

Seeking truth and challenging prejudice: confronting
race hatred through the South African Greyshirt case of
Levy v Von Moltke

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CERTIFICATE OF ORIGINAL AUTHORSHIP

I certify that the work in this thesis has not previously been submitted for a degree nor has it been submitted as part of requirements for a degree except as part of the collaborative doctoral degree and/or fully acknowledged within the text.

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Abstract

This thesis analyses the case of *Levy v Von Moltke (South Africa, 1934)* in which Reverend Abraham Levy (my great-grandfather) sued three leaders of a fascist organisation (Greyshirts) for defamation after they published a document based on the *Protocols of the Elders of Zion* (a notorious antisemitic propaganda tool) and implied that it was authored by him. The libel action, which Reverend Levy won, was the first time in a court of law that the *Protocols* was proved to be a fabrication. A central question is why, despite this case and other exposés of the *Protocols* as a fabrication, it continues to have widespread currency and appeal. The thesis interrogates whether the form of the narrative influences perception, and concludes that the courtroom was an effective forum for identifying and disproving the falsehoods disseminated by the Greyshirts that were gaining traction at a popular level. While the initial impact of the case was considerable, with time the effect has diminished. The creative component of this project seeks to 'unshackle' the Greyshirt case from the constraints of time, place and form, and re-frame it as a documentary stage play. In addition to critically analysing the case and assessing its contribution in academic terms, this project seeks to create a vehicle by which a public conversation could possibly begin and the contemporary reverberations could be considered. These themes have pertinence to contemporary ideologically-driven hate, propaganda and violence, and the continuing difficulty of separating truth from falsehood in public discourse.

Introduction

The contemporary period has become increasingly infused with discourses that foreground alternative facts and post-truths. Yet principled and evidence-based challenges to ideology and prejudice are not new. Throughout the modern era, the testing of the truth claims inherent in allegations about the failings of ‘othered’ social groups has characterised the struggle for democracy, equality, freedom and common humanity. So it was in South Africa in the pre-World War II period, when racialised fascism spread globally, and the schisms that would in time widen and solidify to form the racialised Apartheid republic were being fashioned. This project – thesis and dramatised encounter – explores the multiple layers of truth, falsehood and the distortions of reality as revealed through the defamation court contest of *Reverend A. Levy versus Johannes von Strauss von Moltke; Harry Victor Inch; David Hermanus Olivier, Junior (1934)*, commonly known as the Greyshirt case.

The *Protocols of the Elders of Zion* (hereafter referred to as *Protocols*) is a notorious antisemitic document. It is a crude plagiarism of an anti-Napoleonic satirical novel written by Maurice Joly in 1864, that made no mention of Jews. The *Protocols* was first published in Tsarist Russia in 1903 as a pamphlet in a St. Petersburg newspaper, *Znamya* (The Banner). A more comprehensive version was published in 1905 by Sergei Nilus, a Russian apocalyptic thinker and writer. It has been widely disseminated in various forms globally ever since, becoming what Laqueur describes as the ‘bible of antisemitism in the twentieth century’ (Laqueur 2006, p. 29). The *Protocols* purports to be a secret document setting out a global Jewish conspiracy for world domination through corrupt and underhand means. It has been used to incite hatred and justify hate-based violence, leading Norman Cohn to describe it as a ‘warrant for genocide’ (Cohn 1967). It reached a peak of popularity in the 1930s and 1940s but is still widely distributed today, particularly in the Middle East and Arab world where it is often regarded as historical fact and its veracity is largely unquestioned. Significantly, the advent of the Internet and electronic media has given the *Protocols* new life and an ever-widening reach. The *Protocols* is thriving in cyberspace, where truth competes with lies in a largely unregulated and ever-confusing environment.

This project consists of a documentary theatre script and a thesis, and centres on the Greyshirt case that took place in South Africa in 1934. The case involved a libel action against three

leaders of the Greyshirt Movement that was the vanguard of the South African Gentile National Socialist Movement, a home-grown fascist organisation active in South Africa in the 1930s, which mirrored many of the features of Hitler's Brown Shirts. The case arose out of the publication of a defamatory document based on the *Protocols* and alleged to be stolen from the Western Road Synagogue in Port Elizabeth where the Reverend Abraham Levy was the minister in charge.¹ The document was read out by the leader of the South African Gentile National Socialist Movement in the Eastern Province, Johannes von Strauss von Moltke, at well-attended public meetings in Aberdeen on 27 March 1934 and Port Elizabeth on 4 April 1934, and afterwards published in *Die Rapport*, a Greyshirt newspaper with a wide circulation.²

The Supreme Court of South Africa judged that the document was a fabrication and awarded damages in favour of the Plaintiff, Reverend Abraham Levy. The historic trial became a landmark case internationally as it proved for the first time in a court of law that the *Protocols* was a forgery.

As a descendant of Reverend Levy, and as a lawyer, it has been important for me to focus on what has become a central issue of this project, namely why, despite extensive documentation and validated findings (such as the authoritative evidence and judgment in the Greyshirt case) that expose the *Protocols* as a fabrication and lie, the document continues to flourish and has widespread currency and appeal.

The *Protocols* was exposed as a fabrication as early as 1921 when *The Times* of London published a definitive exposé (Graves 1921). It has subsequently been examined and refuted through various means, including legal trials³, scholarly works⁴, a 1964 United States Congressional Inquiry that categorically pronounced the document a fabrication (United

¹ The Greyshirts alleged that the document was stolen by Harry Victor Inch (the second defendant).

² The editor of *Die Rapport* was David Hermanus Olivier (the third defendant).

³ Immediately following the Greyshirt trial, a dramatic and successful trial in Berne, Switzerland, proved the *Protocols* to be a fabrication. The action was taken by members of the Jewish community in Berne under the 'obscene literature' provisions of the Swiss legal code. A 1993 case in Russia ruled that Pamyat, a far-right nationalist organisation, was guilty of committing an antisemitic act by publishing the *Protocols*.

⁴ See for example (Bernstein 1921; Bronner 2000; Cohn 1967; De Michelis 2004; Hagemeister 1997; Hagemeister 2005b, 2008, 2011, 2012, 2014; Larsson 1994; Rollin 1939; Segel 1926; Taguieff 1992; Wolf 1920b, 1921). There have also been numerous scholarly articles dealing with the *Protocols* from different academic perspectives including (Green 2000; Hasian 1997; Mattus 2015; Petrovsky-Shtern 2003; Tazbir 1998). Important scholarly contributions to the subject include the edited volumes: (Kaufman et al. 2007; Landes & Katz 2012; Webman 2011b).

States Congress Senate Committee on the Judiciary 1964), a documentary film by Marc Levin (2005), a graphic narrative by Will Eisner (2005), personal narratives, such as that by Hadassah Ben-Itto (2005), a line-by-line refutation (Jacobs & Weitzman 2003), and exhibitions at public museums, including the United States Holocaust Memorial Museum in Washington D.C.⁵ In addition, there have been public denunciations of the *Protocols*, such as UNESCO's denunciation of the *Protocols* following its display in 2003 in the Alexandria Library in Egypt (Abou El-Magd 2003; D'Emilio 2003)).⁶ But, despite documented evidence that demonstrates that the *Protocols* is pure fantasy, it continues to enjoy widespread appeal. It has been described as the 'eternal lie' (Summerfield 1935b) and the 'lie that wouldn't die' (Ben-Itto 2005).

In Chapter One of this project, I outline the history of the *Protocols*, examine its currency today and consider the critical factors that contribute to its popularity and potency. Through a detailed critique of the *Protocols*' early history, I show how the *Protocols* was, from its first publication in 1903, an ideological and concretely political document informed by racist notions of national identity. I show that, thematically, the *Protocols* has a long pre-history, drawing on and codifying medieval myths about Jews and Judaism. These observations and conclusions help to contextualise the significance of the Greyshirt trial in rebutting the *Protocols*, especially in light of other attempts to do so; and explain, in part, the continued popularity of the *Protocols*.

The *Protocols*' continued popularity is multifactorial. Firstly, its appeal lies in its content. The *Protocols* codifies popular antisemitic myths laced with conspiratorial themes that can be traced back to antiquity. The conspiracy theory at the heart of the *Protocols* has its roots in medieval blood libels, ancient stories of Jews poisoning wells and desecrating the Consecrated Host, all of which were used to justify the persecution and expulsion of Jews in the Middle Ages and which have persisted into the modern era (for example the Beilis blood

⁵ The United States Holocaust Memorial Museum has an exhibition about the *Protocols* entitled, A Dangerous Lie: The Protocols of the Elders of Zion, which 'explores the continuing impact of the most widely distributed antisemitic publication of modern times.' (United States Holocaust Memorial Museum) <http://www.ushmm.org/information/exhibitions/museum-exhibitions/a-dangerous-lie-the-protocols-of-the-elders-of-zion/> accessed 21 April 2015).

⁶ See also denunciation in 2007 in Egyptian daily, *Al-Ahram*, by Grand Mufti of Egypt, Dr. Ali Gomaa, publicly denying that he was the author of a Foreword to a 2003 edition of the *Protocols* that was attributed to him (Intelligence and Terrorism Information Center 2007a) and the December 2002 denunciation by Osama El-Baz, chief political advisor to then Egyptian President, Hosni Mubarak (Friedman 2006; Friedman 2003; Michael 2002).

libel case in 1913 in Russia, when Menachem Beilis, a Ukrainian Jew in the Russian empire, was falsely accused of ritual murder).⁷ Therefore, the *Protocols* validates and reinforces longstanding, baseless oral rumour.

Furthermore, the *Protocols* offers a simple explanation of frightening and complex events in times of uncertainty, stress and upheaval. For those who embrace it, the *Protocols* eliminates the need to evaluate complex social, economic and historic issues and conveniently places the blame for global crises and local grievances on Jews, who are constructed as a demonised 'other'. This construction of a demonised foe serves not only as a scapegoat but also as a means of defining 'self', and is particularly well suited to defining 'self' in ethnonational terms. In this binary system of 'us' and 'them', believers in the *Protocols* are able to define themselves by what they are not. Thus, the *Protocols* can be easily adapted to any ethnonational project and can serve as an explanatory paradigm for national failures, a justification for national expansion and repressive action, and as a reflexive crutch for those seeking to define and elevate their own national identity.

The *Protocols* not only reflects religious and theological Jew-hatred, but is also a product and a wellspring of racist antisemitism – an ideology that gained ascendancy and credibility as a legitimate political position at the end of the nineteenth century and early twentieth century. Scientific racism operated as a *justification* for antisemitism, which in turn formed a unifying political ideology that helped to explain the social world and define social relationships. Therefore, the *Protocols* was the perfect template for the transmission and generation of a racist ideology that was gaining credibility and popularity in Europe at the time and was finding fertile soil globally.

While a great deal of scholarly attention has focussed on the appeal and popularity of the *Protocols*' content, somewhat less attention has been given to the potency of its form. Here, I define the form of the *Protocols* as the way in which it has been constructed in a formal sense: the techniques, devices and procedures that the fabricators have deployed to construct the *Protocols* and to convey its ideas and communicate its story. The form of the *Protocols* is deeply and closely connected to its content (that is, what the *Protocols* is about) but is also distinct from it. Therefore, I interrogate both matters of content and form, but in doing so I

⁷ For a detailed exploration of a selection of anti-Jewish trials see (Hartston 2005).

bring particular focus to the way in which the form of the *Protocols* contributes to its potency. I hope that this approach will also provide more general insights into present-day examples of literary hoaxes such as the supposed hacking of the Daily Stormer website by Anonymous (Craw 2017; Grierson & Gibbs 2017; Griffin 2017; Mettler & Selk 2017). In Chapter One, I begin my inquiry by focussing on the *Protocols* as a document and the extent to which the *form* of the narrative (the account of events that tells the story) influences perception. What, if anything, about the form of the *Protocols* contributes to its popularity and acceptance? Among other factors, I specifically examine the role of ‘hardcopy’ rumour, literacy and mass communication as objective enablers for the *Protocols*’ success. This, in turn, lays the foundation for my consideration in later Chapters of whether something about the *form* of the refutations – especially legal proceedings such as the Greyshirt case in South Africa – limits their effectiveness in countering the dangerous and libellous imagery of the *Protocols*.

Chapter Two provides important background to the socio-political context in which the Greyshirt trial occurred. The Greyshirts’ use of the *Protocols* represented a continuation of earlier examples where the *Protocols* was used as an explanatory paradigm for national failures and to support an ethnonational project. However, it also points to the local challenges and crises within South Africa, including the crisis in Afrikaner national identity. My analysis of the Greyshirt trial, within the context of the social, political and economic climate prevailing in South Africa in the early 1930s, exposes a confluence of both religious and racist antisemitism taking root in far-right politics and gaining traction at a popular level.

The racist elements of the *Protocols* were particularly suited to the Greyshirts whose political and social worldview was informed by overt racism. The *Protocols* proved to be an adaptable vehicle by which racist ideologies could be disseminated and popularised. The Greyshirts used the *Protocols* as documentary ‘proof’ of their essential thesis that Jews as a ‘race’ were inherently evil; that South African Jews were plotting to establish control over South Africa by destroying it from within; and that this local plot formed part of a global Jewish conspiracy for world domination. The Greyshirts argued that Jews were therefore undeserving of a place in South Africa and should be denationalised.

The crucial question is how the Jewish community, suddenly finding itself the target of a virulent political ideology of hate, division and exclusion could arrange its affairs to push

back and erode its critics? How does a community create a meaningful counter-narrative to propaganda based on demonic mythology, especially when the propaganda is fortified and underpinned by ideological racism? Extreme propaganda such as the *Protocols* can have, and has had, a significant impact on the public perception of Jews and Judaism. My analysis focusses specifically on how the *form* of the narrative influences public perception of what is true, and how the forum in which the discursive struggle takes place (whether that be a town hall meeting, a courtroom or printed news), has a bearing on how the general public distinguishes between truth and lie.

Chapter Three is an in-depth analysis of the Greyshirt trial, focussing on the effectiveness of the defamation action in particular and the law as a medium in general in adjudicating rival claims and counter-claims. I give specific attention to the ways in which Reverend Levy and his legal team were able to enlarge the narrow frame of the individual libel action to encompass and refute racially and religiously defamatory falsehoods or ‘fundamental truth claims’ propagated by the Greyshirts. The Greyshirts aimed the bulk of their propaganda at Jews as a ‘race’, thereby libelling all Jews, not just Reverend Levy. At that time in South Africa (or anywhere in the British Empire) there were no ‘group defamation’ or racial vilification laws and so the Greyshirts could vilify Jews collectively with legal impunity. However, when von Moltke read out from a document (based on the *Protocols*) that he claimed was signed ‘Rabbi’ and said to be stolen from the Western Road Synagogue, this implicated Reverend Levy personally and gave rise to an individual action for libel. As Reverend Levy’s legal action was grounded on his individual right to reputation, the group dimensions of the Greyshirts’ invective bore no direct legal relevance to the case. However, it was precisely these ‘fundamental truth claims’ about Jews and Judaism generally that Reverend Levy and the broader Jewish community were keen to contest and refute. I show how Reverend Levy and his legal team sought to, and indeed did, contextualise the legal action within a larger social frame to counter and attack not just the defamatory allegations against Reverend Levy personally, but also the ‘fundamental truth claims’ advanced by the Greyshirts, making the case a remarkable and stunning success.

However, the Greyshirt case is not without its limitations. A court case naturally has a particular frame of reference and its own specialised documentation, including pleadings, affidavits and exhibits, oral testimony recorded as transcript and a judgment. These are all weighty, dense and not easily absorbed by those unfamiliar with legal vocabulary and modes

of expression. In particular, judicial language is specialised and geared towards a highly literate audience. Additionally, while a judgment can be reduced to a summary, stand as authority for a legal proposition and may even have a powerful legal legacy, it does not have the same ‘sensational’ quality possessed by the *Protocols*. As Richard Levy states in his translator’s introduction to Benjamin Segel’s book, *A lie and a libel*:

...the style of the *Protocols* is particularly apt. It speaks the language of what the Germans call the “revolver press,” the scandal-mongering newspapers that form the staple reading matter for the recently literate of every country. Sensational revelations, tawdry exposés of corruption in high places, and chilling stories of degeneracy titillate readers and simultaneously convince them of their own moral superiority. This is the authentic voice of the *Protocols*. (Levy 1995b, p. 12)

Furthermore, the *Protocols* has no specific ‘jurisdiction’ or national context and is therefore easily adaptable to specific regional conditions. It is a template for hate that can be adapted to almost any local situation and can be used successfully over time. Legal proceedings, on the other hand, are constrained by place and time. In my view, the proliferation of the *Protocols* on the Internet is revelatory not only as to the appeal of its content but also, critically, as to the potency of its form. Consequently, I have considered the discrepancy between the ease with which the ‘lie’ is disseminated and embraced and the way in which the ‘truth’ is seemingly constrained or ‘archived’.

To provide a current example of the use of the *Protocols*: in July 2011, a Muslim Cleric in Khartoum gave a Friday afternoon sermon that was aired on Sudan TV (Middle East Media Research Institute TV (MEMRITV) 2011).⁸ In the clip, the Cleric holds up a copy of the *Protocols* and says ‘These people, the seed of Satan, whom we hear today – where have they come from, and who created them? They were created by this book: *The Protocols of the Elders of Zion*.’ The eerie similarity of this speech to that given by the Defendants in the Greyshirt libel action in Port Elizabeth, South Africa in 1934, is striking. In both instances, lies were held up publicly as truth. In both instances, the *Protocols* was used as documentary ‘proof’ of a Jewish conspiracy to undermine the existing order by monopolising industry and instigating wars and propagating division. As has been the case in the past, the

⁸ The sermon was translated and subtitled by the Middle East Media Research Institute (Middle East Media Research Institute TV (MEMRITV) 2011).

Protocols continues to be used to demonise and dehumanise Jews, generate and validate antisemitism, and incite hatred and violence. The original defamation at the heart of the Greyshirt case is still alive and well.

The continued dissemination and acceptance of the *Protocols* in the decades that have followed the Greyshirt case underscores my concern that this landmark case has had a seemingly limited legacy, although I do argue later that without the Greyshirt case, the *Protocols* might have gained greater traction than it did in South Africa. Therefore, a key aim and outcome of this project is to re-engage with the events of the trial in a way that facilitates critical thought and possibly provides a way to understand the present more clearly and potentially influence the future more constructively. I seek to achieve this aim through the means of documentary theatre, a theatrical form that I discuss in detail in Chapter Four. In that Chapter, I interrogate the power of the artistic and creative medium of theatre to convey truth and authenticity and I explore some of the vexed questions surrounding truth-claims in documentary theatre. Themes of truth and falsehood reverberate through the content and form of the court process and also reverberate through the content and form of documentary plays. Chapter Four draws out and interrogates these important parallels. This theme is particularly pertinent since the *Protocols* itself makes a (false) claim to be ‘true’.

Chapter Four is also an exegesis of the creative component of this project, which seeks to ‘unshackle’ the Greyshirt case from the constraints of time, place and form, and re-frame it as a documentary stage play. The documentary theatre script entitled *The Defamation* constitutes Chapter Five of this project. The purpose of writing the script, which is drawn from the original and archival documentation pertaining to the legal proceedings (the bulk of which was obtained from the archives of the South African Jewish Board of Deputies), is not to create a new refutation of the *Protocols* and nor is it an attempt to create a highly ‘consumable’ version of a refutation that competes with the popular appeal of the *Protocols*. Rather, it is to find a way of re-engaging with the case in a new and different way in order to provoke critical thought, reflection and conversation on both historical and contemporary events. In addition to critically analysing the case and assessing its contribution in purely academic terms, this project seeks to create a vehicle by which a public conversation could possibly begin and the contemporary reverberations could be considered. Finally, the play seeks to make a positive, active contribution to the separation of truth from falsehood.

Together, the thesis and the script seek to provide insights into the power of the form of the narrative to influence perception in the context of ideologically driven imagery. I believe that this is particularly pertinent in a contemporary context where there are no easy answers in dealing with racial and ethnic hatred and violence. I hope that this project will stimulate further thought and discussion, and encourage public debate on the ways in which the truth or the events that expose the truth can be remembered, perpetuated and conveyed in order to counter dangerous lies.

Thesis/exegesis

The scholarly material to date has focussed on the history, the impact, the appeal as well as the currency of the *Protocols*. The literature also discusses the refutations and exposés. The earliest works on the *Protocols* include attempts to expose its falsity by tracing its origins, history and literary antecedents, for example Bernstein (1921), Wolf (1921), Segel (1926), Rollin (1939) and Curtiss (1942). After World War II, the first major in-depth study of the *Protocols* was Norman Cohn's *Warrant for Genocide* (1967), which examined the *Protocols* in the context of the genocidal antisemitism of Nazi Germany. Important recent scholarship on the *Protocols* includes Pierre-Andre Taguieff's *Les Protocoles des sages de Sion. Faux et usages d'un faux* (1992), Cesare De Michelis' *The non-Existent Manuscript* (2004), which provides insights into the *Protocols*' origins by focussing exclusively on the textual aspects of the early reprints and editions of the document, the work of historian Michael Hagemeister (1997; 2005b, 2008, 2011, 2012), and the work of political theorist, Professor Stephen Bronner (2000).

The continued popularity and widespread appeal of the *Protocols* has generated recent academic interest, including the valuable edited volumes entitled *From the Protocols of the Elders of Zion to Holocaust Denial Trials: Challenging the Media, the Law and the Academy* (Kaufman et al. 2007), *The Global Impact of the Protocols of the Elders of Zion: A century-old myth* (Webman 2011b), and *The Paranoid Apocalypse: A hundred-year retrospective on The Protocols of the Elders of Zion* (Landes & Katz 2012).

I consider that my research provides an original contribution in the following three ways:

- (i) Original research and detailed sociological analysis of the Greyshirt trial

Relatively little academic attention has been given to the Greyshirt case. Therefore, I consider that original research pertaining to the Greyshirt case is valuable. I have researched archival, original and contemporaneous documents that hitherto have not been studied or analysed in any great depth, with an emphasis on the transcript of the trial. In relation to the case itself, there is limited analysis. For example, *The Challenge* (Lazarus 1935) details the events of the Grahamstown trial, but does not provide in-depth analysis. While many scholarly works refer to the Greyshirt case, it is usually described relatively briefly and limited to the facts. For example, Cohn devotes three pages to it (Cohn 1967, pp. 218-20) and Ben-Itto focuses primarily on the Berne trial that took place later that year, devoting a single chapter to the Greyshirt case (Ben-Itto 2005, pp. 231-68). Patrick Furlong describes the case in his significant book *Between Crown and Swastika: The Impact of the Radical Right on the Afrikaner Nationalist Movement in the Fascist Era* (Furlong 1991, pp. 41-3). Milton Shain, an expert on antisemitism in South Africa, has written about the Greyshirt trial in a contribution to a book edited by Ester Webman in 2011 (Shain 2011) and, more recently, has considered the case in his book *A Perfect Storm* (Shain 2015, pp. 72-82). Overall, it appears that relatively little attention has been given to the case in terms of its sociological impacts – i.e. contextualising it within the broader work on antisemitism, the testing of ‘truth claims’, and appropriate responses to violence, myth, fear and hate.

In this regard, my research builds on the approaches reflected in the edited book *From the Protocols of the Elders of Zion to Holocaust Denial Trials: Challenging the Media, Law and the Academy* (Kaufman et al. 2007) and, in particular, the work of Bronner (2007), Lawrence (2007), Minow (2007), Cole (2007) and van Pelt (2007). As the editors state in the Introduction, each contributor to the book ‘reflects on the ways in which evidence is presented, constructed and reconstructed from their disciplinary focus, and the ways in which historical truths are reconstructed and/or refuted over time’ (Kaufman et al. 2007, p. 1). The collection of essays does not only deal with contemporary Holocaust denial but also:

...with the way in which key institutions such as the law, history and the media make truth claims, and what effect such investigations and exposés have on popular beliefs.

Faced with proliferating printed and web-based assertions and reassertions of premises whose veracity have long since been disproved (such as those of the *Protocols of Zion*), we felt it important to provide our colleagues and students with a text that would step back from the Holocaust itself to the broader questions involved in the study of invective and hate. That is, how truth assertions are made and the ways in which they are maintained and/or dismantled over time. (Kaufman et al. 2007, pp. 1-2)

The editors state that:

...the essays provide salutary lessons to those who wish to understand the stubborn persistence of myths, even when confronted by the truth, and the power and limitations of the tools used by scholars, lawyers and journalists in their effort to supplant those myths. (Kaufman et al. 2007, p. 2)

Clearly, simply ‘exposing’ or re-asserting the truth is not sufficient to dislodge persistent myths. I analyse these issues through the prism of the Greyshirt case and create an entry point through the documentary theatre script.

(ii) Interrogation of the *form* of the narrative

My research takes a broader view of the refutations and exposés and considers whether there is something inherent in the *form* (as distinct from the content) of these refutations that makes them more, or less, effective as a counter-narrative. This project seeks to provide new insights into the power of the form of the narrative to influence public perception of truth and falsehood, and examine how the forum affects the way in which ‘fundamental truth claims’ are contested. Specifically, I examine the Greyshirt trial documentation to evaluate the extent to which the court process and judicial forum were effective in separating truth from lie and whether it proved a superior forum to the ‘court of public opinion’.

Similar analyses have been done in relation to the 2001 libel action brought by David Irving against American historian Deborah Lipstadt and her British publisher Penguin for labelling him a Holocaust denier. There are many aspects of the *Irving v Penguin Books & Lipstadt* trial that have relevance to my own research, primarily

how ‘truth claims’ are tested and the ways in which a courtroom can be a highly effective means of exposing falsehood. Lipstadt had always resisted the idea of bringing legal claims against Holocaust deniers as she ‘did not believe that courtrooms are the proper venue for historical inquiry’ (Lipstadt 2007, p. vii). In this case she had no choice but to engage with the judicial process as she had to defend the legal action to prove she had told the truth, or lose by default (Lipstadt 2002, p. 245). Lipstadt discovered that:

For an encounter with an adversary such as Irving, the courtroom proved to be the perfect venue. Until this trial, few, if any, historians had invested their time and energy to follow Irving’s footnotes and document the discrepancies and falsifications in his work....Irving was left free to pose all sorts of arguments without anyone challenging him on the details. In the courtroom it was different....There were experts, lawyers, and, most significantly, a judge present, all of whom could demand that he provide evidence to prove his claims. And, of course, he could not. (Lipstadt 2007, p. viii)

Similarly, I examine the ways in which the fabricated stories told by the Defendants in the Greyshirt trial were dismantled in court. One of the Defendants, Harry Victor Inch, perjured himself in court and was subsequently prosecuted for this in later proceedings. In speaking about the Greyshirt leaders’ conspiracy to malign the Jews of South Africa by fabricating documents and a story, the Judge in the Greyshirt case noted:

It may at first sight appear improbable that anyone possessed of ordinary intelligence would have been so foolish as to devise a plot which could be so readily exposed, for even the most foolish conspirators usually take measures to avoid detection. But in this instance the action of the author or authors of the plot is easily accounted for; it was never anticipated that the story told by Inch to account for his possession of the three documents would ever be investigated in a Court of law. (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 34)

This ‘secondary audience’ of legal practitioners is quite different from both Harry Inch’s and David Irving’s respective primary audiences. The general public,

journalists, (and even academics and historians in the case of David Irving) did not subject the assertions made by either Inch or Irving to the type of rigour demanded by the legal process.

I argue that at its core, the Greyshirt case was about distinguishing truth from lie in public discourse. Consequently, the main audience for the South African Jewish community was the general public – a sphere in which judgments are made and actions are taken that shape society. Reverend Levy sought to prove to the wider South African public that the Greyshirts had lied about Jews and Judaism, that the *Protocols* was a fabrication and that Greyshirt methods involved conspiracy, lies and fabrication. The trial process and the legal judgment provided an effective mechanism for achieving this goal.

(iii) Documentary theatre script

The development of a script for a stage play that is drawn from the documentary material is also an original contribution, as I am not aware of any dramatic work based on the events of the trial. The idea for the script emerged when I asked myself the following questions: how does one animate the events of the past in a meaningful and engaging way? How does one provoke critical thought on certain historical events and their possible contemporary resonances? As a refutation of an enduring lie, how effective can a 1934 court case be? Does the *form* of the lie mean that it naturally outlives the *form* of the refutation? The *Protocols* is an easy to read, easy to understand, easy to upload/download/post document. Its widespread dissemination on the Internet demonstrates the facility with which it is transmitted. Whereas a dense and dry judgment, 900 pages of transcript and other primary material archived in hard copy in South Africa is not something that can easily be circulated, conveyed or understood. For it to be considered, it has to be re-presented. The voices of the past may have something valuable to contribute but they have to be redeemed from the archives and revived in an accessible and thought-provoking modality.

By harnessing the power of theatre and storytelling to move, intrigue, educate and provoke, and by shining a light on the Greyshirt case, I hope to engage a wider audience on the potential dangers that can flow from hate speech based on demonic

mythology and racist ideology. I hope to show that even the most far-fetched and outlandish libels have the power to influence large numbers of people and can be a rallying point for political ends. Finally, I hope to show that critical thought and action is essential in opposing falsehood.

The surge in late nineteenth and early twentieth century imperialism took place in a competitive environment of expansionism. Whether it was Germany and Belgium in Africa, France in Indochina and Africa, or Russia in northern Asia, all were influenced by theories of scientific racism and the sorts of justifications given to empires by social theories such as those of Herbert Spencer (survival of the fittest) and the associated hard science theories of Charles Darwin. Key elements in these imperial expansions were ‘factual’ documents that used race to define social character, underpinning the emergence of racialised nationalism. The *Protocols* emerged in a context where the Jewish ‘race’ was regarded as untrustworthy to the nation state or the imperial centre, because of perceived Jewish transnationalism and global gains following emancipation. Antisemitism soon transited from the emotional religiosity of churches seeking to focus their congregations on the enemy on earth and their origins as the agents of Satan, to a more materialist and concretely political antipathy, including that based on jealousy and fear. The logic of the *Protocols* was simple, that Jews formed a transnational network seeking its own tribal rather than any individual interest, with the goal of destroying the majority’s society from within. The *Protocols* was eminently portable and transferable, essentially a linchpin for any ideology of national expansion, and an explanatory paradigm for any failures of the national/imperial project.

The South African trial takes place in the swirling aftermath of the Anglo-Boer War, where historical Boer antipathy towards the British lingers, and Afrikaner ethnonationalism finds common cause with the trajectory developed by the German Nazis to regain legitimacy with the white masses. The thesis asks, how might a community suddenly targeted by its enemies mobilising this ideology of hate and exclusion arrange its affairs to push back and erode its critics?

1. Initial use and origins in Imperial Russia

The *Protocols of the Elders of Zion* (*Protocols*) is a notorious antisemitic fabrication. A plagiarism of earlier fictional works⁹, the *Protocols* purports to be the minutes of a secret

⁹ Principally Maurice Joly’s 1864 satirical work *Dialogue aux Enfers entre Montesquieu et Machiavel* (*Dialogue in Hell between Machiavelli and Montesquieu*) which was intended as veiled criticism of Napoleon III in France and made no mention of Jews (Cohn 1967, pp. 72-3; Graves 1921; Green 2000), as well as the 1868 novel *Biarritz* by Hermann Goedsche, under the pseudonym of Sir John Retcliffe (De Michelis 2004, pp.

meeting of Jewish leaders in which the progress of an international Jewish conspiracy for world domination through subversive and corrupt means is presented and discussed. The *Protocols* was first circulated in Tsarist Russia in pamphlet form in an extreme right-wing St. Petersburg paper, *Znamya* (The Banner), from 26 August to 7 September, 1903 (Cohn 1967, p. 65). *Znamya* was founded by Pavel Aleksandrovich Krushevan, who was involved in the brutally violent anti-Jewish riot (pogrom) in Kishinev, the provincial capital of Bessarabia in south-west Russia in which Jews were murdered, gang raped, tortured and mutilated just months before the *Protocols* was first published (Lambroza 1992).¹⁰ The *Protocols* was not the first sensationalist propaganda published by Krushevan. Significantly, he also published *Bessarabets*, a local newspaper in Kishinev, which incited and authorised the massacre of the Jewish community in Kishinev (Lambroza 1992, p. 196) (see also (Dubnow 1920, pp. 69-75)).

The initial publication of the *Protocols* in Russia in 1903 clearly formed part of a genre of antisemitic propaganda that must be understood and evaluated within several important contexts including the phenomenon of antisemitism more generally as well as the historical, geopolitical, social and economic environment in which it arises.

1.1 Context of late Imperial Russia

It is no accident that the *Protocols* first emerged at a time of great instability in Russia as the Tsarist regime under Tsar Nicholas II struggled with, among other things, political opposition and popular unrest (arising from the negative and dislocating effects of forced modernisation¹¹, urbanisation, industrialisation and economic crisis) and its ultimately doomed expansionist plans into Manchuria, resulting in the significant Russian defeat to Japan in 1905. This defeat undermined Tsar Nicholas II's authority, and he faced ongoing and intensified revolutionary agitation in 1905, including the first Russian revolution, which was sparked after Tsarist police opened fire on a peaceful demonstration of workers in front

49-50). Numerous scholars and other writers have identified various literary sources that shaped the *Protocols* in terms of its inspiration, framework, organisation and precise wording. See for example, De Michelis (2004, especially pp.46-7).

¹⁰ The pogrom took place on 19 and 20 April 1903, coinciding with the celebration of Easter and the Jewish festival of Passover. For additional detail on the Kishinev pogrom including the involvement of Krushevan, see (Lambroza 1992; Penkower 2004, especially p.189 and p.201; Polonsky 2010, pp. 47-9).

¹¹ Polonsky (2010, p. 4) emphasises the significant effect of forced modernisation in 'escalating social and political tensions'.

of the Winter Palace in January of that year. Shlomo Lambroza points out that the development of left-wing political movements began in the 1870s in Russia, but that ‘the deepening crisis of the autocracy through the early years of the 1900s mobilized the right to political action’ (Lambroza 1992, p. 224). The political right supported the autocracy, Orthodoxy and the national project, and antisemitism within these reactionary circles also ran deep. The *Russkoe Sobranie* (Russian Assembly) was the first of these right-wing organisations and included among its ranks ‘government officials, military men, and publicists’ (Lambroza 1992, p. 224).¹²

Although the precise identity of the original fabricator(s) of the *Protocols* remains uncertain, Cesare De Michelis concludes that the *Protocols* emerged from *Russkoe Sobranie* circles and identifies Krushevan, as well as Mensikov and Butmi, (all of whom belonged to the *Russkoe Sobranie* in 1903¹³) as the most likely fabricators or compilers of the *Protocols* (De Michelis 2004, pp. 77-8, 80-1). De Michelis’ conclusion that the *Protocols* was fabricated in Russia sometime between April 1902 and August 1903 challenges the most widely accredited explanation that the *Protocols* was fabricated in France around 1897 by agents of the foreign branch of *Oxrana* (the Russian secret service), most notably Rachkovsky, who was head of the Foreign Section of the Russian secret police and resident in Paris.¹⁴

More significant than the precise identity and motives of the original fabricators of the *Protocols*, are the broader social and geopolitical forces giving rise to its publication and influencing its shape and form as well as the relationship between the *Protocols* and antisemitism in Imperial Russia and globally. It is these broader forces that shed light on the *Protocols* as an ideological document, designed to frame the relationship between Russia and

¹² For additional detail on the Russian Assembly including its origins as a ‘cultural association’ in St. Petersburg in 1901, see (Rawson 1995); and also (Rogger 1986, pp. 191-2).

¹³ Krushevan (as well as fellow Moldavian, Butmi) later became involved in the ‘most prominent rightist association in Russia’, the violent Union of the Russian People (*Soiuz russkago naroda*). Krushevan opened a highly successful branch of the URP in Kishinev in June 1906 (Rawson 1995, pp. 56, 63, 97-8). See also (Cohn 1967, p. 66).

¹⁴ Evidence given by various witnesses in the Berne trial (which began in October 1934 and, among other things, dealt with the origins of the *Protocols*) generally supported this version of events and many scholars consider the *Protocols* to have been fabricated in Paris in about 1897 by Rachkovsky’s agents (notably Golovinsky). See for example, Hadassah Ben-Itto (2005, p. 78). In his introduction to Segel’s *A lie and a libel*, Levy states that the *Protocols* was created in Paris (Levy 1995a, p. 4); among others, Anthony Julius (2010, p. 56); Paul Johnson (1987, p. 455); Hans Rogger (1986, pp. 108-9) and Tazbir (1998, p. 174) also subscribe to this view. Henri Rollin (1939), Bronner (2000, p. 89) and Cohn (1967, p. 83) consider Rachkovsky to be the instigator of the forgery. Others have speculated as to the possible involvement of Iustin’ia Dmitrievna Glinka, a lady-in-waiting of the Russian Court, see for example Aronov et al (Aronov, Baran & Zubarev 2011, pp. 27-43).

its people in the context of Imperial expansion and failure. The logic of the *Protocols* was simple, that Jews formed a transnational network seeking its own tribal rather than any individual interest, with the goal of destroying the majority's society from within. The *Protocols* sets up an unresolvable tension between the 'true people' of the nation – credentials that 'status insecure individuals' such as Krushevan and Butmi exaggerated (Rawson 1995, p. 63) – and a treacherous, treasonous enemy increasingly defined in essentialised and racial terms.

1.2 Imperial expansion, competition and failure

Imperial Russia was not unique in the overwhelming challenges and crises it was facing at the turn of the century. The great European empires of the nineteenth century were experiencing chaos and confusion arising from a dramatic change in life due to industrialisation, urbanisation, modernisation, technological change and economic instability. The suffering and deprivation of urban and rural populations fuelled popular discontent, confusion, anxiety, fear and even anger (in relation to France, see for example Bredin (1986)). These conditions were exacerbated by the competitive environment of expansionism of late nineteenth and early twentieth century Imperialism. Bronner (2003, p. 95) notes that, 'more than eleven million square miles were added to the colonial possessions of the great European powers during the forty years leading up to World War I'.

1.3 Rise of racist antisemitism

Against the backdrop of imperial competition and rivalries, expansion and failure, is the rise of social theories such as those of Herbert Spencer (survival of the fittest) and the 'hard science' of Charles Darwin which strongly influenced European thinking and provided justification for Imperial expansion and the oppressive treatment of populations in colonial possessions, including Germany and Belgium in Africa, France in Indochina and Africa; Russia in northern Asia and the Ottoman Empire's annihilation of the Armenians. While many scholars have suggested that racial thinking and categorisation did not significantly influence Imperial Russian culture and politics (including for example, historian Eli Weinerman, who argues that racist ideas were 'restricted to narrow circles of nationalist intellectuals' and that 'Russification of the multi-ethnic population of the Empire, including

Jews, remained the official policy favoured by most Russian nationalists' (Weinerman 1994, p. 442))¹⁵, Avrutin shows how racialised notions of difference and a racial consciousness still featured in late Imperial Russia. For example, while the biological aspects of race may have been challenged or interpreted differently in Russia, ethnicity (and the perceived physical characteristics with which it was associated) 'began to acquire popular and administrative-scholastic currency' to classify people (Avrutin 2007, p. 15). As Avrutin notes, if ethnicity is 'essentialised' (that is, made fixed and permanent) and that essentialised difference is then made hierarchical, this constitutes racism (Avrutin 2007, p. 16). This leads Avrutin (2007, p. 16) to conclude that:

The tsarist regime may not have established a racial order based explicitly on biological theories of human development, but it did promote racial consciousness (the awareness of ethnocultural differences based on religion, customs, and ancestry) and racist attitudes (institutional and popular discriminations based on essential and ultimately unbridgeable differences).

The fusion of the historical forces that lead to a deepening crisis within late nineteenth century Europe and the ascendancy of scientific racism led to the rise of political antisemitism, particularly from the 1880s. Scientific racism operated as a *justification* for antisemitism, which in turn formed a unifying ideology by which Empires justified their expansion, explained their failures and defined their relationship with their citizens.¹⁶ Race was used to define social character and underpinned the emergence of racialised or ethnonationalism (expressing itself in Imperial Russia in official and popular manifestations of antisemitism). The *Protocols* reflected an illiberal, far-right answer to urgent questions of national identity and belonging (questions reflected, for example, in the pan-Slavic and pan-Germanic movements) and taking place in a complex and shifting social and political landscape.¹⁷

¹⁵ For a review of the historiography and the scholarship see (Avrutin 2007; Weinerman 1994, pp. 444-5). The scholarship has not overlooked the impact of continental imperialism (which resulted in contiguous empires) as distinct from overseas imperialism in affecting the perception and practicalities of dealing with racial difference. See for example (Avrutin 2007) and (Arendt 1966, pp. 222-4).

¹⁶ For an early and influential exploration of the link between the decline of the European nation-state and the growth of antisemitism, see Hannah Arendt's *The Origins of Totalitarianism* (Arendt 1966). Arendt's analysis, (especially the connection she made between the brutality of the colonial enterprise in Africa and the rise of racist ideologies in Europe that prefigured the Holocaust) has generated many critical studies, with scholarship continuing to evolve. See for example (Langbehn & Salama 2011) and (Davis 2014).

¹⁷ For a reflection on the relationship between the socio-cultural context of Jewish Bolsheviks (including issues of ethnonationalism and assimilation) and their radicalisation, see (Riga 2006).

The term ‘antisemitism’ was coined (or popularised (Laqueur 2006, p. 22)) in 1879 by the German journalist and ‘racist ideologist’ (Bauer 2001, p. 51) Wilhelm Marr to ‘describe the “non-confessional” hatred of Jews and Judaism which he and others like him advocated’ (Wistrich 1992, p. xv). These early ‘antisemites’ sought a ‘modern’ term that was ‘hygienic’ and ‘neutral’ (Bauer 2001, p. 51) to replace the term *Judenhass* (Jew hatred) and describe their *racial* (rather than *religious*) objections to Jews and Judaism. The term ‘semitic’ designates a ‘group of cognate languages...rather than an ethnic or racial group’ (Wistrich 1992, p. xvi) and thus, as Yehuda Bauer explains, ‘There were no “Semites” against whom the movement arose – the movement was anti-Jewish; the new term was a semantic cover, and so it has remained’ (Bauer 2001, p. 52).¹⁸ Antisemitism is therefore a linguistic and political term to describe a racialised worldview strongly influenced and justified by an appeal to science, which, following the decline of religious faith after the Enlightenment, was regarded as the ‘highest form of justification available’ (Sacks 2017).

The shift from traditional Christian anti-Judaism (exemplified by Canon August Rohling, a Catholic Professor who libelled Jews and Judaism on religious grounds and who distorted and misrepresented the *Talmud* in his 1871 book *The Jew of the Talmud*) to racial antisemitism ‘heralded’ by Wilhelm Marr (Poliakov 2003b, p. 16) is significant context for the emergence of the *Protocols* which encodes both religious and (in my view) racial antisemitism and was very quickly given an overtly political interpretation as the events in Imperial Russia demonstrate (and is discussed in further detail below). Stephen Bronner, in his book about the *Protocols*, also examines the *Protocols* within the broader shift from religious to social to political antisemitism, noting that the *Protocols* ‘unites the religious, the social and the political elements of Judeophobia in a particularly striking way’ (Bronner 2003, p. 59).

1.3.1 The religious and theological Jew-hatred in the Protocols

A brief overview of the religious and theological antisemitism reflected in the *Protocols* is relevant here. The *Protocols* has a long prehistory in the sense that the myth of a global Jewish conspiracy for world domination can be traced back to the middle ages when a

¹⁸ It is for this reason that Bauer says that the term should be spelled as one word, not as ‘anti-Semitism’, ‘because there is no ‘Semitism’ one can be ‘anti’ to’ (Bauer 2001, p. 52).

‘deadly change’ occurred in the mentality of Medieval Christians (Langmuir 1990b) and irrational and demonic myths, fantasies and inventions about Jews were developed (Trachtenberg 1943).¹⁹ Medieval myths about Jews included ‘plotting to destroy Christianity, poison wells, desecrate the host, massacre children or establish their world domination’ (Wistrich 1992, pp. xviii-xix).²⁰ These baseless concepts had their genesis in a corpus of early Christian literature (Bauer 2001, pp. 20-2; Cohn 1967; Langmuir 1990b; Wistrich 1992, p. 17; Woolf 2012) that medieval scholar Gavin Langmuir argues emerged in response to religious ‘Christian doubt’ (Langmuir 1990b). The obsession with an invented and abstracted image of Jews is a striking feature of medieval Christianity, when ‘men of the Middle Ages ultimately failed to distinguish between the mythical Jew and the contemporary Jew, and anti-Jewish feeling derived additional nourishment from this confusion’ (Poliakov 2003a, p. 123). The *Protocols* preserves and popularises this medieval, ‘chimerical’, demonic image of the Jew and therefore forms part of what Wistrich refers to as ‘free-floating antisemitism for which the actual presence of Jews is almost immaterial’ (Wistrich 1992, p. xxv). As this ‘free-floating’ antisemitism ‘thrives on archetypal fears, anxieties and reflexes that seem to defy any rational analysis’ (Wistrich 1992, p. xxv), it easily manifests as one of a range of possible responses to real or imagined grievances or crises that have nothing to do with Jews.²¹

1.3.2 The racist antisemitism of the Protocols

Nowhere is the notion of racial traitorhood that began to pervade Europe from around the 1880s more evident than in the *Dreyfus Affair*, in which Alfred Dreyfus, a Jewish officer in the French Army, was arrested and falsely accused of betraying French military secrets to the Germans in 1894. At Dreyfus’ degradation ceremony on 5 January 1895, he continued to profess his innocence while the crowd chanted ‘Death to the Jew!’ (Bredin 1986, p. 5). As

¹⁹ For a detailed exploration of the medieval conception of the Jew, see Trachtenberg (1943), Roth (1938) and Poliakov (2003a).

²⁰ Many scholars have traced and analysed the origins, history, development, persistence and prevalence of the myth of a Jewish conspiracy for world domination (see, for example, (Bauer 2001, pp. 52-3; Bronner 2003, pp. 72-5; Cohn 1967; Julius 2010, pp. 54-5, see also ‘defamations’, pp. 69-102; Roth 1938; Trachtenberg 1943; Wolf 1921, pp. 1-18) and in general, see (Poliakov 2003a)), with recent scholarship offering important insights into the way in which the *Protocols* not only reconfigures or ‘borrows’ from medieval (cosmic-religious (Heil 2012)) myths, but is also a product of, and response to modernity and its secular context. In particular, Woolf (2012), Heil (2012) and Zawadzki (2012) provide valuable contributions.

²¹ Among others, Gavin Langmuir has examined in detail the abstracted, ‘chimerical’ representation of the ‘Jew’ in contemporary antisemitism and traced its historical roots. Langmuir’s study emphasises the essentially *irrational* character of antisemitism which is based on an abstracted notion of ‘Jews’ that has nothing to do with real Jews or Judaism (Langmuir 1990a, 1990b). See also (Wistrich 2010, p. 12)).

Jean-Denis Bredin observes in his detailed book about the *Dreyfus Affair*, Dreyfus was not considered one of ‘them’ – he was not a Frenchman (Bredin 1986, p. 8). Bredin contextualises the *Dreyfus Affair* within the shift from emotional Jew-hatred to philosophical and ideological hatred (as so clearly described by Bernard Lazare in 1894 in *Antisemitism: its history and causes*).²² Bredin states ‘what had up until then been mere prejudice, an irrational hostility, was to become in a few years a veritable doctrine, an explanation of society, the foundation of politics, even a morality’ (Bredin 1986, p. 25). Furthermore, Bredin locates the real cause for French antisemitism in the ‘large-scale confusion of opinion’ brought about by a dramatic change in life and characterised by anxiety, fear and anger. Racist antisemitism as an ideology provided an all-encompassing explanation of history and society. As Bredin notes:

...only a vast conspiracy it was believed, could explain the decadence of the times. The Jews—and to a lesser degree the Protestants and the Freemasons—were its organisers and inspirers. A wanderer, the Jew was by nature without a homeland. A merchant, he was removed from the soil. By destiny or curse, he was “international.” (Bredin 1986, p. 27)

The *Dreyfus Affair* epitomised racist antisemitism. Bredin quotes the French author Maurice Barrés who wrote, ‘That Dreyfus is capable of treason I deduce from his race’ (Bredin 1986, p. 28).²³ Furthermore, as Wistrich observed, ‘The extreme Left and the nationalist Right found common ground in France after the Dreyfus Affair in their hatred of Jewish finance, Jewish intellectualism, liberal republican democracy and bourgeois parliamentarianism’ (Wistrich 2012, p. 181). Wistrich concludes that the ‘cross-fertilization of concepts between the Left and the Right’ resulted ‘from the fusion of socialist, nationalist and conservative ideology which eventually constituted a major component in interwar fascism’ (Wistrich 2012, p. 181).²⁴

In France, the ideological and political dimensions of antisemitism at the turn of the century owe a great deal to the thinking and writing of Edouard Drumont, described by Frederick Busi as ‘the Pope of antisemitism’ (Busi 1986). Drumont’s 1886 work ‘elevated the Jewish

²² For context on Lazare’s book as well as additional detail on the evolution of Lazare’s intellectual journey, see (Wistrich 2012, pp. 221-49). See also Wistrich’s introduction to the 1995 English translation of Lazare’s book (Lazare 1995, pp. v-xx).

²³ On the press coverage in Russia of the Dreyfus affair, see (Dubnow 1920, p. 32).

²⁴ Note also Frederick Busi (1986, p. 1) who quotes Professor Robert Byrnes and states that before 1880 or 1885 most of the antisemitism in France came from the Left not the right.

myth to the level of ideology and political method' (Bredin 1986, p. 28)²⁵ and Busi credits Drumont with creating a 'change of consciousness in the minds of many of his countrymen' (Busi 1986, p. 3). Drumont attempted to synthesise the vast body of antisemitic literature (including traditional, religious anti-Judaism; 'economic' anti-Judaism and racist antisemitism) into a single ideology that presented the Jew as an explanation for all the ills facing France (Bredin 1986, p. 30) (see also (Wistrich 2012, p. 222) and used the power of the written word (in the form of books and a newspaper called *La Libre Parole* which he founded in 1892) to disseminate his views (Busi 1986, pp. 4, 89-109).

As already mentioned, these overtly racist ideologies penetrated and manifested in Imperial Russia in different ways and the position (and historiography) is well explained by Avrutin (2007). The scholarship has generally stopped short of describing Imperial Russia as 'racist', although Fredrickson states that Tsarist Russia is the closest approximation to a full-blown racist regime in the pre-Nazi era (Fredrickson 2002, p. 103) and Rogger concludes that Russia's treatment of Jews 'came closest to what is today called racism' (Rogger 1983, p. 183). However, that is not to say that racialising processes and racial consciousness was not an important feature of the late Imperial period (as Avrutin (2007) has argued). Significantly, essentialised notions of ethnicity gave substance, energy and form to questions of Russian national identity and I locate the emergence of the *Protocols* within this context.²⁶

Importantly, the *Protocols* mirrors the same racialising processes and ideological justifications that were the cornerstones of French and German racist antisemitism at that time. It also helps to explain why the *Protocols* (as opposed to the innumerable other examples of similar propaganda circulating in Russia in that period) gained popularity and acceptance outside of Russia after World War I: it was the perfect vehicle by which racist ideologies, that were gaining ascendancy and credibility in Europe (as an explanatory paradigm for national failures, a justification for national expansion and as source of national identity) could be transmitted.

A further historical layer that should be added to this analysis of the racial consciousness embedded in the *Protocols* is the growing disillusionment on the part of the central Russian

²⁵ Bredin quotes Michel Winock in *Eduard Drumont et cie: antisemitisme et fascisme en France* (Paris: Seuil, 1982).

²⁶ For a perspective on ethnonationalism in Imperial Russia, see (Riga 2006).

government with its 'integrationist' policy towards Jews (Polonsky 2010, pp. 3, 86). Not only did this disillusionment contribute to the dramatic deterioration in the treatment of Jews in Russia (Polonsky 2010, pp. 3-4, 86), but also it is possible that the fabricators and early publishers of the *Protocols*, either deliberately or subconsciously, seized upon this disillusionment. The *Protocols* plays on the notion that Jews are 'unassimilable' and that whenever they do form part of society they are intent on destroying it from within. Avrutin points out that just as some Jews were attempting to shed outward markers of Jewish identity to avoid persecution, discrimination and violence, Jews were being perceived as the ultimate 'other' (Avrutin 2007, pp. 33-4). The confluence of ideological, social, cultural and political factors vis-à-vis Russian Jews contributed to a discourse in which Jews were perceived as a group that could not be treated in the same way as any other, even when (and perhaps especially when) they become 'invisible' – a hidden and endlessly shape-shifting enemy whose 'impact is palpable' (Bronner 2007, p. 17).

Covering the trial of Alfred Dreyfus was Viennese journalist Theodor Herzl (Johnson 1987, p. 380). The *Dreyfus Affair* exposed the depth and breadth of virulent antisemitism in France and conclusively ended the hope among many assimilated European Jews (including Herzl himself) that their acceptance into European society through 'assimilation' was the best way for Jews to achieve the security and safety (Johnson 1987, p. 380) that full emancipation had seemingly promised. In 1896, in the shadow of the Dreyfus case, Theodor Herzl wrote *Der Judenstaat* (*The Jewish State*) which set out the aspiration for the 'restoration of a Jewish State' in Palestine and is regarded as the beginning of modern, political Zionism.²⁷ Theodor Herzl organised the first World Zionist Congress in Basle in 1897 and continued to conduct diplomatic efforts to achieve the Zionist aspiration, including a visit to St Petersburg in August 1903 during which time he met with several Tsarist ministers, including Finance Minister, Count Serge Witte, 'to solicit help for his Zionist programme' (Johnson 1987, p. 363). As I show below, the development and prominence of modern Zionism has a critical intersection with the *Protocols*.

At the time that the *Protocols* was first published in 1903 Russian Jews, who represented the largest Jewish community in the world (Polonsky 2010, p. 3)²⁸, were by far the most

²⁷ For almost two thousand years the idea of re-establishing a Jewish homeland had been associated with religious longing.

