared to be his expertise.

9 One could imagine a situation where
10 the question is not put to the individual either.
11 Questions could be asked on the facts of the report and
12 never broach the other areas and it still would be
13 open, I think, to the party to argue in final
14 submissions that other material that was not part of
15 the cross-examination was still beyond the scope of his
16 expertise.

17 If he started discussing the details
18 of baseball, or something -- they don't have to go and
19 ask him, are you an expert in baseball. All they would
20 have to do is tell me he was not qualified as an expert
21 in baseball, therefore you should ignore the answers or
22 the portions of the report that relate to baseball. I
23 think that's where it's going.

24 MR. CHRISTIE: Assuming we can
25 identify those --

1 THE CHAIRPERSON: I think so.

2 So what we can do, maybe what I would
3 like to do is -- I'll take a break at this time to
4 enable you to draft up those points and I'll come back
5 so we can put them on the record. That might be
6 helpful.

7 --- Recessed at 2:48 p.m.

8 --- Resumed at 3:24 p.m.

9 MR. FOTHERGILL: We have identified
10 the passages and the document is currently being
11 photocopied and we'll have it very shortly.

12 MR. CHRISTIE: If I may, sir, I was
13 going to ask to excuse Dr. Persinger, but my
14 reconsidered opinion after consultation with Ms
15 Kulaszka was that in the event that some section that
16 excision is requested for is so significant that we
17 think it appropriate, we should have examined on it in
18 detail. You'll know that I didn't do that because I
19 wanted to get to the point and I thought I had
20 circumvented all these unfortunate what I will call
21 nitpickings.

22 I might want to examine Dr.
23 Persinger, perhaps, to explain why the expertise he has
24 explained includes what is desired to be excised. I
25 regret that because Dr. Persinger has a long way to go,

1 but he's agreed to stay and when I see what it is they
2 want to excise I want to just have a brief moment --

3 THE CHAIRPERSON: They are not asking
4 to excuse. Let's be clear on that. They are asking
5 that -- they are saying that certain components of his
6 evidence exceed his declared expertise I have found for
7 which he has been qualified.

8 I will give you this: This document
9 that I've asked the right side of the room to disclose
10 to you is an additional disclosure, in effect. And as
11 a consequence of which you may perhaps want to look --
12 once you've seen it you may perhaps want to pose
13 another question to this witness. I think that's where
14 it's going. I see a reaction from the other side.
15 Let's hear it.

16 MR. FOTHERGILL: If I may say so, a
17 strong reaction. Now we are dealing with a genuine
18 issue of fairness in that evidence was led on the
19 witness's qualifications. And the witness was
20 qualified and the evidence was given and a decision has
21 been made not to cross-examine.

22 As a courtesy, we are advising the
23 other side of the areas that we will now be arguing are
24 beyond the witness's expertise and in my respectful
25 submission it would be grossly unfair to now allow Mr.

1 Christie or Ms Kulaszka to try to shore up the evidence
2 that they chose not to lead.

3 THE CHAIRPERSON: Good point. It's
4 not ordinary. Ms Kulaszka, it's not ordinary
5 disclosure. What's going on here, they've given you a
6 heads-up on their final arguments. It's not statement
7 of particulars we're talking about.

8 These are final submissions that
9 could just -- the only heads-up you would have had on
10 them in the ordinary course, as we've already planned
11 it in this case, that there will be an exchange I
12 believe of documentation prior to when we come back
13 together after the close of the hearing, hopefully in
14 this case week or at some point shortly thereafter.

15 That was the order forewarning that
16 is to be expected of final arguments, final
17 submissions.

18 Now at my request, I have asked them
19 to declare those to you at this point in time only
20 because it may influence how you will examine the
21 remainder of your witnesses or cross-examine witnesses
22 of the Commission complainant or other intervenors --
23 well, there are no other witnesses other than the
24 Commission and the Attorney General. So that's true.

25 What's going on here is we are all

1 musing. As all of you make your interventions I
2 contemplate and consider each point. And I think the
3 distinction that you've made there, Mr. Fothergill, is
4 an appropriate distinction.

5 MR. CHRISTIE: If I would be allowed
6 to respond. If there was a suggestion that the part
7 of -- or any part of the report that he tendered which
8 he adopted and expressed as part of his evidence, was
9 objectionable for a particular reason it would have
10 been appropriate to deal with that by way of argument
11 and decision, as and when the witness is available.

12 Having decided apparently, and I take
13 it that their view is they don't wish to cross-examine,
14 I would not oppose the idea they might reconsider.

15 I didn't cover each paragraph of the
16 report for the simple reason that they had not objected
17 to any part of it as being beyond his particular
18 competence at that point. Had they done so, I would
19 have examined him in an endeavor to show that what is
20 claimed as beyond his expertise is exactly within his
21 expertise as ruled by you in some fashion.

22 I mean, I know explicitly, and you've
23 been very clear about what it is you felt, with one
24 exception where there was some question, perhaps a
25 little bit on both sides. But in most respects you've

1 been entirely clear in where you felt the witness is
2 qualified.

3 THE CHAIRPERSON: I've stated that on
4 the record. You say one but three out of the seven
5 were where he was qualified, although there was some
6 overlap.