²⁸ In 1897 the population of Jews in Russia was 5.2 million out of a total of 126 million (Polonsky 2010, p. 3).

oppressed. At the turn of the twentieth century, Jewish emancipation had taken place across Europe apart from Imperial Russia where official antisemitism was maintained (Nathans 2002, p. 23).²⁹ Polonsky concludes that during the period 1881 to 1905, ‘the crisis caused by the deteriorating position of Russian Jewry was the motor which drove world Jewry.’³⁰ Concern for the plight of Russian Jewry is evidenced by Herzl’s visit to St Petersburg in 1903.

1.4 Antisemitism in Russia

The Romanov monarchy had a long history of official discrimination and persecution of Jews, including violence. The oppressive and hostile treatment of Jews often intensified at times when the Tsarist regime was under threat.³¹ In 1881-82 violent anti-Jewish riots (or ‘pogroms’) broke out shortly after the assassination of Tsar Alexander II by revolutionaries. The early and extensive historiography on the 1881-82 pogroms concluded that the central government instigated, organised and spread the wave of anti-Jewish violence in multiple centres, with the main aim of bolstering ‘its crumbling popularity by attacking an easy target’ (Johnson 1987, pp. 364-5) (see for example Simon Dubnow (1918) and (Wischnitzer 1948, p. 37)). However, later scholarship, while not necessarily disputing the moral culpability or complicity of the central government, questioned central government organisation and planning in many of the early pogroms of 1881 (see Hans Rogger (1986), Michael Aronson (1990), John Klier (2011) and Shlomo Lambroza (1981)).³² Despite the divergence of scholarly opinion on the precise nature, level and extent of central government involvement in the 1881-82 pogroms, there is consensus in the literature about widespread ‘Judeophobia’ (Klier 2011, p. 6) in Russia, ranging from ‘ethnic’ prejudice based on difference and ‘otherness’ to irrational myths of Jewish conspiracy, reflected in all strata of Russian society

²⁹ For a description of the underprivileged status of Jews and the cruelty to which they were subjected, especially from 1791 when they were relegated to the Pale of Settlement, and including the major wave of pogroms beginning in 1881, see (Johnson 1987, pp. 358-65; Senelick 2003; Wistrich 1992, pp. 171-3). See also (Wolf 1912) documenting the legal discrimination faced by Russian Jewry.

³⁰ Polonsky suggests that the crisis was partly caused by a growing disillusionment on the part of the government with their ‘integrationist’ policies towards Jews (Polonsky 2010, p. 3).

³¹ For example, a period of easing under Tsar Alexander II ended following the Polish revolt of 1863 and an attempt on his life; and another liberal period in the 1870s ended following his successful assassination, ‘after which the position of Jews in Russia deteriorated sharply’ (Johnson 1987, p. 359).

³² Cecil Roth concludes that ‘governmental complicity seemed certain’ but to ‘suspect governmental organisation was perhaps excessive’ (Roth 1969, p. 387). For additional perspective and detail on the pogroms of 1881-82, see Polonsky (2010, pp. 5-17). Cohn is adamant that the pogroms in Russia were not spontaneous, stating, ‘For the hundreds of local massacres of Jews which occurred in Russia between 1881 and 1920 were by no means spontaneous outbreaks of popular fury – they demanded long-term planning, careful organization, above all intensive agitation’ (Cohn 1967, p. 108).

from peasants to central government officials, including Cherevin and General Ignatiev (Dubnow 1918; Klier 2011; Rogger 1983, p. 201; Wistrich 2010, p. 155). Judeophobia (at all levels of Russian society) clearly fuelled the pogroms of 1881-82.

While Judeophobia fuelled the pogroms, there were other causative factors that laid the groundwork for the collective violence to occur. These included printed propaganda that incited and authorised violence by validating Judeophobia; presenting Jews as a threat to social cohesion; and portraying violence against Jews as an act of loyalty to the Tsar and the Imperial regime (Lambroza 1992, p. 214) (see also, for example, (Dubnow 1918, p. 247)).

The lever of Judeophobia combined with the expediency of propaganda was also evident in a second major wave of anti-Jewish pogroms beginning with Kishinev in 1903 and ending with Belostock in January 1906, during which time the Tsarist regime faced a number of internal and external threats, including intensified revolutionary activity (having to concede to limited constitutional reforms in October 1905) and a disastrous and deeply unpopular war with Japan. With each crisis, the antisemitic propaganda sought to focus the *narod* (common people) on the ‘enemy within’ casting Jews, for example, as the cause of the war with Japan (in 1904) (Lambroza 1992, p. 214) and the source of revolutionary activity (Lambroza 1992, pp. 220-1), underscoring the shift from religious justifications³³ to concretely political ones.³⁴ Before examining these broader trends in greater detail, it is important to draw some conclusions about the *Protocols*’ first publication in 1903 and provide an overview of some of its most important reprints in 1905 and 1906 to highlight the relationship between the *Protocols* as ideological propaganda and key historical, political and social currents in Russia.

Understood within its historical, cultural, social and political context, the original publication of the *Protocols* in 1903 can be viewed simultaneously as:

- (1) a manifestation of the rampant and official antisemitism of the times that had a long prehistory (Webman 2011c, p. 2) and that could be wielded to mobilise support for and legitimate the Tsarist regime during times of crisis;

³³ For example, earlier accusations that incited violence against Jews included the false charge of ritual murder, usually circulated around Easter (as occurred just before the Kishinev pogrom in 1903 (Lambroza 1992, pp. 196-7)). See also (Dubnow 1920, pp. 37-8).

³⁴ For additional discussion on the role of antisemitic propaganda in the second wave of pogroms, see (Dubnow 1920, pp. 31-9).

- (2) a means to ‘convalidate’ the myth of a Jewish conspiracy (which was already ‘formed and indeed “established” in Russia’) ‘in the eyes of its readers with a “document”’ (De Michelis 2004, p. 75)³⁵; and
- (3) an ideological document in the sense that it fortified a structure of thought that justified and organised the interests of the Jew-phobic political right; and provided an all-encompassing explanation of the social world.

The *Protocols* was subsequently reprinted – with textual reworkings – a number of times in Russia, including in 1905 by Sergei Aleksandrovich Nilus, a Russian religious mystic and apocalyptic thinker³⁶ (with additional publications by him in 1911, 1912 and 1917), and in late 1905/early 1906 by Butmi (De Michelis 2004, p. 13).³⁷ The publication of the *Protocols* by Nilus in 1905 was a more comprehensive version than that published in *Znamya*, and appeared as an appendix to a subsequent edition of his book entitled, *The Great and the Small: The Antichrist as an Imminent Political Possibility* (Bronner 2007, p. 15; Cohn 1967, p. 67; De Michelis 2004, p. 11; Hagemeister 2012, p. 81; Julius 2010, p. 56; Webman 2011c, p. 2). Hagemeister argues that in this context, the *Protocols* would have been published and understood as part of a genre of apocalyptic writing and thinking in Russia at the turn of the century. Nilus himself interpreted the *Protocols* in a way that validated his apocalyptic worldview in which Jews and Freemasons were agents of the Antichrist in a cosmic battle against the ‘Divine forces of light, embodied in the Russian Orthodox Church’ (Hagemeister 2012, p. 81). Hagemeister has noted that the prevalence of apocalyptic literature and thinking in Russia reflected the mood of ‘victims of rapid modernization and secularization who identified the downfall of their world with the end of the world in general’ (Hagemeister 2012, p. 80).

³⁵ De Michelis cites Dudakov regarding the ‘establishment’ of the myth of a Jewish conspiracy in Russia by 1902. Among others, Klier has documented how as early as 1880, Cherevin (chief of gendarmes and acting head of the security police) and Ignatiev (minister for internal affairs) had a ‘Judeophobe obsession’ with an imaginary Jewish conspiracy (Klier 2011, pp. 1-2). Even earlier, in 1869, Jacob Brafman, a convert to Russian Orthodoxy and so-called ‘Jewish expert’ for the governor-general of the North-West region, wrote two books printed at government expense and circulated among government agencies, that disseminated ‘fantasies of Jewish power’, international Jewish solidarity and a dangerous global conspiracy (Petrovsky-Shtern 2002, p. 220; Poliakov 2003b, pp. 85-6; Rogger 1986, p. 22).

³⁶ For additional information on Nilus’ life and background, see (Hagemeister 2005a, 2012).

³⁷ De Michelis documents two anonymous reprints between the original publication in 1903 and Nilus’ publication in 1905 (De Michelis 2004, pp. 9-11). For details on subsequent reprints in Russia, see (De Michelis 2004, pp. 11-5).

While Hagemeister is right to emphasise the apocalyptic interpretation of the *Protocols*, the political and social context of 1905 is vital in understanding the value of antisemitic propaganda such as the *Protocols* to the Tsarist regime and its right-wing supporters and how the apocalyptic interpretation of the *Protocols* (which gave way to a political interpretation) served the interests of the autocracy in bolstering its legitimacy in a time of crisis.

In 1905, the revolutionary movement against the Tsarist regime strengthened. Wistrich notes that this threat ‘intensified the antisemitic propaganda fostered by the government’ (Wistrich 1992, pp. 172-3), much of it seeking to portray the revolution as a result of Jewish machinations, and diverting popular discontent away from the Tsarist regime.³⁸ Official police printing presses went into overdrive with antisemitic propaganda during this period (see (Lambroza 1992)). It was against the backdrop of wider revolutionary and counter-revolutionary activity, including violent pogroms initiated and perpetrated by government-backed monarchist, antisemitic organisations (such as the Union of the Russian People) and the Black Hundreds that the *Protocols* served not only as an explanation for cataclysmic events, but also as a justification for violence against Jews.³⁹ The dramatic spike in pogroms, which by conservative estimates exceeded 650 (Lambroza 1992, p. 226)⁴⁰ following the October Manifesto in 1905 (in which Tsar Nicholas II on the advice of Count Serge Witte conceded to limited constitutional reforms) was caused in large part by the collision of the ‘forces of revolution and reaction’.⁴¹ ‘Those of the right did not distinguish between Jews, liberals and radicals. The propaganda of the antisemitic press, the attitude of the government that Jews were to blame for the revolution and that Jews were active in radical politics made them a natural target for persecution’ (Lambroza 1992, p. 232).

Set against this backdrop, the *Protocols* formed part of a genre of antisemitic propaganda that was used by the political right (a movement that had the support and sympathy of high-ranking central government officials including Tsar Nicholas II and General Trepov) to

³⁸ Numerous scholars, including Dubnow (1920, pp. 113-4) and Wistrich (1992, p. 172) have shown how the involvement of Jews in ‘Russian radicalism’ (due to their oppressed status) served as pretext for conservative antisemites to allege that Jews were driving the revolution for their own ends.

³⁹ Wistrich argues that the pogroms were a means to ‘divert popular discontent away from the regime and against Jewry’ (Wistrich 1992, p. 172).

⁴⁰ Eighty percent of which occurred within the sixty days following the Manifesto (Lambroza 1992, p. 229).

⁴¹ Lambroza identifies other factors that contributed to the violence (factors that were also features of earlier pogroms). They included: ‘the antisemitic press, unresponsiveness by the central government, lack of coordination among local and provincial officials, and confusion among police and troops’ (Lambroza 1992, p. 231).

validate popular and longstanding antisemitic feeling that had been nurtured by both local and central government officials as well as by parts of the clergy. This antisemitic feeling was mobilised to generate support for the autocracy and to authorise and justify collective violence against Jews. Thus, from its inception, the *Protocols* was both an ideological and practical linchpin in the validation of antisemitic thought and feeling, as well as a potent element in the incitement, authorisation and justification of collective violence, manifesting in a third and most virulent wave of pogroms from 1917-1920.

Following Russia's poor military performance in World War I, the revolutionary movement intensified again, leading to the Russian Revolution of 1917, the end of the Romanov dynasty and the establishment of the Bolshevik government led by Lenin. In the wake of this momentous political, historical and social crisis, a third (and most brutal) wave of anti-Jewish pogroms were carried out in the years 1917 to 1921 as the Russian civil war raged. The *Protocols* was widely distributed among officers of the anti-Bolshevik White Army and interventionist forces (to furnish 'proof' of a Jewish conspiracy and cast the revolution and Bolshevism as the handiwork of Jews) and contributed to massacres of Jewish people in 1918-1920 in Southern Russia (Polonsky 2012, p. 38) (see also (Wistrich 2010, p. 156)). The anti-Jewish violence in Southern Russia, particularly in the contested Ukraine, 'assumed a scale that dwarfed all earlier outbreaks of anti-Jewish violence' in that region (Polonsky 2012, p. 34).⁴² 'In whole towns the Jewish population was virtually exterminated, their homes plundered and burned' (Segel 1926, p. 78). See also (Bronner 2003, p. 105; Polonsky 2012, pp. 34-43; Wistrich 1992, pp. 173-4).

As already mentioned, modern Zionism had been developing in response to the serious rise in antisemitism in Europe.⁴³ The *Protocols* itself, as well as the antisemitic discourse of which it formed part, intersects with the development of Zionism in few ways. In 1917 Nilus published the *Protocols* for the fourth time and in this publication alleged for the first time (after previously offering other explanations) that the *Protocols* was presented by Theodor Herzl at the first Zionist Congress that he convened in Basel in 1897 (De Michelis 2004, p.

⁴² Polonsky refers to Nakhum Gergel's study which records 1,182 pogroms (Polonsky 2012, p. 35).

⁴³ For additional perspective on the rise of political Zionism in the context of Russian Jewry, see (Dubnow 1920, pp. 40-65).

15; Hagemeister 2012, p. 81). This allegation persisted⁴⁴ and attributed a mythical secrecy to the first world Zionist Congress – which was, in fact, deliberately open and transparent and sought to engage in candid, international discussion regarding Jewish aspirations for a national homeland (Segel 1926, p. 60).⁴⁵ Nilus' accusation underlines the way in which real events (the First Zionist Congress in 1897) and real Jews (Herzl) could be interwoven with inventions and falsehoods (that Herzl presented the *Protocols* at the First Zionist Congress), then incorporated into the paratext of the *Protocols*, and given a malignant interpretation when read through the *Protocols*' apocalyptic and Manichean framework. The reference to Herzl (considered the father of modern, political Zionism) also highlights an early fusion of antisemitic and anti-Zionist thought. This link has been examined by De Michelis who argues that the *Protocols* 'rests on the intentional distortion of Herzl's project' (De Michelis 2004, p. 49).

The *Protocols* can and has been used to distort perception of the social and political world in other ways. For example, the involvement of a few Jewish figures in the revolutionary movement in Russia provided a convenient pretext to validate the view that it was Jewish interests that were driving the revolution and confirmed the prediction of the *Protocols* (see (Bronner 2003, p. 105; Polonsky 2012, p. 38; Wistrich 2010, p. 156).

1.5 Mobilising factors

The next question for consideration is what additional factors contributed to the *Protocols* success as a mobilising ideology during this period and to what extent those factors have influenced the popularity and potency of the *Protocols* in the years following World War I, when it first became known outside Russia (channelled by the White Russians) and became a global phenomenon. In other words, what are the main objective enablers for the *Protocols* to thrive? I focus my attention on the following: the validation of antisemitism; identity;

⁴⁴ The introductory section to a copy of the *Protocols* circulating in Australia maintains that the 'presumption is strong that they were issued at the First Zionist Congress held at Basle in 1897 under the presidency of the Father of Modern Zionism the late Theodore Herzl' (Marsden 1934, p. 137).

⁴⁵ The allegation that the *Protocols* was presented at the first world Zionist Congress in 1897 was refuted by a key witness in the Greyshirt case in 1934, Dr Nahum Sokolow. Dr Sokolow was a leading Zionist and one of the organisers of the 1897 Congress. He happened to be in South Africa at the time of the trial and made himself available as a witness to emphatically deny the allegation that the *Protocols* were presented at the 1897 Congress.

mass literacy; mass communication (enabled by technological innovation); ‘hardcopy’ rumour; and the appeal to fear, envy and anger.

1.5.1 Validation of antisemitic thought, feeling and action

The preceding analysis has already emphasised the extent to which right-wing political propaganda in Imperial Russia played on widespread ‘pathological’ Judeophobia that had traditionally been based on religious sentiment but soon took on a distinctly political agenda, concurrent with the rise of racist antisemitism in Europe. It is also important to note that the propaganda fed on itself, not only validating but also generating and intensifying antisemitic thought, feeling and action. For example, Lambroza shows how the Kishinev pogrom in 1903 normalised the subsequent wave of violence against Jews (Lambroza 1992).

1.5.2 Identity

Numerous scholars have identified a multitude of factors that intertwine to create a complex picture of national identity in Imperial Russia. These factors include Imperial Russia’s ethnic diversity (Rogger 1983, pp. 182-207); its contiguous boundaries (Anderson 1991, p. 92) (see also Arendt (1966, pp. 223-4)); the process of ‘Russification’ (described by Benedict Anderson as ‘official nationalism’ (Anderson 1991, pp. 86-8)); pan-Slavism (see, for example, (Arendt 1966, pp. 227-43)); and a general popular ‘national awakening’ across Europe from around 1820. Relevantly, Anderson points out that ‘official nationalism’ (such as the ‘official dynastic policy’ of Russification) was the ‘willed merger of nation and dynastic empire’ and developed ‘*after, and in reaction to*, the popular national movements proliferating in Europe since the 1820s’ (Anderson 1991, p. 86).

Furthermore, Anderson notes that ‘it would be a big mistake to suppose that since Russification was a *dynastic* policy, it did not achieve one of its main purposes – marshalling a growing ‘Great Russian’ nationalism behind the throne’ (Anderson 1991, p. 88). In this complex mix, the *Protocols* helped to define and energise ‘true Russians’. This self-definition was created by contrasting it to an alien, unassimilable ‘protonation’: a transnational network of Jews, organised internationally and intent on the destruction of the existing order. The ‘transnational’ character of Jews was easily portrayed as a threat to the national enterprise, especially in the context of what Abigail Green describes as ‘modern

religious internationalism’ – a phenomenon not unique to Judaism that saw many faiths experience their own international solidarity (Green 2008, p. 536).

The *Protocols* conforms to Benedict Anderson’s conception of the way in which ‘print-languages laid the basis for national consciousness’ (Anderson 1991, p. 44). Anderson defines ‘nation’ as ‘an imagined political community’ (Anderson 1991, p. 6) and underlines the importance of books and newspapers in helping to disseminate and shape a shared imagined community (Anderson 1991, pp. 27-36). In its printed form (pamphlet, newspaper and book), the *Protocols* held ideological and political significance. The *Protocols* highlights the ideological and political orientation of its fabricators and publishers, grounded in a national consciousness that sought to elevate and define ‘Russianness’. Furthermore, the shared, imagined narrative of the *Protocols* could be ‘consumed’ by its readership (or ‘market’) to help forge what Anderson describes as an ‘imagined political community’.

1.5.3 Sensationalised, hardcopy rumour

As previously mentioned, notions of a Jewish conspiracy were already well established at all levels of Russian society and at all levels of government before the publication of the *Protocols*. The innovation of the *Protocols* was that it sought to provide *documentary evidence* of that thesis in a sensationalised form. For the public, the appearance of an exposed ‘secret’—the ‘unguarded revelation of the secret leaders of Jewry’ (Levy in Segel, 1926, p. 11)—contributes to the sensational quality of the *Protocols*. The *Protocols* purports to be an authentic document and in this way the documentary form seeks to lend weight and ‘testimonial authority’⁴⁶ to baseless rumour and long-running fantasies concerning Jews. Words of hate do not always result in violence (especially if the intended audience applies critical thought and rejects it), but in certain contexts the existence of rumour and, in particular, written or ‘hardcopy’⁴⁷ rumour can become a powerful agent for mobilising, authorising and justifying collective violence, as was the case in Imperial Russia during the anti-Jewish pogroms.

⁴⁶ This term is used by Bubandt in reference to the role of rumour in mobilising communal violence in the Maluku Wars in Indonesia in 1999 (Bubandt 2008, p. 793).

⁴⁷ The term ‘hardcopy rumour’ is used by Bubandt to describe the ‘dark leaflets’ or ‘can letters’ used in the Maluku Wars (Bubandt 2008).

A striking feature of the *Protocols*' form is that it has proved to be as mutable and adaptable as oral rumour, and the hardcopy form has enhanced rather than limited its global use.⁴⁸ A significant reason for this is that the *Protocols* rests on the idea of the 'chameleon-like' (Bronner 2007, p. 17) and transnational nature of Jews and therefore the *Protocols* itself has no national context or identity, making it 'infinitely adaptable' (Levy 1995a, p. 12) or, as Umberto Eco described it, an 'open text' capable of multiple interpretations.⁴⁹ The form of the *Protocols* operates as a template for hate, as propagandists need do little more than substitute local names and events into the text or paratext of the *Protocols* to suit local conditions. For those who already believe that the *Protocols* is true, the *Protocols* presents an all-encompassing Manichean view of history, society and the future. Consequently, real events and the actions of real people are interpreted through the prism of the *Protocols*.⁵⁰ This, in turn, (falsely) validates the central thesis and essential image of a 'chimerical' (Langmuir 1990b, p. 334) evil Jew working behind the scenes in secret to achieve world domination, resulting in a closed and self-referential loop of false logic. The dynamic or device of fantasies and 'snippets of evidence' being 'extrapolated into conclusions by false logic' (Gray 2008) is a feature of both antisemitic and conspiratorial⁵¹ rhetoric and operates even if the *Protocols* is accepted as a fabrication (i.e. an 'inner truth' argument in which real events are still interpreted through a closed belief system).⁵²

⁴⁸ It is possible that the *Protocols* could have fallen into obscurity in Russia, if not for the particular global circumstances following World War I, in which, among other factors, the transnational character of Jews provided a natural foil for the rising tide of nationalism.

⁴⁹ As the foregoing analysis in this Chapter shows, the possible interpretative frameworks include apocalyptic, eschatological, theological, Manichean, and political. The *Protocols* has also been used in both religious and secular contexts.

⁵⁰ The ready acceptance of the *Protocols* could be interpreted not simply as a 'legacy of secularized superstitions from the past' but, as Zawadzki argues, 'a new phenomenon resulting, like the concept of secular religion, from a dialectical process directly linked to modernity' (Zawadzki 2012, p. 100). On this interpretation, the *Protocols* operates as a 'form of secular religion that fills the vacuum created by the destruction of traditional religious beliefs with secular certainties and reassurances' (Zawadzki 2012, p. 109).

⁵¹ Relevantly, Gray defines conspiracy theories and conspiracism as the 'act of developing and sustaining a discourse, usually a counter-discourse, that challenges conventional or accepted explanations for events, and that uses weak, flawed, or fallacious logic, seeks to convince through rhetoric and repetition rather than analytical rigor, and most often aims to develop a theory that is broad or even universal in scope' (Gray 2008, p. 159).

⁵² For example, white supremacist and antisemite David Duke published his own version of the *Protocols* that acknowledged its fictional literary sources, but still maintained belief in its 'inner truth' (ADL 2015). Arendt explains the fusion of reality and fantasy into an organised and inflexible worldview, stating that the 'art' of totalitarian leaders 'consists in using, and at the same time transcending, the elements of reality, of verifiable experiences, in the chosen fiction, and in generalizing them into regions which then are definitely removed from all possible control by individual experience. With such generalizations, totalitarian propaganda establishes a world fit to compete with the real one, whose main handicap is that it is not logical, consistent, and organized. The consistency of the fiction and the strictness of the organization make it possible for the generalization eventually to survive the explosion of more specific lies – the power of the Jews after their helpless slaughter...' (Arendt 1966, p. 362).

Furthermore, the literary frame of the *Protocols* accommodates and reconciles dualities that would otherwise present logical barriers. In the antisemitic imagination Jews are, for example, both miserly and extravagant; weak and powerful; communist and capitalist (Johnson 1987, p. 309; Johnson 2005, pp. 33-8; Trachtenberg 1943, p. 3; Wistrich 2010, p. 12). The *Protocols* enables propagators and believers to reconcile these contradictory qualities.⁵³

1.5.4 Literacy

Oral rumour clearly plays a role in preliterate or illiterate societies as a vehicle for violence or political action, and is able to mutate to suit changing circumstances (Bubandt 2008, p. 795). However, the written form is a key development, particularly in the context of rising literacy rates and mass communication.⁵⁴

The form and style of the *Protocols* was perfectly suited to Russia's literacy levels at the turn of the century. Studies on Russian literacy point to rising literacy levels in Russia from the time of the first census in 1897, but with considerable variations across regions, social estates, urban versus rural locations, and across gender (Mironov 1991).⁵⁵ In places like St. Petersburg, for example, where the *Protocols* was first published, there were higher levels of literacy⁵⁶, and urban literacy levels were higher (and with greater gains) than in rural locations (see (Mironov 1991, pp. 238-42)). Overall Russian literacy levels lagged behind other European countries (Mironov 1991, p. 242), a situation that Mironov argues arose partly due to an emotional commitment to Orthodoxy and a suspicion of Western education (Mironov 1991, p. 248). Literacy levels were higher among the nobility and upper echelons of society (Bellavance 2015, p. 28)⁵⁷, a social and political milieu that generally supported the autocracy. To this audience, a document like the *Protocols* confirmed and organised their

⁵³ Peter Kenez describes the perception of Jews during the Russian Civil War 'The pogromists managed to project the picture of the enemy on the face of the Jew... Ukrainians believed Jews to be pro-Russian; socialists saw them as capitalist exploiters; and the conservatives blamed them for being socialists' (Kenez 1993, p. 294).

⁵⁴ Describing the rise of mass literacy in modern Europe, Vincent notes that 'The era of mass communication was formally inaugurated by the Treaty of Berne which led to the creation the following year of the Universal Postal Union' (Vincent 2000, p. 1).

⁵⁵ For example, regional literacy varied in the range of 4 – 62% (Lankina, Libman & Obydenkova 2016, p. 241).

⁵⁶ Octavie Bellavance notes that St. Petersburg was always the most literate city in Imperial Russia with a male literacy rate of 72 % in 1881 and 80 % in 1900 (Bellavance 2015, p. 27).

⁵⁷ Bellavance notes that according to the 1897 census, the nobility made up 1.5 % of the population, and that 98 % of urban, male nobles were literate and 77 % of rural male nobles were literate (Bellavance 2015, p. 28).

worldview. The 1897 census showed that literacy among the clergy was almost universal (Bellavance 2015, p. 28) and it was through some Orthodox priests (and religious figures such as Sergei Nilus) that the *Protocols* also found favour, validating their emotional commitment to Orthodoxy.⁵⁸

However, high levels of literacy are not required for the *Protocols* to make a significant impact because the *Protocols* is often read out, described, and referred to in the surrounding discourse for the benefit of those who may not be able to read the *Protocols* for themselves. This was the case for example when written propaganda, including the *Protocols*, was ‘distributed on a vast scale to literate members of the various ‘White’ and Ukrainian armies, who used to read and explain it to the illiterate’ (Cohn 1967, p. 119). Similarly, members of the clergy would be able to describe and explain propaganda such as the *Protocols* to their less literate congregations. The written form of the *Protocols* provides it with an ‘authority’ that works hand-in-glove with oral rumour.

1.5.5 Mass communication

‘The daily newspaper was the first mass medium, and remained unrivalled from the 1830s to the advent of radio broadcasting in the 1920s’ (Bellavance 2015, p. 1). Bellavance argues that daily national newspapers in Russia (between the Great Reforms of 1861-65 and the Revolution of 1904-07) operated as a ‘Fourth Estate’ and accordingly helped Russians ‘forge a sense of their place in a changing world’ (Bellavance 2015, p. 1) as well as a ‘sense of belonging to the Russian public (*obshchestvo*)...’ (Bellavance 2015, p. 3). Although the *Protocols* was first published in a St. Petersburg publication (described by Dubnow as a ‘filthy sheet’ that was ‘unable to find readers’ (Dubnow 1920, p. 70)), not a national newspaper, it was into this mass communication context that the *Protocols* was introduced. As Russians looked for the explanatory causes of their changing world and sought answers to pressing questions of national identity and belonging, the *Protocols* provided an appealing and complete answer in a form and through a communication medium that was already performing that role.⁵⁹

⁵⁸ The antisemitism nurtured over a long period among the peasantry by the Orthodox Church included the accusation of deicide. See, for example, (Kenez 1993, p. 306).

⁵⁹ For further analysis on the causes and implications of mass literacy in Europe, see for example (Vincent 2000).

1.5.6 Appeal to fear, envy and anger

In times of stress, crisis and confusion, the *Protocols* provides an all-encompassing explanation for real or imagined grievances. It also exploits underlying popular sentiments of fear, anxiety, confusion envy and anger.

2. Protocols in the interwar period

2.1 Global reach

It is possible that the *Protocols* may have fallen into obscurity if not for the tectonic shift in global affairs following World War I. From about 1919, the *Protocols* became known outside of Russia – initially channelled by White Russian officers (Cohn 1967, pp. 126-7) (see also (Arendt 1966, p. 241; De Michelis 2004, pp. 2, 153; Kellogg 2005; Laqueur 2006, p. 85)). Numerous scholars have charted the global proliferation of the *Protocols* in the aftermath of World War I. For example, in a chapter entitled ‘Spreading the News: the Protocols triumphant’, Eric Bronner places the profusion of the *Protocols* within the context of the radically altered political, social, economic and ideological landscape following the end of World War I (Bronner 2000), which saw ‘the collapse of the three empires that had dominated east central Europe since the middle of eighteenth century’ (Polonsky 2012, p. 2). Laqueur considers the post-war environment of ‘decisive importance’ in the *Protocols*’ global success (Laqueur 2006, p. 99). In many quarters, the *Protocols* and the myth of a global Jewish conspiracy helped to explain unimaginable change. The number of translations and multitude of versions of the *Protocols* that were circulated after World War I are too numerous to mention let alone analyse within the scope of this project. Therefore, the following examples serve to illustrate the pervasiveness and adaptability of the *Protocols* but are not intended as a comprehensive survey.

Shortly after World War I, a White officer from the Ukraine (Shabelskii-Bork) brought a copy of the *Protocols* to Germany (Kellogg 2005, pp. 2, 12), and in 1919 a German translation of the *Protocols* was produced and circulated by Ludwig Müller von Hausen (under the pseudonym Gottfried zur Beek) (Segel 1926, p. 60) finding favour and popularity in Völkisch nationalist circles – the precursor to the ultranationalist, racist and antisemitic

ideology of National Socialism (Kellogg 2005; Webman 2011c, pp. 3-4; Wistrich 2010, p. 157).⁶⁰

During the 1920s, the industrialist, Henry Ford, was probably the most prominent advocate of antisemitism in America (Wistrich 1992, p. 118) and a prolific publisher of the *Protocols*, publishing it in his weekly newspaper, the *Dearborn Independent* over many years from 1920, and also in book form under the title *The International Jew: the World's Foremost Problem*. He distributed half a million copies of the *Protocols*, including through his Ford vehicle dealerships (United States Holocaust Memorial Museum ; Woeste 2012, p. xiii). Although he recanted in July 1927, the dissemination of his virulently antisemitic material had found favour in many quarters and had even drawn praise from Adolf Hitler (Cohn 1967, p. 162).⁶¹

In 1920 in England two versions were produced, the first was an anonymous version printed by the respected publishing house, Eyre and Spottiswood, and the second was an English translation by Victor Marsden, a *Morning Post* correspondent (Webman 2011c, pp. 2-3).⁶² A French translation appeared in Paris in 1927 and there were also Swedish, Polish, Hungarian and Italian translations (De Michelis 2004, p. 152). The first Arabic translation appeared around 1925 in Syria and Palestine (Webman 2011a, p. 176). The first Spanish translation of the *Protocols* was published in 1927 (Rohr 2007, p. 36) and an influential Spanish version circulated in Barcelona in 1932 (Preston 2011, p. 461). Paul Preston writes that the virulently antisemitic and highly influential Catalan priest, Juan Tusquets Terrats, used the *Protocols* 'as "documentary" evidence of his essential thesis that the Jews were bent on the destruction of Christian civilisation'. Tusquets accused the Second Republic of being the anti-Spanish instrument of the Jewish-Masonic-Bolshevik conspiracy (i.e. the political left), which in turn justified right-wing violence in the Spanish Civil War (1936-39) (Preston 2011, pp. 461-2) (see also (Cohn 1967, pp. 241-2)).⁶³

⁶⁰ Kellogg provides a comprehensive analysis of the impact of White émigrés on the development of National Socialism and concludes that National Socialism had both German and Russian roots: 'National Socialism arose in the early post-World War I period (1918 - 1923) from an international radical right milieu in which embittered *völkisch* (nationalist/racist) Germans collaborated with vengeful White émigrés in an anti-Entente (Britain and France), anti-Weimar Republic, anti-Bolshevik, and anti-Semitic struggle' (Kellogg 2005, p. 1).

⁶¹ For a comprehensive analysis of Henry Ford's antisemitism and Jewish responses to it, see (Woeste 2012).

⁶² Marsden's version became a highly popular English-language edition of the *Protocols*. It has been reprinted numerous times and has circulated in hard copy in Australia, see for example (Marsden 1934).

⁶³ For a detailed analysis of the operation of the myth of a Judeo-Masonic conspiracy within the ideology of the Spanish radical right, and its effect on the Spanish radical right's attitude to Jews, see (Rohr 2007).

As political antisemitism gathered pace in the 1920s and 1930s, the *Protocols*' seemingly infinite adaptability began to influence and reflect not just marginal but mainstream political discourse, demonstrating the *Protocols*' continuing utility as an explanatory paradigm for national failures and as a justification for national expansion.

2.1.1 Nazi Germany

The scholarship on Nazi Germany is vast and many scholars have specifically examined the role of antisemitic propaganda, such as the *Protocols* in shaping and advancing Hitler's political and social policies (see for example (Arendt 1966; Bauer 2001; Herf 2007; Kellogg 2005; Wistrich 2010, p. 157). In particular, Norman Cohn's significant book, *Warrant for Genocide* (1967), is devoted to this topic. Among the many antisemitic works that influenced Adolf Hitler and other Nazi leaders and ideologues was the *Protocols* (Kellogg 2005; Meyer zu Uptrup 2011; Nicosia 1978) and German translations of the *Protocols* were circulated within the Nazi Party (Wistrich 1992, p. 118). The title of Cohn's work reflects the use of the *Protocols* and the myth of a Jewish world conspiracy as a motivation and justification for brutality, violent atrocity, murder and annihilation.

Similarly, Herf argues that one aspect of Nazi racial ideology, which he calls 'radical antisemitism' was 'prefigured' in the *Protocols* and it is this aspect that enabled the 'leap from persecution to genocide' (Herf 2007, p. 581).

Whether or not Hitler and other Nazi leaders believed in the genuineness of the *Protocols*, it was exploited by them for propaganda purposes (Arendt 1966, pp. 358-60; Cohn 1967, pp. 194-215). Not only was the *Protocols* required reading (forming part of the official German school curriculum from October 1934 (Tazbir 1998, p. 175)), but paradoxically, it also provided a blueprint for Hitler's political and expansionist plans (Arendt 1966, pp. 358, 60; Bauer 2001, p. 100; Webman 2011c, p. 5; Wistrich 2010, p. 158), possibly explained in terms of 'paranoid projection', an argument advanced by Adorno and Horkheimer (Ross 2015, p. 281) (see also (Herf 2007, p. 584) and (Strozier 2012, p. 41)).

The rise of Adolf Hitler and the ascendancy of political antisemitism resonated in many circles globally, and the Nazi Party was active in fanning ideological antisemitism by

channelling and broadcasting Nazi propaganda, including the *Protocols*, around the world, including through the Middle East (Herf 2009c) and also via South-West Africa.⁶⁴

2.1.2 South Africa

The first appearance of the *Protocols* in South Africa occurred in the early 1930s when it was published in *Die Rapport* (The Report), an organ of the South African Gentile National Socialist Movement (of which the Greyshirts were the vanguard) and a local variation was read out and subsequently published by Johannes von Strauss von Moltke, a Greyshirt leader, in March and April of 1934.

The *Protocols* and the local variation concocted by the Greyshirts formed the documentary ‘proof’ of the Greyshirt allegation that Port Elizabeth Jews were involved in a local plot that formed part of a global Jewish conspiracy for world domination. The Greyshirts alleged that it was this Jewish conspiracy that was the cause of all the problems plaguing ‘poor whites’ in South Africa. Not only did the *Protocols* explain multiple social, economic, military and political failures to the Greyshirt constituency, it also served to elevate and sharpen the contours of militant Afrikaner identity by contrasting it with a detestable and parasitic ‘other’. In turn, this sharpened sense of national identity mobilised a political agenda.

The Greyshirt’s purpose in publishing the *Protocols* and alleging a Jewish plot was part of a broader antisemitic narrative that sought to attract support for the Greyshirt’s political aim of establishing an ideal ‘white’ South Africa from which Jews were to be totally excluded. Thus, Greyshirt ethnonationalism and their aim to gain legitimacy with ‘white Christians’ found common cause with the trajectory developed by the German Nazis; and the South African Jewish community found itself targeted by an ideology of hate, division and exclusion.

⁶⁴ The South African Jewish Board of Deputies maintained a file about ‘Nazi propaganda in South West Africa’: News cuttings 1936-1942, 1952, 54, 1961’. These documents include ('Nas. Party wil Republiek op Regte Wyse Verkry' 1936; *Flood of Nazi Propaganda Pouring into South Africa* 1937; 'Nazi Movement in S-W Africa' 1938; 'Nazis in the Union: Comprehensive Review of their Activities' 1938; 'Nazi Plotting in South Africa: Evidence to Refute German Denial' 1939; '"Deutschland Uber Alles" Sung in Rand Schools' 1940; 'One Aim, One Outlook, Three Fuehrers!' 1941; *Grey Shirts Connected with Nazis* ; *Aid For Germany* n.d.; 'Blackshirts Planned to March on City: Widespread Nazi Plot Exposed' n.d.; Roos 1940; Secretary of the South African Jewish Board of Deputies 1940). See also, for example, ('International News: Nazi propaganda pix grabbed in S. Africa' 1936).

The question for the community was how best to respond to these threats – a subject that is explored in Chapters Two and Three. To better contextualise the difficulty for the Jewish community in responding to Greyshirt propaganda and ideology, it is relevant to consider some key exposés and refutations, and challenges to the *Protocols* during the interwar period, and briefly to assess their effectiveness.

2.2 Exposés and refutations in interwar period

2.2.1 Journalistic exposé – Phillip Graves in *The Times* of London

The first major exposé of the *Protocols* was by the journalist Phillip Graves in a series of articles published in the *Times of London* on 16, 17 and 18 August 1921 (Graves 1921). Significantly, Graves' articles showed (for the first time) that the *Protocols* was largely plagiarised from Maurice Joly's 1864 satirical work *Dialogue aux Enfers entre Montesquieu et Machiavel*, which was intended as veiled criticism of Napoleon III in France and made no mention of Jews (Cohn 1967, pp. 72-3; Graves 1921; Green 2000). Other literary sources for the *Protocols* had previously been established, but the connection between the *Protocols* and Joly's work – the major literary source for the *Protocols* – had not been made. The definitive debunking (Dunlap 2016) by Graves was highly effective in ending a period of ongoing speculation in the British press, (including *The Times*)⁶⁵ regarding the *Protocols*' authenticity (Cohn 1967, pp. 71, 152-3, 5) and, according to Richard Levy, was key to the *Protocols*' loss of credibility in England. He states that 'Political antisemitism continued to play its part in English public life, but the *Protocols* proved too tainted to be useful' (Levy 1995a, p. 41).

The *New York Times* (which, unlike *The Times* of London, had never speculated that the *Protocols* may have been a genuine document) prominently reported Graves' exposé on 4 September 1921 under the headline 'Proof that the 'Jewish Protocols' were forged' (Dunlap 2016). Despite the journalistic exposure, the *Protocols* continued to be publicly and enthusiastically championed by American industrialist Henry Ford who, as already mentioned, was responsible for circulating half a million copies (Levy 1995a, p. 25). Ford

⁶⁵ Prior to the publication of Graves' articles, Winston Churchill had also made comments that lent credibility to the *Protocols* (Bronner 2003, p. 107).

specifically exploited the media (through the *Dearborn Independent*) to promote and circulate the *Protocols* and other antisemitic propaganda.⁶⁶

Although the Graves exposé was a definitive, objective and substantiated refutation of the *Protocols*, its impact was mostly local. Its global impact was diminished by the ascendancy of antisemitic movements. In a global sense, the gains of a journalistic exposé in the West were overwhelmed and obliterated by the forces of Nazism and an avalanche of Nazi propaganda that was channelled globally, including into the Middle East (see in general (Herf 2009c) and via South-West Africa, a former German colony, where the Nazi party established a branch (Hofmeyr 1939).⁶⁷

2.2.2 Major scholarly works and books designed for the general public

Slightly predating Graves' articles in *The Times* of London were two important works aimed at exposing the *Protocols*. The first was by Lucien Wolf, a journalist and key figure of Anglo-Jewish diplomacy. The circulation of the *Protocols* at the Paris Peace Conference and the speculation in British government and conservative press circles as to the *Protocols*' genuineness, spurred Wolf to respond. Drawing on his journalistic skills, his interest in history and his experience in world affairs, in 1920 Wolf contributed a series of articles to the *Manchester Guardian* (Wolf 1920a), the *Spectator* (Wolf 1920b), and the *Daily Telegraph*.⁶⁸

Wolf's essays—compiled, expanded, revised and rewritten in book form—were published first by the Press Committee of the Jewish Board of Deputies under the title, *The Jewish Bogey and the Forged Protocols of the Learned Elders of Zion* (London, 1920) and, subsequently, by the Macmillan Company in New York under the title, *The Myth of the Jewish Menace in World Affairs or the Truth about the Forged Protocols of the Elders of Zion* (New York, February 1921). In his preface, Wolf brought attention to his motivation and purpose in writing the book:

⁶⁶ For a detailed discussion on the different approaches advocated by members of the Jewish community in America, see (Woeste 2004). Although legal action was a potential avenue for responding to Ford's defamatory antisemitism and a case was commenced by Aaron Sapiro, it did not result in a definitive legal verdict.

⁶⁷ Nahum Sokolow, who gave evidence for the Plaintiff, Reverend Levy, in the Greyshirt trial, cited the exposé in the *Times of London*, but it was not persuasive for the Greyshirts, who maintained that the *Protocols* was still true in substance ('Transcript' 1934).

⁶⁸ In the *Manchester Guardian* article, Wolf rebuts the theories asserted by the conservative newspaper, the *Morning Post*, that Jews were the 'Hidden Hand' orchestrating world events, and he shows that the *Protocols* are an 'impudent forgery'.

I confess to a feeling of shame at having to write this pamphlet at all. That reputable newspapers in this country should be seeking to transplant here the seeds of Prussian anti-Semitism, and that they should employ for this purpose devices so questionable and a literature so melodramatically silly, cannot but cause a sense of humiliation to any self-respecting Englishman. It is for this reason that I have strictly limited myself to an examination of the specific charges formulated by these publications. I cannot bring myself to believe that it is necessary to deal with them on a larger scale. (Wolf 1921)

The second book, also published in early 1921, written by American journalist Herman Bernstein, was entitled, *The History of a Lie "The Protocols of the Wise Men of Zion"* (Bernstein 1921). Bernstein wrote the book as a response to Henry Ford's widely distributed antisemitic publications (Woeste 2004), but Ford continued to publish antisemitic material including the *Protocols* until his retraction in June 1927. In 1928 Bernstein's book was reprinted in China and issued by *Israel's Messenger* (an English-language newspaper published in Shanghai and the official organ of the Shanghai Zionist Association (Eber 2005, p. 252)) to counteract mounting antisemitic agitation in that country, including the dissemination of the *Protocols*. In his Foreword to the Shanghai edition, the editor of *Israel's Messenger* (and head of the Shanghai Zionist Association), N.E.B. Ezra, stressed that:

In publishing a reprint of Herman Bernstein's "A History of a Lie," we are placing before the intelligent and thinking elements of the public throughout China, potent refutations of the foulest lies written in the book known as the "Protocols of the Elders of Zion"....In China, a country which has been all along immune from the anti-Semitic taint, we have witnessed an attempt made by some foreigners who are guests of China to revive this bogus myth. (Bernstein 1928, p. 2)⁶⁹

In Germany in the mid-1920s, the Jewish journalist, Benjamin Segel, wrote two books on the *Protocols*. Motivated by a deep concern about the impact of the *Protocols* on German political life, Segel's books were primarily designed for a German audience (Levy 1995a, p. 20). The first was a lengthy and scholarly work, *Die Protokolle der Weisen von Zion, kritisch beleuchtet*, published in Berlin in 1924. In an 'attempt to reach the widest possible audience',

⁶⁹ Following the Berne trial in 1934 - 1935, Bernstein updated the book again (Green 2000).

Segel published a condensed version in 1926, entitled *Welt-Krieg, Welt-Revolution, Welt-Verschwörung, Welt-Oberregierung* (Levy 1995b, p. ix).

In 1995, Richard Levy, an academic in the History department of the University of Illinois-Chicago, translated and edited Segel's shorter version, noting that Segel's critique of the *Protocols*, 'deserves to be known by a wider public' (Levy 1995b). In a review of Levy's translation, Roshwald observes:

As a work of scholarship designed to reveal the precise identity and motives of the document's forgers, Segel's book is outdated. But as a reminder of the lengths some people will go to in fanning the winds of popular prejudice, its re-publication is welcome. It is also a touching testimony to the continued faith some German Jews of the post-1918 years still had in the power of critical analysis and reasoned argument to prevail over shrill demagoguery and insidious propaganda. It is a pity that faith was not rewarded. (Roshwald 1998)

Richard Levy also considers Segel's efforts to be a 'failure', given the overwhelming force of political antisemitism in Germany. Levy points out that Segel himself harboured misgivings about the effectiveness of traditional methods of reason to counter hysterical rhetoric (Levy p. 44) but that Segel was nonetheless motivated to speak out by a 'sense of duty to the truth' (Levy p.44).

Norman Cohn made a similar observation in relation to Henri Rollin's groundbreaking research in *L'Apocalypse de notre temps* (1939), noting that it 'would certainly have made its mark if its publication had not been overshadowed by the outbreak of the Second World War, and if the edition had not been seized and destroyed by the Germans the moment they reached Paris' (Cohn 1967, p. 17; Kellogg 2005, p. 7). Ronald Green observes that most of the critical studies on the subject of the *Protocols* between 1920 and John Curtiss' 1942 study (the first by an American historian and endorsed by thirteen others) 'were by journalists and publicists, not historians' (Green 2000, p. 93).⁷⁰

⁷⁰ Green adds that Curtiss' study 'though scholarly in approach... mostly recapitulated previously published material, especially by Bernstein'. Curtiss himself acknowledged that his work 'may be somewhat lacking in originality', however, he argued that it is one of the few studies written with the 'impartiality of a historian' (Curtiss 1942, p. 2).

2.2.3 Legal judgments

The judgment in the Greyshirt case was the first judicial pronouncement on the *Protocols* being a fabrication. The case is considered in detail in Chapters Two and Three of this project. The Greyshirt case was closely followed by a more widely publicised and celebrated case in Berne, Switzerland in which the local Jewish community took legal action against publishers of the *Protocols* under the indecent literature provisions of the Swiss civil code. The Berne case has been considered in detail by scholars and writers, including Hadassah Ben-Itto (2005) and Michael Hagemeister (2011). The Berne case was successful in exposing falsehood although it was ultimately unsuccessful on a technical point.

The judgment in the Greyshirt case was dispatched to Berne, just as the Swiss trial was about to begin. The Greyshirt case has received considerably less scholarly attention than the Berne trial and, therefore, one of the key aims of this project is to contribute new insights into the Greyshirt case, primarily through a detailed study of the trial documents that has hitherto not been undertaken in an academic work.

In the concluding portion of this Chapter, I examine the currency of the *Protocols* after World War II to the present day, analysed within the context of antisemitism more generally.

3. Protocols post-World War II

3.1 Overview

The *Protocols* reached the height of its popularity in the 1930s and 1940s – a period of intense propaganda with direct links to the Holocaust and the world's first experience of genocide on an industrial scale. Following the defeat of Nazism and fascism at the end of World War II and the exposure of the horrors of the Holocaust, overt racist antisemitism (at least in liberal democracies) was dampened (Bronner 2000). Writing in 2000, Bronner concluded that 'Antisemitism has lost its status as a legitimate political position and it has become unacceptable in most arenas of public life' (Bronner 2000, p. 135). He also stated that 'the Protocols have been driven underground. Its appeal remains only for those intent on fostering authoritarian nationalism, exorcising the terrors of modernization, and reacting against the march of secularism' (Bronner 2000, p. 136).

However, since 2000 the world has changed dramatically, especially in relation to the discernible increase in manifestations of antisemitism globally, as evidenced by various country and global antisemitism reports (European Monitoring Centre on Racism and Xenophobia 2004)⁷¹ (Community Security Trust 2016) (Community Security Trust 2015)⁷² (Greenblatt 2016); (B'nai Brith Canada 2017); (B'nai Brith Canada & The League for Human Rights 2017).⁷³ The recent trend in antisemitism has also been the subject of scholarly attention (see for example, the work of Robert Wistrich (2010; 2012) and Perry and Schweitzer (2002, pp. 9-12)).

Many scholars and commentators have identified and explicated a 'new antisemitism' characterised by a denial of Israel's right to exist and justified on the basis of human rights (Sacks 2017). As antisemitism has 'mutated' (Sacks) into a new form, responding to and set against the backdrop of contemporary crises and challenges, so too has the *Protocols* informed and reflected contemporary antisemitic discourse (while not shedding the religious and racist elements that it also continues to reflect).⁷⁴ The reasons for the prevalence and acceptance of the *Protocols* today reflect in many ways the key drivers for its popularity in the past: its powerful synthesis of popular antisemitic and conspiratorial themes⁷⁵; the

⁷¹ This report, carried out by the European Union Monitoring Centre on Racism and Xenophobia (the predecessor to the European Union Agency for Fundamental Rights) was the first systematic collection of data for all 15 EU Member States, providing an overview of incidents of antisemitism; ensuing political, academic and media reactions; information from public opinion polls and attitude surveys; and examples of good practice to combat antisemitism based on information available from 2002-2003. The report noted a 'significant increase in verbal and physical attacks directed against Jews or Jewish institutions since the year 2000.' (European Monitoring Centre on Racism and Xenophobia 2004, p. 24) Since the 2004 Report, annual updates have been published. For the most recent report available at the time of writing, see (European Union Agency for Fundamental Rights 2016).

⁷² For a summary and analysis of the long-term trend in antisemitic incidents in the United Kingdom, see p. 14 of the 2015 Incidents Report.

⁷³ Even in 2015, in which violent incidents against Jews decreased compared to the previous year, 'the cruel and severe nature of each case escalated' and there remained a 'constant increase in insulting anti-Semitic verbal and visual manifestations and hostile atmosphere' (Kantor Center for the Study of Contemporary European Jewry 2015, p. 7), including a sustained use of libels against Jews (Aderet 2016). The Kantor Center report suggests that the reasons for the decrease in 2015 include: an increase in security measures to protect Jewish people and interests particularly after the attacks in Paris in early 2015; increased work by intelligence agencies; the wave of refugees and migrants flowing into Europe with a corresponding redirection of attention towards Muslim-Christian relations; and no major 'trigger' event such as military confrontation between Israel and its neighbours in 2015 compared to the particularly difficult year in 2014. (Kantor Center for the Study of Contemporary European Jewry 2015, pp. 5-7).

⁷⁴ Yehuda Bauer points out that 'cultural, political, economic or theological crises can all be causes, or part causes, of a phenomenon [of modern antisemitism] that cannot be explained monocausally' (Bauer 2006, p. 56).

⁷⁵ Rabbi Abraham Cooper has stated that 'of all the anti-Jewish screeds, it is the Protocols of the Elders of Zion that emboldens and empowers antisemites. While other antisemitic works may have a sharper intellectual base, it is the conspiratorial imagery of the Protocols that has fuelled the imagination and hatred of Jews and Judaism'

offering of a simple explanation of complex, confusing and frightening world events without the need to critically examine them (Bauer 2001, p. 53); the shifting of blame to a constructed ‘other’ (or scapegoating) and, by extension, the way in which it helps to define ‘self’; the allure of redemption once the enemy is exposed and eliminated; the reinforcement of long-repeated rumour and falsehood (Bronner 2000; Henry 2006, p. 113; Minow 2007)⁷⁶; and the appeal to fear, envy and hatred (Levy 1995a, p. 11).⁷⁷

Furthermore, mass literacy rates and mass communication are critical factors as is the growth of the Internet. In the same way that the printing press revolutionised printed propaganda in Russia, so too has the Internet revolutionised the dissemination of the *Protocols*. In the same way that daily newspapers were once the most dominant mass communication medium, today the Internet increasingly performs that role. It is in this digital mass communication context that people are forging a sense of themselves and their place in the world. And it is in this context that the *Protocols* has experienced a major resurgence, with the potential to influence and mobilise a new audience.

The reports on antisemitic incidents and discourse reveal that the conspiratorial imagery of the *Protocols* and its main antisemitic themes feature prominently both *explicitly* and *implicitly* in modern antisemitic manifestations (Nathan 2016a; Nathan 2016c, pp. 16-7).⁷⁸ Even when the *Protocols* is not specifically referred to, many manifestations reflect its basic

(Rabbi Abraham Cooper in the preface to (Jacobs & Weitzman 2003) at p.xi). See also Laqueur’s analysis of the psychological and social appeal of conspiracy theories and the meaningful role that it played in antisemitic propaganda from World War I (Laqueur 2006, p. 101). There is a body of literature on conspiracism (mainly American, beginning with and influenced by Richard Hofstadter’s *The Paranoid Style in American Politics and other essays*) (1966) that is beyond the scope of this project. For a critique of the scholarship, see (Gray 2008, pp. 160-7). For a selection of media articles that reflects current discussion about the role and appeal of conspiracy theories in contemporary political life, see for example, ('VIEW: Conspiracy theories - Syed Kamran Hashmi' 2011; 'ADL Exposes Anti-Semitic Conspiracy Theories After Paris Terror Attacks' 2015; Anonymous 2009; Belkaïd 2015; Chokshi 2015; Furnham 2016; Harding 2012; Healy 2016; Sides 2015; Stempel, Hargrove & Stempel 2007; Uscinski 2016).

⁷⁶ Henry states, ‘Repeated often enough, vile accusations filter into the public consciousness, shape public opinion and sentiment, and often are mistaken for fact. They must be challenged.’

⁷⁷ An example of this is the way in which the *Protocols* was used in the early 1960s in the United States to argue that international communism - which at that time was regarded as a serious threat to the United States - was really a manifestation of organised world Jewry intent on domination. Thus, the contention was that the real enemy was Jewry not communism. Following a Congressional inquiry, the *Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws* produced a Report entitled *Protocols of the Elders of Zion: A Fabricated “Historic” Document* that declared the *Protocols* a fiction and a fabrication (United States Congress Senate Committee on the Judiciary 1964). Approved by the Senate Committee on the Judiciary on 6 August 1964, the Report aimed to ‘lay to rest any honest question concerning the nature, origin and significance of this ancient canard’ (United States Congress Senate Committee on the Judiciary 1964, p. III).

⁷⁸ Even in mainstream society in Britain (Community Security Trust 2014).

premise. For example, Jewish organisations in Australia have received lengthy antisemitic emails with accusations of Jewish conspiracy and Jewish control of media, government and judiciary (Jones 2011)⁷⁹; and perpetrators of antisemitic incidents draw on ‘world domination’ language with which to assault, harass and intimidate Jews. For example, in April 2015 a man approached a Jewish school and said, ‘All Jews should be exterminated...Jews think they can run the world, but one day you will see what is going to happen. All schools will blow up with you in it’ (Nathan 2015, p. 27).⁸⁰

Similar examples occur in other countries. For instance, in the United Kingdom, a mass distribution of antisemitic literature to homes in 2011 entitled, ‘9/11 was carried out by Israel’ stated that ‘The same forces behind Israel are the same forces that created 7/7, WW1, WW2, the Russian Revolution, the French Revolution, every conceivable act of terrorism and financial downfall in history – including this recession’ (Community Security Trust 2012, p. 19). In 2010 in Toronto, Canada, a subway station was graffitied with the words ‘Say no to Jewish control’ with a swastika carved beside it (B'nai Brith Canada 2010, p. 15).

These few examples highlight and support the assessment made in the Tel Aviv University’s worldwide Antisemitism report for 2010 that, ‘Central to antisemitic propaganda is the claim that the Jews are in positions of extraordinary power and influence and drive the global economy and politics according to Jewish interests’ (The Stephen Roth Institute for the Study of Contemporary Antisemitism and Racism 2010, p. 17). The popular and widespread repetition of the conspiracy myth that underpins the *Protocols* together with the dissemination of the *Protocols* itself continue to provide a linguistic and ideological arsenal from which perpetrators of antisemitic activity draw inspiration.⁸¹ Furthermore, the presentation of Jews as a conspiratorial elite with disproportionate power potentially undermines their participation in public policy debates as they are perceived as a group that cannot be treated in the same way as any other (Jones 2004).

⁷⁹ See Appendix A, Part I.

⁸⁰ For similar additional examples, see Appendix A, Part I.

⁸¹ In the 2012 CST report on antisemitic activity in the UK for 2011, it was noted that, ‘There is no clear correlation between the ethnicity of incident perpetrators and the antisemitic language they use; contemporary antisemitic incident perpetrators will select from a range of Jewish-related subjects, such as insults related to the Holocaust or Israel, for language or imagery with which to abuse, insult or threaten their Jewish victims.’ (Community Security Trust 2012, p. 6).

In broad terms, the *Protocols* is embraced and propagated (1) in the Arab Middle East (and is spread to other Arab and Muslim communities globally and online⁸²); (2) internationally by extreme right-wing and neo-Nazi factions and parties, hate groups and white supremacists (Hilliard 2007, pp. 29; 30-5)⁸³; (3) self-styled Christian groups⁸⁴; (4) conspiracy theorists (especially online)⁸⁵; and (5) the anti-Israel left.⁸⁶ It should be noted that in this last category, there are less explicit references to the *Protocols* as a factual document than the other categories, but the theme of Jewish domination and control remains dominant, leading Julie Nathan to describe the phenomenon as the ‘protocolisation of anti-Zionism’ (Nathan 2016b).⁸⁷

By far the most prevalent and endemic use of the *Protocols* is in the Arab world (Anti-Defamation League 2012; Perry & Schweitzer 2002) (where it forms part of a broader and more mainstream antisemitic discourse) and, therefore, specific attention is given to this category. However, the same general themes emerge across all categories as far as the discursive context is concerned: the *Protocols* continues to be used as ‘documentary proof’ for a hypothesis of Jewish domination, conspiracy and control that, in turn, seeks to explain and reshape society; and justify repressive action (including violence) in ways reminiscent of its original purpose and effect in Imperial Russia, with the added annihilationist and genocidal interpretation that emerged with Nazism.

⁸² Online see for example the publication of the *Protocols* by Radio Islam under the tab ‘Judaism’ (Radio Islam). In relation to the issue of ‘cloaked websites’, see (Daniels 2009).

⁸³ See for example (DavidDuke.com 2015; StormFront 2016, 2017).

⁸⁴ See for example (Biblebelievers 2016; RealJewNews 2016).

⁸⁵ For a discussion on conspiracy theories, see (Gresham College 2016). See also Hasian who argues that conspiracy rhetoric is particularly appealing to those who feel like ‘outsiders’ and who are suspicious of mainstream narratives for ‘anomalous events that cannot be explained by traditional political arguments’ (Hasian 1997, p. 198). See also Gray (2008, pp. 160-7) who critiques the four main areas of theoretical literature on conspiracism (pathological, structural, marginalised and popular) and assesses its applicability to the Arab Middle East.

⁸⁶ For analysis of the anti-Jewish strain in Leftist politics (both historical and contemporary) see (Laqueur 2006, pp. 111-21). Wistrich comprehensively deals with this subject in his book, *From Ambivalence to Betrayal: the Left, the Jews and Israel* (2012). Note also that the 2001 UN Conference against racism, held in Durban in South Africa, ironically and infamously showcased intense antisemitism and descended into a ‘farce’ (‘Shambles and fury in Durban’ 2001). Copies of the *Protocols* were sold at the Conference. In an interview with Julie Nathan, who monitors and reports on antisemitism in Australia for the Executive Council of Australian Jewry, Nathan confirmed that the Left embraces the themes very strongly, but does not specifically reference the *Protocols*. She suspects that the reason for not specifically referring to the *Protocols* is that it is typically associated with the far right (Nathan 2017).

⁸⁷ Nathan states ‘In an unceremonial twist, but not as bizarre as it first appears, is that the idea about Zionism being the name of the Jewish plot to control the world is held concurrently by left-wing anti-Israel activists, right-wing nationalists, white supremacists, neo-Nazis, Muslim extremists, and Islamofascists’.

3.2 Arab world

Christian-European antisemitism spread through the Middle East around the turn of the twentieth century and the classic elements of this tradition have been incorporated into Arab antisemitism since then, although over the last several decades, it has been increasingly influenced by radical Islam and utilises reinterpreted Islamic sources (Erlich 2004, p. 3; Intelligence and Terrorism Information Center 2008, p. 4; Laqueur 2006, pp. 197-8). In 1928, Hassan Al-Banna launched the Muslim Brotherhood, which rejected what it regarded as the corrosive impact of Western political ideas and customs. In the 1930s Al-Banna appended the modern Nazi doctrine that ‘international Jewry’ was responsible for a ‘worldwide conspiracy to enslave the German *Volk* as well as the Muslim *Umma*, and arranged for the translation and distribution of Hitler’s *Mein Kampf* and *The Protocols of the Elders of Zion...*’ (Stern 2010, p. 63).

Nazi propaganda also found its way into the Arab world, through daily Nazi shortwave broadcasts in the Arabic language to the Middle East and North Africa during World War II (Herf 2009a, 2009b, 2009c, 2010)⁸⁸, the Muslim Brotherhood (Küntzel 2007, p. 25) and also, from 1945, Nazi propaganda, including the *Protocols*, was disseminated by Nazi war criminals in Arab countries to which they fled (Perry & Schweitzer 2002, p. 10). While it was part of a tradition of Christian antisemitism, the *Protocols* is now being used widely in contemporary Arab Muslim antisemitic discourse – its authenticity is rarely questioned and it is presented as historical fact by political leaders, academic ‘experts’ and clerics alike (Milson 2011).⁸⁹ Writing in 2006, Nina Shea and Jeanne Hoffman state that:

Of all the anti-Jewish influences in the region, one of the most prevalent and potent is *The Protocols of the Elders of Zion*. Disseminated with the support and official sanction of the governments of Lebanon, Egypt, Libya, Palestine, and Syria, as well as Saudi Arabia and other Gulf states, this work is used to shape the collective consciousness of Arab populations. (Shea & Hoffman 2006)⁹⁰

⁸⁸ Herf’s wider argument that there is a link between Nazi antisemitism and contemporary radical Islam has been debated by some, notably Richard Wolin – see (Wolin 2009) (Gregor 2010) (“Islamofascism”: an Exchange’ 2009) and (Welch 2011).

⁸⁹ For specific examples, see Appendix A, Part II.

⁹⁰ As to the value for State actors in the Arab Middle East ‘narrating and encouraging’ conspiracy theories, see (Gray 2008, p. 169). It is noteworthy that the reasons cited by Gray largely reflect the value that the *Protocols* represented to the Tsarist regime in Russia.

The explicit reference to the *Protocols* as fact in the Charter of the Islamic Resistance Movement (Hamas)⁹¹ provides an illustration of the way in which the *Protocols* has been used to support, and indeed shape, an ideological, theological and political agenda in a contemporary context. The Hamas Charter, issued in 1988 and the only founding document of Hamas (Nimer 2009, p. 116) has, up until the time of writing, not been amended to remove reference to the *Protocols* despite calls from bodies such as the Anti-Defamation League to do so ('ADL: Hamas must expunge anti-Semitism from Charter if Palestinians are to commit to peace with Israel' 2011).

Recent media reports state that Hamas intends to release a revised Charter addressing its antisemitic language and references (Brenner 2017; Eldar 2017; Lieber 2017; Ziboun 2017). It remains to be seen what these amendments are and what effect they will have. The analysis below deals with the Hamas Charter in its unchanged form from 1988 to the time of writing.

3.2.1 Islamic Resistance Movement (Hamas) Charter

The *Protocols* is specifically referred to in Article 32 of the Hamas Charter in the following terms:

For Zionist scheming has no end, and after Palestine they will covet expansion from the Nile to the Euphrates. Only when they have completed digesting the area on which they would have laid their hand, they will look forward to more expansion, etc. Their scheme has been laid out in the Protocols of the Elders of Zion, and their present [conduct] is the best proof of what is said there (Maqdsi 1993); [<http://www.palestinecenter.org/cpap/documents/charter.html>] [parentheses in the original translation].

In addition to this specific reference, which casts the *Protocols* as a genuine document outlining a subversive plot for domination (and which, it is argued, is proven by conduct), the Hamas Charter makes liberal use of and reference to stereotypical imagery associated with the *Protocols*. For example, Article 17 states:

⁹¹ In 2006, Hamas won a majority of seats in the Palestinian Parliament.

Therefore, you can see them making consistent efforts [in that direction] by way of publicity and movies, curricula of education and culture, using as their intermediaries their craftsmen who are part of the various Zionist Organizations which take on all sorts of names and shapes such as: the Freemasons, Rotary Clubs, gangs of spies and the like. All of them are nests of saboteurs and sabotage. Those Zionist organizations control vast material resources, which enable them to fulfil their mission amidst societies, with a view to implementing Zionist goals and sowing the concepts that can be of use to the enemy. Those organizations operate [in a situation] where Islam is absent from the arena and alienated from its people. Thus, the Muslims must fulfil their duty in confronting the schemes of those saboteurs. When Islam will retake possession of [the means to] guide the life [of the Muslims], it will wipe out those organizations which are the enemy of humanity and Islam.

Similarly, Articles 22, 28 and 30 contain passages that draw inspiration from the *Protocols*. Article 22, entitled ‘The powers which support the enemy’ variously refers to and alleges: scheming; accumulated wealth; influence; control of the media; instigation of all wars and revolution for gain⁹²; establishment of clandestine, destructive and spying organisations (such as the Freemasons, Rotary Clubs, Lions Clubs and B’nai B’rith) to ‘destroy societies and carry out Zionist interests’; colonisation, the establishment of the League of Nations and the United Nations to ‘rule the world’. Article 28 contains allegations of moral degradation and corruption of society for political gain.

The Hamas Charter is an example of the way in which the *Protocols* can and has been used to support and shape an ideological, theological and political agenda, and how these references to the *Protocols* can be interwoven with other sources to powerful effect. In the case of the Hamas Charter, selective Qur’anic passages and Islamic sources are used to support the arguments and ideological positions that are prosecuted in the Charter.⁹³ The Charter constructs a single ‘enemy’, embodied in the Jews/Zionists and those who ‘revolve in their orbit’. It attributes to this absolute enemy morally repugnant characteristics and disproportionate power, and repeats the basic allegations of the

⁹² Specific reference is made to World War I, which, it claimed, was instigated to ‘wipe out the Islamic Caliphate’ and World War II, ‘where they collected immense benefits from trading with war materials and prepared for the establishment of their state’ Hamas Charter, Article 22.

⁹³ See for example, Article seven (Maqdsi 1993).

Protocols in order to dehumanise and demonise Jews, delegitimise the State of Israel, and justify a united and violent struggle against a hateful enemy in order to overcome and defeat it.⁹⁴ It calls for unification as ‘one body’ against the enemy, thereby creating an identity and purpose that is defined not only by Islam but also by ‘the other’.

Meir Litvak (2005, p. 42) and Andrea Nusse (1998, p. 34) note that this powerful image of the Jew departs from the traditional Islamic depiction of the Jew associated with cowardice, wretchedness and humiliation, and as Nusse explains ‘in this transformation of the image of the Jew we can clearly detect traces of modern European anti-Semitism. This influence is particularly obvious in the wide circulation of the “Protocols of the Elders of Zion” in the Arab world’ (Nusse 1998, p. 34). The image of the all-powerful and malevolent Jew corresponds to the powerful, but evil, image of the Jew within the *Protocols*. Litvak states that ‘The portrayal of the Jews as powerful archenemies of Islam...has become a central element in Hamas’ ideology and an important theme in the writings of all Islamist movements in the Middle East as part of a broader need to explain the current crisis of the Muslim world’ (Litvak 2005, p. 42). This touches on the way in which the imagery of the *Protocols* is used to explain complex, frightening and possibly disempowering world events in very simple terms. On this point, Nusse (1998) observes that:

The foundation of the Jewish state in 1948 and the succession of Arab-Muslim military defeats against the Jewish army came as a shock and posed a serious psychological problem: how could the weak and cowardly Jews inflict humiliation on the Muslims? These developments appeared to be incompatible with the traditional view of the Jews. In the search for an explanation, European anti-Semitism was welcomed. By demonising the Jews and presenting them as the sons of Satan engaged in a conspiracy against all mankind, they became a truly strong adversary.

Whether or not the transformation of Hamas from a resistance movement in 1988 to a political party in 2006 has led to a shift in its thoughts and actions (with – as some argue – a broader, more nuanced, pragmatic and pluralistic approach to Palestinian life as

⁹⁴ For more on the way in which the Hamas Charter justifies political violence through authorisation of violence through historical memory of injustice and defeat; dehumanisation of the ‘other’ by establishing a binary classification system; and shame evoked from the experience of subjugation see (Sandhu 2003).

reflected in its political documents)⁹⁵ the 1988 Charter, illustrates the way in which the *Protocols* has been embraced and utilised to vilify Jewish people for an explicitly ideological, theological and political purpose.

Wistrich points out that ‘The annihilationist jihad advocated by Hamas since 1988 is rooted in orthodox Islamic theology and eschatology, adapted to the contemporary war against Israel’ (Wistrich 2010, p. 744). In this sense, the use of the *Protocols* within the Hamas Charter echoes both the particularly apocalyptic and eschatological interpretation of the *Protocols*’ early publication in Imperial Russia and the subsequent racist doctrines and genocidal antisemitism of Nazi Germany.⁹⁶ Wistrich shows how the power of Hamas’ ‘modernized ideology of holy war’ (which incorporates the *Protocols*) inspires, validates and celebrates suicide bombers and terror attacks against Jewish and Israeli civilian targets (Wistrich 2010, pp. 745-7) (see also (Curiel 2016; Goldberg 2014)).

3.3 Contemporary refutations, challenges and responses to the Protocols

The upsurge in antisemitic manifestations in recent years together with the popularisation of the *Protocols* and its underlying mythology has focussed both academic and personal interest on the subject. The *Protocols* has been exposed time and again as a fabrication and falsehood, yet the *Protocols* continues to enjoy widespread popularity and acceptance. This has generated scholarly interest in a range of disciplines (including law, sociology, history and psychology), reflecting the multiplicity of ways in which the *Protocols* can (and should) be analysed and the myriad ways in which the *Protocols* intersects with human history and behaviour. Valuable scholarly contributions to the subject include the edited volumes of (Kaufman et al. 2007) and (Webman 2011b) as well as the work of historian Michael

⁹⁵ For further detail see (Hroub 2006, 2010). Hroub argues that Hamas is a profoundly different organisation, as evidenced by reference to its electoral documents and in contrast to the Hamas Charter. See also Nimer 2009 who analyses changes to the ideological rhetoric of the early movement. He notes that while the territorial claim has not been relinquished, ‘the essence of the conflict has been redefined: the enemy is the occupation and the Zionists, not Jews, and the cause of the conflict is their responsibility for displacing the Palestinians rather than a grand conspiracy against Islam and the Muslims’ (Nimer 2009, p. 123). Menachem Klein (2007) also discusses the differences between the Hamas Charter and Hamas’ political documents. However, others such as Litvak argue that ‘while the political fortunes of Hamas have changed significantly, its ideology in advocating the elimination of Israel and the establishment of an Islamic state on the entire territory of Palestine has remained consistent’ (Litvak 2010, pp. 716-7). Even after Hamas was elected in 2006, some Hamas leaders publicly referred to the *Protocols* as true. For specific examples, refer to Appendix A, Part II.

⁹⁶ For an expansion of the analysis of how Hamas draws on Islamic theology to develop an ‘apocalyptic myth about the Jewish and Western threat to Islam as a whole’ and its ‘modernized ideology of holy war’, see (Wistrich 2010, pp. 744-9).

Hagemeister; Professor of Russian literature, Cesare De Michelis; and political theorist, Professor Stephen Eric Bronner (2000).

The persistence of falsehood has also motivated personal works designed to counteract the pernicious effects of the *Protocols*. These refutations, which have taken different forms, are motivated by a sense of commitment to and custodianship of the truth and are characterised by a desire to refute and rebut the *Protocols* in the public sphere. For example, in 2003, the Simon Wiesenthal Center in Los Angeles published a line-by-line rebuttal of the *Protocols* entitled, *Dismantling the Big Lie: The Protocols of the Elders of Zion*, to enable the ‘Jewish reader...to rebut these pernicious lies whenever and wherever they are encountered’ (Preface by Rabbi Abraham Cooper in (Jacobs & Weitzman 2003, p. xiii). Rabbi Cooper also points out that the book is necessary as a response to the ‘unprecedented exposure’ the *Protocols* receives online, demanding ‘new efforts to counter its hate’ (Preface by Rabbi Abraham Cooper p.xiii).

Echoing the imperative that drove many earlier writers on the *Protocols*, Rabbi Cooper also affirmed that the ‘search for and commitment to truth is a foundation of Jewish tradition and...one of the three pillars of civilization’ (Jacobs & Weitzman 2003, p. xiv). ‘As Jews we fight falsehood because we must, as Americans living in the greatest democracy we fight falsehood because we can’ (Jacobs & Weitzman 2003, p. xiv).

In 2005, two books on the *Protocols* were published: *The Lie that Wouldn’t Die: The Protocols of the Elders of Zion* by Hadassah Ben-Itto (2005) and *The Plot* by Will Eisner. In both cases, the genesis for the work was a desire on the part of the authors to bring the truth about the *Protocols* to a broader audience. Ben-Itto notes that the truth about the *Protocols* existed only in scholarly works (Ben-Itto 2005, pp. 1-19; Ben-Itto 2017). Her book has been translated into multiple languages, including Hebrew, German, Russian, Spanish, Dutch, Romanian, Hungarian, Bulgarian and Arabic (Meir Amit Intelligence and Terrorism Information Center 2012). In 2012, it was translated into Farsi and posted online with the aim of countering the proliferation of and wide belief in the *Protocols* in Iran (Hirshfeld 2012; Katz 2012; Meir Amit Intelligence and Terrorism Information Center 2012).⁹⁷

⁹⁷ For a historical review and analysis of the *Protocols* in Iranian discourse, see (Rahimiyan 2011). For a general review and analysis of the Islamic regime of Iran’s attitude towards Jews (including a discussion of the *Protocols*), see (Shahvar 2009).

Will Eisner's *The Plot: the secret history of the Protocols of the Elders of Zion*, which traces the history of the *Protocols* in graphic form, was published posthumously in 2005. In the Preface, Eisner expresses concern that despite detailed and rigorous exposés of the *Protocols* (which he describes as a 'weapon...to reinforce antisemitism') it has 'continued to gain new exposure and credibility' (Eisner 2005, p. 1). *The Plot* (on which Eisner worked intermittently for over twenty years (Kaye 2005)) can be viewed as Eisner's attempt to harness what he terms the 'powerful medium' of the graphic form to reach a broader audience:

Over the years, hundreds of books and competent scholarly articles have exposed the infamy of the *Protocols*. These studies, however, are written mostly by academics and are designed to be read by scholars or by persons already convinced of their fraudulence.

I have spent my career in the application of sequential art as a form of narrative language. With the widespread acceptance of the graphic narrative as a vehicle of popular literature, there is now an opportunity to deal head-on with this propaganda in a more accessible language. It is my hope that, perhaps, this work will drive yet another nail into the coffin of this terrifying vampire-like fraud. (Eisner 2005, p. 3)⁹⁸

Eisner's approach has been described as 'groundbreaking' by Monica Osborne, who states that *The Plot* 'liberates the dark secrets of the *Protocols* from academic and professional discourses and releases them into popular culture' (Osborne 2007, p. 271) (see also (Greene 2007)). Osborne considers the 'participatory mode' of graphic narrative as 'ideal' for 'debunking the fraudulent and sordid claims of the *Protocols*', especially in the 'silence between frames' that allows the reader to connect the images, piece together the narrative and reflect on the dangers of the *Protocols* (Osborne 2007, p. 271).

Others, however, have interpreted the 'silences' as frustrating gaps that need to be filled with reference to more detailed and scholarly works such as Cohn's *Warrant for Genocide* (for example (Gonshak 2009; Grossman 2005; Schneider 2006)).⁹⁹ Rather than contradict

⁹⁸ See also (Edidin 2005), quoting Eisner's widow, who said that Eisner 'wanted ordinary people to be able to understand that the *Protocols* are a forgery'.

⁹⁹ Grossman argues that *The Plot* omits the broader context of antisemitism which is essential to an understanding of the *Protocols*. Gonshak shares Grossman's concern about context and add other concerns, including *The Plot*'s failure to answer the question of why the *Protocols* remain influential; that *The Plot* is

Osborne's thesis, some of these criticisms may in fact support it, highlighting the way in which the graphic narrative invites the reader to participate in the trajectory of the story, seek out the broader literature and build a deeper, richer understanding of the subject matter.

Even so, the larger question of the *Protocols*' continued and widespread acceptance remains, reflected in the cautious tone of Umberto Eco's introduction to *The Plot*. Eco concedes that for those who are already convinced that the *Protocols* is true, Eisner's 'courageous' book is unlikely to shift their perspective (a matter on which Eisner himself may have agreed, since his belief in the power of the form to reach a broader audience is 'matched by a scepticism that comes from long observance of human nature and history' and reflected in *The Plot* itself (Dauber 2006, p. 302).¹⁰⁰ Despite Eco's forecast, he concludes that the story is still worth telling because 'one must fight the Big Lie and the hatred it spawns' (Eco, translated by Bastagli in (Eisner 2005, p. vii)) (see also (Henry 2006; Raiteri 2005)).¹⁰¹

Refutations have also taken on other narrative forms. In 2005, film-maker Marc Levin made a documentary feature film that explored contemporary belief in the *Protocols* and the rise of antisemitism in the United States following the 9/11 terrorist attacks of 2001 (Levin 2005). Physical (and online) exhibits have also documented the history and contemporary use of the *Protocols*, and exposed the *Protocols* as a fabrication for a wider audience. A prominent example is the United States Holocaust and Memorial Museum in Washington, D.C. (United States Holocaust Memorial Museum), which seeks to shed light on the 'larger issue of effective propaganda' (Handwerk 2006).

In a prominent court case in 1993, a Russian court ruled that the *Protocols* is a forgery and that to publish it is an antisemitic act (Erlanger 1993). The case arose out of a libel suit brought by Pamyat, an antisemitic, far-right Russian organisation, against the editor and

'dry'; and Eisner was 'naïve' to believe that his work would 'drive another nail into the coffin' of the *Protocols*. These concerns lead Gonshak to query whether the graphic form is the ideal medium for debunking the *Protocols* and to suggest that scholarly works with context and detail are better placed to do so (Gonshak 2009, p. 65).

¹⁰⁰ Dauber points to the numerous scenes in the book in which the various exposés of the *Protocols* are followed by the express belief that they will end it, only to be followed by another scene in which the *Protocols* are circulated and believed once more (Dauber 2006, p. 302).

¹⁰¹ Raiteri states that *The Plot* 'provides a great service to the truth by detailing the history of an infamous hoax' (Raiteri 2005).

publisher of *The Jewish Gazette* for listing Pamyat as an antisemitic organisation after Pamyat serialised the *Protocols* in its newspaper in 1992 (Erlanger 1993).¹⁰²

Finally, the importance of denunciations cannot be underestimated. Official and public responses to the *Protocols* (and antisemitism generally) are crucial in evaluating the overall context in which antisemitic manifestations appear.¹⁰³ The wavering, passive, permissive and morally complicit position of the central government with respect to the Kishinev pogrom in 1903 helped to 'normalise' the brutality of Kishinev and pave the way for further collective violence (Lambroza 1992). As this episode of history proved, immediate and unequivocal denunciation as well as decisive action is required to militate against the normalisation of hatred and violence.

The foregoing analysis of the original and subsequent use of the *Protocols* reveals the extent to which it reflects and also disseminates a concretely political and ideological agenda, infused with racist notions of national identity. While not used exclusively in this way, a dominant theme in the political and discursive history of the *Protocols* is the way in which the *Protocols* is a highly adaptable and powerful weapon to support any ethnonational project, whether that be the far-right in Tsarist Russia, the Nazis in Germany, the Islamists in the Arab world, or indeed the Greyshirts in South Africa. Rahimiyan makes the following observation in relation to Iran that has broader relevance:

The history of Iranian interest in the *Protocols* is...a reflection of Iranian socio-political history in the twentieth century. Interest in them has surged each time there has been a nationalist awakening or Iran has been forced to reconstruct its national identity. (Rahimiyan 2011, pp. 213-4)

The close relationship between interest in the *Protocols* and national trauma provides important context for the analysis of the Greyshirt trial, which occurred as a direct consequence of a crisis in Afrikaner nationalism. The Greyshirts sought to elevate and define

¹⁰² For selected media reports in the West, see ('Anti-Semitic 'Protocols' fraud, judge rules in Moscow court' 1993); (Steele 1993); (New York Times Service 1993); (Los Angeles 1993).

¹⁰³ The *Protocols* are largely unchallenged in the Arab world and so the denunciations in 2002 by Osama El-Baz (senior advisor to then Egyptian President Hosni Mubarak) (Friedman 2006); (Friedman 2003); (Michael 2002). and in 2007 by the Grand Mufti of Egypt, Dr. Ali Gomaa, publicly denying that he was the author of a Foreword to a 2003 edition of the *Protocols* that was attributed to him (Intelligence and Terrorism Information Center 2007a) are regarded as significant.

their own Christian national identity by employing a politics of hate and exclusion, and directed their hatred primarily towards Jews. At a time of economic hardship, the Greyshirts sought to mobilise their constituency (mainly ‘poor whites’) by adversely contrasting their dire situation with the progress achieved by the Jewish community.

The conspiratorial imagery of the *Protocols* focussed the Greyshirt constituency on an imagined, threatening, alien and parasitic enemy in their midst – one that deprived them of their national birthright of progress and prosperity. Finding themselves the targets of defamatory and racist antisemitism the Jewish community was faced with the question of how best to respond. While there is no doubt that the Jewish community appreciated the real danger posed by the Greyshirts’ politics of hate, division and exclusion, a key question is whether they truly appreciated the power of the ideological forces that underpinned Greyshirt politics – most notably, racism.

In my view, the Jewish community was primarily responding to what it viewed as classic religious antisemitism, and did not fully appreciate the depth and intractability of rhetoric that relied substantially on constructs of race per se. This is particularly so when one considers that South Africa was already unofficially stratified along colour lines and essentialised notions of race were gaining increasing credibility. These racial constructs eventually found their fullest expression in the official racist regime of Apartheid from 1948 to 1994 in which colour-coded racism was the fundamental basis for political and social life in the country.

The Greyshirt trial shows the vigour with which the Jewish community sought to contest and counteract the falsehoods about Jews and Judaism, believing that an evidence-based, fact-based approach to the exposure of falsehood would nullify the grounds from which the hatred had sprung. While the case may have been effective in demonstrating conclusively that the *Protocols* (and other libels) did not qualitatively represent Jews and Judaism, the case did not (and could not) deal with the broader question of ‘race’ per se, mainly because at this time, the full implications of racial categorisation and hierarchies were not yet known.

It is these issues that are explored in greater detail in Chapter Two.

Chapter Two Prologue to the Greyshirt Trial

South Africa in the 1930s presented a complex political and social landscape in which antisemitism and white supremacism coalesced, strongly influenced by imported Nazi ideology and propaganda as well as historic racist antecedents in the region. While academic analysis has tended to interrogate separately antisemitism and colour-coded racism in South Africa, my analysis of the Greyshirt case in this Chapter offers a unique perspective on their confluence. The Greyshirts, emerging from an economically and politically marginalised constituency, sought a more dominant position in South Africa and the revival of proud Afrikaner nationalism. Virulent antisemitism was a convenient and potent weapon, enabling the Greyshirts to attract supporters, to define their fascist identity and to offer a simple explanation for insecure and frightening times.

The Greyshirts sought to construct and disseminate a malevolent notion of Jews undeserving of a place in South Africa, and on that basis called for the denationalisation of Jews. This represented a substantial ideological shift, a change from classifying persons racially within a society, to condemning them as ‘detestable’ and excluding them altogether. This discourse of exclusion provoked not only a confrontation with the Jewish community over the essence of what it means to be a Jew, but also an evaluation of how that construction or perception of a Jew fits into society. As South Africa was already racialised, the arguments advanced by the Greyshirts proved acceptable to their supporters, who were accustomed to concepts of racial classification. The virulence of the Greyshirt program with its politics of exclusion mirrored the ideological currents generated by Nazism and swirling throughout Europe in the 1930s. The world was on the cusp of one of the most horrifying events in human history, in the form of the Holocaust, which took essentialised notions of race to their genocidal conclusion.

1. The Greyshirts and the politics of exclusion

1.1 Overview

Within months of Hitler’s accession to power in 1933, ultra-right, uniformed ‘Shirt’ movements arose in South Africa, modelled on the uniformed fascist organisations of the

interwar period in Europe. These local movements, of which the Greyshirts¹⁰⁴ were the most prominent, imported both the ideological approach and tactical activities of their European progenitors, including a ‘distinctly imported European variety of anti-Semitism’ (Furlong 1991, p. 20) and provocative methods that included printed propaganda, rabble-rousing and public meetings. While the dissemination and reception of radically right, ultranationalist, antisemitic and fascist ideology in South Africa in the early 1930s was no doubt encouraged by the example of Nazi Germany and European fascism, a confluence of local political, economic, social and cultural currents that had been running deep for some time, made Afrikaners, in particular, especially receptive and responsive to such ideologies.¹⁰⁵ And as I will show, these same forces shaped how the Greyshirts transmogrified national-socialism and fascism into essentially local terms, which in turn set the stage for the confrontation with the Port Elizabeth Jewish community in early 1934.

Politically, committed Afrikaner nationalists had almost reached a crisis point in the political landscape of 1933, perceiving no political leader or party able to adequately voice their interests. Therefore, the ultra-right movement filled a political vacuum and gave Afrikaner nationalists a political voice.¹⁰⁶ The Shirt movements resonated with Afrikaner nationalists more strongly than even the official branches of the Nazi Party, since the Shirt movements reflected a more indigenous form of national-socialism and pledged loyalty and allegiance first and foremost to South Africa rather than Germany. The emphasis on *Afrikanerdom* was well-suited to Afrikaner national consciousness at the time, which, as Shimoni observes, was ‘sufficiently singular and indigenous to South Africa to be resistant to political models of patently foreign character’ (Shimoni 1980, p. 109).¹⁰⁷ By translating national-socialist and

¹⁰⁴ The Greyshirts were the vanguard of the South African Gentile National Socialist Movement, which was founded by Louis Theodor Weichardt in October 1933, and was recognised as the South African National Party (SANP) in May 1934 (1937). For additional background on Weichardt see (Scher 1986).

¹⁰⁵ Scholars have identified a range of reasons for the appeal of national socialism to Afrikaners including: acute race consciousness; strong Afrikaner nationalism; disillusionment with British parliamentarianism; frustrations with industrialisation; the social and economic impact of urbanisation; the financial hardship of the Great Depression; and the admiration of Germany and German culture, particularly among those Afrikaners with German heritage. See for example, (Scher 1986, p. 56; Shain 1992; Shimoni 1980). For a helpful summary of the early influences of Nazism in South Africa see (Gilbert 2010).

¹⁰⁶ For a comprehensive description and analysis of the nature, appeal and influence of fascism and fascist movements in South Africa in the 1930s, see (Furlong 1991).

¹⁰⁷ The emphasis on *Afrikanerdom* manifested in the fervent patriotism of Greyshirt posturing and propaganda. Even the emblem provisionally approved by Louis Weichardt to represent South African Nationalism was the springbok (symbolising South Africa) superimposed on the Swastika (1937). The explanation given in the July 1937 Constitution and Programme of Principles of the South African National Party was that ‘At the present day [the Swastika] has been universally adopted by those who, in all parts of the world, are manfully upholding, often against tremendous odds, the cause of Christian European Civilisation and Humanity. The Springbok, superimposed on the Swastika, stands for South Africa.’ (1937).

fascist ideals into local terms, the Greyshirts were shaping and defining their own national identity, and reasserting lost national pride at both a popular and political level. Based explicitly on notions of race, the Greyshirts advanced a political model for an ideal, sanitised South Africa from which Jews were to be excluded.¹⁰⁸ It was this political model and the ideological foundations on which it was based that the Jewish community was provoked into resisting. The Greyshirts' politics of exclusion based on race is explored in detail below. A central plank in defining Afrikaner 'self' was the construction of a detestable and malevolent 'Other', in the form of a racialised notion of Jews.¹⁰⁹ This construct served additional purposes: it helped to explain uncertain times and provide a much-needed scapegoat for the economic distress and general subjugation of the Afrikaners.

Economically, the Afrikaners were experiencing great financial hardship, exacerbated by the Great Depression and the effects of urbanisation. Greyshirts were particularly concerned about the economic distress faced by Afrikaners and had grassroots support among 'poor whites' and the working class.¹¹⁰ The relative economic disadvantage of Afrikaners and 'poor whites' fuelled Greyshirt resentment and frustration, and encouraged a reflexive reach for an explanation and scapegoats in the form of Jews and Jewish intrigue.¹¹¹ As I will argue below, while antisemitic, stereotypical images of Jews were not unknown in South Africa (and the subject is comprehensively examined by Shain (1994)), the Greyshirts constructed an antisemitic discourse based on racialising Jews. This marked a significant discursive

¹⁰⁸ The Greyshirts framed the discourse in terms of the unification of English and Afrikaans speaking Christian South Africans to 'protect their birthrights' against Jewish exploitation. See for example, ('South Africa to-day' 1934). Of the 17 items making up the Programme of the South African Gentile National-Socialist Movement (of which the Greyshirts were the vanguard), number nine stated: 'Definite Immigration Laws to exclude all Alien Races who are unable by reason of their character to be assimilated by the white races of South Africa. (a) South African Nationality shall not be granted to any such Aliens who entered South Africa after 1st November 1918; (b) Should South African Nationality already have been granted to any such Aliens, same to be declared nul and void.' ('Our Programme: The South African Gentile National-Socialist Movement' 1934). See also Greyshirt 'Appeal for Funds' that stated, 'To enable us to fight to save the Gentiles of South Africa and Christianity from the Alien Menace that threatens to destroy and enslave us, we appeal to all our Gentile South Africans to give us financial support. This fight is for every Gentile's liberty from the enslavement by Juda and to uplift the down-trodden brothers of our race that have been driven to the throes of starvation and the level of a kaffir by the Jewish race that threatens to entirely enslave the Gentile races.' ('Appeal for Funds' 1934) See also von Moltke's cross-examination of Reverend Levy in which he confirms that Greyshirts are in favour of a 'back-to-Palestine policy for the Jews.' ('Transcript' 1934, p. 68).

¹⁰⁹ See for example ('Back in the old groove' 1934), 'National pride is not only inspired in our family life but also in various other institutions in our country....Our history, our extraction and our traditions elevate us so high....but alas! this ideal nation also has its enemies....This enemy is the JEW.'

¹¹⁰ The Black Shirts were more popular among poor Afrikaners in the Transvaal. See (Furlong 1991, p. 34).

¹¹¹ For example, on 4 May 1934, *Die Rapport*, the organ of the Greyshirt movement, printed extracts from the *Protocols of the Elders of Zion* under the heading 'The Cause of The Depression – Judah has all the Gold' ('The cause of the Depression' 1934).

development in South Africa, and stands in contrast to earlier expressions of antisemitism in South Africa in response to economic distress (most notably immediately following the Anglo-Boer War) which could be more accurately described as xenophobic anti-alienism rather than overt racism.¹¹²

Socially and culturally (and in many ways, politically and economically), Afrikaners were living in the shadow of their humiliating defeat to the British in the Anglo-Boer War (1899-1902). Afrikaners were deeply affected by the dislocation, trauma, humiliation and suffering caused by the war and this haunted the decades that followed.¹¹³ The war engendered anti-British sentiment among Afrikaners and, as already noted, the desperate economic climate immediately after the war saw the first serious manifestations of antisemitism in South Africa in the form of xenophobic anti-alienism.¹¹⁴ Of the many effects of the war on Afrikaners, perhaps one of the most relevant to this analysis is their deep sense of humiliation. Many Afrikaner nationalists in the early 1930s may have seen parallels between Germany's humiliating defeat in World War I and their own defeat of 1902, and been inspired by the dramatic rise of Nazi Germany to global pre-eminence and the reclamation of lost pride.¹¹⁵

Interwoven with the political, economic, social and cultural forces outlined above, is the broader historical and social context of antisemitism and colour-coded racism in South Africa. In general, the scholarship tends to overlook the connection between race relations and the virulent antisemitism of 1930s South Africa. This may, in part, be due to the way in which race relations and antisemitism have tended to be separately examined in the South African context. Furthermore, scholars such as Shain have recognised that 'antisemitism was only one dimension, and a limited one at that, of South African prejudice and bigotry. A

¹¹² See for example (Furlong 1991, p. 47).

¹¹³ Adolph Schauder, who participated in the Anglo-Boer as part of the Red Cross Detachment of the Prince of Wales's Light Horse Regiment in 1901, saw the devastating effects of the war on Afrikaner families and developed a sympathy for them, particularly refugee families fleeing their farms. He anticipated the trauma that the war would cause to the Boers. See (Scher 2001, pp. 7-10).

¹¹⁴ See (Furlong 1991, pp. 47-8).

¹¹⁵ See (Furlong 1991, in particular p. 81 and p. 123). Fredrickson, in his exposition of the factors that led to the adoption of Western racism as an ideology and the establishment of the 'overtly racist regimes' of the Jim Crow South (America), Nazi Germany and Apartheid South Africa, identifies the extent to which 'the racial Other came to be identified with national defeat and humiliation'. The 'Other' in each case respectively being African Americans, Jews and Africans. Fredrickson suggests that in each case 'Scapegoating the available and vulnerable Other was one way of dealing with the bitterness and frustration resulting from the failure of nationalist projects' (Fredrickson 2002, p. 106). Although Fredrickson explains the 'racial Other' as being 'Africans' in the context of Apartheid South Africa, in my view the phenomenon of associating the 'racial Other' with humiliation and defeat operated in Greyshirt discourse in the early 1930s, but in relation to Jews rather than blacks, evidenced by their allegation that Jews fomented the Anglo-Boer war.

cardinal divide in South African society has always been one of color' (Shain 1994, p. 152).¹¹⁶

However, the Greyshirt case offers a unique perspective on the way in which notions of race and antisemitism coalesced and created a dramatic discursive struggle between the Greyshirts and the Jewish community (represented by Reverend Levy and the South African Jewish Board of Deputies). At stake for the Greyshirts in this discursive struggle were matters of national identity and pride (exemplified in their ideal South Africa that privileged united 'white' Christian power). At stake for the Jewish community was their place in a safe, hospitable, welcoming society that, like other 'New World' countries, represented a sanctuary from the violent antisemitism of Europe from which a significant portion of the Jewish community had fled. Of particular relevance to my analysis is the broader question of race and how this influenced the Greyshirt discourse of exclusion and the implications that this had for the Jewish community's response.

Jacobson (1999, p. 6) describes race as a 'theory of who is who, of who belongs and who does not, of who deserves what and who is capable of what. By looking at racial categories and their fluidity over time, we glimpse the competing theories of history which inform the society and define its internal struggles.' The Greyshirts sought to racialise Jews and redefine them as 'Asiatic' and 'non-European' thereby relegating them to an inferior social status in an existing unofficial hierarchy of race in South Africa. By describing them further as 'alien', 'international' and 'unassimilable', the Greyshirts sought to justify their view that Jews did not belong in South Africa at all. While the Greyshirts advanced arguments for the exclusion of Jews from South Africa that were founded on notions on race, they also drew on classic religious antisemitism, including medieval libels, to dehumanise Jews and demonise Judaism. Through the Greyshirt case, the Jewish community sought to rebut the lies about Jews and Judaism and thereby firmly establish and validate their humanity. This issue, explored in detail below, takes on greater significance in the context of global events as the world was on the cusp of a dramatic struggle over notions of race and ethnicity, manifesting and culminating in the horrifying genocidal actions of Hitler's Nazi Germany.

¹¹⁶ See also for example, (Weisbord 1967, p. 233).

1.2 Antisemitism in South Africa

I turn first to the question of antisemitism in South Africa. As Milton Shain has persuasively argued, without a long period of attitudinal preparation, exemplified by decades of antisemitic stereotyping, organised political antisemitism of the 1930s would hardly have been possible (Shain 1994, p. viii). Shain points out that up to the 1960s the traditional historiography of antisemitism in South Africa emphasised a harmonious relationship between Jews and non-Jews and considered the anti-Jewish manifestations of the 1930s and 1940s as an aberration. Thus, writers and historians, particularly before the 1960s, largely ignored or downplayed antisemitism in South Africa.¹¹⁷ However, since the 1960s more attention has been focussed on the conflict between Jews and non-Jews in South Africa, while simultaneously recognising the hospitality shown to Jews and their social inclusion (Shain 1992, p. 112). But ‘even the new historiography continues to depict antisemitism in the 1930s and 1940s as essentially an alien phenomenon, a product of Nazi propaganda at a time of great social and economic trauma’ (Shain 1992, p. 113). Shain argues that antisemitism was an ‘important element in South African society long before 1930 and that anti-Jewish manifestations were related to a consistent and widely shared Jewish stereotype, the roots of which were deeply embedded in the South African experience’ (Shain 1994, pp. 3-4).

Shain delves into the development of the stereotype over the decades leading up to the 1930s, starting in the 1800s with early settlement, and argues that the reception of fascist and Nazi ideology by Afrikaners was facilitated by the decades of antisemitic stereotyping that preceded it. In particular, the antisemitic ideas of the Greyshirts, including the allegations that it was the Jews who fomented the Anglo-Boer War, who inspired blacks against whites, who controlled the press and dominated society, were ‘well entrenched in a large part of the national consciousness’ and, in the turbulence of the 1930s, were widely embraced (Shain 1994, p. 143). One of the effects of Nationalist sentiment was that it ‘sharpened perceptions of the Jew as a quintessential alien. For the Afrikaner, he symbolised all that was foreign and oppressive’ (Shain 1994, p. 145). In his most recent book, *A perfect storm: Antisemitism in South Africa, 1930-1948* (2015), Shain places emphasis on the racist mindset of the radical

¹¹⁷ Shain cites for example, the standard history edited by Saron and Hotz, *The Jews in South Africa. A History*, which concentrates mainly on the communal origins and the contribution of the Jews to the wider community. (Shain 1992, p. 112).

right and underscores the importance of 'nascent volkish Afrikaner Christian-Nationalism' in explaining the depth and potency of antisemitism in South Africa in the 1930s and 1940s.

Shain's exposition of the root causes of antisemitism in the South African context is cogently argued. It is my intention, however, to probe further and to demonstrate that the Greyshirt discourse challenged the prevailing perceived racial classification of Jews and their place in society, which raises fundamental questions about how the Jewish community perceived this challenge and how it formed and framed its response(s). I examine the Greyshirt trial in this broader context.

1.3 Greyshirts' racialising of Jews

South Africa was already racialised along colour lines, with 'whites' enjoying a position of relative power and privilege. And it was to this 'white' classification that Jews notionally belonged as they 'acculturated' themselves to the existing system of race relations.¹¹⁸ The Greyshirt discourse drew not only on the fusion of the antisemitic imagery (that Shain describes) with imported Nazi ideology, but also on the racial fault-lines that existed in South Africa.¹¹⁹ Greyshirts exploited the existing racial classifications in South Africa to construct an argument that excluded Jews.¹²⁰ The first step in formulating their discourse was categorising Jews as a 'race', and defining this further as 'Asiatic' in origin (being 'non-European').¹²¹ The Greyshirt's constituency would have internalised the opprobrium and all the negative connotations associated with this 'Asiatic' classification. Simultaneously, the Jewish community would have reacted with apprehension to this 'Asiatic' label recognisable at that particular time as demeaning and threatening. In addition to this Asiatic designation, the Greyshirts attributed to the Jewish 'race' a range of traits that they argued were inherent

¹¹⁸ For an analysis of the acculturation and accommodation of Jews to South African race relations see (Shimoni 2003), in particular pp. 1-11.

¹¹⁹ See, for example, items 10 and 11 of the Programme of the South African Gentile National-Socialist Movement which reveal the extent to which an entrenched notion of a hierarchy of races within South Africa, was embraced by the Greyshirts: 'A firm, just Native policy which will encourage self-development along National lines among the Native Races' and 'A firm, just policy for the Coloured Races of South Africa.' ('Our Programme: The South African Gentile National-Socialist Movement' 1934). Greyshirt propaganda also emphasised that Afrikaners had been 'reduced to the standard of the Kaffir' ('Terms of Generals Smuts and Hertzog' 1934).

¹²⁰ Rubin, writing in the context of the Apartheid years, notes 'Is racialism not indivisible? Does not apartheid, therefore, though directed to Africans, Indians and an arbitrarily classified coloured group, contain an implied threat to any racial minority?' (Rubin, p. 33).

¹²¹ There are numerous examples of Greyshirt propaganda asserting that Jews were Asiatic. See for example: ('Terms of Generals Smuts and Hertzog' 1934).

to Jews, using epithets such as unscrupulous¹²², malevolent, exploitative and parasitic¹²³, alien, unassimilable, subversive¹²⁴, deceitful¹²⁵, hypocritical¹²⁶, anti-Christian, un-Christian, occult, cosmopolitan and international¹²⁷ in character. In formulating a set of characteristics that described Jews, the Greyshirts drew on ancient and familiar elements of religious bigotry, evidenced by Greyshirt revival of medieval Jewish stereotypes and their attacks on Judaism as a religion.¹²⁸ Two documents in particular, the *Code of the Jew* and von Moltke's *Jewish Faith: Christians Awake* disparaged Judaism and were rebutted by the Plaintiff and his witnesses at trial. However, Greyshirts used a racialising process to define the boundaries of a 'Jew'. For example, in an article entitled 'An Ancient Grudge against Christianity' appearing in *Die Rapport* of 11 May 1934, extensive use was made of Shakespeare's character, Shylock, to support the view that 'Right through Jewish history there permeates this revengeful, malevolent nature of the Jew'.

Viewed in this light, the Greyshirt discourse grafted racist ideology onto age-old religious bigotry. By describing Jews as 'Asiatic' and 'non-European' the Greyshirts were attempting to relegate Jews to an inferior social status in an unofficial hierarchy of race. By ascribing to them the characteristics of 'alien', 'unassimilable' and 'international', the Greyshirts sought to justify their aim of deporting and denationalising Jews in South Africa. This is reflected, for example, in the following extract of Greyshirt propaganda published in *Die Rapport/The Report*, the weekly organ of the Greyshirt movement:

...the standard now existing in South Africa has been reduced to the STANDARD OF THE KAFFIR and in some cases far below and in many instances to STARVATION, Whilst ASIATICS, who have no right to be on South African soil, are living like kings....how can

¹²² See for example ('Back in the old groove' 1934).

¹²³ See for example ('Love without dissimulation' 1934).

¹²⁴ See for example allegations that Jews were behind the League of Nations, Communism and Bolshevism in order to create instability and chaos and gain power. ('After 14 years of the League of Nations' 1934).

¹²⁵ For example, Greyshirts alleged that Jews have two set of Talmuds: one that was public and one that was secret. See von Moltke's cross-examination of Reverend Levy 'Do the Jews keep two sets of Talmuds, one to present in a Gentile Court, and another in a secret court?'. Reverend Levy responded, 'No, the idea is so absurd. I feel ashamed to have to answer it.' ('Transcript' 1934, p. 63).

¹²⁶ See for example, ('About Hypocrites in Our Midst' 1934).

¹²⁷ For example, von Moltke posed the following question to Dr Sokolow: 'Do you admit that Great Britain, which was the Premier world state at that time, succumbed and humbly bent the knee to a handful of International Jews?' ('Transcript' 1934, p. 125).

¹²⁸ *Die Rapport/The Report*, which was the official organ of the Greyshirt movement published virulently antisemitic articles that included reprints of the *Protocols*. See for example ('No.1. A Protocol of 1489' 1934); ('No.2 A Protocol of 1860' 1934); ('The Manifesto' 1934); ('No.3 Protocol of 1869: The Fatal Disclosure of Rabbi Reichhorn; The Fulfilment of the Prophecies (1923)' 1934).

the State be run along CHRISTIAN NATIONAL lines well knowing that an ASIATIC RACE, the Jew, is the real DICTATOR of our country and that they are working for the downfall of CHRISTIANITY and preach hatred and contempt for Jesus Christ? Why not be more frank on the QUESTION OF ASIATIC IMMEGRATION? [sic] Why not come out into the open that the DANGER that threatens South Africa is the ASIATIC spelt with three letters? THE JEW.' [original emphasis] ('Terms of Generals Smuts and Hertzog' 1934).

As Fredrickson (2002, p. 9) argues, racism:

...originates from a mindset that regards "them" as different from "us" in ways that are permanent and unbridgeable'. This sense of difference provides a motive or rationale for using our power advantage to treat the ethnoracial Other in ways that we would regard as cruel or unjust if applied to members of our own group.¹²⁹

Fredrickson (2002, p. 9) also contends that:

In all manifestations of racism...what is being denied is the possibility that the racializers and the racialized can coexist in the same society, except perhaps on the basis of domination and subordination. Also rejected is any notion that individuals can obliterate their ethnoracial difference by changing their identities.

Greyshirt discourse, based as it was on an essentialised notion of race, set the stage for a confrontation with the Jewish community over whom and what is a Jew and, more importantly, how that construction and perception of a Jew fits into society. The Greyshirts, with their stated aim of 'combatting Jewish perversive influence in economics, culture, religion, ethics and statecraft and to re-establish European Aryan control in South Africa for the welfare of the Christian peoples of South Africa' (von Strauss von Moltke 1934, para. 3) (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 4), sought to construct and disseminate a concept of Jews that justified a range of policies such as the control and restriction of Jewish immigration, 'the destruction of

¹²⁹ The operation of this mindset is evidenced, for example, in the testimony of Henry Hamilton Beamish who responded to a question about 'German atrocities' as follows: 'The German belongs to a cultured Race, and they do not practice things like that. In concentration camps people may have been illtreated, but I reckon it is the most bloodless revolution for a great cause that has ever taken place in history' ('Transcript' 1934, p. 449).

Jewish domination', the boycott of Jewish business¹³⁰, the deportation of Jews guilty of miscegenation and the denationalisation of Jews.¹³¹

Greyshirt censure of miscegenation clearly demonstrates their reverence for racial purity, and supports the view that a racial framework informed their discourse.¹³² Greyshirt calls for the denationalisation of Jews (justified by them on the grounds of miscegenation and the inherent and unchanging character of Jews) is evidence of the Greyshirt's politics of exclusion and overt racism.

Although the Greyshirts did not represent mainstream politics (and had to contend with opponents)¹³³, their importance cannot be underestimated. As Furlong (1991, p. 22) observes, the Greyshirts 'were significant for the atmosphere of fear and violence that they created in South Africa in tandem with the Third Reich in Germany.' But it was not only the vocal, provocative actions of the Greyshirts that made them threatening. The far-right politics of the Greyshirts was threatening because it was underpinned and fortified by an ideological framework based on race. Ideologically, the seeds for a violent framework of race relations were sown on South Africa's threshold as early as 1904 when German colonial forces conducted a genocide of the indigenous Herero and Nama peoples of South-West Africa (now Namibia). Some scholars have argued that the German actions in South-West Africa served as a precursor to the Nazi persecution and genocide of European Jewry.¹³⁴ A central feature of the Nazi genocide of the Jews was the preliminary dehumanisation of its victims into '*untermenschen*', the subhumans of Aryan ideology. The antecedents for the

¹³⁰ See for example (Inch 1934).