7 MR. CHRISTIE: And there was some
8 doubt about one in which perhaps we were going to deal
9 with it on a question-by-question basis.

10 THE CHAIRPERSON: Right.

11 MR. CHRISTIE: Now they take the
12 position they are objecting to the admissibility or
13 that it's beyond his competence in some fairly major
14 questions which I thought were within his competence,
15 and with only a few questions I can resolve that one
16 way or another. And if my friends wish to
17 cross-examine Dr. Persinger vis-a-vis those specific
18 areas, I don't think that would be a problem.

19 So he's here, having come a long way,
20 and he's waited, as I asked him to do, and I would
21 suggest I be allowed, in view of the I would say late
22 disclosure of the suggestion that it's inadmissible, to
23 cover particularly an area on page 3 and the top of
24 page 4.

25 I agree with my learned friends

1 pertaining to just what was, I thought, a summary of
2 his understanding of the report of the Minister on the
3 bottom of page 4, and his views about the Internet.
4 That's a matter of I guess you could call it common
5 knowledge, and it's not particularly germane. That's
6 the first paragraph on page 5.

7 THE CHAIRPERSON: You know, each
8 party is a master of their own case. If the Commission
9 and the Attorney General choose to not lead evidence,
10 it's their choice. They could have just said nothing
11 and then left it to final argument and then you would
12 have had that debate at that time and wherever the
13 cards would have fallen, they would have fallen.

14 At this point, in a way out of
15 courtesy, they told us what they intend to argue in
16 their final submissions. And you can argue at that
17 point whether it's appropriate or -- whether the
18 qualifications, as I have defined them, fall into --
19 whether this evidence falls into those qualifications,
20 whatever pages they are. For the record, I have not
21 seen this document that was exchanged between counsel.

22 MR. CHRISTIE: I apologize for the
23 fact that I'm actually just reading it for the first
24 time.

25 THE CHAIRPERSON: I don't know if you

1 want a minute or two. Honestly, we have cases where
2 the respondents, often represented by the Attorney
3 General, but in other circumstances will say, we lead
4 no evidence. And then proceed directly to final
5 argument and wherever the cards may land.

6 So that's essentially what's going on
7 here, they intend to argue otherwise. Is it the first
8 time you've ever experienced a situation, speaking in a
9 large sense, where someone says, I choose to not
10 cross-examine? And that's what they are saying.

11 MS KULASZKA: I just want to say
12 something. The way the Tribunal has been run and
13 basically it's always been to save time, and we were
14 relying on its report, and instead of going through it
15 word-for-word the way Dr. Mock was taking up three
16 days, we were being efficient and relying on the
17 report.

18 THE CHAIRPERSON: Very efficient, I
19 appreciate that.

20 MS KULASZKA: And they are basically
21 all of a sudden using it to excise parts of the report.
22 I think if they wanted to excise parts of the report
23 they should have done like I did and objected
24 immediately before she even gave testimony.

25 THE CHAIRPERSON: Perhaps it's an

1 argument you can put in response to any attempts they
2 may make later on to try to exclude portions of report.

3 But, the portions that we did go
4 through the report with Mr. Christie were not in order
5 to establish his expertise because that was done at the
6 first stage. What Mr. Christie did is he actually went
7 through sections where it appeared unclear, at least in
8 previous discussions, and had him explain it.

9 I gather the remaining portions are
10 not unclear, and I will read them and they are in
11 evidence in that manner.

12 What question did go on with regard
13 to the report today by Mr. Christie, with regard to the
14 report, were to elaborate on the information, not to
15 buttress somehow his expertise. The expertise was
16 established at the first stage. Yes?

17 MR. CHRISTIE: I have nothing
18 further. Thank you.

19 THE CHAIRPERSON: I think we can
20 proceed on that basis. Nothing prevents you, Ms
21 Kulaszka, from making those additional arguments. I
22 appreciate you were working efficiently, but the report
23 is here, as are all the appendices as well. So on that,
24 I guess we can continue tomorrow.

25 How long will we be with Dr. Mock?

1 MR. VIGNA: Cross-examination wasn't
2 finished.

3 THE CHAIRPERSON: Ms Kulaszka is not
4 finished her cross-examination of Dr. Mock, are you?

5 MS KULASZKA: No, I'm not done. I
6 shouldn't be that much longer, then Mr. Christie is
7 going to cross-examine, do his cross-examination. Are
8 we going to start at 9:30 or 9:00?

9 THE CHAIRPERSON: Whatever you feel
10 is appropriate for us to be able to finish by the end
11 of the day.

12 MS KULASZKA: 9:30 would be okay.

13 THE CHAIRPERSON: What if I say 9:00.
14 We always seem to say one time and arrive later.

15 MS KULASZKA: Fine.

16 THE CHAIRPERSON: 9:15, how's that?

17 --- Adjourned at 3:35 p.m.

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I hereby certify the foregoing
to be the Canadian Human Rights
Tribunal hearing taken before me
to the best of my skill and
ability on the 22nd day of
February, 2007

Sandra Brereton
Certified Shorthand Reporter
Registered Professional Reporter

StenoTran