¹³¹ See (Greyshirts 1937), and in particular the Racial Policy at pp.28-30.; ('Our Programme: The South African Gentile National-Socialist Movement' 1934); ('Love without dissimulation' 1934). See also Von Moltke examination in chief, in which he states 'I am not anti-Jew, and I am least an honest Zionist, I would like to see every Jew safely settled in his own homeland under his own vine and fig tree. What I object to is that the Jew should want to sit under my vine and fig tree in my land, and at my expense....It is the duty of the Government to see that the Gentiles in South Africa get their full share of all sources of livelihood in South Africa before they allow an alien race like the Jews to get all these key positions. There is only one way to do it and that is to denationalise them...' ('Transcript' 1934, p. 647).

¹³² See for example Greyshirt propaganda stating 'The intermarriage of wealthy sons and daughters of Jews into aristocratic families has polluted almost all the once noble houses of the Christian world.' ('No.3 Protocol of 1869: The Fatal Disclosure of Rabbi Reichhorn; The Fulfilment of the Prophecies (1923)' 1934). Interestingly, Fredrickson considers bans on miscegenation to be one of the distinguishing features of an overtly racist regime. See (Fredrickson 2002, p. 101).

¹³³ See for example (Barlow 1934).

¹³⁴ See for example (Kestling 1998; Madley 2005) and also the important contributions of Hannah Arendt (1966) and Helmut Bley (1971) to this field of inquiry. For a recent review of the historiography, see (Berghahn 2017).

dehumanisation of Jews in the 1930s can be found in the dehumanisation of blacks by German white supremacists in South-West Africa.¹³⁵

The Greyshirt movement was receptive to Nazi propaganda that reinforced white-supremacism and racist antisemitism. The growth of eugenics as a popular new science in America, as well as the doctrine of social Darwinism served to reinforce the legitimacy of Greyshirt ideology.¹³⁶ The notion of a hierarchy of races was deeply entrenched in Greyshirt discourse, and they cited with approval the racist ideas of Henry Hamilton Beamish, an antisemite and publisher of the *Protocols*.¹³⁷ In his testimony during the trial, Beamish, a self-styled 'raceologist', identified Christianity as a religion, but Jews as a 'race' ('Transcript' 1934, p. 457) and further described the Jewish 'race' as Asiatic, non-European, and non-Aryan ('Transcript' 1934, pp. 444, 56), all these racial labels being regarded as distinct from 'white'.¹³⁸ In the process of racialising Jews, Greyshirts sought to dehumanise them by referring to Jews, for example, as 'octopuses',¹³⁹ 'parasites',¹⁴⁰ and the 'devils' sucklings'.¹⁴¹

Another key feature of Greyshirt discourse was linking racialised notions of Jews to matters of national identity and belonging. Greyshirt propaganda postulated, for example, that:

¹³⁵ See generally (Fredrickson 2002, pp. 112-3; Kestling 1998; Madley 2005).

¹³⁶ See for example Transcript at p. 454, a Greyshirt leader, Harry Victor Inch, asks his witness Henry Hamilton Beamish 'Are you interested in immigration from the point of view of raceiology?' to which Beamish responds: 'I am very keenly interested...The whole essence of a country is to build it up with good stock the same way as you do on your farm.' For a description of the way in which social Darwinism and eugenic theories fed into the justification of the Herero genocide, see (Stone 2001).

¹³⁷ Greyshirt preoccupation with racial classification and hierarchy is also evidenced by von Moltke's question to Reverend Levy, 'Are you a Ashkenazi Jew or a Morana Sephard Jew?'. After Reverend Levy replies 'Ashkenazi Jew', von Moltke states, 'Are you aware of the fact that that is the worst type of Jew you can get in the world?'. Reverend Levy's barrister, F.G. Reynolds re-examined Reverend Levy on this point, and observed that von Moltke's aim with this 'cowardly suggestion' was to imply that Reverend Levy is a 'low class Jew.' ('Transcript' 1934, pp. 51 and 91-2).

¹³⁸ See for example Beamish testimony ('Transcript' 1934, p. 455). As further evidence of his notion of a hierarchy of races, Beamish described the 'Nordic people' as the 'cream of civilisation' ('Transcript' 1934, p. 440) and frequently referred to the 'Asiatic menace' and the 'Jewish menace'. In an article reporting on Inch and Von Moltke's visit (in a swastika festooned vehicle) to 'European Relief Workers at the Happy Valley Quarry, Port Elizabeth', Inch reportedly told the workers that unless they 'unite with the White Man's Movement they are doomed to slavery. The speaker strenuously objected that the Jews in South Africa should be classed as White Men. They are Asiatics...they invariably usurp and abuse every right and privilege of the true national.' ('Greyshirts address relief workers during lunch hour: pityful plight of White Men' 1934, p. 6).

¹³⁹ See for example Von Moltke examination in chief, 'it became clear to me that there must be an alien community, a race that will not assimilate with my race that must be the key to the whole question....I became convinced that our dear homeland is being ruled and controlled by what I shall call octopuses....these octopuses I found out were definitely Jewish in character.' ('Transcript' 1934, p. 634).

¹⁴⁰ See for example ('Love without dissimulation' 1934), in which the 'Jewish race' is described as a parasite feeding on a 'Christian host' in South Africa and calls for the expulsion of Jews to Palestine.

¹⁴¹ See ('About Hypocrites in Our Midst' 1934) In the same article, reference is made to the 'worthless life' of Jews.

‘...“religion” and “race” are interchangeable terms with the Jew. There are no “British” Jews or “German” or “Russian” Jews, there are only Jews’ (‘The Protocols of Zion’ 1934). This is also clearly reflected in Inch’s cross-examination of Reverend Levy in which Inch states ‘I just want to prove that in South Africa a Jew can no more be a South African and a Jew than what a horse can be a donkey’ (‘Transcript’ 1934, p. 40).

The discursive fusion of race and nationality served to elevate Afrikaner national identity (as discussed above), validate Greyshirt calls for unification of all ‘white’ Christian South Africans and the exclusion of Jews from common humanity based on their ‘international’ character.

According to Fredrickson (2002, p. 19) ‘Anti-Judaism became antisemitism whenever it turned into a consuming hatred that made getting rid of Jews seem preferable to trying to convert them, and antisemitism became racism when the belief took hold that Jews were intrinsically and organically evil rather than merely having false beliefs and wrong dispositions.’

Fredrickson is not alone in pointing out that there have been periods in history when Jews have been demonised and dehumanised, considered beyond redemption and outside common humanity.¹⁴² These views justified the expulsion and murder of Jews at various times in history and represent the phenomenon of ‘racism’, even though the term itself was not coined until the 1930s. In medieval times, Jews were positioned beyond the boundaries of mainstream society (which was predicated on hierarchy) and denigrated as children of the Devil. In many ways these medieval beliefs and attitudes shaped the worldview of the Greyshirts, especially as they relied substantially on the *Protocols of the Elders of Zion* which drew on and perpetuated medieval stereotypes and conspiracy theories.¹⁴³

¹⁴² See for example (Langmuir 1990a, 1990b).

¹⁴³ As noted in the Judgment, ‘The same authorities and arguments which were used to justify the persecution of the Jews in the Middle Ages were used by the Defendants’ witnesses in the present case, coupled with the contention that what are known as the Protocols of the Elders of Zion definitely brought home the existence of this great conspiracy.’ (Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior 1934, p. 43). The cross-examination of Nahum Sokolow, the leader of the World Zionist Organisation by David Hermanus Olivier highlights the revival by the Greyshirts of medieval libels and thinking. Olivier: ‘Would it not be advisable for all the Governments in the world to act in conjunction with the Jews and to burn the Talmud and start a new one?’ Sokolow: ‘Why should they burn the Talmud? Would you like the return of the 13th century days when they [sic] were always burning rituals. The Inquisition would be established again.’ Olivier: ‘If you consider it necessary at the present moment I would not mind that the Jews should be burned and their bible burned.’ (‘Transcript’ 1934, p. 132).

Since its fabrication at the start of the 1900s, the *Protocols* has been a useful propaganda tool in synthesising the following elements for those who embraced it: defining one's own identity, making sense of confusing and frightening times, and blaming Jews for actual and/or perceived grievances. The notion of a Jewish conspiracy for world domination was a simplistic explanation advanced by Greyshirts for the challenges that were being faced by 'white' South Africans, and the *Protocols* provided convenient 'proof' of this conspiracy.

2. Events leading to the Greyshirt trial: the defamation

At two, well-attended Greyshirt meetings, one on 27 March 1934 in Aberdeen, and one on 4 April 1934 at the Feather Market Hall in Port Elizabeth, the leader of the South African National Socialist Movement in the Eastern Province, Johannes von Strauss von Moltke¹⁴⁴ read out from a document that he claimed was stolen from the Western Road Synagogue, Port Elizabeth and authored by the 'Rabbi'. The full text of the document read out by von Moltke is attached as Appendix B to this project and is hereafter referred to as 'the Document'.

From the testimony given by eye witnesses at both meetings, it is clear that the reading of the document had a significant impact on the audience, which numbered in the hundreds.

Eyewitnesses described the document as inflaming the audience against the Jewish people.¹⁴⁵

¹⁴⁴ Von Moltke was born in the Orange Free State on 16 November 1908. He left school in Standard Eight (Year 10) and proceeded to South West Africa where he 'proved an ardent Nationalist and Republican' (Summerfield 1935b, p. 17). He formed the view that the Jews were the source of social upheaval and that South Africa was afflicted by Jewish control of industry. He was influenced by the ideas of Hitler and also the antisemitic writings of Henry Hamilton Beamish (Summerfield 1935b) who gave evidence for the Greyshirt defendants in the Greyshirt case and who published and believed in the veracity of the *Protocols*. Von Moltke arrived in Port Elizabeth in October 1933 (aged almost 25) and through his involvement with the Greyshirts met Harry Victor Inch, leader in the Eastern Province of the Greyshirt Movement, who also became a defendant in the Greyshirt libel action.

¹⁴⁵ For example, Eileen Pearton, who attended the meeting at the Feather Market Hall gave evidence that she was 'thunder-struck' after hearing the Document read out. She also testified that the reading of the Document 'seemed to create a tremendous impression' upon the audience, which she gathered from 'the faces of the people that were there and the remarks I heard passed by people sitting near to me'. ('Transcript' 1934, p. 170). Cecil Neethling McDermot, who also attended the Port Elizabeth on 4 April 1934 gave evidence in Court as to the effect of the Document on the audience, '...there was such quietness and stillness that one could feel it had taken effect.' ('Transcript' 1934, p. 209). John Edward Hargood, also giving evidence about the 4 April 1934 meeting in Port Elizabeth, testified that the Document seemed to make a 'great' impression on the audience and that they seemed 'astonished and dumbfounded. There was no comment at the time of the reading, but afterwards there was a general muttering amongst the crowd which was not favourable towards the Jews. It had a very great impression, they seemed very incensed.' ('Transcript' 1934, p. 222). When asked by the Plaintiff's barrister, F.G. Reynolds 'In regard to this document, the religious remarks, are they in your opinion calculated or not to inflame the people?', Hargood responded 'In my opinion they are calculated to inflame.' ('Transcript' 1934, p. 223). In a letter to the Editor of *The Zionist Record* in 1957, Jack Levinsohn wrote that he was probably the only Jew to attend the Greyshirt meeting at the Feather Market Hall, attending 'out of curiosity'. He recalled: 'Before the notorious document was read there was an anti-Jewish tirade which went on for quite a while, but I have forgotten details. However, as soon as the document was read – it contained some pretty filthy

The Document proved an effective tool in disrupting existing notions of Jews held by the general public and challenging the established place of Jews within society. In addition to these public utterances, coverage of the meetings together with a copy of the Document was printed in the 6 April and 13 April issues of *The Report/Die Rapport*, a weekly, bilingual newspaper that was the organ of the South African Gentile Nationalist Socialist Movement.¹⁴⁶ *Die Rapport*, which published a great deal of nationalistic and antisemitic propaganda, was owned, edited and published by David Olivier, whom von Moltke had met in Aberdeen. Olivier became the third Defendant in the legal action.¹⁴⁷

The Document in its nature, style and content was clearly a local variation of the *Protocols*, and was most certainly concocted by members of the Greyshirt movement.¹⁴⁸ In keeping with the *Protocols*, it is written as a first-person narrative, a formal device to create the ‘illusion of control and authority, over both the details of the narrative, and the identity of the narrator’ (Wolfreys 2004, p. 167). The Document is also written as if it were the transcript of a lecture (within a lecture series) and the meaning of the work is deeply embedded in this form. ‘Transcript’ supports what the Document supposedly represents: a record of a secret meeting of Jews who are continually conspiring to undermine and ultimately overthrow the existing order with a view to complete hegemony. Built into the ‘transcript’ are words (‘notations’ (Barthes 1989, p. 146)) that are ‘structurally superfluous’ but designed to create a ‘reality effect’ (Barthes 1989, pp. 141-8) and make the basic premise of the Document appear more convincing. For example, in the top-left corner are the words ‘Lecture No 2’, in the top-right corner are the words ‘Copy for Mr. M. Lazarus’ as well the Hebrew words ‘kosher

language – I said to myself “obviously a Nazi concoction.” The hall was well filled and I received the impression that the vast throng present believed the ridiculous lies. On leaving the hall people looked very serious and I overheard some scraps of conversation which confirmed this impression. As for the type of person who attended the meeting they appeared to be a cross section of society.’ (Levinsohn 1957). Eye witnesses to the Aberdeen meeting held on 27 March 1934 gave similar testimony. For example, Ellis Charles Simpson testified that he was ‘inflamed against the Jewish people.’ (‘Transcript’ 1934, p. 239).

¹⁴⁶ The rhetoric contained in *Die Rapport* relied, in large part, on the notion that Jews were not only ‘un-Christian’, but ‘anti-Christian’. Weekly articles invoked Christian values and tenets to argue for unification among Christians in opposing the perceived Jewish threat. The propaganda sought to instil fear of the ‘other’ and create a division between the Jewish and Christian communities by portraying them as morally incompatible. It also reinforced notions of Jews being unassimilable, foreign, alien, oppressive and international.

¹⁴⁷ Once legal proceedings were initiated by Reverend Levy, *Die Rapport* began reporting on the contents of various affidavits, maintained its weekly invective against Jews and also printed extracts from the *Protocols of the Elders of Zion*. For example the affidavits of M. Lazarus and Claude Herbert Cotton in support of Reverend Levy and discrediting the Document are published in the edition of 25 May 1934 alongside articles asserting the veracity of the *Protocols*.

¹⁴⁸ Most likely Harry Victor Inch and Mathys Strydom.

le'Pesach', and the Document is purportedly 'issued by the Select High Circle of the Anti-Nazi Propaganda Vigilance Committee' and 'signed Rabbi'.

The Document operates on two levels: the voice of the 'narrator' (the 'Rabbi') and the 'intentions and accents' (Bakhtin 1981, p. 314) of the author, in this case, the Greyshirts. Formal analysis of the Document therefore helps to reveal how the Greyshirts viewed their own movement and the 'effect of reality' they wished to generate.

Probably the most striking feature of all versions and editions of the *Protocols* is perspective and 'voice'. The *Protocols* is told from the perspective of a/the 'Jew'. Of course, this Jewish narrator is the 'Jew' of the antisemitic imagination and therefore all the devices and techniques of the Document (many of which are common to other editions of the *Protocols*) contain and reflect the fabricator's notion of the 'authentic' voice of Jewry. To augment their contention that Jews were 'Asiatic' or Oriental in character, the Greyshirts argued that the Document was written in an Asiatic or Oriental voice, and led evidence to this effect in the trial.¹⁴⁹ The Document clearly seeks to exploit notions of race¹⁵⁰ and speaks directly to the fabricator's racist worldview. The racialising processes adopted by the Greyshirts (demarcating 'Jews' as a 'race' and ascribing to that race detestable characteristics to render Jews social outcasts) mirrors the formal devices and techniques of the Document itself as the Document uses words as signs (signifiers and signified) to impose an arbitrary (but absolute) meaning on Jewish identity. Examples include, 'Eastern or Japanese System', 'World Communism', 'PAX JUDAEICA', 'our Imperialism', 'our World Socialism'. In addition, the Document creates a series of anti-Christian, un-Christian, conspiratorial and violent resonances and motifs to conjure up a vile image of Jews and Judaism (for example, 'The Unholy Christ', 'Attack and Riot', 'We must destroy [the Roman Catholic Church]', 'The Christian religion is wrong', Christianity is 'Satan's Religion', 'Homicide, Murder and Manslaughter', our 'Loyal Agents', 'control', 'behind the scenes'). The choice of value-laden language highlights the way in which codes of Greyshirt nationalism inform the way the Document utilises words, expressions and imagery to represent 'Jews'. It is possible to

¹⁴⁹ Witness for the defence and known antisemite, Henry Hamilton Beamish stated that the Document was drawn up 'in Asiatic style, and the whole grammar is Oriental.' ('Transcript' 1934, p. 437). Von Moltke put individual quotes from the Document to Beamish who testified repeatedly that the sentiment expressed and the language used is the product of an 'oriental mind' and could not have emanated from a Gentile. See ('Transcript' 1934, especially pp. 443, 444, 448, 456).

¹⁵⁰ For example, '...we are the pure people. The Nordics in our eyes are in no wise different to the Chinese Dogs or the Turks. They are all our destroyers, our enemies.'

go a step further and argue that it is the violence of the language (falsely attributed to Jews) that implicitly authorises corresponding violence against Jews. This in turn underscores the importance of resisting and challenging the semiotic impositions and ‘reality effects’ embedded in the Document.

As I argued in Chapter One, the *Protocols* seeks to establish a dichotomy: an ‘us’ and ‘them’ discourse that simultaneously relies on and perpetuates the absence of critical thought. As Bronner has observed, the *Protocols* deny the Jew both as a Jew with a religious tradition of ethics and principles and as a person with a shared humanity. The portrayal of the Jew in the *Protocols* leaves no room for the existence of the Jew and no room for mercy (Bronner 2000, p. 60 and 8). In my view, the publication of the Document by the Greyshirts operated as a denial of Jewish humanity. Even the Defendant Olivier, in an attempt to show that the Document might not have been widely believed, put the following to Reverend Levy, ‘Don’t you think at least one person would have attacked you if the public at large believed that you were the responsible person?’, and ‘Don’t you think they would have wanted to destroy the author of it?’ Reverend Levy did not dismiss the potential for physical violence, replying, ‘People do not go to such lengths all at once’ (‘Transcript’ 1934, pp. 88-9), implying that, with time there could be a violent outcome. Implicit in a call to violence is the dehumanisation of the target. As the Document became the pivotal point around which the conflict between the Greyshirts and the Jewish community revolved, the discursive struggle was, in its essence, a struggle over what it means to be human.

3. Jewish community responses

With the publication of the Document, the Greyshirts issued a provocative and public challenge for Jews to refute the authenticity of the Document or ‘remain guilty of the most atrocious crime towards the humanity of the whole world’ (‘The Historic Document’ 1934). As discussed in detail above, Greyshirts sought to construct an essentialised image of Jews that would have been viewed as a complete anathema by the Jewish community. This construct challenged both the existing notion of ‘who and what is a Jew’ and consequently challenged the place of Jews in society. The public ‘challenge’ by the Greyshirts expressly and ominously stated that if the Jews ‘cannot definitely prove their innocence of this notorious document, they go by default and there can be only one procedure for our Christian State: the ejection of Jews from South Africa.’ (‘The Historic Document’ 1934) (the full text

of the ‘challenge’ is extracted at Appendix C) Reverend Levy considered the situation precipitated by the Greyshirt challenge as extremely dangerous.¹⁵¹

Before I examine the Jewish community’s response, I consider the nature and composition of the South African Jewish community in the early 1930s, as this provides important context for the analysis that follows. Jewish communal life began in colonial South Africa during the course of the nineteenth century, and stemmed from migration from Great Britain and Europe. The Jewish community was augmented by a wave of Eastern European immigrants from the 1880s to the 1930s, many of whom were fleeing violent antisemitism, and arrived destitute. It is estimated that between 1880 and 1910 (the year in which the four colonies united as the Union of South Africa), the Jewish community swelled from around 4,000 to 45,000. A small number of German Jewish refugees fled to South Africa in the 1930s (Saron & Hotz 1955, p. xv) (Shimoni 2003, pp. 1-2).¹⁵²

Of crucial importance to my analysis is the way in which this immigrant community integrated into a broader society that was already stratified informally along colour lines, with ‘whites’ being ‘in every respect dominant’ (Shimoni 2003, p. 2). Shimoni states that:

Of fundamental importance for the future socioeconomic prospects of these Jewish immigrants in South Africa was the fact that they had the status of being Europeans, that is to say, whites. From the outset the Jewish immigrant entered into the dominant, caste-like white sector and lived thereafter within its confines. (Shimoni 2003, p. 3)

Shimoni acknowledges that this privileged white status did not go unchallenged over the years, but concludes that ‘in the final analysis it was sustained in all major respects’ (Shimoni 2003, p. 3).

¹⁵¹ See for example, Reverend Levy’s response to von Moltke’s question ‘Were you challenged?’, ‘Yes, we have apprehended very dire consequences if we did not accept your challenge, it was a very dangerous position you had precipitated.’ (‘Transcript’ 1934, p. 59). See also Reynolds re-examination of Levy, confirming that Levy’s prompt action in relation to the ‘slandorous statements’ had ‘saved trouble’. (‘Transcript’ 1934, p. 92).

¹⁵² For a detailed history see (Saron & Hotz 1955). For an early history of the South African Jewish community, see (Herrman 1935). For a history that places greater emphasis on anti-Jewish manifestations during the early years of the establishment of a Jewish communal identity in South Africa see (Shain 1983). For a description of the history of Western Province Jewry see (Abrahams 1955). For an illustrated history, see (Mendelsohn & Shain 2008).

Shimoni describes a community that, apart from a ‘minor and peripheral’ leftist strain that challenged the established social order, largely acculturated itself to the existing social system (Shimoni 2003, pp. 6-11). It is likely that the imperative of Eastern European migrants to acculturate stemmed from a preoccupation with self-preservation. The South African Jewish community, comprising as it did a large percentage of Eastern European immigrants, sought and obtained the safety and security of a New World country that offered opportunity and sanctuary from the economic and social distress of Europe. But it was a country that also unofficially privileged ‘whites’, and Jews integrated within this social grouping. Therefore, the Greyshirt discourse could arguably be viewed as a challenge to the place of Jews as ‘white’ South Africans, predicated as it was on notions of race that sought to redefine Jews as being Asiatic (non-European) rather than ‘white’. Axiomatically, the Jewish response could be viewed potentially as a struggle to reassert their status as ‘white’ South Africans and reaffirm a privileged place in society that offered them protection and security (at both a political and popular level), and in which they faced no formal exclusion. However, as I have already stated, my contention is that the discursive struggle between Greyshirts and the Jewish community was over what it means to be human, rather than what it means to be ‘white’, and this argument is amplified below.

A significant backdrop to my analysis is the way in which issues of race (including ‘whiteness’), national identity and belonging played out in South Africa’s immigration policies. The field of ‘whiteness studies’ and the broader scholarship of racial formation has shown the extent to which the boundaries of white status have shifted and changed over time, particularly in relation to immigration restrictions.¹⁵³ Concepts of ‘Jewish whiteness’, in particular, have been fluid and contested over time and this has also been the subject of scholarship.¹⁵⁴

Writing in the American context, Jacobson notes, ‘race is absolutely central to the history of European immigration and settlement. It was the appellation “white persons” in the nation’s naturalization law that allowed the migrations from Europe in the first place; the problem this immigration posed to the polity was increasingly cast in terms of racial difference and assimilability’ (Jacobson 1999, p. 7).

¹⁵³ For example, the work of David Roediger (2005), as well as Omi & Winant (1994). For a discussion on how Jewish commentators understood the global restriction on immigration in the 1920s and 30s, see (Moss 2014).

¹⁵⁴ For example, (Bar-Yosef 2013; Glauz-Todrank 2014).

In common with many countries, such as the United States and Australia, notions of 'whiteness' were critical to South African immigration policy and practice. The 1920s and 1930s marked a 'significant shift in state policy and practice', fuelled by racial concerns over Jewish immigrants who were not regarded as the 'right' kind of white (Peberdy 2009). Rather than explicitly framing the debate in terms of race, it was framed in terms of nationality. As Peberdy notes, despite public government denials that the *Immigrants Regulation Act 1913* sought to restrict Jewish immigration, it clearly had this intention (Peberdy 2009, p. 58). The *Immigration Quota Act 1930*, which aimed and succeeded in limiting Jewish immigration from Eastern Europe, also used the veiled language of 'nationality' to execute an immigration policy that was clearly antisemitic. In this way, a discourse of exclusion played out at a mainstream political level but framed in the language of 'nationality'. Of course, notions of 'assimilability' that reverberated through South African immigration policy also featured prominently in Greyshirt discourse and propaganda. While government politicians attempted to placate local Jews by making a distinction between them and their 'unassimilable' Eastern European brethren (Malan 1937), the Greyshirts made no such distinction. When considered through the lens of South African immigration policies, 'white' was a relatively unstable and not entirely secure category for South African Jews in the 1930s, being challenged not only by the Greyshirts but also within the veiled language of immigration restriction. Being perceived as 'white' offered no permanent or stable protection for Jews because, as the immigration restrictions proved, Jews were not necessarily regarded as the 'same' or 'right' kind of white.

Jewish identity does not fit easily or comfortably into constructs of racial classification. Mainstream society perceived Jews as 'white' and Jews accepted this classification based on skin colour, although for Jews this was only one element in a much more layered and complex identity. Religious and cultural identity was much more important. Furthermore, the Jewish community was not homogeneous, with its members drawn from different countries, speaking different languages and having different customs. The Greyshirts sought to create mutually exclusive categories of race and belonging. In their worldview, a person could not simultaneously be 'white' and 'Jewish', or for that matter 'South African' and 'Jewish'. From a Jewish perspective, one could be all these and more. While the Greyshirts challenged the place of Jews in South Africa by redefining them as Asiatic, 'non-European', not 'white' and 'Alien', this was merely a device to deny to Jews their basic humanity. The

trial correspondence and the transcript suggest that Reverend Levy (and by extension the Jewish community more broadly) was chiefly concerned with refuting the libels against Jews and Judaism and saw this as the primary means by which an effective counter-narrative could be shaped. They were not concerned about asserting their status as ‘white’ South Africans. Reverend Levy’s worldview was based on the Judaic belief that all people are equal before God regardless of colour, creed or religion. This is reflected in his evidence that ‘the Talmud repeatedly directs the Jew to praise the Almighty for the beauty, greatness, wisdom of his creatures, and to lift up his heart and his thoughts in gratitude therefor....That is to say all nations are regarded as God’s creatures’ (‘Transcript’ 1934, pp. 24-5).

Conditioned by two thousand years of persecution, the Jewish community would have understood the antisemitism to which they were responding in terms of religious persecution, and this would have informed their modes of resistance, primarily via the confutation of Greyshirt lies about Jews and Judaism (specifically Greyshirt allegations that Jewry was ‘organised’ and ‘political’; that Judaism was fundamentally ‘anti-Christian’ and that there was a ‘world plot’ for Jewish domination). The Jewish community was, in fact, confronted with a tectonic global shift from religious to racist persecution. Among others, Rabbi Jonathan Sacks critiques the mutation from religious anti-Judaism into racial antisemitism. He states, ‘In the Middle Ages Jews were hated for their religion, in the nineteenth and twentieth century for their race, and today for their nation state, Israel. (Sacks 2015, p. 260).¹⁵⁵

Following the first meeting of the South African Gentile National Socialist Movement at the Koffiehuis in Cape Town in 1933, meetings were held in other centres around Cape Town and this activity quickly expanded to Port Elizabeth (where the Jewish population made up half a percent of the overall population (Perla 1976, p. 52)). Greyshirt activity in Port Elizabeth included meetings at which ‘statements of the vilest, most outrageous and indecent character were freely indulged in...’ (Lazarus 1935, p. 15) and which attacked Jews as a ‘race’ (‘Anti-Semitic Movement: Appeal by Jewish Citizens’ 1934). Greyshirts also disseminated printed antisemitic propaganda and carried out highly inflammatory actions, such as driving a truck carrying ‘provocative and obnoxious banners’ through the main streets of Port Elizabeth (‘Anti-Semitic Movement: Appeal by Jewish Citizens’ 1934).

¹⁵⁵ See also (Wistrich 1992).

It appears that when Greysht activity began in Port Elizabeth in 1933, Jewish residents were restrained and thought that perhaps the vitriol would subside ('Anti-Semitic Movement: Appeal by Jewish Citizens' 1934). But as the invective against the Jewish community continued unabated, Jews felt an increasing need to respond. In particular, Lazarus, who was a printer in Port Elizabeth and also on the National Executive of the Labour Party, perceived no meaningful 'counter movement...to place the other side before the public' and regarded the prevailing policy of 'inaction and hush-hush' as one with potentially serious consequences (1935, pp. 16-7). Lazarus formulated his own response by printing counter-propaganda that attacked and ridiculed Nazis and Greyshts.¹⁵⁶ Although Lazarus' actions were an attempt to create a 'counter movement', it did not produce a meaningful counter-narrative that effectively challenged Greysht lies.¹⁵⁷

Provocative actions such as the establishment of a Greysht office at 28 Russell Road, with a swastika banner flying above the premises, and the continued and escalating slander of the Jewish community, galvanised some Jewish youth and men to take more decisive action in the form of physical resistance.¹⁵⁸ Physicality could not and did not create a counter-narrative to Greysht discourse. In his evidence, Reverend Levy denied von Moltke's allegation that Jewish leaders organised and approved the physical disruption of Greysht meetings by Jewish youth, stating, 'I personally did not approve and I know that the Jewish community did not approve of it' ('Transcript' 1934, p. 79).¹⁵⁹

¹⁵⁶ Lazarus 'at his own expense and without any reference to the leaders of the Jewish community' published a pamphlet showing the swastika flag flying above the Greysht office and incorporating 'the published resignation of one of the members from the Grey Shirt movement as he had discovered it to be a movement inspired by Germany and propagated and financed by the Germans.' (Lazarus 1935, p. 18) Further pamphlets were published by Mr. M. Lazarus and this led the Greyshts to target him in their propaganda, including referencing him in the forged documents, which ultimately became the subject of the Greysht libel action. (Lazarus 1935, p. 19)

¹⁵⁷ Reverend Levy testified that he did not know about Lazarus' pamphlets ('Transcript' 1934, p. 54).

¹⁵⁸ Young Jewish men undertook physical training in order to disrupt antisemitic meetings and defend the Jewish community. For a case study on the use of physical violence as a resistance method against the Greyshts, see (Hodes 2014). Physical clashes between Jews and Greyshts were reported in the press, see for example ('Fierce Fighting at Paarl' 1934), which reported 'fierce hand-to-hand fighting between Jews and Grey Shirts' during and after Weichardt's speeches.

¹⁵⁹ Reverend Levy did offer von Moltke an explanation for the actions of the Jewish youth, stating, 'You had been cutting the Jewish people for months, and there are young Jewish children born in this country who look upon themselves as good citizens, and they cannot hear these words of blasphemy used day after day, and if those boys attended that meeting that night they did not attend as an organised body. They did not go there with the intention of creating a disturbance, but they went there and I suppose their feelings got the better of them.' ('Transcript' 1934, p. 78).

Reverend Levy's legal action – with the full support of the South African Jewish Board of Deputies which represented and was concerned about the welfare and safety of all Jews in South Africa¹⁶⁰ – constituted the most meaningful and powerful means by which the community could shape and influence a counter-narrative. The case can be evaluated as an attempt by Reverend Levy and the Board of Deputies to neutralise the grounds from which hate propaganda springs. The Jewish community attempted to resist a Greyshirt model in which they were being excluded and dehumanised. Under South Africa's libel laws, libelling Jews in general (or as a 'race') did not give rise to any form of legal remedy for the Jewish community. The publication of the Document and the implication that it was authored by Reverend Levy gave rise to the opportunity to have the matter of antisemitic libel considered within a legal forum through a defamation action. Despite its relatively narrow legal framework, this particular personal action for defamation had a much broader social dimension: it amounted to a crucible for the escalating tensions between the Jewish community and the fascist movement in South Africa and provided the Jewish community with a unique opportunity to attack the lies that served as the justification for the Greyshirt model of exclusion. These aspects are explored in depth in Chapter Three.

The allegation that the Document had been stolen from the Western Road Synagogue implicated a sacred place of worship that was a source of pride as well as religious, spiritual and communal nourishment. The synagogue itself represented a physical and spiritual centre of community life.¹⁶¹ When the allegations were made that a document based on the *Protocols* was stolen by Inch from the Western Road Synagogue, this would have been viewed as an allegation reaching into the very centre of Jewish life in Port Elizabeth. It implicated not only the minister in charge, but also the entire community. The synagogue also carried enormous symbolic value in the context of the ideological battles that were being fought in South Africa in the 1930s. As Adolph Schauder (a close friend of Reverend Levy, an Executive Member of the Board of Deputies at the time of the Greyshirt trial and later the Mayor of Port Elizabeth) relates:

¹⁶⁰ Interestingly, as Shain notes, the Jewish Board of Deputies for the Cape Colony was born in 1904 out of the 'challenges posed by anti-alienism and anti-semitism' (Shain 1983) In 1912 the Jewish Board of Deputies for the Cape Colony was consolidated with the Board of Deputies for the Transvaal and Natal to form a national Board of Deputies.

¹⁶¹ The Synagogue, which was built in 1876, was described by Schauder as 'a focal point in the community's life' (Schauder 1959). For a description of the establishment of the Western Road Synagogue see (Herrman 1935, pp. 241-3).

And so gradually the story approaches our years – the dark years preceding the second World War, when the black shadow of Hitler terror reached out into our very midst and through the Grey Shirt libel our Western Road Synagogue became the centre of the battle to protect our good name and our heritage. (Schauder 1959, p. 20)

A close examination of the key protagonists (including the Board of Deputies, Reverend Levy and Adolph Schauder) supports the view that the Jewish community was fighting for survival and saw it in terms of rebutting classical religious vilification and the resurgence of medieval libels against the Jews. The trial documentation and correspondence indicates that Reverend Levy, his lawyer, Barend Smulian, and the Board of Deputies saw the case as the frontline in the battle to protect the good name of all Jews¹⁶², and regarded the trial as the ‘counter-propaganda’ that was needed to expose (and hopefully nullify) Greyshirt lies and libels about Jews and Judaism that were beginning to have traction at a popular level.¹⁶³ This was reflected in the decision by the Board to retain their own correspondent (Eric Rosenthal) to cover the trial and write a historical review of the case for worldwide distribution that would expose Greyshirt tactics and lies.¹⁶⁴ Similarly, the correspondence between Barend Smulian and the Board of Deputies reinforces the way in which Smulian hoped that the case would not only shatter the particular libel of the Document (which was the subject of the legal action) but also potentially be a precedent for shattering similar antisemitic libels and

¹⁶² See for example, Inch: Are you here appearing on behalf of the Jewry in general? Levy: I am taking action against you because I consider the good name of myself and the whole of Jewry has been offended. (‘Transcript’ 1934, p. 43).

¹⁶³ In various correspondence, and in language evocative of the extreme situation being experienced by South African Jewry, the Secretary of the Board of Deputies describes the Jewish community as ‘undergoing the greatest ordeal in its history’ and refers to the case as being of ‘world-wide Jewish importance’ (see for example letters of 1 July 1934 and 2 July 1934). In the interdict proceedings, Reverend Levy’s outrage at the lies is clear: ‘I wish to state categorically and emphatically that there is no truth or shadow of truth in the allegation that such a document ever was in the Western Road Synagogue. Such a document, constituting as it does a cesspool of blasphemy, indecency and offensiveness beyond the power of ordinary language to express, could never have emanated either from myself or from any person directly or indirectly in association with myself.’ (‘Greyshirt Leader Restrained from Publishing Document Alleged to be Forgery’ 1934).

¹⁶⁴ See letter from Secretary of the Board of Deputies (Goodman) to Mr S. Raphaely, Acting President of the Board of Deputies dated 1 July 1934 in which he states, ‘I consider it of world wide Jewish importance that the story of the [Greyshirt] conspiracy and its exposure should be undertaken by the Board... If things turn out as we hope, it may be the best kind of publicity for ourselves.’

propaganda.¹⁶⁵ The urgency of the task was heightened by the lack of material in South Africa needed to refute the specific antisemitic allegations made by the Greyshirts.¹⁶⁶

In his examination in chief, Reverend Levy sought to show that (1) he was thought of as 'Rabbi' and therefore would be regarded as the author of the Document; (2) Inch's story about how he obtained the Document was concocted; (3) that the Document was a fabrication; and (4) that the allegations in the Document (as well as other antisemitic documents published by the Greyshirts) were untrue. The bulk of Reverend Levy's evidence was a careful line-by-line rebuttal of the allegations made by the Greyshirts against Jews and Judaism, specifically those allegations contained in the Document, the *Code of the Jew* and a document authored by von Moltke entitled *The Jewish Religion: Christians Awake*.¹⁶⁷ These documents distorted, corrupted and invented extracts from the Talmud to vilify Judaism and Jewish belief and, as such, represented classic religious antisemitism.¹⁶⁸ Reverend Levy testified that Eisenmenger¹⁶⁹ was the first person in modern times to distort Talmudic texts in order to vilify Jews, and that his book, *Judaism Unmasked* (c.1700) was the 'text book' for generating antisemitic feeling ('Transcript' 1934, p. 21). Reverend Levy also testified that

¹⁶⁵ For example, in a letter by Smulian to B.L. Pencharz (Chair of the Board's Legal Committee) dated 9 June 1934, Smulian conveys his belief that Beamish (a witness for the defence and a known antisemite and a publisher and promoter of the *Protocols*) would make every use of antisemitic literature while giving evidence for the Defendants in court. Smulian notes: 'although it may make no difference to the result of the case whether the questions are properly answered or not, this is in the form of an attack upon Jews generally and we must not lose the opportunity of proving the falsity not only of the document, but of all the...Anti-Semitic literature which the Defendants may bring forward....From the communal point of view, I consider the matter of the utmost importance...'

¹⁶⁶ In preparing the case, Smulian sought to collate any publications that would help refute the allegations made by von Moltke that the sentiments in the Document are not unlike various other Jewish documents. In his letter of 15 May 1934 to the Secretary of the Board, he states 'I thought it possible that you may have publications issued by the Society for combating anti-Semitism in England...'. The very next day, Smulian writes again, saying 'I have come across a pamphlet entitled "The Code of the Jew" published by the Britons Publishing Society...from which it is evident that a number of extracts have been taken for publication in "Die Rapport" and "The Truth". There are evidently other publications by same Society and possibly you may have them in your files. Have you any pamphlets or books in which can be found a reply to the pamphlet referred to? It would be of great assistance....if you have not got the information with regard to the anti-Semitic propaganda, perhaps you would be good enough to cable over to London.' On 18 May, the Secretary of the Board replied to Smulian and stated, 'I regret to say that the files and records of the Board do not contain any publications which have been used from time to time, for the purpose of combatting anti-Jewish libels. If I cannot find anything useful to you amongst my personal papers, I will cable the London Board of Deputies for the desired publications.'

¹⁶⁷ Dr Sokolow also refuted the content of these documents, see ('Transcript' 1934, p. 102) as did Rabbi Woolf Hirsch, Rabbi of the Jewish community of Pretoria, see ('Transcript' 1934, pp. 143-5), as well as Rabbi Ephraim Moses Levy of the Durban Hebrew Congregation, ('Transcript' 1934, pp. 155-63).

¹⁶⁸ I use the term 'religious antisemitism', noting that term 'antisemitism' itself was only coined in the 1870s by German journalist Wilhelm Marr to reflect (as Wistrich describes) the opposition to Jews on social, economic, political or 'racial' considerations' rather than on religious grounds. (Wistrich 1992, p. xv). However, as Wistrich notes, the term has 'come to be accepted in general usage as denoting all forms of hostility towards Jews and Judaism throughout history.' (Wistrich 1992, p. xvi).

¹⁶⁹ The court stenographer recorded the name as 'Isenberger' in the transcript (p. 21).

around 1875/1890, a Professor Rohling¹⁷⁰ propagated texts supposed to have been taken from the Talmud but that he was proven to be a perjurer ('Transcript' 1934, pp. 21-2).¹⁷¹ By giving this evidence, Reverend Levy sought to show that the Greyshirts were doing what others had done before them in perverting and corrupting the Talmud in order to generate antisemitic feeling. For example, the *Code of the Jew* alleged (at 5(a)) that a 'Jew may rob a Goy'. Reverend Levy testified that, 'this quotation is of course ridiculous. Nowhere are we allowed to rob people. On the contrary this quotation does not exist', and confirmed that 'there are hundreds of descriptions in the Talmud forbidding us to rob.' ('Transcript' 1934, pp. 27-8). The transcript shows that Reverend Levy and his lawyers placed a great deal of emphasis on the necessity of exposing as many falsehoods and misconceptions about Jews and Judaism as possible. It is clear that from a Jewish perspective, the case was about combatting religious antisemitism. Their mode of resistance to Greyshirt propaganda – exposing the truth - was informed by this perspective.

Greyshirt discourse, propaganda and activity threatened the Jewish community in a number of key ways. I have already outlined the way in which it challenged the notion of 'who and what is a Jew' and also the place of Jews in South Africa. The Greyshirts generated a substantial element of physical fear. In the interdict proceedings, Reverend Levy maintained that if the Greyshirts continued to read out the Document, it could result in 'murderous attacks upon his person', irreparable breaches of the peace and that damage may result both to his Synagogue and home from mob violence ('Greyshirt Leader Restrained from Publishing Document Alleged to be Forgery' 1934). During cross-examination, Reverend Levy emphasised the danger posed by the Document (in terms that presage the description by Norman Cohn of the *Protocols* as a 'warrant for genocide'(1967)):

Von Moltke: In your affidavit it is stated that action may be taken at any moment by some person or persons under the influence of the respondents, that was Mr Olivier and myself. Have you any proof that we have ever incited our followers to violence, murder or riot?

¹⁷⁰ The court stenographer recorded the name as 'Rohle' in the transcript (pp. 21-22).

¹⁷¹ For commentary on Canon August Rohling's adaptation of Johann Andreas Eisenmenger's work, and the libel action brought by Rabbi Joseph Bloch, see (Julius 2010, pp. 83, 492-3; Poliakov 2003b, pp. 15-6; Wistrich 1992, p. 62). For court transcript on this issue, see the testimony of Sokolow (who said that Dr Bloch was a friend of his in Vienna and also referred to the evidence of Professors Noldeke and Wuensche in that dispute) ('Transcript' 1934, pp. 100-2), the testimony of Rabbi Woolf Hirsch ('Transcript' p. 145) and Reynolds' cross-examination of von Moltke, ('Transcript' 1934, pp. 737-43).

Levy: No, you have always said, you have explained you do not wish for violence, but if this document does not incite to violence then nothing else can. It is a most dangerous document. ('Transcript' 1934, p. 66).

Adolph Schauder, who arrived in South Africa at the turn of the century from Europe, and had experienced European antisemitism would have been attuned to the potential dangers of religious antisemitism and the effects of words of hate.¹⁷²

As I have outlined above, the Jewish community in South Africa was similar to other new-world communities in which immigrants and refugees sought a better life and new opportunities, free from pogroms and antithetical attitudes towards Jews that characterised European antisemitism. The South African Jewish community has been criticised for accommodating itself a little too well to the racially stratified society in which they lived, and not being sufficiently 'enobled' by past experience of antisemitism in Europe to fight for social justice on behalf of those sections of South African society who were treated less favourably on the basis of skin colour (Rubin, p. 33; Shimoni 2003, p. 6). However, the life and work of Reverend Levy and Schauder run counter to that general contention. Schauder worked tirelessly to alleviate the suffering of the less fortunate, including black South Africans who gave him the name 'Sonceba', meaning 'one who strives for mercy'. His life was dedicated to elevating the human spirit in practical and meaningful ways, and he made connections with all races and faiths.¹⁷³ Similarly, Reverend Levy was an esteemed member of the Jewish and broader community, serving on various boards, including the Port Elizabeth and District School Board for 18 years and the Port Elizabeth Museum Board of which he had been Vice-Chairman for four years. He was also a Committee Member of the Grey School, the Port Elizabeth Library and the Child Welfare Society. Reverend Levy took an active part in inter-faith activities, frequently addressing various meetings such as those of Church Associations.¹⁷⁴ Importantly, he held meetings at 'Synagogue House' where he

¹⁷² Anti-German riots broke out in South Africa after the commencement of World War I. In Port Elizabeth, the German Club was set on fire by mob violence. Schauder took his four and a half year old son to the scene and 'lifted him on to his shoulders so that he might see and remember how people – good decent people – could behave when roused in anger, egged on by the violent words of demagogues.' (Scher 2001, p. 13).

¹⁷³ For details on Schauder's life, see (Scher 2001).

¹⁷⁴ Reverend Levy testified that 'I have suffered...as a worker of 21 years standing in Port Elizabeth and having occupied prominent positions in the life of the non-Jewish Port Elizabeth community, I have suffered very grievously by having such a filthy, blasphemous and scurrilous statement fastened upon me.' 'Transcript' (1934, p. 44).

lived, that were attended regularly by African school principals from the Port Elizabeth townships.¹⁷⁵

Schauder and Reverend Levy would have viewed it as their duty as civil and spiritual leaders, respectively, to refute Greyshirt lies that brought all Jews into disrepute and to stem the hate and potential for violence that those lies generated. The focus of Reverend Levy's case was therefore on exposing and proving the falsity of Greyshirt allegations against Jews and Judaism and demonstrating that the Greyshirt tactics and techniques for generating antisemitic feeling were the same as those used in medieval times. In this way, the Jewish discourse sought to show that Greyshirt hatred towards Jews was connected to and relied upon baseless and irrational historical hatred towards Jews.¹⁷⁶

The examination in chief of all the witnesses for the Plaintiff collectively focussed on proving that (1) the general public would have understood Reverend Levy to be the author of the Document; (2) the Document inflamed audiences against the Jewish people; (3) Inch's story as to how he obtained the Document was false; (4) the Document was fabricated and concocted; and (5) the allegations about Jews and Judaism contained in the Document and other Greyshirt propaganda were untrue (specifically, the allegations that there was a world plot, that Judaism is anti-Christian, and that Jewry is organised, political and communist). The question of race, which was so central to Greyshirt discourse did not form part of the Jewish discourse except insofar as the Plaintiff and his witnesses were forced to answer numerous questions on race by the Defendants. Consequently, it is in the cross-examination of the Plaintiff and his witnesses that the struggle over 'race' is best exhibited.¹⁷⁷

¹⁷⁵ Personal recollection by his granddaughter, Dr Anne Sarzin, of a conversation in which Reverend Levy commented on the impressive calibre of the principals attending meetings at his home.

¹⁷⁶ See, for example, the following exchange: Von Moltke: 'Could you give us any explanation why the Jews were always prosecuted and persecuted in every century in every nation?' Reverend Levy, 'Why this incentive hatred on the part of the Greyshirts towards the Jewish people.' ('Transcript' 1934, p. 76).

¹⁷⁷ For example, a key witness for the Plaintiff was Professor Dingemans, Professor of Dutch at Rhodes University College, Grahamstown, who gave expert evidence that the Document was forged. The cross-examination of Dingemans by Inch commenced with the following questions: 'Where were you born?'; 'What race are you?'; 'Nationality?'; 'Will you explain why you are sympathetic to Jewry?'; 'You recognise Jesus Christ?'; 'And the Jews crucified him?'; 'What do you think of Herr Hitler?'; and 'Have you any Jewish blood in your family?'

As the transcript reveals, the Jewish witnesses did not necessarily resist the label of a ‘Jewish race’, a term that was repeatedly used by the Greyshirts in the trial.¹⁷⁸ For example, Inch asked Dr Nahum Sokolow, leader of the World Zionist Organisation (visiting South Africa from London) ‘What is your race?’, and Sokolow replied, ‘The Jewish race.’¹⁷⁹ (‘Transcript’ 1934, p. 105). Similarly, von Moltke asked Reverend Levy whether he deemed M. Lazarus a Jew, to which Reverend Levy replied, ‘He was born a Jew.’ Von Moltke then pressed the point, asking, ‘By race he is a Jew?’. Reverend Levy answered, ‘Yes’ (‘Transcript’ 1934, p. 62). While the Greyshirts persistently referred to Jews as a ‘race’, the Jewish witnesses generally used other terms, such as the ‘Jewish faith’ or the ‘Jewish people’.¹⁸⁰ Although the Jewish witnesses did not contest the term ‘Jewish race’, the Jewish community and the Jewish witnesses refuted Greyshirt allegations about the ‘nature’ of their ‘race’ (i.e. refuting that Jews were part of a global conspiracy, anti-Christian, internationally organised, political, subversive, duplicitous etc.).¹⁸¹ At the end of the inter-war period, the term ‘race’ would not yet have been laden with the meaning that it acquired as a result of the Holocaust. Furthermore, what ‘Jewish race’ meant in the Greyshirt discourse had an entirely different meaning in the Jewish discourse. The Greyshirt case exposed with clarity the contrasting perspectives of the Jewish witnesses in the trial and those of the Greyshirt defendants. The case provided a unique forum in which both the Greyshirt and Jewish witnesses grappled with the competing and fluid meanings of race. A clear example is the extent to which Greyshirt discourse fused ideas of nationality and race in a way that was completely foreign and confusing to the Jewish witnesses, as the following extract from Inch’s cross-examination of Sokolow illustrates:

¹⁷⁸ All the Greyshirt defendants as well as their witnesses almost obsessively referred to Jews as a ‘race’ and used the term ‘co-racialists’ to refer to members within the ‘Jewish race’.

¹⁷⁹ Note that the notion of Jews constituting a ‘race’ or ‘racial group’ is crucial to protection under various current anti-racial vilification statutes. See for example, (*O’Connell v State of Western Australia* 2012) WASCA 96 (unreported), paras 33-35 inclusive regarding the testimony of Professor Andrew Markus and Rabbi David Freilich as to whether Jews in Australia were a racial group, i.e. ‘whether they were a group of persons defined by reference to race or ethnic origins.’ Professor Markus concluded that Jews in Australia, whether secular or religious, could be better understood in terms of ethnicity rather than a religious group or race, and Rabbi Freilich ‘testified that from a religious perspective, Jews believe that they descended from Abraham and in this sense they were a race. He acknowledged, however, that the Jewish people are not a biological race, but have, whether religious or secular, a common culture, language, tradition and history.’

¹⁸⁰ Contrast for example the use of the term ‘Jewish faith’ in Reverend Levy’s Declaration (filed with the Court on 11 May 1934) with the language of Von Moltke’s Plea (filed on 29 May 1934) in which he referred to the ‘Jewish race’. (1934b; von Strauss von Moltke 1934) See also reference to ‘Jewish people’ in Reverend Levy’s testimony. (‘Transcript’ 1934), specifically p. 76.

¹⁸¹ See for example (‘Transcript’ 1934, pp. 15-38) in which Reverend Levy deals at length with the substance of the allegations against Jews and Judaism, as well as Dr Sokolow’s evidence.

Inch: In other words we will say a Jew born in Poland, naturalized in England is not an Englishman, he is a Polish Jew, a naturalized British subject?

Sokolow: Following your idea I will tell you that you are quite inconsistent, because you put the question whether a Polish Jew is a Pole or if he is a Jew. Practically he is both, it is a combination. He is of Jewish origin but at the same time a Pole. He is in the same position as a Pole, he becomes a Britisher. ('Transcript' 1934, p. 106)

The Greyshirt defendants and witnesses persisted with their agenda of 'race' in their own evidence in chief as well as in the cross-examination of the Plaintiff and his witnesses, and in this way succeeded in promoting their worldview, however baseless, irrational or absurd it may have appeared.¹⁸² Although the Greyshirt defendants repeatedly engaged the Jewish witnesses on questions of race, ultimately the Jewish witnesses were preoccupied with exposing the truth, as the following exchange between Inch and Sokolow illustrates:

Inch: Then you are defending the Jewish Race against these allegations?

Sokolow: No, I would not accept that. It is not a question of Race, the question is whether there has been an organisation called "The Elders of Zion" or not.' ('Transcript' 1934, p. 107)

Reverend Levy and the Jewish community in South Africa were forerunners in the ideological battles that were destined to be fought in an international conflagration that could hardly have been envisaged at the time. They were encountering powerful ideological forces that ultimately overwhelmed and annihilated European Jewry. The South African Jewish community's discourse, formed in response to the calumny of the Greyshirt movement, sought to expose Greyshirt lies about Jews and Judaism. As the foregoing extracts from the transcript show, the Jewish discourse did not challenge the theory of 'race' per se, as the ideological implications of 'race' were not yet fully understood. The Jewish community could not have fully grasped the existential threat to Jewry that theories of race posed. Although Reverend Levy won the case, it is arguable whether the Jewish community succeeded in the wider discursive struggle. Anti-alienism and racist antisemitism continued

¹⁸² There are countless examples, but the following question from von Moltke to Reverend Levy illustrates the general thrust: 'Who are the ringleaders of communism, socialism, Bolshevism, Social Democracy, Anarchy in the world – In South Africa. I mean the predominant race?' ('Transcript' 1934, p. 65).

during the war years in South Africa, and European Jewry was annihilated on the ideological basis of racial antisemitism.

Chapter Three Analysis of the Greyshirt case

'I am taking action against you because I consider the good name of myself and the whole of Jewry has been offended.'

**Reverend Abraham Levy, in answering a question from
Greyshirt leader, Von Moltke, in cross-examination
(‘Transcript’ 1934, p. 43)**

'Justice is truth in action.'

Benjamin Disraeli, speech, 11 February 1851

'What matters most are the facts.'

**Hon J J Spigelman, former Chief Justice of the Supreme
Court of New South Wales (Spigelman 2011, p. 746)**

As argued in Chapter Two, Reverend Levy and the Jewish community were focussed on exposing Greyshirt tactics and lies about Jews and Judaism, and revealing the truth. Through the Greyshirt legal action, Reverend Levy and the Jewish community moved the discursive struggle between Jews and Greyshirts from the ‘marketplace of ideas’¹⁸³ into the confines of a court room. In so doing, the discursive struggle became subject to the procedural, philosophical and jurisprudential contours of a defamation action. This Chapter examines the effect of the defamation action in particular and the law as a medium in general in adjudicating the rival claims and counter-claims of the Greyshirts and Reverend Levy. In particular, I consider the way in which the court case proved to be a more effective forum than the ‘marketplace of ideas’ to establish facts and expose the truth. In my analysis, I consider how the legitimacy and authority of the law and the judiciary in the eyes of the litigants and the general public played a critical role in the overall social dynamic. This is

¹⁸³ The philosophical notion of a free and robust contest of ideas (particularly in relation to truth and falsehood) stems from the work of John Milton in *Areopagitica* (1644) and John Stuart Mill’s 1859 essay *On Liberty* (see (Bromwich & Kateb 2003)). The formulation of a ‘marketplace of ideas’ was introduced into the legal sphere by Justice Oliver Wendell Holmes in his dissenting judgment in *Abrams v United States* 250 US 616,624 (1919). This metaphor has subsequently been used as a rationale for the principle of freedom of expression (a right guaranteed under the First Amendment to the United States Constitution). See for example, (Schroeder 2016), in particular, p. 384. The extensive scholarship on the ‘marketplace of ideas’ in the context of American First Amendment jurisprudence is beyond the scope of this project, but for a helpful historical overview of the metaphor and its surrounding scholarship see (Brazeal 2011, pp. 2-12). In general, see for example (Bezemek 2015; Blasi 2004; Brazeal 2011; Cate 2010; Ho & Schauer 2015; Joo 2014; Ofseyer 1999; Volokh 2011; Wonnell 1986). The term has been embraced beyond its legal meaning and in the broader lexicon. For the purposes of this project, ‘marketplace of ideas’ refers to the notion of a free contest of ideas in the public sphere.

especially significant in the context of the different audiences to which the Greyshirts and the Jewish community (via Reverend Levy) were addressing their respective discourses through the medium of the law. Naturally, for both Reverend Levy and the Greyshirts there was a legal audience in the form of the judges (requiring the discourse to be framed in jurisprudential language).

In addition, the Greyshirts and Reverend Levy had other audiences in the form of their own supporters (to whom they wanted to demonstrate strength and resilience) and beyond that, the general public, where the ideological and moral stakes were highest. It was the perception of the general public – who may yet be persuaded by the racist arguments of the Greyshirts – that was the true ideological battleground. Both sides to the litigation were acutely aware that the legal process and procedure as well as the legal judgment, were means by which their respective truth claims could be validated and disseminated. The intense public and media interest in the case increased the stakes even further. In this way, the Jewish community used the legitimacy and authority of the law not only as a means to establish the facts and expose the truth, but as a mechanism to influence and persuade the general public in the marketplace of ideas.

In the early 1930s in South Africa and around the world, that ‘marketplace of ideas’ was highly volatile and combustible, dominated by new and powerful racist, fascist and Nazi ideologies. It was a marketplace flooded with Nazi propaganda that disseminated falsehoods inspired by ancient demonic myths about Jews and Judaism. While the Greyshirt libel action was successful in establishing the facts and exposing the truth, it ultimately had limited effect in the contest between truth and lie in the marketplace of ideas where irrational hatred towards Jews was underpinned by new and powerful ideological forces.

1. Broader context: a number of interrelated debates

Although the Greyshirt case is anchored in the specific context of 1934, it raises issues that are highly pertinent today and it is helpful to view the case within this wider frame. The competing principles of freedom of expression and equality (especially in the context of individual versus group defamation) provides a valuable framework for considering the importance and success of the Greyshirt case. Notwithstanding the narrow frame of an

individual defamation action, Reverend Levy and his legal team were, remarkably, able to expand the issues and broader context of the case to encompass larger social concerns of group hate and communal vilification. This Chapter explores the main ways in which this was achieved. A recurring theme in both the Greyshirt case and in contemporary social debate is how assertions of truth and falsity are tested both in and outside the courtroom, and the delicate interplay between ‘fact’ and ‘opinion’.

1.1 Freedom of expression versus equality debate

One of the major social and legal themes that has become increasingly more fraught, complicated and contested over time is striking the appropriate balance between the often competing values of freedom of expression on the one hand and equality on the other (see for example (Botha & Govindjee 2014; Gray 2012; Harris 1999, pp., especially p. 257; MacKinnon 1993, pp. 71-110). As a number of scholars and commentators have observed, there is general agreement that freedom of expression is not an absolute right, and has limits. However, intense debate rages over the extent and nature of those limits (Jones 1998; Sumner 2004, p. 3). Naturally, the debate is influenced not only by general philosophy but particular social, historical and legal contexts. The debate is particularly charged in the realm of hate speech (of which racist speech is a subset).¹⁸⁴

John Stuart Mill justified the freedom to express all opinions on the basis of individual liberty (and in the context of liberty from state interference). One of Mill’s key ideas was that the only justification for the restriction on human liberty is the prevention of harm to others. Mill applied the ‘harm to others’ principle to action not speech, explained in terms of ‘freedom of discussion’. Mill was concerned more with ideas and beliefs rather than ‘facts’. That is, an erroneous fact does not serve the same interests as an erroneous opinion. Importantly, Mill argued that truth does not prevail in every single instance.

1.2 Words and deeds

Concurrent with this debate is an ancillary debate over the difference between ‘words’ and ‘deeds’. The scholarship tends to distinguish between words or ‘expression’ (speech) and

¹⁸⁴ For an illustration of the range of issues canvassed in ‘hate speech’ literature, see for example, (Heinze 2016; Herz & Molnár 2012; Whillock & Slayden 1995). See also (Waldron 2012) and reviews (Altman 2015; Delgado 2013; Lichtman 2012; McConnell 2012).

acts or crimes (as did Mill) (Bromwich & Kateb 2003). But there is a growing recognition that words are perlocutionary, having ‘consequential effects on the feelings, beliefs or actions of an audience’ (Zanghellini 2003, p. 467). Depending on the authority of the person uttering the words and the context in which the words are said, words can have greater or lesser power and can indeed be regarded as having a force or ‘action’ of their own. This adds a layer of complexity and nuance to the bifurcation of ‘words’ and ‘deeds’. In the context of the Greyshirt case, the words uttered by von Moltke had an inflammatory effect.¹⁸⁵ The Greyshirts had a political agenda and were gaining popular traction. Interestingly, the Greyshirts did not call for violence, but designed their propaganda to have that effect.

1.3 Individual versus group defamation

Generally, society and the law have recognised defamation as an acceptable and appropriate limit on free speech.¹⁸⁶ An individual’s right to their reputation is safeguarded through the legal mechanism of libel and slander. Group defamation or what is now termed ‘hate speech’ has attracted much more controversy. The main reason for this is that group defamation is more difficult to balance against the cherished principle of freedom of expression (see for example (Jones 1995, p. 585)).

The Greyshirt case provides an illuminating case study regarding the interplay of individual and group defamation, as well as the interplay between ‘facts’ and ‘opinions and beliefs’. Both these dynamics are highly pertinent to the broader discussion about freedom of expression and the ascertainment of ‘truth’, on which I expand below.

The Greyshirts directed the vast bulk of their propaganda, both written and spoken, against Jews and Judaism in general.¹⁸⁷ They aimed their defamatory antisemitism at Jews as a race

¹⁸⁵ See for example the testimony of Ellis Charles Simpson, who gave evidence that after the Document was read out, he ‘was inflamed against the Jewish people’ (‘Transcript’ 1934, p. 239); as well as the testimony of Adam Schoeman (‘Transcript’ 1934, p. 380). See also cross-examination of the Defendant Olivier by Reynolds at pp.628-9, ‘You want to make it clear to the Court that von Moltke read it [the Document] in such an impressive manner that others must have believed it was genuine? --- Yes, that is definitely certain, you cannot expect such a thing from a decent person’ and ‘...this is such a horrible document, you quite agree it must influence anybody against the document, anybody who believed it must be influenced against the Jewish race? - -- You cannot get past that, definitely certain’ (‘Transcript’ 1934, p. 629).

¹⁸⁶ Nonetheless, the issue continues to attract debate and controversy, see for example (Chesterman 2000), in particular Chapter 4, The Money or the Truth: Reforming Defamation Law, pp.153-191.

¹⁸⁷ For examples of the allegations made against Jews generally at Greyshirt meetings, see (‘Front in Cradock! Greyshirt Meeting in Cradock’ 1934) (‘Greyshirts address relief workers during lunch hour: pityful plight of

(as discussed in Chapter Two of this project).¹⁸⁸ The Greyshirts expressed opinions and beliefs about Jews and Judaism that were based on what can be termed ‘racially defamatory falsehoods’ (Jones 1998, p. 34), misquoting, distorting, taking out of context and inventing extracts from the Talmud and the Jewish Chronicle.¹⁸⁹ Their publication of the *Protocols of the Elders of Zion* in *Die Rapport*¹⁹⁰, and allegations about a Jewish world conspiracy¹⁹¹, amounted to a libel against all Jews. The Greyshirts proclaimed that they were ‘telling the people the Truth about the Jew’ (‘New Jerusalem Conquered by Greyshirts!’ 1934). In this way, the Greyshirt invective could be categorised as ‘group defamation’ or in today’s terms, ‘hate speech’.¹⁹² None of the Greyshirts’ assertions that fell within the broad category of ‘group defamation’ was actionable at law, as at that time in South Africa (or elsewhere in the British Empire) there were no racial vilification, group defamation or hate speech laws that covered this group aspect of Greyshirt hate speech (a limitation that is analysed in depth by Summerfield in a 25 page Appendix to his manuscript about the Greyshirt trial and a summary of which is set out in Appendix D, together with an outline of major international developments in the realm of group libel). Consequently, the Greyshirts were able to verbally attack Jews as a ‘race’ with impunity.¹⁹³

White Men’ 1934; ‘Mass meeting of farmers at Gamka’ 1934); (‘New Jerusalem Conquered by Greyshirts!’ 1934) all of which reports on Greyshirt speeches at meetings in Calitzdorp, Matjiesrivier, Armoed and Oudtshoorn, including statements regarding the ‘Jew-controlled press’, ‘Jewish Domination’, the ‘Jew Menace’, ‘Jew-exploiter’ etc.

¹⁸⁸ See for example, report of Moltke’s speech in which, inter alia, he states that the ‘Jewish question’ ‘is a racial one’ (‘New Jerusalem Conquered by Greyshirts!’ 1934).

¹⁸⁹ See for example, (‘What the Jews say about themselves’ 1934) and also, (‘The Protocols of Zion’ 1934), especially the allegations about Judaism under the heading ‘Judaism’.

¹⁹⁰ See for example, (‘No.1. A Protocol of 1489’ 1934); (‘No.2 A Protocol of 1860’ 1934); (‘No.3 Protocol of 1869: The Fatal Disclosure of Rabbi Reichhorn; The Fulfilment of the Prophecies (1923)’ 1934) (‘Protocol No. 8 of the Learned Elders of Zion’ 1934) (‘No. 4 A Protocol of 1919’ 1934).

¹⁹¹ See for example, (‘Duitsland en die Joodse Wereld-Plan’ 1934) (‘Protokol van 1489’ 1934) (‘The cause of the Depression’ 1934); (‘The Jewish bid for world domination and universal plunder: Hitler’s battle for humanity’ 1934).

¹⁹² The literature on ‘hate speech’ is vast, but for selected contemporary discussion on ‘hate speech’ of which racist speech is a subset, see for example, (Bleich 2011, 2014; Brown 2015; Feldman 2013; Gelber & Stone 2007; Halpin 2010; Herz & Molnár 2012). Of particular relevance is the essay by Whillock (1995) that examines the use of ‘hate appeals’ as intentional persuasion. Whillock argues that hate can be used to ‘inflame the emotions, denigrate the designated out-class, inflict permanent and irreparable harm to the opposition, and ultimately, to conquer.’ (Whillock 1995, pp. 35-6).

¹⁹³ See for example the following statements in von Moltke’s Plea, ‘...the said words were not meant, intended and could not have been understood to refer to Plaintiff but were directed against the Jewish race...’, and ‘Defendant denies that the words complained of are capable of bearing the meanings and innuendos placed thereon and says that in any case they do not refer to Plaintiff but to the Jewish race.’ (von Strauss von Moltke 1934), para 4 and 5 respectively. Similarly, the Defendants’ witnesses were comfortable admitting that they believed the contents of the Document to be true and that Jews in general were part of a plot, but stopped short of admitting that they understood Reverend Levy to be the author of the Document. See the testimony of William Henry Carter, (‘Transcript’ 1934, pp. 401-8) (specifically from p. 403). See also Von Moltke’s examination of Olivier regarding the Aberdeen meeting: ‘Did I attack Jews exclusively as a race? --- I am certain about that, you never attacked the Jews as individuals, but as a race’ (‘Transcript’ 1934, p. 623).

A form of legal redress was only triggered when the Greyshirts published the Document and libelled Reverend Levy personally. Legally, the only right to be protected was Reverend Levy's individual right to reputation. As Lawrence has observed in relation to Aaron Sapiro's individual defamation action commenced in January 1925 against Henry Ford for allegations made in Ford's newspaper, the *Dearborn Independent* (a case to which I shall return):

once the group aspects are taken out, what we are left with is a libel claim by one individual. Then, only evidence that is directly and specifically relevant to that individual charge is admissible in court. The very courtroom itself seems smaller as soon as you say that. The entire context becomes smaller. Inevitably, the case becomes de-contextualized.... This narrowing of the issues cannot help but lose a large element of the life-blood of the case, which was, after all, about the anti-Semitic calumny that had underpinned the entire charge. (Lawrence 2007, p. 40)

Lawrence provides a valid assessment that removing the question of group libel from a matter that so clearly has group hate at its heart, has a narrowing and de-contextualizing effect on the issues. This makes the Greyshirt case all the more remarkable. Despite the narrow legal frame of individual defamation (or indeed, *through* this frame), Reverend Levy and his legal team were able to enlarge rather than narrow the material issues in dispute. The remainder of this Chapter explores why and how this was achieved.

2. Widening the frame

2.1 Intention and opportunity

As Woeste (2004, pp. 892-3) points out in relation to Sapiro's defamation against Henry Ford, 'in early 1925, Sapiro viewed his case as an individual grievance, he did not see himself staging an action on behalf of all Jews or as defending Jews in general. His intent was to protect his professional reputation, not to refute the irrational logic of antisemitism.' This contrasts with the Greyshirt libel action in which Reverend Levy together with his legal team (and with the support of the Jewish

Board of Deputies) sought from the outset to use the individual libel action as a means to refute the group libels as well. Moreover, Reverend Levy saw himself as acting not just for himself but on behalf of all Jewry, as the following exchange highlights:

Inch: Are you here appearing on behalf of the Jewry in general?

Levy: I am taking action against you because I consider the good name of myself and the whole of Jewry has been offended. ('Transcript' 1934, p. 43)

While the 'good name' of the 'whole of Jewry' was not legally relevant to the defamation action, Reverend Levy was articulating the moral basis for his action. There is no doubt that Reverend Levy was not only concerned about his personal reputation but also about the reputation of all Jews. The Greyshirt allegations were deeply offensive to Reverend Levy and to the general Jewish community which he represented, challenging and negating all the values and beliefs they cherished. The moral outrage and desire to refute the defamatory falsehoods perpetrated against Jews in general, informed the way in which Reverend Levy, his lawyers and the Board of Deputies approached the legal action.

The individual defamation action therefore provided a unique opportunity to bring the discursive struggle between Jews and Greyshirts within a legal forum. (The advantages of this forum as a means of asserting the truth is discussed in detail below.) In terms of 'social harm' one could argue that the Greyshirt propaganda directed at Jews in general was no less damaging than that directed specifically (although impliedly) at Reverend Levy. The individual defamation in the context of the Greyshirt case formed part of a much wider Greyshirt discourse that was designed to racialise and exclude Jews (see Chapter Two of this project). In fact, in his general oratory, von Moltke was very careful to direct his allegations against Jews as a group, no doubt realising that he could do so with impunity (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 57).

However, from a legal point of view, only the individual libel was actionable, grounded in an individual right to reputation. Had von Moltke and the Greyshirts not mentioned the word 'Rabbi' together with the reference to 'Western Road Synagogue', no legal remedy would have been available. When one considers the full

scope of the Greyshirt discourse there was clearly an asymmetry between the nature of the ‘harm’ their discourse posed and the frame of the legal response to it. From a legal standpoint, only Reverend Levy’s personal reputation was relevant, not the reputation of all Jews. However, it is evident from the pre-trial legal correspondence, the framing of the legal issues and the way in which Reverend Levy’s barrister conducted the case that Reverend Levy (and by extension the Jewish community) sought to address this asymmetry by exposing as many Greyshirt falsehoods as possible and revealing the baselessness of Greyshirt claims.¹⁹⁴ The ambition for the action was in no small measure to reveal the irrationality of Greyshirt antisemitism. In this way, the individual defamation action was a prism by which larger issues of defamatory antisemitism could be reflected and examined, thereby enlarging the social dimensions of the case.

2.2 Reverend Levy’s unique position

2.2.1 Reverend Levy as the embodiment of Jewish values and beliefs

The central figure of Reverend Levy is crucial to an understanding of the way in which the libel action was able to expand rather than contract the central issues in dispute. As Minister in charge of the Western Road Synagogue and as an esteemed and well-known spiritual leader, Reverend Levy was a personal representative of the Port Elizabeth Jewish community in both a practical and moral sense. He carried a moral authority that reflected not just his own personal code of ethics and values, but also those of the broader Jewish community. Reverend Levy’s worldview was intimately bound up with principles and tenets of Judaism. His every act, both public and private, was carried out in a principled way, guided by a higher calling and a sense of public duty (Schauder 1959, p. 17). In his own community and in his many civic roles, he embodied Jewish values.¹⁹⁵ Therefore, an attack on Reverend Levy’s personal and individual reputation impugned Judaism and Jewry in general.

¹⁹⁴ See for example, (Smulian 1934a).

¹⁹⁵ See, for example, testimony of Frederick William Cooper, Librarian of the Port Elizabeth Public Library, who had known Reverend Levy for the past 20 years during which time Reverend Levy served as a member of the Library Committee: Reynolds, ‘His position on the Port Elizabeth Library Committee, what does he represent?’, Cooper, ‘The Jewish communities as the Rabbi’ (‘Transcript’ 1934, p. 351).

In this light, Reverend Levy personified, embodied and represented a community of people and religious values.¹⁹⁶ While an action for defamation necessarily rests on the proposition that it serves to restore an individual's right to reputation, in this case Reverend Levy's reputation and the reputation of Jews and Judaism more generally were inextricably intertwined.

Furthermore, the specific nature of the allegations contained in the Document that libelled Reverend Levy personally, also implicated Jews in general. This occurred in two principal ways: firstly, the nature of the conspiracy theory implicated Jews in general, and secondly, the Document contained disparaging allegations about Judaism as a religion. Reverend Levy's lawyer, Barend Smulian, and barrister, Frederick G. Reynolds, were able to incorporate these group defamations into the legal frame. For example, in his Plea, Reverend Levy stated, *inter alia*, that 'Defendant [von Moltke] further meant and intended and was understood to mean of and concerning Plaintiff that Plaintiff was a **member of a faith that** counselled all the aforesaid matters including the commission of the crimes therein set out....' [my emphasis] (1934b, p. 3, para. 8). In this way, the defamatory statements about Judaism as a religion had legal relevance to the case and could be considered.

2.2.2 Greyshirt 'challenge'

When von Moltke and the Greyshirts challenged Jews in general to refute the contents of the Document (as discussed in Chapter Two), they added yet another group dimension to their attack. In essence, they were challenging the Jewish community in general to refute Greyshirt 'truth claims' about Jews and Judaism. Reverend Levy and the wider Jewish community viewed the Greyshirt case as the response to that challenge, and this perception broadened the scope of the trial (Lazarus 1935).

Reverend Levy articulated his dual role in the following exchanges in court:

Moltke: Were you challenged?

¹⁹⁶ For selected material that evidences the esteem in which Reverend Levy was held by the Jewish and broader community and the extent to which his contribution to the community was widely valued, see ('A good man departs' 1957; Bennun 1957; Ebstein 1948; Levy 1972; Robertson 1957).

Levy: Yes, we have apprehended very dire consequences if we did not accept your challenge, it was a very dangerous position you had precipitated.

Moltke: But I have not got your question yet, have you personally been challenged as Rev. A. Levy and Rabbi A. Levy or minister of the Western Road Synagogue to refute that?

Levy: As representative of all the Jews in Port Elizabeth, I felt challenged to refute your statement. ('Transcript' 1934, p. 59)....

...Moltke: Am I in this case defending myself against you solely?

Levy: I took it we have been challenged, I stand here for myself and the whole of Jewry, I represent the Jewry in Port Elizabeth. ('Transcript' 1934, p. 59)

The foregoing analysis supports the view that when Reverend Levy filed suit for defamation on 11 May 1934, the legal frame may have been narrow but the social issues were not. Reverend Levy saw himself, and was also widely viewed, as the representative of the Jewish community in (1) responding to the Greyshirt 'challenge'; (2) defending the good name of all Jews; and (3) dispelling the myths and falsehoods about Judaism as a religion.

The dual dimension of Reverend Levy's role, acting not just for himself but in his capacity as a representative of the Jewish community, is critical to the way in which the individual libel action widened and contextualised the issues. Although only Reverend Levy's individual reputation mattered from a purely legal point of view, the court case provided an opportunity to exonerate the reputation of Jews in general, and to publicise to the wider public the facts established within the courtroom. These aspects are discussed in greater detail below.

2.3 Support from the South African Jewish Board of Deputies

Reverend Levy's view that he represented the Jewish community was affirmed and accentuated by the official support he received from the South African Jewish Board of Deputies, a national representative body of the South African Jewish

community.¹⁹⁷ Had it not been for the financial support of the Board, the legal action may not have been possible, as Reverend Levy would most likely not have had the personal financial resources to fund an expensive litigation (Levy 2008). The support provided by the Board sent a strong public signal that Reverend Levy's individual libel action had major implications for the wider Jewish community. The wider Jewish community saw Reverend Levy's libel action as the definitive response to the 'challenge' issued by von Moltke and the Greyshirts.¹⁹⁸

This contrasts with Sapiro's defamation action against Ford in 1925, which he undertook 'without the sanction or encouragement of Jewish leaders or organizations' (Woeste 2004, p. 878). The support of the Board in the Greyshirt case therefore provided meaningful context to the issues, emphasising that the community viewed the defamation of Reverend Levy as having wider, indeed worldwide significance.¹⁹⁹ Additionally, as discussed in Chapter Two, community opinion was divided as to the best response to Greyshirt propaganda. Some sections advocated inaction in the hope that the invective would dissipate and deny to the Greyshirts the dignity of a response. Lazarus, of his own accord, published pamphlets to counter Greyshirt propaganda, and yet other sections of the community resorted to physical resistance.²⁰⁰ While there would have been those in the community who doubted the wisdom of a legal action against the Greyshirts (and possibly division within the Board itself about elements of the litigation itself²⁰¹), ultimately, the involvement of the Board highlighted the general view that the libel action provided a powerful and meaningful

¹⁹⁷ See Appendix E.

¹⁹⁸ For example, Lazarus reprinted the Greyshirt 'challenge' at the beginning of his manuscript about the Greyshirt defamation action. Following the extract, he noted: 'Comment on the above would be superfluous except to state that the Jews did not procrastinate' (Lazarus 1935).

¹⁹⁹ See Appendix E.

²⁰⁰ See for example (Hodes 2014) and recollections of Denzil Levy, son of the Reverend Levy (Levy 2008), 'The Jewish men went to gym, so that they could defend themselves as well as attack the Greyshirts when necessary. In fact they did break up a meeting of Greyshirts held at the large Feathermarket Hall attended by a few hundred people...'. See also Hirson who refers to 'weekly battles, particularly in Johannesburg, between Greyshirts and large groups of anti-fascists, which included communists, Zionist socialists, members of the Jewish Workers Club, and militant Jewish youth from communities on the Witwatersrand' (Hirson 1982, p. 594).

²⁰¹ See for example Smulian's letter of 9 June 1934 to Pencharz (Chair of the Board's Legal Committee) to express dissatisfaction that they did not see the importance of securing the services of Sokolow and to persuade Pencharz to reconsider the matter and 'use every effort to get the Legal Committee to see my point of view' (Smulian 1934f).

response to the Greyshirt discourse.²⁰² Not only did the Board's involvement highlight this generally held view but, simultaneously, added weight to it.

2.4 Defendants acting in person

The Defendants were not represented by Counsel and this had a number of important implications, including the expansion of the issues within the court.²⁰³ For example, in giving their evidence in chief, the Defendants were, in effect, able to give a speech or monologue rather than being examined by Counsel. Their rhetorical flow would have only been interrupted by questions from the judges or by objections from the Plaintiff's barrister. This enabled von Moltke, in particular, to treat the courtroom as a vehicle for his oratory and for propounding the views he expressed at Greyshirt meetings, which attacked Jews in general. While a defence barrister may have limited the issues to those strictly necessary for the legal proceedings, von Moltke, Inch and Olivier felt no such constraints.²⁰⁴

In addition, a key witness for the Defendants was Henry Hamilton Beamish, who also expounded defamatory antisemitism in the broadest possible sense. Beamish's evidence in chief was elicited by the Defendants, who were keen to explore his antisemitic views and his claims about Jews in general.²⁰⁵ This provided the Plaintiff with an opportunity to refute the wider claims about Jews and Judaism – an opportunity that the Plaintiff and his lawyers had anticipated and did not want to lose. For example, in his instructions to Counsel for advice on evidence, Smulian concludes with the following:

Counsel may well consider that we are going beyond the legal issues involved but Defendants who are conducting their own defence will, in all probability, fail to

²⁰² For the potential potency of an individual libel action as a response to group defamation see (Woeste 2004, p. 890).

²⁰³ The Defendants were originally represented by Whiteside & Stapleton of Grahamstown (see ('Power of Attorney' 1934a), and ('Power of Attorney' 1934b)) but their instructions were withdrawn before the trial began.

²⁰⁴ See in particular von Moltke's evidence-in-chief, which takes up over 40 pages of transcript ('Transcript' 1934, pp. 632-76), and includes lengthy passages against Jews and Judaism, for example 'I became convinced that our dear homeland is being ruled by what I should call octopuses....these octopuses I found out were definitely Jewish in character...' ('Transcript' 1934, p. 634).

²⁰⁵ See evidence in chief of Beamish ('Transcript' 1934, pp. 410-57) and also see judgment 'von Moltke's motive in obtaining the assistance of the witness Beamish is obvious; he desired him to give evidence of the existence of a Jewish plot to overthrow Christianity...' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 38).

appreciate the limitations and if these questions are raised Plaintiff will have to consider carefully before objecting to answer such questions on any technical grounds. The attack will be made upon Jews as a race and if the presiding Judge allows the questions of the kind referred to, it will not be in Plaintiff's interest to avoid the opportunity of an effective answer. (Smulian 1934a, para. 10)

This demonstrates the extent to which Reverend Levy and his lawyers, within a relatively short period of time, prepared themselves for the opportunity to refute the wider 'fundamental truth claims' that the Defendants would seek to present in court. It is important to note that the Plaintiff could have ignored these wider claims and still succeeded in the individual defamation action, but a very deliberate and conscious decision was made to refute them.²⁰⁶

2.5 Truth claims

Lawrence has stated that:

In the individual libel case, it becomes impossible to get at the heart of the fundamental truth claims. Precisely because the truth claims and the falsity claims that are advanced and evaluated in the courtroom are necessarily limited to the individual case, they are de-contextualized. The individual defamation suit is not without its place or purpose. Obviously, it plays an important role in restoring the individual victim's reputation. But ultimately, the individual libel suit cannot be a way of testing the truth and falsity of the group claims, or of what I have called the fundamental truth claims. (Lawrence 2007, p. 41)

In contradistinction to Lawrence's analysis, the Greyshirt case did, in fact, test 'the truth and falsity of the group claims'.

This section evaluates and critiques the success of the Greyshirt case in refuting Greyshirt 'fundamental truth claims' about Jews and Judaism. As already noted above, part of the success is attributable to the unique role of Reverend Levy as an embodiment of Jewish values and as a representative of the Jewish community combined with the official support he received from the Board. In large measure,

²⁰⁶ See cross-examination of Beamish ('Transcript' 1934, pp. 457-529).

Reverend Levy's intent—to refute the falsehoods that disparaged both him as an individual and Jews everywhere—shaped the way in which broader group libels were deliberately dealt with in the Plaintiff's case. The following section examines the specific ways in which this was done (principally through the establishment of 'facts') and considers the issues in the broader context of the relationship between truth and the law, beginning with this broader question.

2.5.1 Truth and law/Truth in law

Contemporary academic scholarship has dealt extensively with various and competing philosophical theories of truth developed from the time of Aristotle to the present; and therefore I do not propose to describe or examine that body of scholarship.²⁰⁷ In assessing truth in law, current scholarship has moved beyond the post-modernist model of relativism that gave rise to the notion that absolute truth does not exist²⁰⁸ (see Spigelman (2011)), and analysis in this Chapter similarly rests on the premise that certain facts or truths can be proven and ascertained. Of course, vexed philosophical questions arising out of the *nature* of truth still remain.²⁰⁹

The Honourable James Spigelman, former Chief Justice of the Supreme Court of New South Wales, has distilled three views about the relationship between truth and the adversarial system. The first view is that 'The adversarial system is not concerned with truth, but with "procedural truth" or "legal truth", as distinct from substantive fact.'²¹⁰

The second is that the adversarial system is the 'most effective mechanism for the discovery of truth by the application of the Socratic dialogue' and the third is that the

²⁰⁷ For a summary of various theories see for example (Haack 2003, p. 17). For a specific example of the way in which theoretical and philosophical notions of truth are used to analyse legal truths in particular, see (Moore 2003).

²⁰⁸ What Moore describes as an 'existential question about truth' (Moore 2003, p. 27).

²⁰⁹ This is reflected, for example, in what Moore describes as the 'mind-independence' question of truth which he distinguishes from the 'existential question of truth' (i.e. whether truth exists). The mind-independence question is concerned with whether the truth of a proposition results from its correspondence to 'some underlying facts...whose nature and reality in no way depend on the beliefs, conventions, or mind-sets of humanity' (the 'correspondence', 'realist' or 'classical' theory) or whether the truth of the proposition derives from 'mind-dependent items like beliefs, social conventions and mind-sets of humanity' (the 'coherence', 'epistemic', 'idealist', 'constructivist' or 'instrumentalist' theory of truth) (Moore 2003).

²¹⁰ Spigelman cites Sir Frederick Pollock and Viscount Simon as articulating this first view.

‘adversarial system seeks truth, but that search is qualified when the pursuit of truth conflicts with other values’ (Spigelman 2011, p. 748). At his swearing in as Chief Justice in 1998, and based on his experience as a barrister, Spigelman advanced the second position, considering the adversarial system to be one of the ‘greatest mechanisms for identification of truth that had ever been devised’ (Spigelman 2011, p. 749).

However, judicial experience has led him to conclude that the ‘untrammelled search for truth may impinge upon other public values’ and has led him to support the third position. He states:

It should now be accepted that the task of fact finding for the courts is to identify the truth, subject to the principles of a fair trial and to specific rules of law and discretions designed to protect other public values which, on occasions, are entitled to recognition in a way which constrains the fact finding process. (Spigelman 2011, p. 750)

The Greyshirt case conforms to Spigelman’s formulation. The purpose of the legal proceedings in the Greyshirt trial was for the judges to identify the true factual circumstances of the matter and to do so within, and according to, the principles of a fair trial including rules of evidence.

The fundamental importance of truth seeking as a core judicial, cultural and social value is emphasised by Spigelman who notes:

The recognition that the principal purpose of legal proceedings is to identify the true factual circumstances of any matter in dispute is of fundamental significance for the administration of justice and the maintenance of public confidence in that system.... The search for truth is a fundamental cultural value which, at least in Western civilisation, is a necessary component of social cohesion and of progress....The public will never accept that “justice” can be obtained by a forensic game. The public require a system dedicated to the search for truth, subject only to the fairness of the process and consistency with other public values. (Spigelman 2011, p. 750)

The faith that the litigants and the general public had in the law as a medium for exposing and confirming the truth (subject to the constraints of process and procedure) was critical to how the Greyshirts and the Jewish community used the narrative of the Greyshirt trial itself in their respective discourses.

To assist in the analysis of truth in law, a useful conceptual distinction is often made between ‘factual truths’ and ‘legal truths’ (see for example Haack (2003)). The former relates to propositions or factual claims that are relevant to the legal dispute (such as ‘the curtain inside the Synagogue is blue’) and the latter relates to propositions or rules of law (for example, ‘the defamatory words must refer to some ascertained person’).²¹¹ A verdict or judgment can also be understood as a ‘legal truth’.²¹² The broad categories of ‘factual truth’ and ‘legal truth’ are capable of being broken down into further categories (see for example Moore (2003) who sets out six categories of propositions). However, for the purposes of my analysis of the Greyshirt case, the broad distinction is adequate, and provides a valuable conceptual framework for analysing the extent to which—and the ways in which—the Greyshirt trial was successful in exposing Greyshirt tactics and lies. My main focus is on (1) truth in fact-finding; and (2) the legal truth of the judgment.

2.5.2 Truth in fact finding - Expansion of issues in Court

Spigelman’s view on truth and the law is influenced by his judicial experience and by ‘the fact that the overwhelming majority, well over 90% of all litigation is determined by findings of fact.’ It has led him to conclude that ‘What matters most are the facts’ (Spigelman 2011, p. 746).

This is highly pertinent to the Greyshirt case in which Reverend Levy’s goal was to expose Greyshirt tactics and lies by objectively setting out various facts and truths and having those facts and truths confirmed and validated in a court of law, a public

²¹¹ For an example of the way in which ‘legal truth’ was contested in the Greyshirt case, see von Moltke’s submission, ‘Mr. Reynolds at an early stage in the present case misinformed the Court that in Long’s case the Court adopted the law laid down in the English case of Hulton & Co. vs Jones. A reference to Long’s case will show that this statement was incorrect...’ (von Moltke 1934d), under heading ‘Defendants’ plea as set forth in paragraph 7.

²¹² See for example Griffin’s description of the verdict in *State v Jensen 2011 WI App 3* as the ‘legal truth of what happened to Julie Jensen’ as distinct from the ‘factual truth behind Julie’s death’ (Griffin 2013, pp. 284-5).

institution invested with an authority and legitimacy universally acknowledged by the parties to the litigation, as well as the wider public. As explained in Chapter Two, the urgency with which this action was carried out is a reflection of the faith placed by Reverend Levy in the legal system as a means by which the Greyshirt falsehoods and the conspiratorial Greyshirt methods could effectively be exposed and communicated to the general public.²¹³

As Preuß has noted, the law represents a move away from the (often violent) ‘self-help’ solutions to conflicts in archaic societies, to an effective vehicle for dealing discursively with disagreement over truth and justice (Preuß 2015).²¹⁴ The ‘substitution of judicial litigation for self-help’ protected the ‘internal order of the community’ and thus transformed ‘a feud between individuals or groups into a conflict which involved the whole community’ (Preuß 2015, p. 360). This historical frame reinforces the critical role of judicial adjudication procedures as a means of fundamentally altering the character of disputes (Preuß 2015, pp. 359-60).

In the context of the Greyshirt case, the law provided a means for Reverend Levy to settle his dispute discursively. It was also a focal point for the wider Jewish community, and presented an alternative to a spectrum of responses that were potentially inadequate, ineffective and possibly even counter-productive. In particular, the Greyshirt case offered a non-violent alternative to the physical resistance of Jewish youth to Greyshirt meetings, and also a more comprehensive response than Lazarus’ attempt to discredit the Greyshirts through the publication of anti-Nazi pamphlets. In fact, as a witness for the Plaintiff, Lazarus could articulate

²¹³ The difficulty of refuting Greyshirt propaganda within the ‘marketplace of ideas’ is also highlighted in the letter from the Aberdeen Hebrew Congregation to the South African Jewish Board of Deputies dated 9 April 1934 (brought into evidence by von Moltke in an attempt to show that the Board was ‘political’). The letter set out Greyshirt activity in Aberdeen, including the publication of the Document and concluded, ‘We feel very strongly that something has to be done to arrest their progress here. They have a distinct advantage over us that they have a press at their disposal and we would welcome any suggestions from you as to the best way of fighting their pernicious propaganda. The said document has caused quite a stir locally as their speaker openly challenged us to disprove the truth or existence of the document. To assist us in rebutting some of their arguments and contentions we would be pleased if you could let us have the following information (1) The proportion of the Jewish population in S.A. (2) Percentage of Jewish traders (3) the Percentage of Licenced Hotelkeepers (4) Numbers of Jewish ex-soldiers as well as the numbers who fell during the War both here and overseas. In every argument he has brought home to us that we are nothing but a nation of international financiers, profiteers, traders and have never done anything for the country. They actually quote figures. Yours faithfully, Aberdeen Hebrew Congregation, M.J. Cohen, Hon-Sec.’

²¹⁴ i.e. disputes over both factual matters and legal rules (normative claims).

his views and justify his position. Inch's cross-examination of Lazarus highlights the way in which the courtroom provided a forum for dialogue between two men who held widely divergent views.²¹⁵ Their dialogue reads as a conversation and confrontation, held publicly and subject to judicial rules.²¹⁶ It is an example of the way in which the judicial adjudication procedures transformed their dispute into a more discursive one, and one in which every word would have been subject to legal scrutiny and evaluation. Lazarus' previous individual stance became subsumed within the collective response and formed part of the broader community narrative.²¹⁷

2.5.3 Court process and procedure

Court process and procedure helps to define, narrow and adjudicate the facts and issues in dispute. Of relevance to this project is the way in which court process and procedure reflected and refracted elements of the discursive struggle between the Greyshirts, Reverend Levy and the Jewish community more broadly. For example, the written pleadings of the parties provided the initial articulation of the factual and legal issues in dispute.²¹⁸ By definition, these documents had to be expressed in legal language and comply with particular form requirements.

From one perspective, the pleadings can be read as a sequence of factual and legal claims that are either agreed to or denied by the other party. It is the matters in dispute that then become the subject matter of the trial. Naturally, not all elements of

²¹⁵ See ('Transcript' 1934, pp. 278-84). See also cross-examination of Lazarus by von Moltke ('Transcript' 1934, pp. 284-8).

²¹⁶ For the way in which court process and procedure, including rules of evidence moderated the dialogue/conversation, see the following extract from the Transcript (1934, p. 287):

‘[von Moltke] How can you tell Afikaanders [sic] of Dutch descent that sons of the soil are Germans or German emissaries? ---[Lazarus] I do not know what you are talking about.
(Court stops cross-examination on this point and rules evidence inadmissible and irrelevant).’

²¹⁷ The following exchange underscores the way in which Lazarus felt empowered by Reverend Levy's libel action:

von Moltke: Do you realise that by sending out that pamphlet to the Afrikaans people in the Midlands you were insulting the ancestors of 40 percent of the population? Lazarus: I was trying to save them from dire disaster. **These proceedings will be taken to shew [sic] that I was successful.** [my emphasis] ('Transcript' 1934, p. 286).

²¹⁸ See for example the Plaintiff's Declaration which sets out the initial claim (1934c); followed by the Defendant's Plea in response (von Strauss von Moltke 1934); and then the Plaintiff's Replication of 8 June 1934: 'Save for admissions therein contained, Plaintiff denies all allegations of fact and conclusions of law contained in the Plea of the Defendant, joins issue thereon and again prays for judgment as in his Declaration claimed' ('Plaintiff's Replication in the matter between Abraham Levy and Johannes von Strauss von Moltke' 1934).

the wider discursive struggle become subject to judicial consideration and adjudication – only those matters relevant to the individual defamation action and also those matters that are in dispute between the parties. In this way, the legal process begins to distil, reflect and refract elements of the wider dispute, but does not comprehensively capture it. In this way, it can be understood as an asymmetrical reflection of the wider struggle. In the Greyshirt case, the Plaintiff sought to widen as far as possible the matters in dispute as far as they related to the broader social issues, particularly the ‘fundamental truth claims’.

For the purposes of analysis, the facts are grouped into the following broad, interrelated categories:

1. Facts pertaining to the legal elements of the defamation;
2. Facts required to prove that the Document was fabricated and that Inch had concocted the story as to how he obtained it; and
3. Facts to refute the ‘fundamental truth claims’ advanced by the Greyshirts.

Although each category served its own particular purpose, the method by which the facts were established was the same. That is, all the facts were subject to the same rigour and scrutiny, the same evidentiary requirements and the same judicial processes and rules. Importantly, the requirement for affidavits and legal testimony to be truthful (or potentially be subject to perjury charges) is a salient feature of the legal truth-seeking process.²¹⁹

2.5.4 Facts pertaining to the elements of the defamation

A threshold issue was for Reverend Levy and his lawyers to prove the elements and establish the facts necessary to succeed in the defamation action purely from a legal point of view. The most important fact to be established in this regard was that the audience understood the ‘Rabbi’ of the Document to refer to Reverend Levy, a fact that was disputed by von Moltke in his Plea.²²⁰ This was a critical *legal* issue, and the

²¹⁹ See for example Olivier’s testimony, ‘If Mr. Inch believes in Jesus he must know he stood under oath....I do not believe that if he [Inch] believes in Christ he could have told an untruth under oath’ (‘Transcript’ 1934, p. 630).

²²⁰ See (1934c, para 3): ‘At all times relevant to this action Plaintiff was, and still is the Minister in Charge of the Port Elizabeth Hebrew Congregation, Western Road Synagogue, which is a Synagogue belonging to members of the Jewish faith to which Plaintiff belongs. Though Minister in charge as aforesaid Plaintiff is not a

defamation would have failed in its entirety if the Plaintiff had failed to establish this point.²²¹

As outlined in Chapter Two, von Moltke and the Greyshirts did not name Reverend Levy personally. Furthermore, the Document purported to be authored by a 'Rabbi', a technical qualification that Reverend Levy did not possess (since he was a graduate of Jews' College in London).²²² To succeed in the defamation action it was necessary to show that the words complained of referred to an ascertained person. So the first legal challenge was to demonstrate that those who heard the Document read out or perused it in *Die Rapport*, understood the reference of 'Rabbi' to mean Reverend Levy. Significantly, it was alleged by von Moltke that the Document was stolen from the Western Road Synagogue.²²³

This allegation, together with the allegation that the Document was signed 'Rabbi', led to the implication that the Document was authored by Reverend Levy who had been the Minister in charge of the Western Road Synagogue for approximately 21 years. Reverend Levy gave evidence that the terms 'Rabbi' and 'Reverend' were regarded as interchangeable to many in the non-Jewish world.²²⁴ More importantly,

Rabbi but is widely known and referred to and known as Rabbi of the aforesaid Congregation.' See also (von Strauss von Moltke 1934, para 2). 'Paragraph 3 of Plaintiff's Declaration is admitted and except that Defendant says that Plaintiff is not widely known or referred to as a Rabbi in Port Elizabeth or elsewhere.' The Defendants' witnesses (Terblanche, Schoeman and Fourie, who all attended the Aberdeen meeting on 27 March 1934) were not willing to state that they understood Reverend Levy to be the author of the Document. However, they confirmed that they understood that the Document was obtained from the Western Road Synagogue and that they believed the contents to be true. However, in cross-examination, Reynolds put to Schoeman the following, 'Don't you see now, seeing the document was received there and the propaganda distributed, don't you not see now that the priest in charge of the synagogue must know something about it?' Schoeman replied, 'He should know.' ('Transcript' 1934, p. 378). See also witness, Fourie, ('Transcript' 1934, pp. 388-9).

²²¹ See for example, section A of the *Instructions to Counsel for Advice on Evidence* which discussed the evidence that the Plaintiff had to offer to refute von Moltke's contention that the Plaintiff was not widely referred to or known as 'Rabbi' and that the words complained of could not have been understood to refer to the Plaintiff (Smulian 1934a).

²²² As to the distinction between 'Rabbi' and 'Reverend' see transcript pp. 3-4 in which Reverend Levy explains that a Rabbi has a specific doctrinal degree that confers on him a recognised authority to pronounce on matters of law in addition to matters of scripture, whereas a Minister (designated 'Reverend') only expounds scripture but does not have authority to provide authoritative judgments on ritual matters. See also evidence in chief of Rabbi Woolf, witness for the Plaintiff, ('Transcript' 1934, p. 136).

²²³ The Document itself also made mention of 'Syn. West. Rd' ('The Historic Document' 1934).

²²⁴ See testimony of Reverend Levy ('Transcript' 1934, p. 42) 'Levy: As my counsel said in his opening remarks the non Jewish world is under the impression that a Jewish minister is a Rabbi.' Rabbi Hirsch also gave evidence that 'I found that Non-Jews talk of all synagogue officials as Rabbis' ('Transcript' 1934, pp. 136-7). Rabbi Ephraim Moses Levy of the Durban Hebrew Congregation also testified to the widespread, almost universal confusion in the non-Jewish world between 'Rabbi' and 'Minister' ('Transcript' 1934, p. 156). See also Leopold Simmonds, 'It is usual among Gentiles to regard Jewish Ministers as Rabbis' ('Transcript' 1934, p. 312); Mortimer Carne, 'The idea of a Minister of a Synagogue and Mr. Levy being known as Minister of our

many witnesses were called who testified that when they heard the document read out they believed that it was authored by Reverend Levy.²²⁵ The Court concluded on the basis of all the evidence that ‘it is abundantly clear that the persons who heard the document read or themselves perused it came to the conclusion that the ‘Rabbi’ of the document was the Plaintiff [Rev. Levy]’ (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 52).

In terms of the conceptual approaches described earlier, the factual truth of what the audience actually understood became a ‘legal truth’ in the form of a judicial conclusion. The dispute over whether or not Reverend Levy was understood to be the author of the Document was settled by an objective assessment of evidence conducted within the normative environment of the legal system.

2.5.5 Facts proving the Document was fabricated and that Inch concocted his story

From both a legal and discursive point of view, it was essential for Reverend Levy to show that the Document was fabricated; that the story told by Inch as to how he obtained the Document (as well as the ‘Emmanuel Hall Documents’) was entirely concocted; and that Inch and von Moltke had conspired.²²⁶ The way in which

Synagogue is confused by that of Rabbi by Gentiles’ (‘Transcript’ 1934, pp. 317-8); David Jacobson ‘The Gentiles as a rule calls Rev. Levy a Rabbi.’ (‘Transcript’ 1934, p. 324); Sidi Hallis (‘Transcript’ 1934, p. 329); Samuel Kaplan (‘Transcript’ 1934, p. 335); Thomas Charles White, Deputy Mayor of Port Elizabeth (‘Transcript’ 1934, pp. 346-7); Colonel Alexander Peter John Wares, Member of Parliament for Port Elizabeth Central, (‘Transcript’ 1934, p. 348); Frederick William Cooper, librarian at the Port Elizabeth Library (where Reverend Levy had been a committee member for more than 20 years), (‘Transcript’ 1934, pp. 351-2).

²²⁵ For example, Eileen Pearton who was subpoenaed to give evidence on behalf of the Plaintiff, testified that she made no distinction between a Jewish Rabbi and a Minister and that she thought the ‘Rabbi’ of the Document referred to Reverend Levy (‘Transcript’ 1934, p. 169). She confirmed this impression in cross-examination at p.179. McDermot provided similar testimony (‘Transcript’ 1934, p. 208) as did Hargood (‘Transcript’ 1934, p. 222), Moore (‘Transcript’ 1934, pp. 229-30), Simpson (‘Transcript’ 1934, p. 238) and Cohen (‘Transcript’ 1934, p. 244). See also Wares examination in chief (‘Transcript’ 1934, p. 349) and cross-examination (‘Transcript’ 1934, p. 350); and Frederick William Cooper in re-examination (‘Transcript’ 1934, p. 352). The Defendant’s witness, Jacobus Ernst Potgieter Terblanche, from Aberdeen, was not willing to categorically state that he understood Reverend Levy to be the author of the Document, but in cross-examination he confirmed that he understood it was obtained from the Western Road Synagogue and that he believed the contents of the Document to be true, ‘I believe it is true, I mean it is a definite attack on the Christian race.’ (‘Transcript’ 1934, p. 373). See also Detective Head Constable Robert Cairns stating that he took the ‘Rabbi of the Western Road Synagogue’ to be Reverend Levy, (‘Transcript’ 1934, p. 758) (but that on close examination of the three documents that Inch had given to him, ‘came to the conclusion that they were forgeries and not genuine’ (‘Transcript’ 1934, p. 759).

²²⁶ See for example (Smulian 1934a, Section D), which, *inter alia* states, ‘In the Defendant’s alternative plea he alleges that the words complained of are true and are for the public benefit. The question of public benefit cannot be gainsaid. In order to discharge the onus which is on him to prove truth Defendant will rely upon the evidence of Harry Victor Inch, who states that he entered the Western Road Synagogue on Saturday 24th March

Reverend Levy and his legal team sought to achieve this was through the establishment of certain facts. These facts therefore had a dual purpose: to succeed in the defamation action and to discredit the Document, Inch and von Moltke in the discursive struggle between Jews and Greyshirts taking place in the ‘marketplace of ideas’. Reverend Levy was seeking to deprive the Greyshirt discourse of validity by demonstrating that the alleged facts on which it was based were false. An analysis of the facts that the Plaintiff was able to put before the court demonstrates the effectiveness of a courtroom (and judicial process and procedure) to create the time and space necessary for an objective, forensic and logical examination of facts. The Greyshirt trial lasted from the 10th to the 24th of July 1934, involved 12 days in Court²²⁷, about 50 witnesses and generated 772 pages of typed transcript.²²⁸

2.5.5.1 Discrediting the Document²²⁹

Levy’s barrister, Reynolds, attacked the Document in two ways: in form and substance. In terms of the form, external evidence regarding the Hebrew handwriting on the Document was crucial to show that it was forged. In terms of substance, Reynolds focussed on the content of the Document to show it was entirely antithetical to Judaism. It was in relation to the substance (or ‘internal portion’²³⁰) of the Document that Reynolds (Reverend Levy’s barrister) could begin to contest Greyshirt ‘fundamental truth claims’, and I discuss this aspect in further detail below, under the heading ‘fundamental truth claims’.

and found the document lying on a table in the synagogue.’ The following paragraphs numbered 1-5 of the instructions to Counsel deal with the details of Inch’s story and the evidence that the Plaintiff has to offer to disprove those details.

²²⁷ See (Registrar 1934b) which among other things set out the hearing dates.

²²⁸ Evans makes a similar point in relation to the *Irving v Penguin UK and Deborah Lipstadt* trial in which he was a key expert witness, ‘in many respects the High Court turned out to be a good place to settle the historical and methodological points at issue in the Irving case. There were for a start, none of the usual constraints of time and space that limit what can be said or written in other arenas of debate....we could pursue every point, no matter how minor, for hours on end, until we had exhausted the subject or the judge was satisfied that everything had been said that was necessary and asked us to move on.’ Evans also pointed out that unlike academic articles, there was no limit on the length of expert reports, ‘we simply wrote as much as we needed to fulfil the commissions we had been given, which in Robert Jan Van Pelt’s case was over 600 pages and in mine over 700’ (Evans 2002, p. 196).

²²⁹ See for example (Smulian 1934a, para. 6) regarding the evidence pertaining to the ‘contents of the principal document’. It is also apparent that Reverend Levy’s lawyer hoped to produce ‘positive evidence of forgery and the identity of the forger.’

²³⁰ See Reynolds (‘Transcript’ 1934, p. 15).

The expert evidence of Professor Frank Dingemans was the principal means by which the Document was shown to be a fabrication and a forgery, supported by the consistent testimony of other witnesses, including Reverend Levy.²³¹ Professor Dingemans stated, ‘Having carefully and independently examined the documents in question I have arrived at the conclusion that they are not what they pretend to be, namely a secret document drawn up by an educated Jew’ (‘Transcript’ 1934, p. 182). After comprehensively detailing the basis for his conclusion (see Transcript pp.182-190), Professor Dingemans declared the Document to be ‘an impudent and malicious forgery.’ He added, ‘To me the conclusion is irresistible, inevitable. This document cannot be the product of an educated mind, Jew or Gentile. It is the product of a mind distorted by blind malice and hatred, an attempt to poison the minds of gullible people’ (‘Transcript’ 1934, p. 190).

The key elements of proving that the Document was a forgery were:

- (1) the incongruity of the Hebrew words ‘kosher le’pesach’ (meaning ritually clean for Passover) in the top right hand corner of the document. Evidence was given that the term ‘kosher l’pesach’ never applies to literature²³²;
- (2) the Hebrew letters were badly formed and appeared to have been written slowly and with care – indicating that the person who fabricated the Document had copied them carefully and deliberately from another source, most likely the Jewish Chronicle (a Jewish publication) where those words had appeared²³³;
- (3) the grammatical and other errors in the Document, including incoherence and inconsistency²³⁴;

²³¹ See testimony of Professor Dingemans, (‘Transcript’ 1934, pp. 182-206).

²³² See Professor Dingemans, (‘Transcript’ 1934, especially pp.183-186). See also Reverend Levy, (‘Transcript’ 1934, p. 10) and Rabbi Woolf Hirsch (‘Transcript’ 1934, p. 138).

²³³ See Professor Dingemans (‘Transcript’ 1934, especially pp.183-186). See also Reverend Levy, (‘Transcript’ pp. 11-15); Rabbi Woolf Hirsch, *ibid.* pp. 13-40, concluding ‘it looks more like an imitation by a person who does not understand Hebrew at all,’ and his criticisms of the letter formation pp. 141-2.

²³⁴ See Professor Dingemans (‘Transcript’ 1934, pp. 186-7) ‘I examined first of all the language and style of these lectures. If the writer’s ignorance of Hebrew is complete, his command of English and his ability to construct grammatically correct English sentences are below the level of attainment which one may legitimately require from a Standard VII pupil whose home language is Afrikaans.’ Professor Dingemans then provided specific examples from the Document that substantiated his conclusion that the thoughts are incoherent and inconsistent (for example standing for ‘World Communism’ and also the ‘Japanese System’) and could not have been written by an educated Jew (see pp.187-190). Other specific examples highlighted in Court include the reference in the Document to a ‘Talmud Torah’ as a book, however the term actually refers to an elementary school for Jewish children. Similarly, the plural for ‘Goy’ is ‘Goyim’, however the word ‘Goys’ is used in the Document (see Reverend Levy’s evidence at p. 17 and evidence of Rabbi Woolf Hirsch at p.144 on both these

- (4) By reference to the ‘internal portion’, showing that the Document resembled the *Protocols of the Elders of Zion* and the statements contained in the Document were factually untrue. For example, Reverend Levy testified that he had never heard of the ‘Select High Circle of the Anti-Nazi Propaganda Vigilance Committee’²³⁵ or that he had never had the sentiments towards the Catholic or Protestant Churches as described in the Document. He also gave detailed evidence to show that the statements contained in the Document were not a reflection of his own views or that of Jews or Judaism.²³⁶ Various witnesses also testified that Judaism was not political and that the Synagogue was concerned only with religious affairs. This testimony refuted the insinuations contained in the Document that Jewry was politically organised.²³⁷

points, as well as Dingemans in cross-examination at p. 203.). Furthermore, Reynolds cross-examined Beamish and Inch in relation to the Document and successfully introduced doubt as to its authenticity and the possibility that it was fabricated by Inch ('Transcript' 1934, especially pp. 488-492). Reynolds' cross-examination of Beamish identified similarities between the Document and a letter written by Inch in the Interdict proceeding. Reynolds asked Beamish 'Does it not strike you as rather remarkable that these similarities exist between the document and the letter of Inch and it is Mr. Inch that discovers the document in the synagogue?' (p. 491). See also cross-examination on the two 'Emmanuel Hall' documents (pp. 504-512), including Beamish admitting that it is 'either a fake or a plan' (p. 507) but believes Mr Inch to be incapable and innocent of any fabrication. Beamish begins to suggest that the documents may be a 'plant' and admits elements of 'document 2' suggest it is a fake (see p. 507). See also Reynolds' cross-examination of Inch ('Transcript' 1934, pp. 569-75).

²³⁵ Reverend Levy ('Transcript' 1934, pp. 15-6) and also p. 357, 'I do not know of any Anti-Nazi Vigilance Committee.' See also von Moltke cross-examination of Reverend Levy after he was recalled in which von Moltke reads from a letter from the Aberdeen Hebrew Congregation to the Board of Deputies and contains a handwritten annotation 'Who should take steps? Lazarus or the Anti Nazi Vigilance Committee?' ('Transcript' 1934, p. 356).

²³⁶ For example, Reverend Levy denied that Jews conspired with Luther in the Reformation; were involved in a 'World Socialist Movement'; or behind the Russian revolution ('Transcript' 1934, p. 16). See also pp.17-19 for additional matters refuted by Reverend Levy. See also: testimony of Rabbi Woolf Hirsch, in which he denied that there was a Jewish world plot, confirmed that preaching against other faiths is contrary to Judaism, and that it is sacrilegious to refer to the founder of Christianity in the manner described in the Document (pp. 143-145); testimony of Claude Herbert Cotton, Honorary Secretary of the Port Elizabeth Hebrew Congregation of the Western Road Synagogue, that he had never seen a document such as the Document in question or heard anything about a world plot, and confirmed that he had never heard Reverend Levy say anything resembling the sentiments in the Document (p. 303); testimony of Leopold Simmonds (pp. 311-3); testimony of Mortimer Carne, Chairman of the South African Party, Central Division and a member of the Western Road Synagogue, confirming that he knew nothing of a world plot, 'no such thing would cross the mind of anybody', that Reverend Levy would never express the sentiments of the Document, 'no sane man would express those sentiments' (pp. 316-317); testimony of David Jacobson who refuted the notion of a world Jewish conspiracy and a local plot and also confirmed that the Document was in direct opposition to what Reverend Levy preached (p. 324). See also testimonies of Leonard Benjamin Marks (p. 327), Sidi Hallis (p. 329), Jacob Kaplan (p. 332) and Samuel Kaplan (p. 335).

²³⁷ Evidence on this point was brought in as the Document referred to Communism and to propaganda arriving from Moscow for distribution through Western Road Synagogue. Von Moltke recalled Reverend Levy on Monday 16 July 1934 (after the Plaintiff's case was closed) to cross-examine him on whether the South African Jewish Board of Deputies was a political body and whether the Synagogue was a purely religious institution ('Transcript' 1934, pp. 353-7), and see re-examination at p. 357. Von Moltke produced a letter from the Honorary Secretary of the Aberdeen Hebrew Congregation to the South African Jewish Board of Deputies,

Evidence was also given to show that Mark Lazarus (who was mentioned in the Document 'Copy for Mr M. Lazarus) was not a 'ceremonial Jew' and was not connected in any way with the Western Road Synagogue or with religious life.²³⁸

The judges concluded:

After listening to all the evidence, particularly the devastating criticism of the document made by Professor Dingemans, whose testimony made a deep impression upon us, and after making a careful study of the contents of the document we have arrived at the following conclusions: The document alleged to have been obtained from the Western Road Synagogue, as well as the two documents alleged by Inch to have been obtained from the Emmanuel Hall, were compiled by the same person or persons...who hold, or purport to hold, the view that the Jews in Europe, in South Africa and throughout the whole world have organised to overthrow the Christian religion. The Grey Shirt movement in Port Elizabeth appears to be a society whose objects are admittedly anti-Jewish.... Their desire is to oust the Jews from South Africa, the Jewish religion is derided, and doctrines of a blasphemous and terrible nature foisted upon Jews. All three documents...portray the Jews from the viewpoint of the leaders of the Grey Shirts. We are convinced that these documents bear the unmistakable imprint of having been compiled by a member or members of the Grey Shirt movement, and could easily have been compiled by the Defendants Inch and von Moltke.... (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, pp. 27-8)

dated 9 April 1934, alleging that the letter was 'political' in nature. Reverend Levy testified that 'the Jewish Board of Deputies in South Africa is a body concerned with matters of interest to the Jews of South Africa...with the welfare of the Jews of South Africa.' He also stated 'If difficulties arise in South Africa in connection with domestic affairs of the Jews of South Africa especially at a time like this when tension is high and feeling against the Jews is running high on account of the propaganda aimed at it, then those Jews in small outlying places like Aberdeen, who feel themselves helpless and are defenceless, they can apply to the Board of Deputies for assistance to counteract this propaganda....to say that they are a Body concerned as a centre of Jewish conspiracy in South Africa through its agents...is a deliberate untruth, and if not, then it is an untruth' ('Transcript' 1934, p. 356). In re-examination, Reynolds asked: 'Can you see anything political when vile insinuations of this kind are hurled against your Race that the isolated communities should approach you for assistance?' Reverend Levy replied, 'It is the natural action, it is the cry of the helpless and oppressed' ('Transcript' 1934, p. 357).

²³⁸ See for example evidence of Mr Claude Herbert Cotton, the Honorary Secretary of the Port Elizabeth Hebrew Congregation of the Western Road Synagogue confirming Lazarus was not and had never been connected with the Western Road Synagogue or been inside it ('Transcript' 1934, p. 301). See also evidence of Leopold Simmonds at p. 312; Mortimer Carne at p. 317; David Jacobson at p. 324; Leonard Benjamin Marks at p. 326; Sidi Hallis at p. 328; and Jacob Kaplan ('Transcript' 1934, pp. 331-2).

2.5.5.2 Discrediting Inch's story

Inch's story as to how he obtained the Document was entirely concocted, and therefore it was exceptionally vulnerable to exposure in court. A story that may have sounded compelling in a public arena and in the 'court of public opinion' unravelled in court. Deborah Lipstadt and Richard Evans made similar, if not identical, observations about David Irving who sued Lipstadt (and her English publisher) for defamation for describing him as a 'Holocaust denier' in her book *Denying the Holocaust: the growing assault on truth and memory* (1993) (Evans 2002; Lipstadt 2005, 2007)). Lipstadt had always counselled against using the 'blunt edge of the law' to respond to Holocaust denial, primarily on the grounds that courtrooms are not the 'proper venue for historical inquiry' (Lipstadt 2007, p. vii), and in the lead up to the case others also expressed similar doubts (Evans 2002, pp. 194-6).²³⁹ However, her 'stunning' legal victory appeared to prove that history and forensic process were 'in perfect synchronisation.' Lipstadt points out that *Irving v Penguin UK and Lipstadt* 'proved no such thing', the reason being (as her barrister stated out in his opening, 'David Irving is a liar,' and the Holocaust was not on trial, Lipstadt was (Lipstadt 2007, pp. vii-viii). Lipstadt's objective was to prove that she was correct when she called him a denier and a liar. Lipstadt's conclusion that 'the courtroom proved to be a perfect venue' for 'an encounter with an adversary such as Irving' could equally apply to Levy's encounter with Inch (as well as von Moltke²⁴⁰ and Beamish).

Until the *Irving v Penguin UK and Lipstadt* trial:

...few, if any, historians had invested their time and energy to follow Irving's footnotes and document the discrepancies and falsifications in his work. They condemned his conclusions, but did not bother, for logical reasons, to waste their time

²³⁹ Lipstadt had also maintained a long-standing position of declining invitations to debate Holocaust deniers, maintaining that 'while many things about the Holocaust were open to debate, the existence of the event is not' (Lipstadt 2005, p. 18). Lipstadt was struck by the 'elevation of denial to an "opinion"' and the view that denial was simply one side of the 'issue'. Lipstadt wondered, 'what "issue"?' (Lipstadt 2005, p. 17).

²⁴⁰ See for example the following exchange during Reynolds' cross-examination of von Moltke: 'What did you look through Inch's affidavit for? --- To get his story of how he got the documents. Had you forgotten that? --- No, but I am entitled to go through all the affidavits. Why did you go through it? --- I was entitled to go through them... In your evidence in chief? --- **Do you want to make out that I am a liar? Certainly**' [my emphasis] ('Transcript' 1934, p. 709).

tracking the bases of his absurd claims. Irving was left free to pose all sorts of arguments without anyone challenging him on the details. In the courtroom it was different. Irving could not simply float one of his 'theories'. There were experts, lawyers and most significantly, a judge present, all of whom could demand that he provide evidence to prove his claims. And of course, he could not. (Lipstadt 2007, p. viii)

Similarly, in the Greyshirt case, it was primarily the production of evidence and the establishment of certain key facts that exposed Inch's story as entirely false.

Furthermore, court process requires evidence to be tested and for questions to be answered. Unlike a public arena, Inch could not evade answering questions. As the judges reminded him on a number of occasions, 'Do you suppose you can stand up and give all kinds of evidence against people and not be cross-examined, and when Counsel is endeavouring to test your evidence, that you decline to answer questions?' ('Transcript' 1934, p. 593).²⁴¹

In his affidavit, Inch described how he came into possession of the Document as well as two other documents purporting to be reports ordered by the Rabbi of the Western Road Synagogue and containing, among other things, conspiratorial aspirations for control of the financial system and threats against the Greyshirts. Inch stated that he was watching an assembly of Jews waiting for a meeting outside the Emmanuel Hall, Campbell Street, Port Elizabeth on Saturday 17 March 1934, and stated that he recognised one of the Jews as Mr M. Lazarus. He saw two young Greyshirts in Campbell Street whom he recognised and asked them to attend the meeting and report back to him. He stated that they emerged from the meeting and handed to him two typewritten documents. Inch explained in his affidavit that:

...after reading the documents I formed the opinion that there were probably other similar documents, as one of the documents referred to the Western Road Synagogue, the Emmanuel Hall, and Raleigh Road Synagogue. I decided to search these places

²⁴¹ See also Court to Inch: 'You must quote their names, we have to test the evidence. The suggestion is that the whole of this is a conspiracy, and the whole of this story told by you is false. We have to test your evidence' ('Transcript' 1934, p. 551) and 'How can we possibly test the truth of your evidence without your disclosing the name. Supposing this man comes forward and says what you have stated is false?' ('Transcript' 1934, p. 551).

for any similar documents. (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934)

His account then went on to describe how he broke into the Western Road Synagogue on Saturday 24 March 1934, at some time between 3 pm and 5 pm. He stated ‘I got in by the fan light of the North Eastern window of the Synagogue which I managed to squeeze through with difficulty.’ (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, pp. 12-3).

He described how he looked around and saw a table on the north-east end of the building near a red curtain, on which there were several documents. He looked through them and found one in English. This was the Document. He then described putting the Document in his pocket, leaving via the north side of the Synagogue through an unlocked door and proceeding to the house of Mr King, a Greys shirt. Together they proceeded to the house of Detective Head Constable Cairns, informing him of the theft and the Document, which Cairns then read. Inch also stated that he called von Moltke, who was in Aberdeen, to inform him about the Document (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 13). Through the legal process and the considered, forensic approach to establishing facts, Inch’s lies were ultimately exposed.

One of the first ways in which this occurred was through the discovery process. In the list of documents set out in the Affidavit of Discovery filed by the Plaintiff’s lawyer, Barend Smulian, was a notebook containing all the entries of appointments at the Emmanuel Hall, Port Elizabeth. On 3 July 1934, Inch and von Moltke inspected the notebook in the presence of Smulian and took notes (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 13; ‘Transcript’ 1934, pp. 288-9). Under the date of 17 March 1934, the date on which Inch claimed he witnessed an assembly of Jews, was an entry which read ‘Miss Roos Dance’, a dance which the evidence showed was not confined to Jews or non-Jews. Two days after Inch and von Moltke inspected the notebook, Inch wrote to Smulian explaining that he had discovered a mistake in his affidavit and that the date he witnessed the gathering of Jews at Emmanuel Hall was in fact Wednesday 14 March, not Saturday 17 March. The engagement book contained no entry for that date.

Evidence given by the caretaker of the Emmanuel Hall, who was also responsible for its records was that no engagement took place at the Emmanuel Hall on the evening of 14 March (see testimony of Israel Silpert ('Transcript' 1934, pp. 250-6).

The question for the Court was which witness was to be believed. Inch's fabricated story did not withstand scrutiny. His assertion that he had seen Lazarus at the Emmanuel Hall was disproved, which affected the credibility of his account. Lazarus provided corroborated evidence that on both dates asserted by Inch, he was not at the Emmanuel Hall (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, pp. 14-6).²⁴²

The Plaintiff also subpoenaed witnesses and produced other evidence, such as his timesheets for work on 14 March 1934, to show that Inch was at work and not at the Emmanuel Hall at the time he claimed.²⁴³ Inch's story as to how he obtained the Emmanuel Hall documents crumbled under cross-examination, and the inconsistencies and falsehoods in his story were exposed.²⁴⁴ The pressure of the cross-examination was so effective that Inch changed his story while giving evidence

²⁴² See Lazarus' testimony ('Transcript' 1934, p. 275), and in particular: 'I handed to my attorneys a photograph where I am plainly discernible within ten feet from the Governor-General at the opening of the Bowling Tournament in Cape Town on the afternoon of the 17th.' Regarding 14 March, see Lazarus' testimony (transcript pp. 276-7) stating he was at a 'special meeting of the Marxian Football Club'; as well as the testimony of Robert Joseph James Phelan ('Transcript' 1934, pp. 263-269) and Edward Alexander Smith ('Transcript' 1934, pp. 269-271), both members of the Marxian Football Club, confirming that Mark Lazarus was at a committee meeting of the Marxian Football Club at the Hotel Elizabeth on the evening of 14 March 1934. See also testimony of Marcus Lazarus (Mark Lazarus' son) confirming the same ('Transcript' 1934, p. 297). Mark Lazarus testified that he believed he was implicated by Inch in Inch's story (as well as on the Document which was marked 'Copy for M.Lazarus') because Lazarus had printed two pamphlets at the end of 1933/early 1934 that criticised Hitler and his supporters, and were in response to Greyshirt 'aspersions cast upon his faith and race' ('Transcript' 1934, p. 273). See also, p. 274, 'I believe the position is fairly obvious, I issued these two pamphlets, and it was fairly generally known that I intended following these pamphlets up with three or four others. I believed the second pamphlet in which Goering figured as a discharged lunatic was being seriously considered by some who had previously given little thought to the spokesmen going round the town, and knowing I firmly believe that I had published the things going on over there I was singled out for this rather childish attack.' See also evidence of Reverend Levy ('Transcript' 1934, p.9).

²⁴³ See for example, testimony of Charles Fairweather Davidson ('Transcript' 1934, pp. 292-6).

²⁴⁴ See cross-examination of Inch ('Transcript' 1934, pp. 546-616). For specific examples see pp. 559-563 regarding Inch's affidavit stating that he witnessed the meeting on 17 March 1934 and subsequently changing the date to the 14th; pp. 576-588 and pp. 598-9 regarding the Synagogue; and pp. 599-609 regarding the Emmanuel Hall meeting. See also p. 608 regarding the inconsistency between Inch's affidavit and his testimony in court.

in the witness box.²⁴⁵ As Inch shifted his story, further weaknesses, inconsistencies and improbabilities were exposed.²⁴⁶

Von Moltke and Inch stated during the trial that they changed their view and that they thought the Document was placed in the Synagogue as a trap ('Transcript' 1934, pp. 676-9).²⁴⁷ As the judges stated, 'The stupidity and improbability of this contention carries its own refutation....' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 40).

In a reasoned judgment, and based on the evidence, the judges stated 'we have not the slightest hesitation in coming to the conclusion that the story told by Inch as to the manner he obtained these documents from the Emmanuel Hall is false' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 24). They also concluded that 'The fantastic story told by Mr Inch regarding the meeting of the two boys outside the Emmanuel Hall we find to be devoid of truth' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 25), and 'we are satisfied beyond any doubt that there was no meeting of Jews at the Emmanuel Hall on Wednesday, 14th March, that Inch never saw Mr Lazarus enter the Hall on that evening, and that Inch invented this story in furtherance of the story he subsequently related as to his entry into the Western Road Synagogue on the 24th of March' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 25).

²⁴⁵ Inch suggested that the boys whom he claimed gave him the documents outside the Emmanuel Hall 'were placed there' as a deliberate trap. When asked when he formed this opinion, Inch stated, 'I am saying that now, I am forming that opinion now in the witness-box' ('Transcript' 1934, p. 606). This was noted in the judgment, (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, pp. 24-5).

²⁴⁶ For example, Inch still maintained that he believed the documents were genuine which led to the absurd conclusion that the boys were placed there as a trap but gave him genuine documents. The Court pointed this out, which led Inch to deny what he said only moments before, and alter his story yet again. ('Transcript' 1934, p. 606).

²⁴⁷ See cross-examination of von Moltke, 'You think he genuinely got them from the fair and dark boys but this was a plant taking advantage of the innocence of Mr. Inch? --- Yes That is what you feel at the present day. You felt that all along? --- Yes, I am explaining it this way, I felt that these documents had something of the truth in them, but there was some forger at work and they wanted to play that into our hands and try and bring us into ridicule. You felt they were laying traps for you? --- Yes.' ('Transcript' 1934, p. 677).

Von Moltke maintained that he believed Inch's story about entering the Synagogue, but now formed the view that the Document was placed there as a trap, see especially ('Transcript' 1934, p. 678). However, Moltke maintained 'the Jew plot still exist.' ('Transcript' 1934, p. 727). See also pp. 729-30.

Similarly, Inch's story as to how he broke into the Synagogue was exposed as being untrue and the judges concluded that Inch's evidence was false (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 25). Among other things, the Plaintiff presented evidence to show that:

- (a) There had never been a red curtain in the synagogue²⁴⁸;
- (b) There was no table inside the Synagogue²⁴⁹;
- (c) No documents were kept inside the Synagogue or left on the pulpit²⁵⁰;
- (d) The window through which Inch claimed he entered the synagogue had undisturbed wire over it²⁵¹; and
- (e) The door through which Inch claimed he left the Synagogue had an ordinary lock and was locked on that occasion²⁵².

The establishment of these and other relevant facts to the required legal standard of proof helped to discredit Inch's story.²⁵³

²⁴⁸ See the following testimonies that there was not and had never been a red curtain in the Synagogue ('Transcript' 1934): Reverend Levy (pp. 4 – 5); Cotton (pp. 303-305); Leopold Simmonds, Treasurer of the Hebrew Congregation, Western Road Synagogue and regular attendee at Friday night services (p. 310); Mortimer Carne, regular attendee at Western Road Synagogue (p. 315); David Jacobson, member of the Western Road Synagogue for 48 years and Synagogue Committee Member (p. 323); Leonard Benjamin Marks Committee member of the Western Road Synagogue (p. 326); Sidi Hallis Committee member of the Western Road Synagogue (p. 328); Jacob Kaplan Committee member of the Western Road Synagogue and President of the congregation (p. 331); Mary Hawken, cleaner at the Western Road Synagogue (pp. 337 - 338). Inch's eyesight was tested in Court to show that he was not colour blind (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 25).

²⁴⁹ See the following testimonies ('Transcript' 1934): Reverend Levy (p.5); Cotton (p.303); Leopold Simmonds (p.310-311); Mortimer Carne (p.316); David Jacobson (p.323); Leonard Marks (p.326); Sidi Hallis (p.328); Jacob Kaplan (p.331); and Mary Hawken (p.338).

²⁵⁰ See the following testimonies ('Transcript' 1934): Reverend Levy (p.5 and p.8); Cotton (p.302-303); Simmonds (p.311); Carne 'such a document could not exist' (p. 316); Jacobson (pp. 323-324); Kaplan (p.331); and Hawken (p. 337).

²⁵¹ After hearing evidence about the window through which Inch claimed he entered the Synagogue, the Court proceeded to Port Elizabeth and inspected the Synagogue. The Court was satisfied that the Plaintiff's evidence (including that of the witness Kirk who had originally supplied the wire for the window) was correct. The Court noted that it was 'significant' that the witness Kirk was called at 2.30pm on the 23rd and that Inch "withdrew" from the case at 1pm on the same day. (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 27). See also cross-examination of Inch regarding the window ('Transcript' 1934, p. 577). For the statement that Inch made when he attempted to 'withdraw' from the case, see ('Transcript' 1934, p. 755). For the testimony of John McGregor Kirk, Manager of the Cyclone Gate and Fence Company, Port Elizabeth, see ('Transcript' 1934, pp. 755-7). See also Detective and Head Constable Robert Cairns testimony regarding his inspection of the fanlight, ('Transcript' 1934, p. 761). See also Affidavit (and covering letter) of Hubert Eric Pagden, Deputy Sheriff of Port Elizabeth who was ordered to seal the relevant windows of the Synagogue on 23 July 1934 and then examine them on 25 July 1934 to confirm they had not been tampered with (Pagden 1934a), (Pagden 1934b).

²⁵² See evidence of Reverend Levy and cleaner of the Western Road Synagogue, Mary Hawken ('Transcript' 1934, pp. 6, 336) respectively.

²⁵³ A comprehensive list of all the factual matters is not necessary for the purposes of this project, and so I have provided an illustrative list only. Other factual matters include the testimony of Nevil Mervyn Jefferies, clerk in charge of the central pay-sheet office at Port Elizabeth on the South African Railways and Harbours to show the

After concluding that the Document was a Greyshirt conspiracy, Justice Graham stated:

It may at first sight appear improbable that anyone possessed of ordinary intelligence would have been so foolish as to devise a plot which could so easily be exposed, for even the most foolish conspirators usually take measures to avoid detection. But in this instance the action of the author or authors of the plot are easily accounted for; **it was never anticipated that the story told by Inch to account for his possession of the three documents would ever be investigated in a Court of law.** So long as no names were mentioned as authors of the document the plotters thought they were secure. [my emphasis] (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 34)

This supports the view that the courtroom proved to be a more effective mechanism for exposing the truth than the public arena, where falsehood—masquerading as proclaimed ‘truth’—was more difficult to expose. The effectiveness of the courtroom as a means to expose Inch’s lies is affirmed by the impact on the Defendant, Olivier. Olivier testified that he published the Document believing it to be genuine and true and in the firm belief that Inch had stolen it from the Western Road Synagogue. The evidence given in Court shook Olivier’s faith in Inch’s story. In cross-examination, and ‘amid profound silence’ (*Argus Correspondent* 1934g), Olivier admitted that the way Inch presented his story before the Court sounded ‘rather peculiar’ and ‘The way he told the story here I must honestly say “No” about the document.’ However, Olivier struggled with the notion that Inch, as a Christian, could lie under oath, ‘I do not believe that if he [Inch] believes in Christ he could have told an untruth under oath....I cannot come to believe that a man in such an important case as this, then he is worse than the worst Jew and the worst creature on earth if he can lie in this box.’ (*‘Transcript’* 1934, p. 630). In a ‘dramatic interlude’ in Court, Olivier broke down in the witness box (*Argus Correspondent* 1934g), and in ‘strained silence the audience saw the big burly man sobbing in the witness box’ (*The Grey-Shirt Libel Action*:

log of Inch’s hours of work on days he alleged he saw the Emmanuel Hall meeting and broke into the Western Road Synagogue pp. 256-260. See also a reference to this evidence in the judgment at p. 23.

Inch, Von Moltke and Olivier in the Box' 1934). Olivier stated 'This is a question of race against race, it is a big thing.' Olivier's cross-examination ended as follows:

Reynolds: I understand you to say that you are under the honest impression that Inch was not a forgerer, a perjurer and a conspirator, that he did not concoct these documents and that they were genuine?

Olivier: I dare not speak a lie in this case, do you not think feelings alone can speak or indicate, why must I utter it? ('Transcript' 1934, p. 623).

2.5.6 Facts to refute the fundamental truth claims advanced by the Greyshirts

The facts that fall into this category are the facts that were immaterial to the outcome of the legal case, but critical to winning the overall discursive struggle and discrediting 'fundamental truth claims'. For example, proving that the *Protocols* is fabricated and demonstrating that Beamish's antisemitic assertions of 'fact' as well as his beliefs and opinions were entirely baseless. Reynolds was able to show that Beamish's opinions, beliefs and assertions about Jews and Judaism were not supported by any facts.²⁵⁴ This proved an effective method for demolishing Beamish in cross-examination, and is aligned with the philosophy and procedures of judicial adjudication which require claims to be substantiated.²⁵⁵ Similarly, Reynolds showed (and von Moltke was content to admit) that von Moltke did not verify any of the information in Beamish's book because he believed it to be 'absolutely correct' ('Transcript' 1934, p. 733).

²⁵⁴ See cross-examination of Beamish ('Transcript' 1934, pp. 457-529), in particular the following exchange: [Reynolds] You have told us a good deal about English history, did I understand you correctly that it was a Jew that send [sic] William the Conqueror over in 1066, and at that stage Jews financed William the Conqueror? --- [Beamish] He brought over, it is on record, large numbers of them, so you may be certain there was some money in it.

What is your authority for that? --- Records.

Because some Jews came over with him therefore they financed him? --- Because I have never known Jews interested in other subjects than finance.

Is that your only authority? --- I have studied historical records too.

What historian mentions this? --- The British Museum is full of it.

Can you name a single history? --- It is on record.

Can you name a single historian? --- You mean name of the writer. I can if I look up my records.

Where are your records? --- In London....' ('Transcript' 1934, pp. 467-8).

²⁵⁵ Beamish could not name a single historian nor authenticated history to support his assertions and claims.

Von Moltke's objection to the manner of cross-examination was overruled, with the Court stating: 'The witness has given certain historical facts and learned counsel is quite right in asking him for his authorities that is all he is doing. (To Witness): You have stated, you were questioned, you have stated in your books there are certain historical facts, I am not surprised that learned counsel is asking you for the authority, if counsel suggested a proposition of law to me I would say I [sic] like to see your authority.' ('Transcript' 1934, p. 472).

Importantly, in his initial pleadings dated 26 May 1934, von Moltke included an alternative plea of justification: ‘that the words complained of are true in substance and in fact and are for the public benefit.’²⁵⁶ Although this plea was withdrawn during the trial on 21 July 1934 (and substituted for a ‘good faith’ defence)²⁵⁷ it still had the effect of enlarging the issues in dispute, as von Moltke and Inch persisted in their attempt to prove that there was a Jewish plot in Port Elizabeth and a worldwide Jewish conspiracy.²⁵⁸ The withdrawal by von Moltke of the plea of justification meant that the Court did not have to give judgment on this aspect of the case, but the judges nevertheless provided comment in the form of *obiter* and this is discussed in more detail below.

2.6 Court process as a means to refute racially and religiously defamatory falsehoods or ‘fundamental truth claims’

The principal means by which Reverend Levy sought to clear both his own name and that of all Jews was to use the court process to refute as many of the falsehoods about Jews and Judaism as possible (refer to Chapter Two). This strategy not only proved successful but avoided one of the major pitfalls of individual libel actions of this kind, whereby an individual ‘acquittal’ can become a ‘group conviction’. Blood libel cases can have this effect, as Lawrence explains:

The acquittal in the blood libel trial runs the risk of being an acquittal only of the individual charge that the accused himself did not engage in the behaviour asserted in the libel. What the acquittal actually means is that the blood libel generally is accurate, but inapplicable in this particular case. (Lawrence 2007, p. 41)

²⁵⁶ See also von Moltke’s ‘appeal to the Bench’ regarding his plea of justification, ‘I know nothing about Law or procedure. What I am here for is, I want to get Justice. I am here too on the second part of my plea. I do not know if the phraseology is correct, but what I want to prove is that the Jewish World Plot does exist, and it is in South Africa....It is my duty to South Africa if I know about that and I can prove that, to come forward; and if my knowledge of the English language may be such that I have not got the phraseology correct I would very much like to ask the Court in what way I should word the alternative plea in order to prove that that does exist, and in order to prove that what the Court has heard from the Rabbis is not the truth.’ (‘Transcript’ 1934, p. 408).

²⁵⁷ See amendment of Defendant’s Plea dated 21 July 1934, ‘Delete Alternative Plea and add fresh Paragraph 7 as follows: - “7. In the event of this Honourable Court finding that the words complained of did refer to Plaintiff, Defendant says that, honestly and reasonably believing the document to be what it purported to be, he lawfully published it as alleged in good faith, without any intention or reasonable expectation of injuring Plaintiff, and with due reasonable care” (1934b). See also (‘Further Amendment of Plea’ 1934).

²⁵⁸ Reynold’s described Von Moltke’s persistence of the evidence, even after the plea of justification was withdrawn, as ‘propaganda’ (‘Transcript’ 1934, p. 731).

Translated into the Greyshirt context, Reverend Levy could have won his case based solely on a finding that he was not the author of the Document and that it was never in his Synagogue, but leave untouched the question of whether an international Jewish conspiracy exists. This would have amounted to what Lawrence might describe as a ‘hollow victory’ (Lawrence 2007, p. 40). For Reverend Levy to win the defamation action, it was not technically required for him to disprove the *Protocols* and the existence of an international Jewish conspiracy, but from a wider communal perspective this aspect of the case was critical. This is particularly so given the ‘inner truth’ argument advanced by many proponents of the *Protocols*.²⁵⁹ Their argument goes that even if the *Protocols* is proven to be a fabrication, it nonetheless contains an ‘inner truth’. The seductive nature of this argument is reflected in the following exchange during Inch’s cross-examination of the Plaintiff’s witness, Dr Nahum Sokolow (leader of the World Zionist Organisation):

Inch: Then you as an authority on the Jewish question say that the protocols are false?

Sokolow: Yes

Inch: Entirely false?

Sokolow: Yes, entirely.

Inch: But you will admit that nothing can be false that turns out to be right?

Sokolow: There are some, but not these. This will never turn out to be right.

Inch: Supposing somebody said “Well that book (illustrates) is false” but as time goes on everything turns out exactly as that book says it will, is that coincidence. You must accept it as true?

Sokolow: We have to deal with the historical facts, the history of Zion. I wrote it myself in two volumes, and in that book I gave all the details about the Zionist organisation, and about that very Congress. I happened to be there. ('Transcript' 1934, p. 108)

Further examples include:

Inch: This book you call a forgery, the protocols, in 1922 the Jews will control the world by base metals?

²⁵⁹ See for example (Bytwerk 2015) who examines the argument by leading Nazis that authorship of the *Protocols* is irrelevant if it nonetheless expressed ‘inner truth’. For a contemporary example of the ‘inner truth’ argument, see (Faris Bila Jawad reveals the truth about the Jews through "*Protocols of the Elders of Zion*" 2002) and (Duke 2014).

Sokolow: It is rubbish

Inch: And it is pure coincidence that these people are at the head and controlling thousands when this book told you that, and you say it's a forgery?

Sokolow: It is a forgery and in fact invented. It is not true.

Inch: I still maintain it is true in fact and in substance because it is happening every day. That is why I put the question?

Sokolow: I am sorry for your ignorance. ('Transcript' 1934, pp. 113-4).

In von Moltke's evidence in chief, he provided an often-used metaphor to express the 'inner truth argument':

I honestly believed that the Jews did not acquire what they have by merit, it was a question of method, they were organised....I thought well if you stand in front of a building with the plan in your hands, and you find the building co-incides [sic] in detail with the plan you have in your hand, you have every right to believe that the building was put up by the persons responsible for drawing up that plan. ('Transcript' 1934, p. 646).²⁶⁰

A significant contribution of the Greyshirt case is that it provides a great deal of evidence to counter the 'inner truth' argument. Reynolds achieved this by focussing part of his examination on proving that *no* Jew could have written the Document as the sentiments contained in the Document were diametrically opposed to Judaism.²⁶¹ Importantly, the Plaintiff sought to refute the claim of an international Jewish conspiracy to dominate the world.²⁶²

²⁶⁰ For other examples in the transcript see Reynolds cross-examination of Inch, 'You are under the impression there is this world plot among the Jews? Inch: I am not under the impression, I know definitely there is.....I believe there is an exploitation by the Jews of the Christian races in general, you see it daily in every walk of life' ('Transcript' 1934, p. 609). See also testimony of Defendant witness Jacobus Petrus Johannes Kruger, a bachelor living on a farm, who did not attend either of the two Greyshirt meetings at which the Document was read out, but read it in *Die Rapport*. 'The Jews are progressing and they are getting possession of our farms.' Reynolds asked, 'Is it because of that that you thought it was a world plot?' and Kruger replied, 'Yes, from their actions.' Similarly, William Henry Carter, Defendant witness who attended the Port Elizabeth meeting of 4 April 1934 said he believed the contents of the document, '(Court) Why do you believe that? --- Well, they own pretty nearly everything now.'

²⁶¹ See for example David Jacobson, being examined by Reynolds, 'Is that document entirely against all Jewish teachings and thought and against your own view as well. The document that is supposed to have been stolen by Mr. Inch? ---Yes.' ('Transcript' 1934, p. 324); Leonard Benjamin Marks, p. 327; and Jacob Kaplan, p. 332.

²⁶² Witnesses who gave evidence to refute an international Jewish conspiracy include Reverend Levy, Dr Sokolow, Rabbi Woolf Hirsh, Rabbi Ephraim Moses Levy (With regard to this world conspiracy, have you ever heard of it? Never, except in Anti-Semitic writings ('Transcript' 1934, p. 157)). See also Claude Herbert Cotton, ('Transcript' 1934, p. 303); Leopold Simmonds ('Transcript' 1934, p. 311); Mortimer Carne ('Transcript' 1934, p. 316); David Jacobson, ('Transcript' 1934, p. 323-324); Jacob Kaplan, ('Transcript' 1934, p. 332); and Samuel Kaplan ('Transcript' 1934, p. 335).

A key witness was Dr Nahum Sokolow, President of the World Zionist Organisation, who happened to be in South Africa as a guest of the South African Zionist Federation at the time of the trial. Sokolow was keenly sought as a witness by Smulian, who realised that Sokolow would be able to provide important evidence about the falsity of the *Protocols*, and be able to refute many other antisemitic libels (Smulian 1934f). He wrote an emphatic letter to the Chair of the Legal Committee expressing his dissatisfaction with the Board's position that Sokolow could not be obtained, and impressing on him the significance of Sokolow as a witness:

...the matter is so important from our point of view that no effort should be spared in obtaining his [Sokolow's] services. It is not merely a question of leading evidence on extracts from the Talmud. There are hundreds of statements made from various sources which on the face of them appear to justify the Defendants' contention that the views expressed in the document are those which can be found in authoritative works....Beamish is a man who is thoroughly acquainted with Anti-Semitic literature of which I have no doubt every use will be made and I feel this, that although it may make no difference to the result of the case whether the questions are properly answered...this is in the form of an attack upon the Jews generally and we must not lose the opportunity of proving the falsity not only of the document, but all the other Anti-Semitic literature which the Defendants may put forward. From the communal point of view, I consider the matter of the utmost importance....' (Smulian 1934f)

Representations were also made to Morris Alexander M.P. to assist in obtaining Sokolow as a witness (Goodman 1934j).

Sokolow gave evidence that refuted a worldwide Jewish conspiracy and also provided a first-hand account of how he researched the literary origins of the *Protocols* and ascertained that it was plagiarised from a work of fiction by Maurice Joly that made no mention of Jews ('Transcript' 1934, pp. 97, 9-100). The Greyshirts, as others had done before them, had asserted that the *Protocols* was promulgated at the first Jewish World Congress in Basle in 1897. Sokolow, who attended the Congress – and took considerable part in organising it – was able to provide evidence that this was false ('Transcript' 1934, p. 98).²⁶³

²⁶³ Sokolow confirmed that he was on all the Committees of the Congress and took considerable part in drawing up the agenda of the Congress. Reynolds asked, 'Is there any truth in the statement that the Protocols of the

Other key fundamental truth claims that the Plaintiff sought to refute were that Jewry is politically organised,²⁶⁴ that Jews keep two sets of Talmuds (one for open court and one for a secret court)²⁶⁵; and that Judaism is anti-Christian.²⁶⁶

In court, Reynolds also sought to reveal the *methods* by which antisemites have constructed their arguments. In his evidence in chief, Reverend Levy gave a great deal of evidence about the history and nature of the Talmud, a codification of the Jewish oral law ('Transcript' 1934, pp. 19-21). He also explained how antisemitic feeling was generated by distortions, falsifications and misappropriations from and about the Talmud, starting in modern times with Eisenmenger²⁶⁷ at the end of the seventeenth century ('Transcript' 1934, p. 21).²⁶⁸

Through this evidence, Reynolds sought to demonstrate in court that the Greyshirts were duplicating age-old methods for slandering Jews and Judaism, and reviving medieval libels ('Transcript' 1934, p. 22).²⁶⁹ In particular, the two documents Reynolds singled out for judicial consideration were 'The Code of the Jew' and a document authored by von Moltke, 'Die Joodse Geloof' (von Moltke 1934c). The remainder of Reverend Levy's evidence in

Elders of Zion were ever promulgated by Dr. Herzl at that Congress in 1897?' Sokolow replied, 'There is not one word of truth in it' ('Transcript' 1934, p. 98).

²⁶⁴ For example, evidence was given by the Plaintiff and his witnesses that a synagogue is only ever used for religious purposes and that Jewry is only organised for benevolent and burial purposes. See for example, the evidence of Sokolow, Woolf Hirsh ('Transcript' 1934, p. 137) and Rabbi Ephraim Moses Levy ('Transcript' 1934, pp. 156-7). See also von Moltke's cross-examination of Reverend Levy regarding whether the Board of Deputies was a political body and whether Jewry was politically organised ('Transcript' 1934, pp. 353-7). In response to von Moltke's question as to whether Jewry is politically organised in South Africa, Reverend Levy stated, 'Most emphatically not. I swear on my immortal soul that Jewry is not organised' ('Transcript' 1934, p. 356).

²⁶⁵ This underscores the intractability of the conspiracy theory. Denials by Jewish leaders as to the existence of a Jewish plot is not of itself persuasive to those who believe in the conspiracy theory. They contend that since it is a secret plot, Jewish denial simply proves its existence. The Greyshirt claim that there are two sets of Talmuds flows from, and augments, this thinking. Therefore, many of the Plaintiff's witnesses gave evidence that the Talmud was not a secret document and that it had been translated into several languages for all to read.

²⁶⁶ Rabbi Ephraim Moses Levy did so in examination in chief and emphatically in cross-examination by Moltke: 'Will you deny that Judaism is fundamentally anti-Christian? I totally deny that proposition.' ('Transcript' 1934, p. 166). See also Reverend Levy's testimony confirming that he referred to Christ as a 'prophet' and had never thought of or described Christ in the 'terrible' terms of the Document ('Transcript' 1934, p. 19).

²⁶⁷ The court stenographer recorded the name as 'Isenberger' ('Transcript' 1934, p. 21).

²⁶⁸ See also Sokolow evidence on antisemitic propaganda based on malicious interpretations and distortions of the Talmud (particularly the dispute between Professor Rohling and Dr Bloch) at ('Transcript' 1934, pp. 100-2). See also testimony of Rabbi Woolf Hirsch regarding Professor Rohling, Dr Bloch, Noldeke and Wuensche at p. 145. See also Reynolds cross-examination of von Moltke on this issue, ('Transcript' 1934, pp. 737-43).

²⁶⁹ Reynolds 'Are they simply mongering these texts against you again...?' p. 22. See also Reynolds examination of Sokolow at p.102 in which he links the *Code of the Jew* and *Jewish Faith, Christians Awake* to the 'same old false texts that were disproved by the two Christian Professors, Noldeke and Wuensche' in the dispute between Professor Rohling and the scholar, Dr Bloch.

chief comprised a line-by-line rebuttal of the allegations contained in those documents. The clear purpose was to rebut as many of the racially and religiously defamatory statements as possible. For each falsification, distortion, misattribution, or words taken out of context, Reverend Levy was able to clarify, rebut, and contextualise and thereby demonstrate the falsity of the assertions ('Transcript' 1934, pp. 22-39). The answers given by Reverend Levy are noteworthy in their comprehensiveness, attesting to the importance that he attached to amplifying the issues and placing the truth permanently on the court record.²⁷⁰

Not only did the court process and procedure provide an opportunity for the Plaintiff to set out relevant facts, it also exposed weaknesses and errors in the Defendants arguments, evidence and methods, as the following extract from the transcript illustrates (taken from Inch's cross-examination of Sokolow):

Inch: Do the Jews practically monopolise the White Slave Traffic?

(Mr Reynolds: I object most strongly to these scurrilous remarks).

(Court: A most improper statement)

(Mr Reynolds states that Mr. Inch is reading from a printed pamphlet and not from the Jewish Chronicle.)

(Mr Inch states that he had a quotation from the Jewish Chronicle of April 1st, 1910, which practically admitted what his questions imply, and that he was unable to get a copy of the 1910 issue).

(Court: Then you must not make such serious charges if you cannot substantiate them).

Witness: You are working on an extract, you are not working from the original documents and records, but you have cut it out from some quotation, secondhand, without having studied

²⁷⁰ For example, Reynolds states: 'A prayer recited on the Day of Atonement, that acquits beforehand all kinds of oaths and vows....' Levy: They are led to believe there was a quotation to the effect that they can comply [sic] go there on a certain day and make all their vows as of no value whatsoever. That is ridiculous. This refers entirely to vows as between man and God and not to sins resulting from vows given as between man and man. There is a law of course which says: "He, who says, I shall always sin, and then do penance, is not enabled by Heaven to do penance. If one says, I shall sin, and the Day of Atonement will atone for it, then the Day of Atonement will not atone for it". This is a fundamental basic law governing the observation of the Day of Atonement. The Day of Atonement atones for the sins of man against God, but the Day of Atonement does not atone for the sins of man against the other unless he gives satisfaction to the other. That is the quotation from the Talmud (Yoma 85,b). This matter of the Kol Nidrei has been publicly proclaimed so frequently as something that is disgraceful to Jewry, that I must give all the prominence possible to the Jewish interpretation of the.... prayer. [ellipse in the original]. I have given you one quotation. Now I will give you a quotation from Maimonides, a greater authority: "Penance and the Day of Atonement atone only for the offences of man against God". So therefore the Kol Nidrei ceremony is a kind of collective annulment indulged in by the congregation on the eve of the Holiest Day in the Jewish Calendar, a prayer to the Almighty that all these sins of omission through inadvertence as between themselves and God only may be forgiven, but the oaths taken as implying an obligation on the part of man to his God shall be regarded as of no oath ('Transcript' 1934, p. 28).

the matter carefully, and that is why you build such a house of cards, you blow on it and it falls asunder...('Transcript' 1934, pp. 110-1).²⁷¹

Similarly, the evidence on which von Moltke sought to rely to prove the existence of a Jewish plot was exposed as 'hot air' ('Transcript' 1934, p. 747)²⁷², and he could not provide any proof of a Jewish conspiracy in Port Elizabeth when called upon to do so ('Transcript' 1934, pp. 743-8).²⁷³ As noted above, Beamish too was unable to substantiate any of his claims about Jews. As Evans stated in relation to the *Irving v Lipstadt* case 'In historical debate it is often possible to evade your opponent's questions or to get away with irrelevant answers. But not in court.' (Evans 2002, p. 198). This was the case with Beamish, and the Court said as much during his cross-examination:

The witness [Beamish] has given certain historical facts and learned counsel is quite right in asking him for his authorities that is all he is doing. (To Witness): ...you have stated in your books there are certain historical facts, I am not surprised that learned counsel is asking you for the authority. ('Transcript' 1934, p. 472)

²⁷¹ Sokolow goes on to explain (believing in Inch's 'goodwill') that there is a Jewish community movement in London actively working *against* the White Slave Traffic, not *for* it. Sokolow offered to send Inch the full report that he had been unable to obtain ('Transcript' 1934, p. 111). Note also Mortimer Carne's testimony regarding the Greyshirt meeting he attended on 15 January 1934: 'I am not sure whether it was von Moltke or Mr. Jewell who made reference to the effect that the Jew could not be loyal or faithful to the country of his birth or his adoption. And because I attempted to repudiate it, I think it was Mr. von Moltke, he asserted at the time of his speech that he had authority for saying that from extracts which he had got from the London Jewish Chronicle. I have been a reader of the London Jewish Chronicle for 50 years, and I can tell you this that if von Moltke is prepared to say that that was an extract from the publication that he mentioned I am here to say that he would be a perverter of the truth. It appears then that the audience, which was constituted principally of the Greyshirts, became somewhat hostile and the meeting was abruptly terminated by the Mayor of Port Elizabeth coming to the front and saying "Gentlemen, Mr Carne's son fought right throughout the late war and was badly damaged, and I now declare the meeting closed" and they sang God Save the King. The utterances made by Mr. Jewell were of such a nature that no respectable man could listen to them. He abused the Jewish people on the whole and spoke of its people, its mothers and daughters as prostitutes of the lowest order' ('Transcript' 1934, pp. 318-9). Carne's account of the meeting highlights the way in which Greyshirt distortions and falsifications of the *Jewish Chronicle* as well as general slurs against the Jewish people were difficult to refute in a public arena. Furthermore, Carne's objections and refutations did not lead to a meaningful result or outcome.

²⁷² The list of 119 authorities and sources on which von Moltke intended to rely on in court was set out in his affidavit of discovery ('Defendant's Affidavit of Discovery' 1934) and ('Defendant's further Affidavit of Discovery' 1934).

²⁷³ Cross-examination of von Moltke: '(BY THE COURT) I want to ask you something about this conspiracy that exist in Port Elizabeth. I have been living in this part of the world for over thirty years, and strange enough I have never heard anything about it? -- My Lord, you should read the Protocols first.' ('Transcript' 1934, pp. 743-4). 'What led you to believe that there was a conspiracy in Port Elizabeth? -- It was after I studied the subject. What definite facts? -- You mean against the Greyshirts?' ('Transcript' 1934, p. 744). The cross-examination continues in that vein with requests for 'proof' and any 'vestige of evidence' to support the claim of a Jewish conspiracy in Port Elizabeth ('Transcript' 1934, p. 746), and Von Moltke unable to substantiate his claims with any persuasive facts.

Giving the Greyshirts and Beamish the latitude to express their extreme views helped to expose their irrationality and baseless hatred towards Jews. Their expressions of baseless hatred in a courtroom were different to their expressions of baseless hatred in a town hall meeting or in a book. In the courtroom they were held to account and in this way the nature and context of the courtroom had an effect on the narrative.²⁷⁴ Richard Cover argued that we inhabit a *nomos*, a normative social context into which arguments are placed and developed. In this context, law and narrative are inextricably linked (Cover 1983, p. 5). Lawrence has pointed out, for example, that ‘In the 1920s in America, the court of public opinion could be turned to, but it required a counter-leaflet, a kind of direct argument. In the court of public opinion in the America of the 1990s, the ADL [Anti-Defamation League] operated under the assumption that the defamatory allegations themselves were sufficient to assert the truth’²⁷⁵ (Lawrence 2007).

In 1930s South Africa, a robust, authoritative and definitive legal verdict was the most powerful response to Greyshirt propaganda. The testimony of the Defendants’ witnesses underscores the impact that Greyshirt propaganda was having at a popular level. For example, eighteen-year-old matriculation student Ebenhaezer Fourie testified that he had previously been on friendly terms with Jews and bore no hatred towards them, but ‘after the first meeting of Mr. von Moltke’ he began wearing the swastika as a symbol of the movement ('Transcript' 1934, pp. 386, 9). He testified, ‘I did commence to think, I saw the Jews had all the possessions worth having in South Africa’ ('Transcript' 1934, p. 390). When von Moltke read out the Document at public meetings, that very act gave the Document certain legitimacy. During his examination by von Moltke, Olivier testified that:

²⁷⁴ Not only in relation to the facts, but also in relation to their character. See for example Reynolds’ cross-examination of von Moltke ('Transcript' 1934, pp. 682-7) in which Reynolds holds von Moltke to account for the insulting questions that von Moltke had asked Reverend Levy in court. Reynolds: ‘What do you mean by insulting him by your questions that I will read out to you...’ (pp. 684-5). ‘Look at your first question to him “Have you been circumcised?”...“Are you an Ashkenazi Jew or a Morana Sephardi Jew? ---Ashkenazi Jew. Are you aware of the fact that that is the worst type of Jew you can get in this world? ---No I am not”. What did you mean by that?’ (p. 685). ‘You treated yourself like a conceited little peacock. I put it to you that you deliberately insulted that gentleman’ (p.685). ‘I put it to you that your own questions point to your character sufficiently’ (p.687).

²⁷⁵ Lawrence described the ‘uplifting and remarkable moment’ of the ADL’s response to the vituperative and vulgar antisemitic speech of Khalid Abdul Mohammad in 1994. The ADL took out a full page advertisement in the *New York Times* that ‘merely repeated the speech, verbatim. At the bottom of the page was printed “[t]he Anti-Defamation League – founded in 1913, is the world’s leading organization fighting anti-Semitism through programs and services that counteract hatred, prejudice and bigotry.’ This was truly a breathtaking moment. The ADL acted on the assumption that no rebuttal of Abdul Mohammad’s statements was necessary, and that the mere exposing of the falsehood would be sufficient to assert the truth’ (Lawrence 2007, pp. 37-8).

It was not only your words that convinced me on the occasion, but the fact that you read it out that convinced me. I cannot honestly say that I was already convinced of the truth before you read it out, but after you read it out to the public I was entirely convinced. ('Transcript' 1934, p. 624)²⁷⁶

A court process requires claims to be substantiated, justified, supported and proven with reliable facts. The existence of a Jewish world plot is a claim that has no foundation, yet is embraced in the popular imagination. Allegations of a conspiracy are easy to make but often difficult to deny because strenuous denials are interpreted as part of the plot. Furthermore, the 'inner truth' argument provides a shield for the conspiracy theory. The South African Jewish community faced significant challenges in contesting the truth of an international Jewish conspiracy in the 'marketplace of ideas'. The Greyshirt case provided the time, place and rules by which the disputed claims could be contested and adjudicated. The light of objective legal analysis revealed with stark clarity the irrational, baseless and conspiratorial assertions of the Defendants.

Although the Judges did not have to deal directly with the question of whether a Jewish world plot existed or the veracity of the *Protocols*, they took the opportunity to consider the matter in *obiter*:

The Defendants have failed to produce a vestige of proof to establish the existence of this plot. They rely on a long series of opinions of persons who are admittedly hostile to the Jewish religion, and whose opinions are based upon the assertions of previous writers who give no authority of any value in support of their conclusions. (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 43)

After citing the evidence of Sokolow, whose testimony they accepted 'without hesitation', the Judges concluded, 'It would thus appear that the *Protocols* are an impudent forgery,

²⁷⁶ See also cross-examination ('Transcript' 1934, pp. 628-9). Relevantly, Olivier also testified 'As a farmer I acquired a good deal of experience about Jews, I want to admit in Aberdeen there are good Jews, but I can also give the Court the assurance that there are bad ones also..... Including everything I read, the *Protocols* and the articles Mr von Moltke gave me to read, and other things which I have experienced myself, I could not come to another decision on them but the contention was correct, I saw evidence that it was correct' ('Transcript' 1934, p. 624). When cross-examined about who he believed was the author of the Document, Olivier stated, 'I could not believe that a Rabbi could do it, because if this is the case, then all the Jews must have been dead by now.' ('Transcript' 1934, p. 628). This underscores the way in which the Document, if believed, could amount to what Cohn described as a 'warrant for genocide' (Cohn 1967).

obviously published for the purpose of anti-Jewish propaganda.’ (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, pp. 43-4). This was the first judicial pronouncement on the *Protocols*.

3. The verdict as ‘legal truth’

Judgment was handed down on 21 August 1934, taking two and a half hours to read. ('Three Grey Shirts to Pay £1,775 Damages: Rev. Abraham Levy Wins his Action' 1934). No evidence in Court and no legal verdict would likely persuade committed antisemites to change their view on Jews or Judaism. The cross-examination of Beamish underlines the intractability of already hardened views about Jews and Judaism (especially ones based on the ‘inner truth’ argument).²⁷⁷ When presented with facts that discredited Inch’s story and the genuineness of the Document, Beamish still maintained that ‘I do not withdraw any statement I have made with regard to the World Plot **whatever the judgment**’ [my emphasis] ('Transcript' 1934, p. 487). Similarly, when confronted with Sokolow’s evidence that the *Protocols* were not promulgated at the first World Zionist Congress in Basle in 1897, Beamish maintained his position:

Reynolds: You take it that Dr. Sokolow in giving evidence and denying this committed deliberate perjury?

Beamish: He knows all about it, I think he denied there was a world plot, I know there is a world plot because I see it. ('Transcript' 1934, p. 496)

Beamish’s unshakable belief that ‘300 Jews control the world’ ('Transcript' 1934, p. 498) highlights a number of issues. The first relates to the problem Lawrence described with respect to individual libel actions: the Court’s finding would not necessarily preclude or affect the continued vilification of Jews in general. The Court said as much when Reynolds

²⁷⁷ There are multiple examples in Beamish’s testimony and cross-examination that reveal the extent of the intractability of his views and the way in which almost anything can be twisted and invented to buttress and conform to his views. One illustration is the following exchange:

Reynolds: Now, you have also heard the two Rabbis and Mr. Levy giving their version of what occurs in the Talmud, do you think they are deceiving the Court?

Beamish: I believe there is a double meaning and double Talmud. ('Transcript' 1934, p. 497).

See also, for example, Beamish agreeing with the antisemitic work of L. Fry ('Transcript' 1934, pp. 524-6), ‘I entirely agree with these views’ (p. 526) and ‘Exactly, that is my contention, they are a ruling clique’ and ‘that is why in Germany one million six hundred thousand Jews completely control, cultivate and control: I do not mean control by arguments, but what I object to is that the Gentile art and ideals are being polluted by these people, and it is the Kahal that organises all this’ (p. 527). See also the reference by Beamish to the ‘hidden hand’ (p. 528) and his view that *The Times* exposure of the *Protocols* was not authentic (p. 529).

sought to clarify whether Beamish would withdraw any reflections founded on the Document if the Court ‘found that the document was false’ ('Transcript' 1934, p. 487). The Court stated, ‘It does not necessarily follow that the statements this witness made against the Jews in general is affected by the finding’ ('Transcript' 1934, p. 487).²⁷⁸

Similarly, during his cross-examination, von Moltke maintained that he would ‘carry on’ on with his work, including his attacks on Jews, but ‘be more careful’ ('Transcript' 1934, p. 754). Von Moltke was asked, ‘...if this document is found to be false and a forged one, notwithstanding the facts of the whole of this case you will continue your attack upon the Jews as if nothing occurred?’ von Moltke replied, ‘Yes. I had thousands at my meetings without this document’ ('Transcript' 1934, p. 754).²⁷⁹

Secondly, Beamish (and others) could always come to the view that the Court came to an incorrect conclusion and reject the verdict. The Court touched on this aspect too in the following exchange:

Reynolds: If the Court comes to the conclusion that this document was a forgery, would you be prepared to admit that the Court is correct?

Court: I do not think it is a fair question, he may still think the Court came to a wrong conclusion. ('Transcript' 1934, p. 487)

This reinforces the importance of having an open, fair and robust judicial process in which all participants and the general public can have faith. Faith in the process and procedure translates into confidence in the verdict.

The third issue is who the Jewish community was seeking to persuade. The battle was for the hearts and minds of the general public who were being persuaded by Greyshirt propaganda. It was not material to Reverend Levy and the Jewish community whether Beamish and the Greyshirt leaders changed their view on Jews and Judaism, what mattered most was whether

²⁷⁸ Note the following exchange: Reynolds: Are you prepared to withdraw any remarks you made against the Jews on this document? Beamish: I have not made accusations against any individual Jew’ ('Transcript' 1934, p. 487).

²⁷⁹ Von Moltke confirmed that he would not continue to read out the Document ‘I have also been brought up as a gentleman, and it is not nice to read out vile language like that unless you are convinced it is true and it is for the public benefit. You yourself have read out in this Court a certain portion. In my eyes it was my duty to read that out. I definitely believed that document was true’ ('Transcript' 1934, p. 754).

the general public believed them or not. The trial held up a mirror to baseless and irrational hatred and by giving Beamish and von Moltke ample opportunity to expound their views, Reynolds was able to highlight their absurdity – not for the benefit of hardened antisemities, but for the general public.

The case was as much about depriving the Greyshirt discourse of validity as it was about restoring Reverend Levy's reputation and preventing further utterances of the Document. The trial and the judgment was a means to render words of hate less harmful by depriving those words of validity and discrediting the propagandists. It demonstrates the faith that Reverend Levy, his legal team and the Jewish community placed in the general public that they would reject Greyshirt propaganda upon realising that it had no foundation. Therefore, a large element of the legal strategy was to allow the Defendants and their witnesses to expound their ideas as much as possible and through cross-examination reveal the baselessness of their 'truth claims'.²⁸⁰

Importantly, this was also reflected in the judgment. For example, the judges pronounced Beamish to be a 'man profoundly obsessed with the views he enunciated. Intolerant in his beliefs, with an exaggerated idea of his own importance. He regards himself as a modern crusader whose mission it is to reveal to the world the existence of a world plot organised by the Jews since the beginning of their history to overthrow Christianity and to destroy civilisation. He has greedily swallowed every anti-Jewish publication that he has discovered and accepted as facts every anti-Jewish statement they contained, and upon this question he is a fanatic; he has been unable to produce a vestige of relevant evidence to support his charges' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier*

²⁸⁰ See for example the cross-examination of von Moltke, which was arguably more pertinent to the overall discursive struggle between the Greyshirts and the Jewish community than it was to the elements of the defamation action ('Transcript' 1934, pp. 730-7). For example, eliciting von Moltke's views on racial purity ('I stand for racial purity' (p. 735) and his political goals, notions and aspirations (p. 734-5), and highlighting how illogical they were. For example, von Moltke maintained that 'a Jew cannot be a true South African' as he was not a 'son of the soil' (p. 734). Von Moltke limited 'sons of the soil' to 'Nordics', 'white men born in South Africa' and after being asked by the Court, also included the 'Natives', and the 'coloureds' (described by von Moltke as 'our ancestors sins') (p. 734). Von Moltke stated that anyone who was not a 'son of the soil' should go back to 'where they came from' (p. 737). Reynolds then highlighted the logical flaw in this view by asking, 'And if the Natives take up that same point of view and say the Europeans must go out of their land, you would realise and say that is just the same as the Jews?' (p. 737). The cross-examination continued: 'You take the view that anybody who comes from overseas to South Africa must really go back to their own country? --- No. If he is Nordic he must come, we require him. But it depends on character. Our Immigration Acts are like a sieve with which you try to catch water' ('Transcript' 1934, p. 737).

Junior 1934, p. 32). A formal legal conclusion of this nature provided a valuable and vital weapon in the argument against pernicious Greyshirt propaganda.

The trial and the judgment had concentric circles of influence, with declining degrees of impact. At its core, the case was a stunning legal victory and generated a great deal of legal²⁸¹, media²⁸² and social interest.²⁸³ The judgment exonerated Reverend Levy and by extension the Jewish community and also exposed Greyshirt tactics and lies.²⁸⁴ Significantly, it was the first judicial pronouncement that the *Protocols* was a fabrication. The judgment meant that no further utterances of the Document were permissible, and the evidence led at trial rebutted many of the libels that had been levelled at the Jewish community in general. Although unprovable, the case may have been significant in arresting the progress of Greyshirt dogma in South Africa and preventing fascism from gaining greater and more widespread purchase on South African soil. But no matter how successful the case was in resolving questions of truth and exposing the irrationality of Greyshirt antisemitism, it could not resolve the underlying fear of dispossession that was driving much of the hatred. Fear, combined with powerful ideological forces and an unrelenting barrage of antisemitic propaganda limited the impact of the case in a more global sense. The following exchange between Reynolds and Beamish is an ominous forewarning of what was to come for European Jewry:

²⁸¹ The judgment in the Greyshirt case was immediately dispatched to Switzerland where the Jewish community was launching a case seeking to prove the *Protocols* a fabrication under obscenity provisions in Swiss law. For detail on that case, see (Ben-Itto 2005). See also request for a copy of the judgment (on the same day as the judgment was delivered) from an attorney in Bulawayo (Lazarus 1934), and (Registrar 1934c)) as well as a request from the Solicitor-General of the Union of South Africa for a copy of the record of the case and a copy (or copies) of the judgement 'as soon as its delivered' (Solicitor-General 1934).

²⁸² See Appendix F.

²⁸³ See for example (Lazarus 1935).

²⁸⁴ See for example, the effectiveness of the judgment with respect to identifying elements of von Moltke's testimony that were false, including 'we think that there can be little doubt that von Moltke is swearing falsely when he states that Inch informed him on the 16th March that he had obtained two documents from the Emmanuel Hall on the 14th March and that they were dated the 16th March' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 37); 'We have come to the conclusion that von Moltke is not to be believed when he stated in his evidence that Inch 'phoned to him on the 16th March....it is probable that von Moltke gave his false evidence to support the false story told by Inch....' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, pp. 37-8). See also references to other witnesses, for example, 'it is obvious that the witness [van Heerden] swore falsely when he stated....' (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 27).

Reynolds: I want to try and understand you about this world plot. Have you any idea what the total population of the world is, 1,850,000,000 odd, and have you any idea of the total population of the Jews, the number of Jews there are in the world: 16 million?

Beamish: Yes

Reynolds: That is to say less than one percent of the total population of the whole world?

Beamish: Yes

Reynolds: The Jewish community have got no army and no navy, and do you seriously suggest that you fear that they are going to conquer the whole world?

Beamish: I am convinced of it. It is not numbers, it is the power that is wielded.

Reynolds: Were the Jews in Germany a powerful and strong body before the recent disturbances?

Beamish: Oh, appalling.

Reynolds: And one whiff of grape shot utterly destroyed their power?

Beamish: Well, I don't know. They are coping with it.

Reynolds: But have you not told us that Hitler has purified Germany?

Beamish: He is doing it, it takes time.

Reynolds: But he has done it?

Beamish: Not yet.

Reynolds: He still is?

Beamish: He is beginning. ('Transcript' 1934, p. 516).

4. Audience

There are three main audiences that I consider: (1) the legal audience; (2) the constituencies of the Jewish community and Greyshirts; and (3) the general public.

4.1 Legal audience

Significantly, the civil action for defamation did not involve a jury and therefore it was the judges who adjudicated both the factual and legal issues. The presence of a jury potentially could influence the way in which lawyers present their case, knowing that they need to persuade a lay jury as well as a judge. Griffin states that 'Many social scientists who study juries have concluded that they interpret information not by considering and weighing each relevant piece of evidence in turn, but by constructing competing narratives and then deciding which story is more persuasive.' (Griffin 2013, p. 285). Since the legal arguments in the Greyshirt case were presented only before two judges and no jury, the development of a 'narrative' within the

courtroom was not the primary concern of the Plaintiff's legal team, who were concerned with establishing irrefutable facts as evidence. The legal team was not distracted by the need to present a narrative to persuade a lay jury, but could focus on the evidentiary matters that were so central to their strategic objectives. Nonetheless, they were aware that, at the conclusion of the case, the recorded evidence and the verdict would translate into a powerful narrative outside of the legal sphere, and I discuss this below.

4.2 Constituencies

4.2.1 Greyshirts

The Greyshirt Defendants regarded the case as an opportunity to promote their worldview and increase their political profile amongst their constituency and the public. The importance of this is exemplified in Inch's submission of 13 July 1934 to the Court that a certain article appearing in the *Eastern Province Herald* with the headline, 'Protocols by the Elders of Zion: Document proved to be a sheer fabrication', was prejudicial to their case. Inch stated:

I would point out that we depend on the subscriptions of sympathisers, of which we have thousands in Port Elizabeth and the Districts. This is an announcement that the document, and that is the only thing that the public knows, has been proved to be a sheer fabrication. From yesterday afternoon right up to this morning, even to late hours last night, I had telephone calls to the effect that we had lost the case. This prejudices us with our sympathisers who assist us as poor men and on whom we depend for subscriptions...

Court: What do you object to?

Inch: The end of the report says that we shook hands with Dr. Sokolow. That is perfectly right, but read in conjunction with the headlines the public naturally believes we have lost our case and that we are defeated. It is very unfortunate that it should happen now, because we have not had a chance of proving our case yet....We

depend on our sympathisers and the public who are helping us to fight this case....’
('Transcript' 1934, p. 220).²⁸⁵

As the Greyshirt trial progressed, and began to reflect negatively on von Moltke and Inch, it appears that Weichardt (leader of the organisation) distanced himself from them. Although ideologically they remained very much aligned, there is a suggestion in the source material that Weichardt sought to distance himself – at least publicly – from the methods that von Moltke and Inch employed ('Grey Shirts to Oppose Dr Malan' 1934).

4.2.2 Jewish community

When the Greyshirts first commenced their virulent antisemitic propaganda, there was division within the Jewish community as to how best to respond (Lazarus 1935, p. 16). The Greyshirt trial provided a meaningful communal focal point for a discursive response that ultimately vindicated Reverend Levy and the Jewish community. Lazarus, who had acted independently in publishing pamphlets to counter Greyshirt propaganda in early 1934, considered the result of the civil action:

a complete vindication of the determined stand of a few Independent Jews of Port Elizabeth who could see nothing but disaster as a result of the silent methods adopted by those in charge of communal matters. (Lazarus 1935, p. 19)

The legal proceedings brought the discursive struggle between Greyshirts and Jews within the purview of a recognised judicial system and provided an adjudication framework in which all parts of the Jewish community could feel engaged. In this way, the trial galvanised and largely unified the community in its response. Despite the disagreement within the community over the best response to Greyshirt propaganda (and doubts over the wisdom of legal action), the trial became the defining communal response. The community was not silent and nor was it violent. The community, represented by Reverend Levy, turned to a legal remedy and a

²⁸⁵ Justice Graham later commended Inch for bringing the article to the attention of the Court, but concluded that it did not amount to contempt of Court because the headline was not referring to the Document. Instead, it was referencing Dr Sokolow's evidence regarding the *Protocols of the Elders of Zion* which had been proved a forgery in *The Times* of London ('Transcript' 1934, pp. 261-2).

discursive forum to clear the good name of all Jews and, in so doing, the community demonstrated to itself its resilience. Furthermore, the community was armed with a legal judgment that carried enormous weight in the ongoing discursive struggle between Greyshirts and Jews.

4.3 Broader society

Lawrence raises important questions in the following observation:

When Stephen Bronner talks about the *Protocols* having been ‘proved to be a forgery,’ he says, ‘it is indisputable’. But proven to whom? Proven how?....Bronner proves it to me in his book. But to whom generally does one prove this assertion, and by what measure may we judge the proof to be satisfactory, let alone indisputable? Who wants to listen? And how do we go about proving it? [footnotes omitted]
(Lawrence 2007, p. 38)

Reverend Levy and the Jewish community sought to prove to the wider South African public that the Greyshirts had lied about Jews and Judaism, that the *Protocols* were a concoction and that Greyshirt methods involved conspiracy, lies and fabrication. They sought to do so within the context of a global marketplace of ideas that had become gripped with ideologically powerful notions that existed in the popular imagination rather than in reality. There are repeated references in the trial transcript to Greyshirts being ‘obsessed with things that are not there’, and Reynolds is reported as saying in his address to the Court that the ‘world plot was purely a figment of Grey Shirt imagination’ (Lazarus 1935, p. 151). Finding a response to these ‘imagined’ threats and fears was particularly difficult, especially in light of the effectiveness and efficiency with which the Greyshirts communicated their message to the public. In particular, it is likely that von Moltke chose Aberdeen as his headquarters not because it was the ‘most Jew-ridden district’ as he claimed, but because ‘the Defendant Olivier edited and owned the newspaper “Die Rapport,” and was prepared to allow this paper to become the organ of the movement’ (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 36). The letter from the Aberdeen Jewish community to the Board of Deputies that was submitted by the Defendants in an attempt to show that the Board was ‘political’ was in fact a plea for

help that specifically referenced the influence and impact of the antisemitic propaganda contained and disseminated in *Die Rapport*. The letter stated:

They [the Greyshirts] have a distinct advantage over us that they have a press at their disposal and we would welcome any suggestions from you as to the best way of fighting their pernicious propaganda. ('Transcript' 1934, p. 355)

In addition, Greyshirt public meetings drew large crowds and the testimony of various witnesses during the trial highlights the appeal of von Moltke's oratory, especially his diatribes on the 'true nature' of Jews.²⁸⁶

Preuß (2015, p. 362) argues that the law is the force which creates 'institutional reality', being the framework of rights, obligations and responsibilities on which 'communicative interaction about common affairs depends'. There is an interplay between the law and discursive interaction that takes place 'on the streets' of the public sphere. By definition, defamation is a public act. The defamatory statements are 'published' to an 'audience'. It therefore follows that the findings and result of a defamation action have relevance to that original audience. To properly 'restore' reputation in a social sense, it is necessary to communicate the 'legal truths' back to the public sphere. While the courtroom is the vehicle by which facts and a legal verdict can be established, there is the broader question of public perception that still needs to be determined.

For Reverend Levy and the Board, communicating the case to the general public was an important means of countering the defamatory antisemitism of Greyshirt propaganda.²⁸⁷ In particular, the Board understood from the beginning that the legal

²⁸⁶ For example, Eileen Pearton testified in cross-examination that she attended her first Greyshirt meeting 'out of curiosity' and the second one because she liked the way that von Moltke spoke ('Transcript' 1934, p. 173). She said the Document was 'not boring' ('Transcript' 1934, p. 174). See also the following cross-examination of Pearton by von Moltke: '.....you have listened to the speeches although you say they were boring? ---Not all the speeches were boring.

It is only where I spoke about the perverseness and the greedy nature of the Jews then it was interesting? --- Naturally.

Where does the "naturally" come in? --- Because that it [sic] what I went there to hear, what the idea of the Jew was because I worked for a Jew...' ('Transcript' 1934, p. 177).

²⁸⁷ 'When we emerge triumphantly from this ordeal, the publication of the story and this conspiracy and its exposure may perhaps be the best propaganda possible for us.'

verdict and even the newspaper reporting of the verdict might not be sufficient to communicate the conclusions and findings to the general public. To this end, the Board engaged Eric Rosenthal, a journalist, ‘to go to Grahamstown, to write a narrative of the conspiracy of the case, on the lines of W.T. Stead’s story of the Dreyfus case’ (Secretary of the South African Jewish Board of Deputies 1934a). Clearly, the Board envisaged using the facts and truths established in the case to invalidate the ‘truth claims’ of the Greyshirts, and expose their falsehoods and tactics. Although Rosenthal did cover the case, it appears that he did not author a definitive narrative at its conclusion, and an English barrister, Summerfield, was commissioned by the Secretary of the Board to do so (Summerfield 1935a). However, this manuscript also remains unpublished (Summerfield 1935b). A pamphlet was issued in both English and Afrikaans that summarised the Greyshirt trial and stated in large capital letters ‘Grey Shirts on Trial: Grey Shirt Tactics Exposed: Protocols of Zion declared Forgeries’ (*Grey Shirts on Trial: A Summary of the Greyshirt Trial in the Supreme Court at Grahamstown/Gryshemde onder Verhoor: 'n Opsomming van die Gryshemd Proses in die Hooggeregshof te Grahamstown c. 1934*).

The concerted desire to communicate the case to the general public in both English and Afrikaans, highlights the interplay between the ‘legal truths’ emanating from the court and the broader contest of truth and falsity in the realm of public opinion. As I have already emphasised, the legal and moral authority of the law is a crucial element in the wider public trusting and accepting that the facts and truths established within the courtroom can be relied upon, not just as ‘legal truth’ but as factual truth as well. The ongoing challenges of contesting defamatory antisemitism in general and the *Protocols* in particular, draw us closer to the Greyshirt case. As Gershter wrote in 1957, ‘It is now close on 23 years since this judgment was pronounced by a South Africa court. The case is buried, but since the protocols are still being sold in various parts of the world it is not quite dead.’ These observations remain pertinent today.

In discussing narrative theory and the law, Griffin makes the point that legal processes not only reflect, but create ‘familiar narratives’.²⁸⁸ She concludes that, ‘Those narratives can, in turn, serve as sources of continuity in the sense that the events that

²⁸⁸ Griffin’s discussion of the role of narrative is in the context of criminal jury trials.

give rise to the litigation, the testimony in court, and the pronouncement of a verdict all form one story' (Griffin 2013, p. 291). In my view, this provides a useful framework for examining the way in which the legal process in the Greyshirt case created a narrative that was then harnessed in the broader public debate. Antisemitic conspiracy theories themselves tap into 'familiar narratives' that resonate with certain parts of society, particularly when coupled with literary and cultural stereotyping. The Greyshirt trial was a disruption and exposé of that 'familiar narrative' and sought to underline the baselessness and irrationality of Greyshirt antisemitism.²⁸⁹ The Greyshirt trial accomplished the mission of bringing two contradictory views into focus. The antisemitic action that led to the case formed the prologue; the trial – with its *dramatis personae* – was the development of the action; and the judgment had the solemnity and solidity of an epilogue, drawing all the threads together.²⁹⁰

A crucial question is what meaning the general public created from the legal battle that was played out in the courtroom (and the meta-narrative reflected in media reports), and in what ways the Greyshirt case informed social relationships. While the main divide in South African society was along colour lines, the eruption of virulent antisemitism in the 1930s presented the public with a choice about the society they wanted to have. The testimony of Eileen Pearton and other witnesses who attended the Greyshirt meetings illuminates the choices with which the broader society was presented. Many were drawn to the Greyshirts' ideological worldview, which reflected a familiar and resonant narrative about Jewish conspiracy and power. The Document was the 'gravamen' of the charge ('Transcript' 1934, p. 750).

²⁸⁹ For many years following the Greyshirt case, the Board of Deputies kept adding examples of Greyshirt propaganda to their files and this can be viewed as a continuation of the story.

²⁹⁰ The narrative of the transcript is disjointed. For example, Reynolds asks Reverend Levy a question about the distinction between a 'Rabbi' and a 'Minister' and then goes on to ask if there has ever been a red curtain in the synagogue. Listening to the sequence of questions does not necessarily create a single, linear narrative. Each witness is asked the same sequence and the dots join up later. So a single narrative is then constructed towards the end and generally a verdict or judgment will partially perform this role. Counsel's opening and closing statements are excluded from the transcript, so no comment can be made on the extent to which Reynolds used narrative in those portions of his address. The legal case creates its own legal narrative that is shaped by the legal and factual issues in dispute and the requirements of court process and procedure.

The judgment also speaks to the social context within which the Greyshirts placed their argument, and reflects the Judges' own perception of the society in which they lived:

To enable the [Greyshirt] movement to gain ground something more than mere anti-Jewish propaganda was necessary. The South African people are a liberty-loving race, tolerant in their religious beliefs: "Jew baiting," until the formation of the Grey Shirt movement in Port Elizabeth, has hitherto been unknown in this country, and von Moltke must have realised that to induce the masses to adopt what has been described as the "Hitler Movement" would require convincing evidence against the Jews (*Levy v Johannes von Strauss von Moltke, Harry Victor Inch and David Hermanus Olivier Junior* 1934, p. 36).

Legal judgments can and have been used to shape a country's sense of history and memory and justify present and future courses of action (McNamara 2007, pp. 38-9). The Greyshirt case illuminates the social struggles and concerns in South Africa in 1934. On one analysis, it reflects society's rejection of the extreme tactics and fanatical ideology of the Greyshirt leaders, Inch and von Moltke, mediated through the legal process.

Cover's articulation of the way in which groups seek to transform the surrounding social world provides a theoretical framework for analysing the potency of the judgment (Cover 1983, pp. 33-40). The Greyshirts sought to change the surrounding social world – and create a new '*nomos*' – by advancing a dystopian social vision in which they aimed to unite all Christians (both English and Afrikaans) and redeem 'poor whites' from a 'fallen state' caused by what they argued was the transgressive action of Jews.²⁹¹

Reverend Levy resisted the Greyshirt 'vision' by grounding his arguments within the existing legal *nomos* (rules of law) and using the authority of the law to influence positively the surrounding social environment with the aim of fostering social

²⁹¹ This is evidenced, for example, during the cross-examination of von Moltke by Reynolds:

Reynolds: 'Do you think that the poor whites are due to the Jews?'

Von Moltke: 'Yes, most decidedly. If there were no Jews here there would have been no poor whites. There would have been only a few.' ('Transcript' 1934, p. 735).

harmony and inclusion. The legal judgment in Reverend Levy's favour was a significant contribution to arresting the Greyshirt vision. Cover discusses the 'expressive potential' of certain acts (Cover 1983, p. 35). Von Moltke's defamatory oratory was both a practical and symbolic act, as was Reverend Levy's legal action. The 'expressive potential' of the Greyshirt trial lay not only in its practical effects but also its symbolic value. Reflected in the trial are the competing Greyshirt and Jewish 'visions' of society. The judgment validated the Jewish 'vision' and conveyed a narrative in which Reverend Levy achieved redemption for himself and his people in the face of a dystopian Greyshirt vision that was based on the transgressive nature of Jews.

Cover also critiques the coercive nature of the law, noting in particular that 'living in a normative world entails an understanding of the measures of commitment to norms in the face of contrary commitments of others' (Cover 1983, p. 53). This is relevant to the Greyshirt trial in that the Greyshirts and von Moltke were 'forced' by the coercive power of the law to abandon their use of the Document. The Greyshirts did not maintain a commitment to the Document largely due to the legal meaning created by the court, namely that the Document was ruled to be 'defamatory' (a finding based on an objective and evidence-based assessment of facts). The court process also revealed the baselessness of other Greyshirt lies that labelled Jews as group, but as the court had no 'coercive power' with respect to these group libels, the Greyshirts were able to and indeed did, continue to vilify Jews in general. Therefore, the coercive power of the law was highly relevant to Greyshirt calculations about their ongoing discourse regarding Jews.

Earlier in this project I argued that there was an 'asymmetry' between the narrowness of the individual libel action and the broader harm of Greyshirt 'hate speech'. A group libel law may appear to be a more 'symmetrical' response to the nature of Greyshirt defamatory antisemitism. Cover (1983, p. 39) states that:

If law reflects a tension between what is and what might be, law can be maintained only as long as the two are close enough to reveal a line of human endeavor that brings them into temporary or partial reconciliation.

On this analysis, the Greyshirt trial reconciled the tension between what ‘is (i.e. their present reality) and what ‘might be’ (i.e. a future vision for law and society), by expanding and contextualising the issues in dispute as far as the *general public* was concerned. The judgment in favour of Reverend Levy brought about a ‘reconciliation’ of present reality and future vision that reinforced maintenance of the law. Arguably, the Greyshirt case skirts at the boundary of these fundamental issues. While Reverend Levy and the Jewish community were not seeking to change the law or introduce group libel, the case highlights the tension between what is and what might be. Without directly or radically dealing with these tensions, the Greyshirt trial frames so much of the broader social debate regarding hate speech that has characterised the decades that have followed it, including vexed questions about appropriate legal and social responses to group libel.

Chapter Four Framing the Greyshirt trial within the context of documentary theatre

Storytelling has a profound moral value. It pulls stories out of the silence that threatens all life. And fixes them in a moment in a place where, if the storyteller is a good one, they will never age and never die.

Athol Fugard (Logan 2007)

My decision to address the Greyshirt trial from a dramatic perspective was prompted by two concerns: (1) redeeming and reclaiming the Greyshirt trial from the shadows of history, and (2) generating public discussion and thought about the contemporary reverberations of the case. Creating a stage play from lengthy court transcript and other documentary material provided a meaningful way to achieve these two concerns. The script, entitled *The Defamation*, forms Chapter Five of this project. Without limiting the breadth of conversations that *The Defamation* may generate, I hope that the play will provoke critical thought and discussion on both the specifics of the Greyshirt trial and its moment in history as well as the wide-ranging and fundamental issues that underpin it, including antisemitism, racism and bigotry; freedom of expression; politics of division and exclusion; the impact and effects of modernity; the nature, use and power of conspiracy theories; and community and legal responses to racism. These are matters that affect society as a whole and therefore *The Defamation* is intended for a broad public audience. The persistent and pernicious impact of the *Protocols* – a manifestation of baseless hatred and political expediency – is a major current that runs through the historical and contemporary dimensions of the Greyshirt case. The *Protocols* codifies invented myths and imagined narratives into a sensational form that influences and mobilises public perception against Jews and Judaism. Despite repeated refutations and being a proven fabrication, the *Protocols* continues to be disseminated and believed in many parts of the world. For a range of reasons, this is and should be a concern not only to Jews but to society as a whole. First, as a vector of fear, hate, division and exclusion, the *Protocols* is an anathema to a healthy, inclusive, respectful and harmonious society. Secondly, the *Protocols* is typically implicated in a wider, more complicated social discourse that warrants careful scrutiny. Thirdly, the *Protocols* serves as a cautionary example of the power of any racial or political myth or falsehood that targets any group deemed undesirable or ‘other’. My play not only aims to stimulate thought and discussion on

broad social issues, but also seeks to make a positive, active contribution to the separation of truth from falsehood, particularly in relation to the *Protocols* and other libels against Jews and Judaism. Donald Freed, the creator of the documentary trial play, *Inquest* (1970), has stated, ‘Racial and political myths can be subverted, perhaps, by those who should know the most about storytelling – the playwrights. So the play is an anti-myth; it means to disenthral’ (Freed 1970, p. 8). By dramatising the Greysht trial – in which the *Protocols* and other libels were exposed as fabrications and falsehoods – *The Defamation* functions as an ‘anti-myth’. The play uses a ‘coherent aesthetic vocabulary’ (Freed 1970, p. 2) to recall the Greysht trial from the archives, turning the protagonists into *dramatis personae* and the theoretical into the theatrical. In this Chapter, I analyse *The Defamation* within the context of what has been termed ‘documentary theatre’ and consider the theoretical, textual and performative aspects of the play. I also chart the creative development of *The Defamation* and evaluate the effectiveness of its form and style in creating spectatorial engagement.

1. Situating *The Defamation* within the documentary form

In devising a stage play based on the historical record, I have followed in the tradition of ‘documentary theatre’. Various and evolving definitions of the term ‘documentary theatre’ have been offered, but these definitions (including the notable and influential formulations by Paget (1993) and Favorini (1994, p. 32))²⁹² are often limited in their utility because documentary theatre is constantly expanding and evolving. Essentially, documentary theatre refers to plays focussed on actual events and devised from documentary or archival sources. The original text is almost always edited (due to sheer volume) then possibly rearranged or re-contextualised to create a dramatic work. While some regard it as a departure from a strict definition of ‘documentary theatre’, some productions include imagined scenes based on the original material. For example, *Busmen* (1938), a ‘Living Newspaper’, was structured as an ‘interplay between factual material and fictional constructions’ (Watson 1981, p. 345). *The Defamation* follows the tradition of documentary theatre by dealing with the actual event of the Greysht trial. The spoken text is derived from verbatim documentary and archival sources ‘found’ in the historical record (Favorini 1994, p. 32) including the court transcript,

²⁹² Favorini (1994, p. 32) states, ‘by documentary drama I mean plays characterized by a central or exclusive reliance on actual rather than imaginary event, on dialogue, song and/or visual materials (photographs, films, pictorial documents) “found” in the historical record or gathered by the playwright/researcher, and by a disposition to set individual behaviour in an articulated political and/or social context. Such a definition is deliberately restrictive, excluding many worthy historical dramas from Aeschylus to Schiller to Robert Bolt.’

legal documents, letters, and newspaper reports. *The Defamation* also utilises the device of constructing some imagined scenes based on the archival and source material.

The exponential rise in the number and popularity of documentary and other reality-based theatre in Australia (Wake 2013; Wilkinson & Anderson 2007) and elsewhere has seen this form of theatre become more mainstream, and the ‘medium of choice’ (Cantrell 2012) to address ‘contemporary struggles and issues around the world’ (Ben-Zvi 2006, p. 44).²⁹³ These issues include racism²⁹⁴, government corruption, war and trauma²⁹⁵, political protest²⁹⁶, social injustice and human rights.²⁹⁷ *The Defamation*, in keeping with many other documentary plays is preoccupied with major social and political issues, reflecting Favorini’s notion that documentary plays are, inter alia, characterised ‘by a disposition to set individual behaviour in an articulated political and/or social context’ (Favorini 1994, p. 32).²⁹⁸

Contemporary documentary theatre owes a great deal to Erwin Piscator’s *Trotz alledem!*, which was staged in Berlin in 1925. It is considered by many as the first stage documentary play (refer (Cantrell 2012; Colleran 2012, p. 8; O’Connor 2013, p. 3)), and is regarded by

²⁹³ See Paget’s consideration of the ‘rehearsed reading’ of verbatim scripts and its place in single-issue social activism in (Paget 2010).

²⁹⁴ For a specific example of the way in which documentary theatre techniques can be employed to address questions of race, see (García 2008). García argues that the performance trio *Culture Clash* creates plays that ‘embody a *critical race theater*, illuminating the lives and histories of marginalized individuals and their communities while consciously challenging social and racial injustice’ (García 2008, p. 866). Also in relation to questions of race and documentary theatre, see (Kondo 2000).

²⁹⁵ For a general discussion and analysis of recent political/documentary plays that critique war (especially in the context of an increasingly mediated and technologically sophisticated world), see (Colleran 2012). Colleran (2012, p. 10) states that her reading of the plays ‘suggests that theatre can, against media hegemony, offer itself as a critical alternative, addressing issues and enacting perspectives that are otherwise unavailable.’ For a perspective on the function of documentary theatre in relation to war and trauma in the former Yugoslavia, see (Simic 2010).

²⁹⁶ For specific examples of documentary theatre as political protest, see (*Syrian Activists Attack Assad Regime, With Puppets* 2012), and (Hussein 2015).

²⁹⁷ In relation to Afghanistan and the creation of a documentary play by the Afghanistan Human Rights and Democracy Organization ‘in response to the deeply entrenched culture of impunity’ in which ‘accountability for massive human rights abuses remains elusive while the voices and stories of the victims continue to be silenced’, see (AHRDO 2014). See also (Wake 2013), highlighting the large number of verbatim plays in Australia dealing with refugee and asylum seeker issues between the years 2000 and 2005, and focussing in particular on *Through the Wire* (2004) in the context of ‘a growing global genre of verbatim plays produced in collaboration with refugees, asylum seekers, and irregular immigrants’ (Wake 2013, p. 103).

²⁹⁸ Other forms of theatre can provide social commentary. A poignant example is *Sarcophagus: A tragedy* written in 1986 by Vladimir Gubaryev and dealing with the catastrophic meltdown of nuclear reactor 4 at Chernobyl. In the foreword to his translation of Gubaryev’s play, Michael Glenny writes ‘Convinced that the only medium able adequately to convey his thoughts and emotions on this truly terrible subject was the theatre, with its unique power of direct, instantaneous communication across the narrow gap between the stage and the auditorium, Gubaryev decided not to write a conventional article for *Znamya*. Instead he put his observations, his feelings and his reactions to Chernobyl into a play...’ (Gubaryev 1987, p. vi).

Favorini (1995) as the ‘Urtext of documentary theater’.²⁹⁹ Significantly, some of the same factors that Favorini argues ‘exerted increasing pressure on the theater to represent reality concretely, precisely and directly’ were also (as argued in Chapter One of this project) influential forces in shaping the nature, style and form of the *Protocols*. These factors included ‘technological developments in the reproduction of voice and image’, the ‘rise of the modern newspaper’, the ‘wide acceptance of the ideas of Comte, Marx, Darwin, and Spencer’ and ‘the embrace of the nineteenth-century scientific model of truth as fact’ (Favorini 1995, p. xviii).

Since Piscator’s ‘seminal’ work (Dawson 1999, p. 14), the range of techniques, approaches and theatre practices that fall within the umbrella term of ‘documentary theatre’ has expanded and evolved, with a corresponding multiplicity of terms to designate and reflect all the gradations of creative works within this category. While the terms are far from absolute or static and the distinctions between the categories are often blurred, there is value in referring to them not only because of the extensive and growing commentary and analysis that surrounds these categories but also because there are textual, theoretical, theatrical, dramaturgical and performative elements of the variously defined categories that have bearing on *The Defamation*. The dramatic categories range from ‘tribunal’ and ‘verbatim’ theatre to ‘witness’ or ‘testimonial’ theatre. The categorisations are generally based on a difference in dramaturgical technique (and a particular work may draw on one or more of those techniques, further blurring the boundaries). Even within these categories, there is a potentially diverse range of techniques that are employed, leading Caroline Wake to conclude that perhaps ‘we should talk about verbatim theatres in the plural rather than verbatim theatre in the singular’ (Wake 2010a, p. 5). Despite the differences, there are many unifying elements, concerns and themes, predominantly in relation to questions of truth, authenticity

²⁹⁹ But see also Dawson who refers to theatre practitioners Georg Büchner, Emile Zola and Vsevolod Meyerhold, and specifically to Büchner’s *Danton’s Death* (1835) as the ‘proto-documentary play in the modern sense’ and therefore the ‘beginning point of inquiry into this field of drama’ (Dawson 1999, pp. xiii, 1). In relation to *Trotz alledem!* The moniker ‘documentary theatre’ was given to Piscator’s work by Bertolt Brecht in 1926 (see (Favorini 1994, p. 32; Favorini 1995, p. xviii; O’Connor 2013, p. 3), but see also (Irmer 2006, p. 18) who maintains that Piscator coined the term). For a discussion on Piscator’s documentary theatre, with an emphasis on how the form of theatre itself (not just its content) can be political, see (Arjomand 2016). For an analysis of documentary theatre in Germany, including a description of the three distinct periods of documentary theatre, see (Irmer 2006). Dawson also describes and evaluates the distinct periods in the development of documentary theatre in (Dawson 1999).

and ‘access to the real’. These fundamental issues, which tie in closely with audience expectations and spectatorial engagement, are dealt with in detail below.

1.1 Tribunal theatre – illustrative works

Of greatest relevance to my work is the dramatic category that has become known as ‘tribunal theatre’ in which the text stems from the transcripts of court cases, official inquiries or tribunal hearings.³⁰⁰ An early example of this dramaturgical approach is *The Burning Bush* by Heinz Herald and Geza Herczeg, adapted for the New York stage by Noel Langley (1947). The play dramatises the trial that took place in Nyiregyhaza, Hungary in 1882-1883 in which several Jews were charged with the false and libellous accusation of ‘ritual murder’ following the disappearance of Eszter Solymosi, a young Christian girl. The off-Broadway, New York play was produced by Piscator and the Dramatic Workshop in 1947 and then revived at the President Theater in 1950 (Francis 1950). In Germany, a period of contemporary documentary theatre began in the 1960s and is exemplified by the works of Peter Weiss, Rolf Hochhuth and Heinar Kipphardt. Among their works (also directed by Piscator) are plays based on official hearings, for example, Kipphardt’s *In der Sache J. Robert Oppenheimer* (*In the matter of J. Robert Oppenheimer*) (1964) ‘attempts to interpret the significance of the hearing [into Oppenheimer’s security clearance] by means of excerpts from this transcript and brief invented statements of the leading characters’ (Wolfenstein 1970), and Weiss’ *The Investigation* (1965) utilises excerpts from the Frankfurt Auschwitz Trial (1963-65). Faced with the ‘impossibility of actually staging the events, of having people “act” the concentration camp’, Weiss ‘worked with just words, the words of the victim’s evidence, to wake these things up for us so that we could investigate them’ (Munk, Weiss & Gray 1966, p. 110).³⁰¹

A prominent modern-day exemplar of tribunal theatre is the pioneering work of the Tricycle Theatre in Kilburn High Road, London, which opened in 1980 and, under the artistic direction of Nicolas Kent (and largely in collaboration with the journalist Richard Norton-Taylor of the *Guardian*), has produced such tribunal plays as *Half the Picture: The Scott ‘Arms to Iraq’ Inquiry* (1994) (the first play to be performed at the Houses of Parliament),

³⁰⁰ For a review of the evolution of documentary drama and documentary tribunal drama in particular, see (Mason 1977). For a discussion on Piscator’s post-war documentary productions that fall into the category of documentary trial play, see (Arjomand 2016).

³⁰¹ For an assessment of the impact of Weiss’ *The Investigation* on the tribunal play *Half the Picture*, produced by the Tricycle Theatre in 1994, see (Megson 2009).

Nuremberg (1996), *Srebrenica* (1997), *The Colour of Justice: The Stephen Lawrence Inquiry* (1999)³⁰², *Justifying War* (2003)³⁰³, *Bloody Sunday* (2005)³⁰⁴ and *Tactical Questioning – Scenes from the Baha Mousa Inquiry* (2011). All these tribunal plays use the edited transcripts of major inquiries and have received wide critical acclaim.³⁰⁵ Significant tribunal plays (or what O'Connor refers to as 'documentary trial plays') have been staged in America, including *Execution of Justice* (1984)³⁰⁶ and *Greensboro (A Requiem)* (1996)³⁰⁷ by Emily Mann as well as *Unquestioned Integrity: The Hill/Thomas Hearings* (1993) by Mame Hunt (conceived by Larry Eilenberg).³⁰⁸

In Australia, Sydney-based theatre company Version 1.0, founded in 1998 by David Williams, has been dedicated to creating contemporary documentary performances that 'inform, challenge and entertain' audiences on 'issues that matter', often using verbatim media sources. Their body of work includes many plays that have been devised from official inquiries, for example, *The Table of Knowledge* (2011-2012) drew on the transcripts of the Independent Commission Against Corruption 2008 investigation into allegations of corruption involving property developers and former Wollongong Council staff. *Deeply Offensive and Utterly Untrue* (2007) was created from the 8,500 pages of transcript of the

³⁰² *The Colour of Justice* (1999), based on the transcripts of the Stephen Lawrence Inquiry and edited by Richard Norton-Taylor, reduces more than 11,000 pages of transcript into approximately 100 pages of spoken text. The public inquiry scrutinised the police investigation into the death of a black teenager, Stephen Lawrence, who was killed in a racist attack. Following a flawed police investigation, no-one was convicted of his murder. The inquiry exposed the institutional racism, both conscious and unconscious that permeated the police investigation of Lawrence's murder.

³⁰³ *Justifying War* (2003) uses edited transcripts of Lord Hutton's 2003 Inquiry into the circumstances surrounding the death of Dr David Kelly, the British Government's chief advisor on Iraq's chemical and biological weapons programme and former UNSCOM inspector.

³⁰⁴ *Bloody Sunday* (2005) dramatises the Saville Inquiry into the civil rights march in Derry in 1972 in which unarmed civilians were wounded and killed by British soldiers. For additional analysis of *Bloody Sunday*, see (Soncini 2015).

³⁰⁵ For a more detailed description of the work of the Tricycle Theatre see (Stoller 2013), particularly chapter four dealing with the verbatim and political plays. See also the chapters on Richard Norton-Taylor and Nicolas Kent in (Hammond & Steward 2008, pp. 103-68). Although not a 'tribunal play' (since no formal inquiry had taken place), *Guantanamo – Honor Bound to Defend Freedom* (2004), was written for Tricycle by Victoria Brittain and Gillian Slovo from spoken evidence and has been performed around the world as part of the 'Guantanamo Reading Project.'

³⁰⁶ Note that the term has slightly different meanings in the United Kingdom and the United States (Cantrell 2012). For a summary of verbatim theatre methodology and technique (with specific reference to the United Kingdom) see (Luckhurst 2008, p. 202). For a brief explanation of verbatim theatre in the Australian context, see (Wake 2010a, pp. 2-5).

³⁰⁷ For the text of the play as well as additional commentary by William Kleb and a reprinted review of the play by David Richards see (Favorini 1995, pp. 295-339).

³⁰⁸ For commentary on *Greensboro* see for example, (O'Connor 2013) For an interview with Emily Mann about *Greensboro*, see ('Play recounts Greensboro klan massacre in 1979' 1996).

³⁰⁹ For a critique of this play, see (O'Connor 2013, pp. 130-42). See also (Favorini 1995), in which the text of the play is reproduced pp. 356-372 together with additional commentary by David Pellegrini, pp.373-376.

Cole Inquiry into the ‘wheat-for-weapons’ scandal, and utilises a variety of strategies to transform legal language into engaging theatre (see (Williams 2010)). Part of the urgency in creating *Deeply Offensive and Utterly Untrue* was to ‘actively resist... exhortations to stop thinking and, instead, to encourage citizens to closely interrogate the processes by which their democracy operates’ (Williams 2010, p. 195). An earlier work, *CMI (A Certain Maritime Incident)* (2004) was devised from the transcripts of the Senate Select Committee on a Certain Maritime Incident, (the inquiry into what has been termed ‘the children overboard’ scandal). Garde examines the way in which *CMI* extends the documentary form by using ‘destabilising’ techniques to open up ‘new spaces for shifting meaning and audience perceptions, including conventional expectations with respect to fact, truth and fiction’, an aesthetic approach that in turn ‘destabilises notions of the unfamiliar’ (Garde, p. 6). *The Wages of Spin* (2005) examined the basis for Australia’s decision to enter the war in Iraq. It utilised Senate Committee proceedings, verbatim Hansard transcript, official public documents as well as print and electronic media reporting to create a work ‘designed to engage the audience critically with the issues and ask: “Does it matter that we went to war on a lie?”’ (<http://www.versiononepointzero.com>).³⁰⁹

1.2 Verbatim theatre

While tribunal plays are the most pertinent to *The Defamation* (and I position my creative work in that context), there are theatrical, theoretical and performative elements of other documentary forms that have a connection to my play. For example, the term ‘verbatim theatre’ coined by Derek Paget (1987) is generally understood to refer to documentary plays in which the spoken text is derived solely and exactly from words uttered by interviewees.³¹⁰ In contrast to basing the text on archival material, the creators of a verbatim play conduct interviews and then devise a dramatic work based on the transcript of those interviews. Actors play the part of real people but, in doing so, directly acknowledge the presence of the audience and move between playing themselves (as actors) and the real-life character whose words they are speaking. Prominent examples include *The Laramie Project* (2001) by

³⁰⁹ This website address is no longer active as theatre company Version 1.0 no longer operates. The website was accessed in 2012.

³¹⁰ Note that the term has slightly different meanings in the United Kingdom and the United States (Cantrell 2012). For a summary of verbatim theatre methodology and technique (with specific reference to the United Kingdom) see (Luckhurst 2008, p. 202). For a brief explanation of verbatim theatre in the Australian context, see (Wake 2010a, pp. 2-5).

Moisés Kaufman and members of Tectonic Theater Project, which was based on interviews they conducted with residents of Laramie – the town where a young gay man, Matthew Shepard, was brutally murdered in a hate crime (which was followed up in 2009 with *The Laramie Project Ten Years Later*) and the award-winning play *The Exonerated* (2004) by Jessica Blank and Erik Jensen based on interviews they conducted with death-row inmates across the United States.³¹¹ The almost exclusive reliance on interviews of people whose voices and stories may otherwise go unheard, is a central feature of this form of documentary theatre and grew out of and in response to the social concerns of local communities and owes a great deal to the work of Peter Cheeseman (1932-2010) of the Victoria Theatre in the United Kingdom (see (Favorini 1995, pp. xxx-xxxii; Luckhurst 2008; Pickering & Thompson 2013, pp. 211-4; Thornber 2010)).

In distinguishing between ‘verbatim’ and ‘tribunal’ plays, Wake (2010b) notes that while ‘verbatim playwrights pride themselves on telling stories that aren’t being told elsewhere’, tribunal playwrights are ‘retelling stories that have already been told. Instead of telling a hidden history, they re-examine official history; re-staging an inquiry so that we the audience can re-view and, indeed, review it’ (Wake 2010b, p. 8). Wake’s comment certainly holds true for high-profile and well-known trials that are already (and possibly deeply) etched into the contemporary consciousness. However, the Greyshirt trial is not widely or well-known and has become an almost forgotten history. The voices of the protagonists, along with the story, are entombed and silent within the archive. *The Defamation* gives expression to a story and to voices that, I believe, need urgent attention given the global resurgence in ideologically-driven hatred. By telling a forgotten history (much like the ‘hidden history’ Wake refers to) *The Defamation* functions as a provocation and an intervention in the realm of current antisemitism.

The documentary theatre form lends itself as a response to, and intervention in, dominant and hegemonic political discourse, as illustrated by Hussein (2015) in the context of Egyptian

³¹¹ Max Stafford-Clark and David Hare (co-founders of the Joint Stock theatre in 1975 along with William Gaskill and David Aukin) have contributed significantly to verbatim theatre. The first Joint Stock play to use verbatim techniques was *Yesterday’s News* in 1976 (Hammond & Steward 2008, pp. 46-9). Stafford-Clark’s second verbatim play was *Falkland Sound* by Louise Page in 1983, one year after the Falklands war. Stafford-Clark continued to produce several plays using verbatim techniques after founding the theatre company *Out of Joint* in 1993 (*A State Affair* (2000) and *Talking to Terrorists* (2005) by Robin Soans and *The Permanent Way* (2003) by David Hare). For additional analysis of *Talking to Terrorists* in the context of theatrical responses to war, see (Colleran 2012, pp. 115-8) as well as (Fisher 2011).

documentary theatre since 2011. Antisemitism is an intractable feature of society since earliest times to today – oscillating between a marginal and mainstream discourse. Therefore, *The Defamation* is not simply ‘a mode of resistance that intervenes in hegemonic discourse’ (Hussein 2015, p. 359), but a form of resistance to antisemitism whether it be a marginal or dominant political discourse. The imperative to resist and intervene in antisemitism derives from my observation of the way in which it can move swiftly and forcefully from the margins to the mainstream; from an unacceptable to acceptable political narrative. Admittedly, *The Defamation* animates the voices of the past, but these voices and their words speak to us across the decades and address difficult topical issues, particularly the growing acceptability of antisemitism within public and political discourse. In this respect, *The Defamation* shares some of the features, but not all the techniques, of verbatim theatre.

2. Performing history: dramatising a historical trial

A large number of contemporary documentary (including verbatim and tribunal) plays deal with more recent official inquiries or cases. The temporal proximity or ‘synchronicity’ of the ‘staged’ and ‘real’ inquiry or trial thus ‘invariably accrue[s] an intense topical frisson’ (Megson 2009, p. 195). For example, all of Version 1.0’s performances deal with recent events, as do all of the Tricycle’s tribunal plays (apart from the notable exception of Richard Norton-Taylor’s *Nuremberg*, which is referred to in more depth, below). Further examples include *8* by Dustin Lance Black, ‘chronicling the federal trial for marriage equality’ (‘Program for ‘8’ by Dustin Lance Black’ 2012), *Unquestioned Integrity: The Hill/Thomas Hearings* (1993) by Mame Hunt and *The Trial of the Catonsville Nine* (1970) by Daniel Berrigan. While *The Defamation* deals with a case that is more than 80 years old, the form of documentary theatre pre-eminently has the ability to contextualise the issues in an engaging way for contemporary audiences and it is therefore relevant to analyse the script of *The Defamation* within this dramatic category.

There are indeed a number of documentary, and more specifically tribunal plays, that deal with historical cases. In addition to *Nuremberg*, examples include *The Burning Bush* by Herald and Herczeg (1949); *Gross Indecency: The three Trials of Oscar Wilde* (1998) by Moisés Kaufman, and *Coranderrk* (2012) by Giordano Nanni and Andrea James.

Coranderrk is based on the official transcript of minutes of the 1881 Parliamentary Inquiry to investigate the management of Coranderrk Aboriginal Station and to address its future.³¹² *The Defamation* has several aims, including animating the voices of the past and shedding light on historical events, as well as providing audiences with the space to contemplate and consider the contemporary reverberations. It is also an intervention in the politics of language, with a corresponding emphasis on words. *The Burning Bush*, *Gross Indecency*, *Nuremberg* and *Coranderrk* are examples of the way in which these aims can be met. In each instance, the creators (and producers) of the work were extremely conscious of the contemporary reverberations of the performances, and the works themselves speak to these topical issues, often without the need to expressly reference them within the text. For example, the publicity materials and program notes to Piscator's production of *The Burning Bush* (1949) urged audiences to consider the historical lessons of the 1882 ritual murder trial, as well as the contemporary parallels pertaining to antisemitism and the more universal issues of racism and bigotry (see (Arjomand 2016, p. 53)). This is an example of what Paget (2010) would describe as 'extra-textual' and Wake (2013, pp. 110-1) as a 'paratextual' strategy. A reviewer of the 1949 production remarked that 'the seemingly never-ending timeliness of the case, in which a group of Jews were framed on a charge of murdering a young Christian girl to use her blood in a ritual ceremony, adds to the effectiveness of the production' ('Literati: Off-B'way Shows - The Burning Bush' 1949).

Nuremberg, which marked the fiftieth anniversary of the Nazi War Crimes Trials held in Nuremberg, was produced at the same time as the UN Tribunal into war crimes and genocide in the former Yugoslavia was beginning in the Hague (Hammond & Steward 2008, pp. 108-9). In reviewing the play, McDonald remarked '...in 1996, to see and hear actors relive the record of the *Nuremberg War Crimes Trial* on stage, using nothing but the words of the defendants, is to experience a fresh insight into the great lie that engulfed the world over 50 years ago' (McDonald 1996, p. 22). Kent's production also used extratextual strategies to make the link between past and contemporary events and effectively contextualise the work. As McDonald (1996) noted:

³¹² Nanni claims that *Coranderrk* is 'unique' in documentary theatre terms as it deals with a nineteenth century inquiry. While historical events are not typical choices for documentary theatre, it is certainly not unique. *The Burning Bush*, *Gross Indecency: the three trials of Oscar Wilde* as well as *Nuremberg* (despite it being twentieth century) look further into the past.

half a century on, their testimony shames our present-day inaction. For Kent has gone further than recreating history. He has framed his reconstruction in an up-to-date context, commissioning playlets that precede the main play and reflect on current crimes in former Yugoslavia, Rwanda and Haiti.

While McDonald's review falls short of expressly considering whether the inclusion of these playlets intensified the social and political dimensions of the production, it almost certainly had that effect. Political and social inaction (as well as mass complicity) in the face of ongoing human brutality and human rights abuses is a major theme that McDonald reflects on in her review.

Isaac Drandic (2013, p. 3), the director of the Belvoir production of *Coranderrk*, noted:

When I first became aware of this story and heard the testimonies of the witnesses both black and white I was haunted by its familiarity and relevance. The very same attitudes which governed Aboriginal people then have been adopted by some of the very same people that govern Aboriginal people now. The voices of the blackfullas then and the voices of blackfullas now are calling for the very same rights over 130 years on.

The popular and commercial success of *Gross Indecency* (1997) points to a contemporary interest in the historical trials of Oscar Wilde and suggests that the iconic figure of Wilde and the legal battles in which he was embroiled hold a modern-day fascination. *Gross Indecency* has triggered reflection and commentary on various social issues, trends, changes and events, including 'antigovernment anarchism' (Kushner 1998); 'counter-culture' (Marica Van 2001); the 'fear of public exposure' (Escoffier 1998); gay rights (Shewey 1998); 'the eternal battle between art and morality' ('The Nassau Community College Department of Theatre and Dance Presents 'Gross Indecency: The Three Trials of Oscar Wilde' 2010); 'power and responsibility' ('Fine Arts Department presents trials of Oscar Wilde' 2007) and, as Moises Kaufman has opined, the play poses the question, 'What is art, and what is its role in society?' (quoted in (Alfaro 1998)) (note though that *Gross Indecency* has also drawn strong criticism, see for example (Cohen 1997) and (Salamensky 2002)).

Although not documentary theatre, one of the most acclaimed plays of modern times, *The Crucible* by Arthur Miller, is based on the real events of witchcraft trials that occurred in

Salem, Massachusetts in 1692, which saw 19 men and women and two dogs convicted and hanged for witchcraft.³¹³ First performed in 1953, the play not only immortalises those individuals who were tragically condemned to death in a wave of hysteria, but was also consciously intended to parallel contemporary events, most notably the McCarthy era hearings of the House of Un-American Activities Committee (in which the accused was requested to give the names of others in a manner that paralleled the betrayal in the Salem trials). Miller stated ‘It seemed to me that the hysteria in Salem had a certain inner procedure or several which were duplicating once again, and that perhaps by revealing the nature of that procedure some light could be thrown on what we are doing to ourselves. And that’s how that play came to be.’ (quoted by Bigsby in the Introduction to the published play, *The Crucible* (Miller, p. xii)).

The foregoing analysis of four ‘historical’ documentary plays together with *The Crucible* demonstrates the way in which the exploration of past events – even those reaching back hundreds of years – can still generate contemporary relevance and perhaps even accentuate it. As Miller noted in relation to *The Crucible* – the temporal distance between the events of 1692 and the 1950s is what permitted the discussion of contemporary events to take place, ‘...it was simply impossible any longer to discuss what was happening to us in contemporary terms’ (quoted by Bigsby in the Introduction to the published play, *The Crucible* (Miller, pp. xi-xii)).³¹⁴

Similarly, my view is that *The Defamation* does not require any contemporary references for its present-day message to be understood and I deliberately chose to exclude present-day parallels and references. A further advantage of this decision is that it allows future

³¹³ Miller used dramatic licence and made many changes to the chronology of events as well as to the characters (for example, the ages of John Proctor and Abigail were changed in the interests of the drama and several real-life individuals were conflated into one symbolic character in the play).

³¹⁴ However, as Bigsby has observed, *The Crucible* is ‘not finally concerned with reanimating history or even merely with implying contemporary analogies for past crimes. It is Arthur Miller’s most frequently produced play not, I think, because it addresses affairs of state nor even because it offers us the tragic sight of a man who dies to save his conception of himself and the world, but because audiences understand all too well that the breaking of charity is not less a truth in their own lives than it is an account of historical process....Beyond the question of witchcraft lies the more fundamental question of human nature, for which betrayal seems an ever-present possibility.’ (Introduction to the published script of *The Crucible* p. xvi). These aspects of *The Crucible*, together with its other universal themes and its unquestionable artistic genius, make it more enduring and universal in my view than contemporary documentary theatre, which is generally located in a specific time and place and reflective of it.

audiences to continue to reflect on the reverberations, lessons, implications and resonances of the Greyshirt trial over time.

While the Greyshirt court case took place more than 80 years ago, many of the issues are still pertinent today, including the widespread use of propaganda based on demonic mythology, debates on freedom of expression, racism, hate speech and the link between words of hate and deeds of hate. The question of how one responds to racism and hate speech is just as topical today as it was in 1934. The proposal in March 2014 by the Australian Federal Attorney-General George Brandis to water-down the provisions of section 18C of the *Racial Discrimination Act* (a provision that makes unlawful any public act which is reasonably likely to offend, insult, humiliate or intimidate another on the basis of race (subject to exemptions in s18D) if the act is done because of that other person's race (Joseph 2014)), reignited the public debate on the appropriate limits of free speech in Australia (see for example ABC Q&A program of 31 March 2014, especially 'Right to be a bigot' at 6:41 and 'Free speech best medicine' at 14:00) (ABC 2014). See also (Alcorn 2014; Allan 2014; Bradley 2014; Joseph 2014; Keane 2014). For discussion of this issue in academic circles, see for example, (McNamara & Quilter 2014; Rudge 2016; Stone 2015; Williams 2014; Zimmermann & Finlay 2014). More recently (August 2016) the political and public debate has resurfaced (see for example, (Berkovic 2016; Hedley 2016; Merritt & Martin 2016)) and intensified again following Prime Minister Malcolm Turnbull's openness to an inquiry into section 18C ('There is never a bad time to defend free expression' 2016; AAP 2016; Ackland 2016; Crowe 2016; Kelly 2016; Koob 2016; Massola & McIlroy 2016; McIlroy 2016; Merritt & Owens 2016). Community debate also surrounds section 20D of the New South Wales *Anti-Discrimination Act* 1977 which deals with serious racial vilification and under which no prosecutions have been made since the provision was introduced in 1989.³¹⁵ The lack of effectiveness of the NSW provisions has prompted a coalition of community groups,

³¹⁵ Section 20D provides:

(1) A person shall not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group by means which include:
(a) threatening physical harm towards, or towards any property of, the person or group of persons, or
(b) inciting others to threaten physical harm towards, or towards any property of, the person or group of persons.
Maximum penalty:

In the case of an individual-50 penalty units or imprisonment for 6 months, or both.

In the case of a corporation-100 penalty units.

(2) A person shall not be prosecuted for an offence under this section unless the Attorney General has consented to the prosecution.

including the New South Wales Jewish Board of Deputies, to call on the New South Wales Government to strengthen anti-racism measures (*Keep NSW Safe* 2016; Alhadeff 2016; Bastians 2016; Merritt 2016).

Politics of exclusion, division and fear, coupled with a dystopian social vision (reflected in Greyshirt discourse) manifests itself in various forms in contemporary society, with various targets or scapegoats (including Muslims and Islam). In Australia, this is exemplified by the resurgence in popularity of Pauline Hanson's One Nation party³¹⁶, and in the United States, the widespread support for Donald Trump as a Republican Presidential candidate in 2016.³¹⁷ Trump's shock electoral success in the United States Presidential election on 9 November 2016 points to the extent to which his politics of fear, division and demonisation of the 'other' combined with his jingoistic and nationalistic rhetoric, resonated across middle America.³¹⁸ One of the features of Trump's campaign was outright lies and distortion of facts that seemingly had a major impact on public perception in many constituencies (McGeough 2016). This highlights the challenge of distinguishing truth from falsehood in public discourse when times are turbulent and popular sentiment is characterised by fear, anger, frustration, marginalisation and discontent. It is noteworthy that within this climate, white supremacists, neo-Nazi and antisemitic groups have stepped out of the political shadows and energised conspiracy theories that mirror the libel of the *Protocols* (see for example (Goldstein 2016; TYT 2016)). Trump capitalised on these themes and tropes in the closing stages of his campaign (Marans 2016). This demonstrates how powerfully and quickly

³¹⁶ At the time of writing, *One Nation* has four Senators in the Australian Federal Parliament. See in particular, the *One Nation* policy on Islam, which states, *inter alia*, 'Islam sees itself as a theocracy, not a democracy. Islam does not believe in democracy, freedom of speech, freedom of the press or freedom of assembly. It does not separate religion and politics. Many believe that it is solely a religion, but the reality is that it is much more, for it has a political agenda that goes far outside the realm of religion....Its religious aspect is fraud.... Islam is proving to be seditious against every nation and government on earth. Islam demands that all Muslims work to overthrow all nations, governments and non-sharia laws. We recently saw this written within a linked website, that was provided in the Australian Defence Force publication "Guide to Religion and Belief in the ADF".' *One Nation's* policy on Islam calls for a number of matters including, an inquiry or Royal Commission to determine if Islam is a religion or political ideology; the end to further Muslim Immigration and the intake of Muslim refugees; and banning the Burqa and Niquab in public places. (*One Nation's Policies* 2016) See also Hanson's 2016 maiden speech to the Australian Senate in which she said, *inter alia*, 'If you are not prepared to become Australian and give this country your undivided loyalty, obey our laws, respect our culture and way of life, then I suggest you go back where you came from.' (2016) This mirrors the words uttered by von Moltke during the Greyshirt trial, suggesting that the Jews in South Africa, go back to 'where they came from' ('Transcript' 1934, p. 737).

³¹⁷ For example, (Trump 2016a, 2016b). For an opinion piece on this issue see (Ingraham 2016).

³¹⁸ For a perspective on the underlying social, economic, attitudinal factors that contributed to the Trump victory (especially the social and economic challenges faced by communities in the so-called 'Rust Belt', see (McQuarrie 2016).

virulent and toxic ideas move from the margins to the mainstream and can consequently normalise a range of ultra-right views (Remnick 2016).³¹⁹ In the United Kingdom, the problem of antisemitism within political parties (as well as social media and on campus) has been highlighted in the Home Affairs Select Committee's Antisemitism in the UK report published on 16 October 2016 (*All parties and media giants must address pernicious antisemitic hate* 2016; *Antisemitism in the UK* 2016; Cohen 2016; Walters 2016).

While *The Defamation* deals with a 1934 libel action in South Africa, the major themes of persistent and pernicious racism and hate speech and what are appropriate responses, have natural parallels in modern society. In a skype call with Clay Hopper (then Associate Artistic director of Olney Theatre Center in Washington D.C.), on 24 July 2012, Hopper confirmed that, in his view, *The Defamation* did not require any contemporary references and that the modern parallels would be clear and strong to a contemporary audience, especially in relation to racist speech and freedom of expression debates. Specifically, Hopper commented that what is striking is not that the vilification of Jews happened, but that the vile accusations are still occurring. In particular, the *Protocols of the Elders of Zion* remains a popular propaganda tool in many parts of the world and continues to fuel antisemitism. *The Defamation* seeks to recall the Greyshirt trial as an example of the importance of exploding myths and uncovering the truth in public discourse. The toxicity that can flow from falsehood affects society as a whole and *The Defamation* underscores how the pursuit of truth is a necessary precondition for freedom to prevail. Contemporary antisemites seek to revive and popularise medieval lies and libels about Jews and Judaism in the same way that the Greyshirts did. Moreover, the same rhetoric and racist discourse that the Greyshirts used to pillory Jews and vilify Judaism is being used in contemporary discourse to demonise and vilify other target groups.

3. Interrogating truth: the power of the narrative

Hopper's observations regarding the sustained vilification of Jews and Judaism tie in closely with my research, which is concerned with the way in which the same lies and conspiracy theories that were propagated by the Greyshirts in 1934 continue to flourish today and how

³¹⁹ Almost echoing Trump's call for a total ban on Muslim immigrants, George Popowski, the President of the Carlingford branch of the Liberal Party, proposed a motion in October 2016 to end 'all immigration and refugee intakes' until the costs and benefits to Australia could be assessed. Popowski cited Trump's views on immigration with approval (Koziol 2016).

they are used to obscure, confound and challenge the truth. The *Protocols* is particularly insidious in that it claims to be revelatory and pretends to show ‘reality’. Propagators of the *Protocols* declare that they are revealing the ‘truth’ about a Jewish conspiracy of which the *Protocols* is documentary ‘proof’. However, the *Protocols* is pure fabrication and falsehood merely masquerading as truth. My research goes further and considers what, if anything, about the form of the narrative impacts on the perception of the truth. In Chapter Three, I considered how assertions of truth and falsity are contested within different spheres, and the extent to which the forum, whether that be the ‘marketplace of ideas’, the media or a courtroom, affects and shapes perceptions of truth. The forum, in my view, has a significant impact on both the form of the narrative and on the perception of truth. Notions of truth are also contested within the realm of theatre, and in this section I consider the relationship between the form of documentary theatre and truth-claims.

Truth claims often emerge as a major feature in defamation actions and, as Carol Martin observes, in relation to documentary theatre, ‘Inherent in the very idea of documentary is an anxiety about truth and authenticity’ (Martin 2010b, p. 1) ((see also (Reinelt 2009))). Similarly, there is a claim to veracity in documentary theatre, as Paget (2010, p. 176) notes, ‘Testimony expressed through verbatim material has re-emerged as a basis for the claim to documentary truth.’ (see also (Wake 2010a, p. 5), and generally (Favorini 1994, especially pp. 32-34))). A concern about truth, authenticity and ‘access to the real’ are major unifying preoccupations of all forms of documentary theatre, from tribunal to verbatim to testimonial. These concerns pivot along two separate but related axes: one in relation to the form and technique of documentary theatre and one in relation to the thematic concerns that have motivated a large portion of documentary theatre, including questions of truth and falsity in public discourse. A concern about ‘truth’ in relation to both these axes is largely driven by an ever-deepening public scepticism of mass media and political ‘spin’ (Colleran 2012; Luckhurst 2008).

Claims to truth and representations of the ‘real’ are closely bound up with spectatorial engagement, as the form and style of documentary theatre facilitates a particular mode of audience engagement (Taylor 2011). What drives the audience’s emotional engagement (or what Taylor describes as ‘enlistment’) is ‘the status of the material as “true” and “authentic”’ (Taylor 2011, p. 227). Robin Soans (2008, p. 18) has stated that verbatim and conventional theatre are a lot alike and that the categorisation is ‘irksome’. However, he notes that ‘One of

the main differences between “created” and “verbatim” plays lies in the expectations of the audience....Above all, the audience for a verbatim play will enter the theatre with the understanding that they’re not going to be lied to’ (Soans 2008, p. 19). The audience accepts that the play may be presented in an unconventional way but proceeds on ‘the assumption that what they are looking at and listening to is revelatory and truthful’ (Soans 2008, p. 19).³²⁰

This underscores the power of the form in affecting audience perceptions of what is true and what is false. The *Protocols* itself plays on this intrinsic human hunger for the truth, intensifying its audience’s engagement by promising something revelatory and ‘true’.

The inherent anxiety about truth-claims in documentary theatre combined with audience expectations of ‘not being lied to’ has spawned a great deal of critical and scholarly attention on the effectiveness of various dramaturgical techniques in allowing audiences a revelatory and truthful exposure or access to the ‘real’.³²¹ For example, for Peter Weiss in the 1960s, the ‘document’ was the means by which truthful revelation could occur. As Megson notes, ‘For Weiss, documentary theatre is a utile form that marshals a ‘critique of concealment’, ‘distortion’, ‘lies’ and the ‘artificial fog’ generated by media and government....In Weiss’s discourse, paperwork is reified as the catalyst of revelation, the means through which truth-claims are not only identified but materialised in performance’ (Megson 2009, p. 198).³²²

However, other forms of documentary theatre offer an alternative dramaturgical avenue for exposing and expressing truth. This is exemplified by the highly personal form of ‘testimonial’ or ‘witness’ theatre, such as *He Left Quietly* in which Duma Kumalo told his own autobiographical non-linear narrative. In teasing out questions of truth, Fisher states that ‘the “truth” of the play corresponds less to factual veracity and instead creates a

³²⁰ For a more detailed discussion about the issues and ethical responsibilities surrounding truth in documentary plays see (Soloski 2013).

³²¹ See for example (Young 2009).

³²² The truth-claim of the ‘document’ is a fraught and contested area and subject to interpretation and bias (Reinelt 2009, p. 9). Reinelt offers an interpretation of the ‘document’ as a connection between spectators’ ‘quest’ to experience or understand reality and ‘an absent but acknowledged reality’ (Reinelt 2009, p. 10). She maintains that an audience does not necessarily ‘expect unmediated access to the truth in question, but that the documents have something significant to offer’ (Reinelt 2009, p. 9). Furthermore, each spectator produces their own meaning based on their relational identification with the document (Reinelt 2009, p. 10).

fragmented *testimonial* truth....’ (2011, p. 119). Fisher contrasts this with the dramaturgical approach in *The Exonerated*, a verbatim play based on interviews, and concludes that ‘dramaturgy of testimonial theatre can enable the testifying subject to penetrate the ‘truth’ of trauma....’ (Fisher 2011, p. 115). She argues that testimonial theatre, exemplified by *He Left Quietly*, expresses an authenticity that verbatim theatre claims but does not establish, ‘The truth that *He Left Quietly* discloses...is not an evidence-based claim of veracity that provides correspondence with concrete fact. Instead it could be better understood as an ‘authentic’ truth that is disclosed through the testimonial act itself....’ (Fisher 2011, p. 120). Claims to truth are especially contested in the realm of verbatim theatre which is forged from transcribed interviews, but the ‘anxiety’ over questions of truth runs through all forms of documentary theatre.

The theme of truth versus falsehood – a major theme of my research – reverberates through the content and form of the court process and also reverberates through the content and form of documentary plays. In its narrowest sense, the Greyshirt trial was a legal action for damages for injury to Reverend Levy’s reputation. However, in the absence of group defamation provisions or racial vilification legislation, the case was always intended (by the Plaintiff and the South African Jewish Board of Deputies who supported the action) to be a broader refutation of antisemitic propaganda that targeted Jews everywhere, particularly at a time when hate-fuelled material was becoming increasingly prevalent (refer Chapter Three). The South African Jewish Board of Deputies hoped that a legal judgment in favour of Reverend Levy and the exposure in court of the falsehoods propagated by the Greyshirts would be the best form of response to the rising antisemitism that they were experiencing. It is clear that the South African Jewish Board of Deputies had always anticipated addressing a broader audience comprised of everyday people who would otherwise believe the falsehoods at the heart of the *Protocols* and other similar propaganda. As argued in Chapter Three, it was primarily through the establishment of facts that Reverend Levy and the Jewish community sought to expose the truth about Greyshirt tactics and lies. Collins-Hughes notes that ‘Theater people talk a lot about dramatic truth, which is different from truth in the everyday sense: less about facts than about capturing an essence, even if that comes about by changing or obscuring facts’ (Collins-Hughes 2015). This observation points to the way in which ‘truth’ is pursued, understood and reflected in documentary theatre.³²³ Just as there are

³²³ Favorini (1994) specifically addresses the discourse of facts and the question of veracity.

a number of views about the relationship between truth and the legal system, so there are differing opinions about the relationship between truth and documentary theatre.

Various theatre practitioners and commentators have expressed the lofty goal (or effect) of documentary theatre as being to expose the truth or at least get nearer to it. While there is inevitably a natural tension between being absolutely faithful to the documentary material and creating a compelling narrative, there is a recurring idea in the literature that by taking certain liberties one can better approach ‘the truth’ (although some commentators contend that there is no single truth – but a plurality of truths). For example, Jessica Blank, co-author of *The Exonerated* and *Aftermath*, (documentary plays based on interviews), says, ‘We are storytellers – we sculpt, shape, carve and mold in the service of creating a compelling narrative (after all, that’s our job). But we believe deeply that there is a way to do so that not only is not at odds with the truth but in fact serves it more deeply’ (Soloski 2013, p. 26).³²⁴

Some have gone as far as to say that the theatre has primacy over journalism in achieving this goal.³²⁵ For example, in praising the Tricycle Theatre’s production of *Honor bound to Defend Freedom*, Richard Norton-Taylor (2004, p. 39) writes that:

The role of the theatre in exposing the truth and reality, unvarnished, is making a welcome comeback. But can it really be a more effective and honest medium than newspapers, television or radio? Yes....

This, for me a journalist, is what the theatre can do better, much more forcefully, than newspapers or other media. There is no pressure to distort by epithets or spin. There is less temptation, indeed there is no need, to contrive. “You can get nearer to the real truth,” says the Tricycle’s imaginative director, Nicolas Kent.

In a similar vein, Hammond and Steward remark that:

³²⁴ However, for a re-evaluation of ‘truth’ in *The Exonerated* eleven years after the play’s debut, particularly in light of facts revealed only after the initial production, see (Bean 2014).

³²⁵ This view is perhaps driven by a growing scepticism of contemporary mass media (see, for example, Colleran’s study of theatrical responses to war since 1991, which is located within the broader context of ‘rapid mediatization’, ‘media hegemony’ and ‘media spectacles’, in which the ‘act of spectatorship displaces deliberation’ (Colleran 2012, p. 20). She notes that ‘While visible evidence and witness were once touchstones for truth and fact, the proliferation of signs and images, disseminated more widely than ever before because of television, cell phones, and computers, has changed the status of proof and altered conceptions of authenticity’ (Colleran 2012, p. 5). See also (Luckhurst 2008, p. 200).

No play, like no newspaper article, is without bias and inflection, but, Hare argues, people who work in the theatre tend simply to have much less to gain from lies and spin, and much more interest in being honest. (Introduction to *Verbatim Verbatim* 2008, p10)³²⁶

It is an overstatement to argue that documentary theatre is more interested in the truth than other forms are, or to argue in absolute terms – as Aunty Joy Murphy did in relation to *Coranderrk* – that a particular documentary theatre production ‘offers no less than the truth’ (Nanni & James 2013, p. viii). Academic and practitioner, Professor Mary Luckhurst, is justified in being ‘troubled’ by the ‘underlying conviction’ of some verbatim theatre practitioners that ‘verbatim theatre can lay claim to greater historical veracity’ (Luckhurst 2008, p. 203). Giordano Nanni, co-devisor of *Coranderrk* probably expresses it better than Norton-Taylor and Aunty Joy Murphy when he describes tribunal plays as being ‘about the search for truth in pursuit of justice’ (Nanni & James 2013, p. 192). He says, ‘Coranderrk does not claim to represent ‘the truth’, or even to recreate the Coranderrk Inquiry....What Coranderrk does depict, however, is the search for the truth’ (Nanni & James 2013, p. 192).

Bottoms has astutely observed that ‘unmediated access to “the real” is not something the theatre can ever honestly provide’ and cautions that:

Without a self-conscious emphasis on the vicissitudes of textuality and discourse, such [documentary] plays can too easily become disingenuous exercises on the presentation of “truth,” failing (or refusing?) to acknowledge their own highly selective manipulation of opinion and rhetoric. (Bottoms 2006, pp. 57-8)³²⁷

³²⁶ For an appraisal of journalists turning their hand to documentary theatre, see (Collins-Hughes 2015). See also Glenny’s observation that Gubaryev, the first journalist on the scene after the meltdown at the Chernobyl nuclear plant, was motivated to write a play about the event, believing in the capacity of theatre to convey the magnitude of the emotion better than ‘the sober prose customary in the news columns of a national daily newspaper.’ (Gubaryev 1987, p. vi).

³²⁷ Many others have pointed to the limits of verbatim theatre in providing unmediated access to the real. For example, Fisher contends that the ‘truth’ of a traumatic event is ‘arguably not transparent, knowable or even communicable’ and therefore she questions claims to ‘authenticity’ of verbatim theatre dealing with trauma, where that claim rests simply on its ‘capacity to be truthful’ (Fisher 2011, p. 112). For additional perspective on performing trauma, see (Hesford 2006). Colleran notes that documentary theatre is ‘never without its own bias’, but nonetheless ‘deeply interested in exploring the gray area in the spectrum of political revelation, examining how half-pictures and half-truths may be offered as legal truths and political facts’ (Colleran 2012, p. 138).

This calls to mind Carol Martin's rhetorical question, 'Is documentary theatre just another form of propaganda, its own system of constructed half-truths for the sake of specific arguments? Typically its texts and performances are presented as not just as *a* version of what happened, but *the* version of what happened', citing the production of *My Name is Rachel Corrie* (2005) as a case in point (Martin 2010a, pp. 20-1). However, Martin also points out that some forms of documentary theatre are successful in 'complicating and interrogating archival truth' in a way that encourages audiences to question the 'ways in which stories are told' (Martin 2010a, p. 22).

Therefore, it is possible to conclude – as Spigelman did in relation to truth and law (2011) – that documentary theatre seeks truth, but that search is qualified and constrained. In the case of documentary theatre, the constraints include:

1. potential contestation over both the archive itself (Martin 2010a, p. 18) and the veracity and truthfulness of the underlying documentation on which the work is built (leading to claims that the play itself is a form of propaganda), a problem encountered by Nandita Dinesh in relation to her documentary theatre piece *Meri Kahani Meri Zabani* (MKMZ) (2014), (Dinesh 2015, p. 113);
2. differing cultural perceptions of the 'relationship between the fictional and real worlds' (Hutchison 2010, p. 61)³²⁸; and
3. the techniques inherent within the theatre practice, specifically the editorial and directorial prerogative in the selection, editing and arrangement of documentary materials.

As Megson notes, 'the veridical force of material "evidence" is not inviolable but circumscribed by process of editorial mediation' (Megson 2009, p. 197). Editorial mediation may involve unconscious bias or conscious bias, for example, documentary productions that deliberately 'take sides' (in the spirit of Peter Weiss' contention in *14 Propositions for a Documentary Theatre* (Elvgren 1974, p. 91; Favorini 1995, pp. 141-2). Kipphardt's *In the Matter of J. Robert Oppenheimer* is an example of this ((Dawson 1999, pp. 128-9; Elvgren 1974; Wolfenstein 1970) and stands in contrast to other more recent works in which emphasis

³²⁸ For additional discussion about the relationship between documentary theatre and the real, see (Colleran 2012), especially pp. 137-142. See also (Favorini 1994). For the implications of the 'real' on spectatorial engagement see (Taylor 2011).

is placed on objectivity and the presentation of multiple viewpoints (see for example, Elvgren's (1974, p. 90) critique of Cheeseman's documentary theatre productions and Irmer's (2006, p. 24) discussion of Hans-Werner Kroesing).

In relation to *The Defamation*, I am not seeking to establish a multiplicity of perspectives on the Greyshirt trial, or raise questions about the truth of the *Protocols*. The Greyshirt trial brought the discursive struggle between Greyshirts and the Jewish community into a judicial realm, and what interests me is how that ideological clash was reflected, refracted and manifested within the courtroom. The courtroom forced the participants to engage (and persuade) with words rather than actions, and in this way, the court record captures and reflects the different perspectives and points of view of the Defendants and the Plaintiff (and their respective witnesses). The Greyshirt worldview stands in stark contrast to that of Reverend Levy and it is this difference in perspective that *The Defamation* seeks to show. As the Greyshirt Defendants represented themselves, their voices and views are on the record in direct speech – not mediated through legal representation. Consequently, the Greyshirts and their witnesses, including Beamish (an antisemite who published the *Protocols*) have a voice in *The Defamation* and I hope that audiences will be moved to reflect on the familiarity of those voices in their modern-day incarnations.

While the oppositional perspectives of the Defendants and the Plaintiff provide a 'ready formed focus of conflict' (Mason 1977, p. 269), set as they are against a wider ideological, historical, political and social backdrop, additional perspectives are brought to bear in *The Defamation*. For example, the voices of everyday people are reflected in some of the witnesses and the voice of the legal system is reflected in the Judge and the Plaintiff's barrister. Therefore, a range of perspectives are presented by the protagonists/*dramatis personae*. Ultimately, it is the voice of the law in the form of a verdict that brings resolution to the factual and legal issues in dispute. The judgment in favour of Reverend Levy vindicated his action and confirmed that the Defendants had perpetrated falsehoods. The definitive judgment brought the legal action to an end and appropriately concludes the play. Therefore, while *The Defamation* shows the multiplicity of perspectives that characterised the legal dispute, it does not seek to leave any open questions regarding the facts of the case or the verdict. The Greyshirt trial was successful in separating truth from lie. However, lies and falsehoods have been continually revived in public discourse as a means of gaining political traction. The Greyshirt trial is a reminder that it is often difficult to separate truth from

falsehood in a turbulent and ideologically-charged ‘marketplace of ideas’. It also shows how politically expedient lies (particularly those that demonise the ‘other’) undermine social cohesion and inclusion.

4. Audience and spectatorship

While a legal case and a theatrical performance are very distinct in terms of audience and purpose and also in their respective modes of seeking, exposing and expressing truth, it is nonetheless possible to see some important correlations between the audience and purpose of the Greyshirt case and that of the play. *The Defamation* seeks to share the story of the Greyshirt trial with the general public in order to promote critical thought and generate discussion on the historical and contemporary dimensions of the case. Critically, *The Defamation* is also intended as an intervention in contemporary antisemitism. As outlined above (and in detail in Chapter Three), the general public was a key audience for Reverend Levy and the Board of Deputies. Focussing on the general public as an audience underscores the centrality of the public sphere where ‘judgments are made, expressed and acted upon’ (Colleran 2012, p. 2). Crucially, the individual and collective judgments, expressions and actions within the public sphere help to shape society and can also determine the boundaries of belonging – who is deemed to be part of society and who should be cast out. In the Greyshirt trial the very boundaries of the belonging were at stake. Today, questions of inclusion and exclusion are still contested. Both the Greyshirt trial and the *Defamation* can be viewed as distinct but similar vehicles for engaging ‘publics’ on fundamental social issues and potentially influencing public perception to create greater social inclusion.

Of fundamental importance to this project is the extent to which the form of the narrative influences and shapes memory and perception. By acknowledging the complexity and debate surrounding truth in law, and truth in documentary theatre, I do not offer *The Defamation* as definitive truth, but as a theatrical frame through which past events can be viewed, explored, probed and critically assessed. *The Defamation* is a creative and artistic vehicle by which I seek to provoke thought and discussion on the nature of prejudice in general and antisemitic propaganda in particular. The documentary form and mainly mimetic style of *The Defamation* creates a mode of spectatorial engagement that ‘enlists’ the audience on both rational and emotional levels (see generally (Taylor 2011)).

Unlike Colleran's assessment that contemporary political or documentary plays are offered as a 'critical *alternative*' to mainstream mass media (my emphasis), I view *The Defamation* as an adjunct rather than an alternative. Through *The Defamation*, I hope to contribute to the ongoing exchange between the theatrical world and the public sphere, evoking – in a different context – Cover's theorisation of the relationship between a legal *nomos* and the broader social environment. In so doing, *The Defamation* creates its own narrative, expressed through theatrical conventions and the form of theatre itself. The law and, in particular, judicial adjudication, is already theorised as a space of performance (Bachmann 2010; Hutchison 2013; Martin 2010a; McKay 2010; O'Connor 2013; Rogers 2008) and narrative (Cover 1983; Griffin 2013).³²⁹

Documentary trial plays in general and *The Defamation* in particular, draw on and reflect this rich theoretical framework when legal proceedings are transformed into theatrical works and performed in a theatrical space. Documentary trial plays also invite critique of the law itself (O'Connor 2013). For example, Flynn shows how *One Hour Eighteen: the Trial that Wasn't but Should Have Been* (2010) (a Russian documentary play that uses verbatim material to stage an imagined trial) addresses, among other issues, 'injustice and corruption in the country's legal infrastructure.' Flynn notes that by staging an imagined trial, the creators of the play 'place their work in direct relation to Russia's complex judicial history, in which the relationship between trials and theatre has, throughout the previous century, grown uncomfortably close' primarily through 'modes of spectatorship as they were developed in the early Soviet mock trials and subsequently transposed on to the very real prosecution and sometimes execution of Soviet citizens in Stalinist show trials' (Flynn 2014, pp. 308, 12). Flynn (2014) explores the way in which documentary theatre in contemporary Russia stages 'new cultural narratives' and creates a space for public dialogue on the relationship between theatre, law, memory, history, justice and truth.

Carol Martin (2006, p. 12) has stated that one of the functions of documentary theatre is to re-open trials to critique justice. *The Defamation* is not a play that 're-opens' the Greyshirt trial,

³²⁹ Carol Martin has argued that evidence and testimony in documentary theatre 'are used in ways not unlike a court of law' (Martin 2010a, p. 20). For additional perspectives on the interdisciplinary dimensions of law and theatre (not just the performative aspects or those pertaining specifically to legal trials), see the 2010 special issue of *Law Text and Culture* entitled 'Law's Theatrical Presence' (Leiboff & Nield 2010). Of particular relevance is (McKay 2010; Moran, Skeggs & Herz 2010; Schmidt 2010).

but it does seek to create a space for public reflection and discussion on the interaction between theatre, law, memory, history, justice and truth.

In addition to matters of truth, authenticity and narrative, documentary (and verbatim) theatre also illuminates the related theoretical issues of ‘voice, voiceprint, authorship’ (Wake 2010a, p. 3), as well as ‘mimesis and mimicry, representations of self and other, the function of the actor, the subversive possibilities of political performance and resistance, and the differentiation between reality and simulacra’ (Ben-Zvi 2006, p. 44). Jean Baudrillard’s theory of ‘*simulations*’ (which posits that ‘a representational image progressively stands in ever-greater disconnection from its origin in reality’ (Favorini 1995, p. xxi)) raises theoretical questions about the relationship between ‘basic reality’ and its representation, ranging from reflection of basic reality to ‘pure simulacrum’ (Favorini 1995, p. xxi). All these theoretical issues are highly relevant to theatre and performance studies and also permeate my earlier analysis of the *Protocols* (see Chapter One). The *Protocols* is a fabricated document, alleged to be authored by Jews (but with an unconfirmed original fabricator), often exploited for a political purpose and employed to delineate a binary notion of ‘self’ and the malevolent ‘other’. Furthermore, the *Protocols* has its own paranoid and apocalyptic ‘voice’ (see Chapter One, and in general see (Landes & Katz 2012)) and in 1934 was adapted by the Greyshirts in South Africa to have what they alleged was an ‘Oriental’ or ‘Asiatic’ voice (see Chapters Two and Three). The *Protocols* also seeks to alter perceptions of what is real and what is not by inviting its ‘audience’ to see the world from an entirely different perspective, dominated entirely by a conspiracy theory based on imagination rather than fact. Therefore, there is a striking parallel between the theoretical issues raised by the documentary form and the nature, use and form of the *Protocols* itself. In this way, the documentary form heightens and accentuates for the audience many of the theoretical issues outlined above.

5. Script development

5.1 Methodology

Following the tradition of documentary theatre, I selected, edited and arranged archival material to create the first draft of *The Defamation* in 2010. In doing so, I was cognisant of the trust that documentary theatre audiences place in the creators of the work to ‘reflect historical events’ (Nanni & James 2013, p. 192) and also the power of the verbatim words as a mode of audience engagement (Taylor 2011). Consequently, I was as faithful to the

archival and documentary material as possible and also harnessed my full appreciation of surrounding circumstances and additional facts that may not have been reflected in the play's dialogue, but have helped to shape the narrative arc and the selection, editing and arrangement of the material. Many practitioners and academics have cited Peter Weiss's list of materials on which documentary practitioners may draw, including 'letters, statistics, market-reports, statements by banks and companies, government statements, speeches, interviews, statements by well-known personalities'. In relation to this list, Megson (2009, p. 199) states that 'In tribunal theatre, it is notable that this paperwork colonises and indeed helps constitute the *mise-en-scène* – it is summoned, examined, interpreted – as the primary object of scrutiny and the principal site of discursive contention.'

To create the text, I primarily drew on the verbatim Greyshirt trial transcript, the legal judgment, legal documents (including affidavits), newspaper accounts, letters, legal correspondence and Reverend Levy's valedictory sermon. In addition, I obtained a transcribed seminar in which Leopold Simmons, a witness in the case, shared his memories of the events surrounding the case. This transcript provided the basis for the original first scene (now deleted) in which Jewish youth disrupted a Greyshirt meeting and during which a physical fight broke out. As with all the imagined scenes, I based the dialogue on what I gathered from the archival material and set the scene in the most likely place and time based on a chronology of events. The incorporation of private scenes reconstructed from archival material, evokes a technique in Donald Freed's tribunal play, *Inquest* (1970) and London Unity Theatre's *Busmen* (1938) both of which dramatise legalistic discourse alongside the private lives of the characters. *Inquest* dramatised the trial of Julius and Ethel Rosenberg and divided the stage into two: one part for staging the official documents and one for the private lives of the characters. Mason (1977, p. 272) states, 'Freed proposes that the theatre of fact cannot stand alone but should be complemented by reconstructions, dramatizing the private lives of the characters.' Similarly, *Busmen*, a Living Newspaper, switched 'from the formalized, legalistic discourse of the politician and the trades union official, the moralizing of the press or the dry statement of fact to the sardonic, direct and passionate speech of the busmen themselves. By this device, as well as by virtue of their position as underdogs, the busmen and their families engage our sympathy and partisanship' (Watson 1981). As I discuss below, many of the imagined, reconstructed private scenes of my original draft have now been removed from the script, which now focusses more emphatically on the court record.

5.2 Projection of documentary materials

The initial script also envisaged the projection of words as well as documentary and archival material during the performance, which is also consistent with the tradition of documentary theatre practice (a contemporary example being *Can We Talk About This?* by physical theatre company, DV8). The purpose of incorporating projected words, documentary materials and images into *The Defamation* was to add interest, authenticity and context to the drama and to provide a strong visual dimension through which the audience could connect with the historical facts, offering another avenue of perception and thought for the audience. I had envisaged the inclusion of documentary visual material as a means of increasing the theatricality and aesthetic power of the work, and also recognised that it could perform a quasi-narration role as the imagery could convey and strengthen meaning simultaneously with the spoken word and in this way create a visual shorthand to augment, amplify and elucidate the dialogue. As the incorporation of visual imagery, documentary materials and other forms of visual narration relate more to the *performative* rather than *dramatic* aspects of the text, I ultimately decided to remove stage directions or suggestions within my script that related to the projection of documentary materials. I thought that these performative matters would be better addressed in collaboration with theatre professionals at some future point.

5.3 Protagonists/dramatis personae

Another key aspect of the distillation and creation process was determining a ‘character list’. I maintained fidelity to the actual names of all the characters, but did not include all the protagonists in the play. For example, two judges presided in the Greyshirt trial, Sir Thomas Lynedoch Graham and Justice Gutsche, but I only included the senior Judge, Sir Thomas Graham who had written and read the judgment with which Justice Gutsche concurred. It was adequate for one judge to represent the voice and force of the judicial system. Similarly, Senior barrister Frederick Reynolds (a Kings Counsel) was assisted by a junior barrister, Will Stuart, whom I also excluded from the play. In my original version of the script I included Reverend Levy’s lawyer, Barend (‘Ben’) Smulian, who was instrumental in preparing the case in a very short timeframe and a key figure in shaping the strategy of the case. However, in further drafts where out-of-court scenes were radically cut back, Smulian no longer featured. While I was reluctant to remove Smulian from the play because of his seminal

significance in the case, Reynolds embodied the advocacy in court and his role became more delineated.

While each character in *The Defamation* is invested with individuality, many of the characters are also emblematic and representative of a particular view or discourse and I used this as a guide in making decisions about which characters to retain in the play in order to avoid unnecessary duplication. In my view, the selection (and omission) of characters in *The Defamation* does not give rise to the potentially complicated and fraught ethical and political considerations associated with certain verbatim plays, for example those dealing with refugees and asylum seekers where issues of ‘silencing’, ‘re-traumatisation’ and ‘voyeurism’ are foregrounded (Wake 2013, especially pp. 104-5).

5.4 Casting the audience

Unlike many ‘verbatim’ and ‘testimonial’ plays, the actors in *The Defamation* do not address the audience directly or move between being characters and actors (and in this way the play is more mimetic rather than diegetic). However, the audience is implicated or ‘cast’ at various points in the play and in this way, I hope to generate engagement while not expressly breaking the ‘fourth wall’ of the theatre.³³⁰ The first point is when von Moltke delivers his impassioned speech vilifying Jews in general and defaming Reverend Levy. My intention in this scene is for the audience to be ‘cast’ as the assembled audience in the Feathermarket Hall in Port Elizabeth on the 4 April 1934. The other main monologue addressed directly to the audience is the final scene – Reverend Levy’s verbatim valedictory sermon delivered in the 1950s. This final scene is intended to operate as a form of coda, contrasting dramatically with the words of hate uttered by von Moltke at the start of the play. One of the major themes of the play is the power of words. The perlocutionary effect of von Moltke’s words stand in stark contrast to those of Reverend Levy. In the final scene Reverend Levy addresses his congregation and concludes with a benediction for those present. In this scene too, when the audience is being addressed directly, I sought to increase the spectatorial engagement of the audience as the ‘congregation’.

³³⁰ In relation to ‘casting’ an audience see for example Max Stafford-Clark in (Hammond & Steward 2008, pp. 69-70). See also Paget for the way in which audiences may be cast as ‘interviewers’ in the context of verbatim theatre (Paget 2010, pp. 187-8). Many practitioners note the audience’s intensity of ‘listening’ in this context.

Finally, the audience is engaged in a jury-like act. While the Greyshirt trial did not involve a jury, to a large extent the general public played this role. The main battleground in the ideological struggle between Greyshirts and members of the Jewish community was the public sphere. In the same way that the general public was a key audience for both the Greyshirts and the Jewish community, my intention is to engage the audience who attends *The Defamation* in a 'jury-like' way. Although the historical record is being mediated by the theatrical process, I aim to present the story in an authentic and truthful way. My goal is to create a space in which the audience can consider and reflect on the historical case and its contemporary reverberations and implications. I see distinct parallels between the audience who attends *The Defamation* and the general public of 1934. While not playing a formal role in the rituals and performance of judicial adjudication (as a formal jury would), members of the audience are part of the general public – a sphere in which individual and collective memories, perceptions, biases, values, attitudes, judgments, opinions and beliefs coalesce to shape our society.

Cover has argued that the creation of legal meaning 'never exists in isolation from violence' due to the coercive power of the law (Cover 1983, p. 40). In her article on the relationship between law and theatre, Rogers builds on Cover's analysis and distinguishes legal and theatrical 'performance' by stating that 'Legal performance is anchored in violence, and theatre is not' (Rogers 2008, p. 440). She notes that the *performance* of law has coercive consequences and sanctions for the 'human bodies caught up in the remorseless dispensation of legalised violence', while the transformation of law into 'theatrical play' strips law of its 'association with force and violence' and creates 'new possibilities for justice' (Rogers 2008, p. 443). In the context of *The Defamation*, audience members are able to reflect on the Greyshirt trial and create their own meaning in the absence of any coercive consequence. Their perception and interpretation is not taking place 'in the shadow of coercion'. This largely reflects the position of members of the public, who are free to create meaning without an associated threat of force and violence. However, I am seeking to underscore the important social, political, historical and moral implications of our individual and collective memories, perceptions and judgments. Furthermore, I aim to highlight the power of the form of the narrative to shape memory and perception. Finally, the public sphere is a place in which acts of physical violence, including collective violence, have been (and continue to be) carried out. As I showed in Chapter One, collective violence is often prefigured, authorised, justified and/or validated by propaganda such as the *Protocols*. *The Defamation* seeks to

provoke thought on the potential for public and collective violence generated by words of hate.

6. Creative collaboration

Beck et al. (2011, p. 688) note the long tradition in theatre to draw on historical events (for example Shakespeare's history plays), and examine the inverse occurrence of social science researchers creating research-based theatre for academic and public audiences. They point out that 'many of the stories and insights' gained through social science research 'have the potential to become rich and compelling pieces of theatre.'³³¹ They state, 'To enrich the dramatic potential of ethnographic research, Saldaña suggests that researchers desiring to use theatre might work, as Hamlet did, in collaboration with theatre practitioners who can bring the stories found in their research to life' (Beck et al. 2011, p. 688). After writing the first draft of *The Defamation*, I actively sought the dramaturgical advice of theatre professionals in order to take the script to the next level of creative development. As the intended audience of *The Defamation* is the general public, not just academia, I was aware that I might need to employ dramatic licence in order to enrich the script's 'dramatic potential'. As Beck et al. (2011, p. 688) note, 'Theatre created to disseminate findings may seek to be more objective than compelling, while theatre created for the general public may seek to be more compelling than objective'. There is a natural tension between being faithful to the historical, verbatim record and devising a creative work with its own narrative that will appeal to and engage a theatre audience. This balancing act guided and informed the creation of *Coranderrk* as the creators explained, 'Our approach to transforming the historical transcripts into a theatrical script was to balance the needs of history and theatre' (Nanni & James 2013, p. 193).³³²

Clay Hopper (then the Associate Artistic Director of the Olney Theatre Center in Washington D.C., and a supporter of emerging writers) was the first theatre professional to review the first draft of *The Defamation* in 2012, after I sent him a copy of the script (of approximately 32,400 words in length) on 8 March of that year. As I explained to Hopper in my email of 8 March 2012, my intention was to edit the script and make it more dramatically engaging. During a skype call on 24 July 2012, Hopper provided me with feedback, suggestions and

³³¹ See also Paget's discussion of *Welcome to Ramallah* (2008) which sought to reach a wider public audience (Paget 2010, p. 178).

³³² See also 'The creation of the theatre script was guided by the goal of balancing the needs of both historians and theatre audiences' (Nanni & James 2013, p. 3).

insights. Hopper thought that the story was extremely compelling and that the most compelling element was the documentary component, especially the court record. As I have developed the script, (especially over 2015 and 2016 during which time I had many script development meetings through my collaboration with the Jewish Communal Appeal (JCA), a community organisation interested in producing the play), I have placed greater emphasis on the court record, and reduced the number and length of out-of-court scenes. Hopper also made the important point that audiences seek purchase with a protagonist more than an issue, and that the more personal and psychological the drama becomes, the more universal the story becomes. Hopper's observation that the dramatic epicentre of the play is the courage and integrity of Reverend Levy's actions, highlights the importance of the profoundly personal challenges and journeys of individual protagonists in storytelling.³³³ Through the personal trajectory of Reverend Levy and the particular events of 1934, the play seeks to provoke thought on how one responds to hate speech of any kind and explores the more universal theme of how people use conspiracy theories to make sense of confusing and frightening times and to validate their own prejudices and fears.

While issues, themes and ideas are important to theatre and its goals, these broader matters are most effectively explored and played out through the characters with whom the audience is connected. As Blank and Jensen argue, the audience's connection to and identification with the characters in the play can create empathy, which implicates and involves the audience in the story and, in this way, preconceived ideas can be challenged and reformulated (Blank & Jensen 2005, p. 19). The notion of understanding universal issues through the particular dilemmas of individual people is well-expressed by Marion Starkey in her book about the Salem witch trials in Massachusetts in 1692. Writing about the people involved in the Salem witch trials, Starkey observes:

The human reality of what happens to millions is only for God to grasp; but what happens to individuals is another matter within the range of mortal understanding....Witches in the abstract were not hanged in Salem; but one by one were brought to the gallows such diverse personalities as a decent grandmother grown too hard of hearing to understand a crucial question from the jurors, a rakish, pipe-smoking female tramp, a plain farmer who thought

³³³ In this context, it is worth noting Mason's observation regarding the divergence between Piscator and Brecht: the former aimed for emotional engagement and the latter for audience reflection. Mason points out that in *In the Matter of J. Robert Oppenheimer* (1964) 'Kipphardt is concerned that the audience avoid emotional identification with Oppenheimer' i.e., promoting a rational reflection à la Brecht (Mason 1977).

only to save his wife from molestation....These people emerge from the records as real as the people who live next door. And after you have studied their lives faithfully, a remarkable thing happens; you discover if you really know the few, you are on your way to understanding the millions. By grasping the local, the parochial even, it is possible to make a beginning at understanding the universal. (Starkey 1949, p. 15) and also quoted by Christopher Bigsby in his Introduction to the published script of *The Crucible* by Arthur Miller ((Miller, p. ix)).

Understanding the universal through the personal has important implications for my play, *The Defamation*, as well as this project in general. The process of writing *The Defamation* required a close examination of the personal motivations, beliefs, ideas and values that shaped the protagonists' worldview, decisions and actions. These more personal and psychological dimensions, which may otherwise be marginalised in a purely academic approach, provide a valuable insight into the nature and effect of prejudice and hatred, as well as illuminating how one can and should respond to its manifestations. Since the Defendants in the Greyshirt case acted in person, and their words are on the court record, it becomes possible to begin to understand how people might believe and be influenced by fanciful and far-fetched ideas, such as the *Protocols*, and how conspiracy theories can be used to make sense of confusing and frightening times and to validate prejudices and fears.³³⁴ The

³³⁴ See for example, Reynolds' cross-examination of von Moltke, 'Do you think that the poor whites are due to the Jews? – Yes, most decidedly. If there were no Jews here there would have been no poor whites. There would have been only a few.' ('Transcript' 1934, p. 735). In his evidence-in-chief, von Moltke explains his background and upbringing, stating, 'I will candidly admit that the parents made the same mistake in bringing me up and telling me when my mind was most receptive, telling me about the Boer War and the persecution of the Dutch by the British in South Africa.' ('Transcript' 1934, p. 632). He describes his early influences in South West Africa and how he came to believe that Jews wielded disproportionate power, exploited the 'Gentile races' in South Africa and consequently 'became enriched' at the expense of poor whites. His contorted logic and scapegoating is interwoven with ardent nationalist, conspiratorial, antisemitic and xenophobic themes and amply reveals his fears, which are reflective of the fears held by many poor Afrikaners facing economic struggle and political marginalisation. (In relation to the general mood among poor, white Afrikaners, see (Furlong 1991)). Von Moltke states, 'it became clear to me that there must be an alien community, a race that will not assimilate with my race that must be the key to the whole question, and when I studied the subject further I candidly had to admit that my country for which my ancestors fought both on father's and mother's side...for which they spilled their blood, that the birth-right that they thought they were going to give me, that was being rapidly taken away from me and snatched from the Gentile posterity of South Africa by a community of people who are not interested in the tilling of the soil and that were only interested in exploiting the labour of the Gentiles...I personally studied and became convinced that our dear homeland is being ruled and controlled by what I should call octopuses...these octopuses I found out were definitely Jewish in character...' Having become convinced of Jewish control of South Africa, (but conceding that there were only two Jews in Parliament) von Moltke alleges that Jewry is 'organised in business and politics' with 'stupendous' and pervasive power, and with controlling interests in finance, gold, diamonds, mines and other resource sectors. He maintains in his evidence that there are powerful Jewish individuals at the helm of powerful companies that are 'interlocked' with other powerful companies that are also controlled by Jews, 'The house of Weiner Beit Eckstein...is interlocked with the house of Rothschild.' To validate his argument, von Moltke specifically refers to the *Protocols*, 'I also read the Protocols of the Learned Elders of Zion. I find in protocol 8 a good explanation about Sir Abe Bailey...Protocol No. 8 says "Around us again will be a whole constellation of bankers, industrialists, capitalists, and the main thing – millionaires because in substance everything will be settled by the question of figures." I may say this is

Greyshirt trial particularly lends itself to dramatic re-enactment due to the fact that the Defendants represented themselves, increasing the theatricality and spectacle of the work and highlighting the intensely personal, and even confessional, nature of the documentary form.

Hopper also affirmed the historical significance of the court record by stating that of all the material that had come to him over the years, this work was one of the most historically compelling. Writing in the contemporary American context, Ferguson argues that ‘High-profile trials are a distinct phenomenon at the nexus of the legal system and public life. Episodic as they are powerful, they surprise by attracting massive attention beyond the locality in which they take place and by influencing social thought generally, and although they come in many different forms and situations, they share qualities that aid the interpretation of history and culture’ (Ferguson 2008, pp. 1-2). The Greyshirt case was considered a landmark legal judgment, attracting a great deal of media interest and, to borrow a phrase from O’Connor, had a ‘clear connection to its historical moment’ (O’Connor 2013, p. 2). As a trial that reflected the deep social concerns and ideological challenges of the early 1930s, the Greyshirt trial lends itself to dramatic re-enactment.

While the historical material may be the most compelling, Hopper encouraged me to take more dramatic licence with it (‘audiences will thank you for it’) and noted that there could be many artful ways of presenting the scenes, for example, splicing certain testimony together, playing some material side-by-side and moving the sequence around rather than being faithful to the chronological order of events. As the script has continued to develop, I have incorporated some of these devices. Most notably, and based on feedback from the script development meetings at the JCA (discussed below), I have moved Dr. Sokolow’s testimony to a later scene to enhance its dramatic effect and make more of the fact that Sokolow just happened to be in South Africa at the time of the trial. The sequence of witnesses was also altered in *Coranderrk* in furtherance of ‘giving the script a story arc’ (Nanni & James 2013, p. 193).

the protocol of the house of Bailey...’ (‘Transcript’ 1934, p. 638). Von Moltke expands on his belief in the *Protocols*, ‘I honestly believed that the Jews did not acquire what they have through merit, it was a question of method, they were organised. I read various books and I read this history of the Protocols, I first could not believe the Protocols, they astounded me because they sounded so prophetic. I thought they seemed so clear like Protocol 14, and after this they proved it to me that the Protocols must be in existence, that there must be an organisation working according to that plan...I thought well if you stand in front of a building with the plan in your hands, and you find the building co-incides in detail with the plan you have in your hand, you have every right to believe that the building was put up by the persons responsible for drawing up that plan.’ (‘Transcript’ 1934, p. 646).

Local collaboration

Hopper emphasised the importance of a local theatre director in taking the work forward and suggested that I speak to a theatre director in Sydney or Melbourne, especially someone involved in documentary theatre. Consequently (and through the good offices of Tim McGarry of MonkeyBaa Theatre Company), I made contact with David Williams, one of Australia's pre-eminent creators of documentary theatre, and founder and former CEO of theatre company, Version 1.0. After an initial meeting on 27 May 2014, I engaged Williams to provide script development and directorial assistance for the professional reading of *The Defamation* which took place on 28 August 2014 at the University of Technology, Sydney (UTS). A recording of this reading is provided with this thesis.

The purpose of the reading was two-fold: first, to mark the 80th anniversary of the judgment that was handed down on 21 August 1934 and secondly (and more importantly) to take the script to the next stage of creative development by collaborating with theatre professionals. In the lead-up to the reading, Williams and I had several meetings and liaised via email on script changes. Williams provided valuable suggestions regarding the script and also assembled a cast of professional actors: Brendon Taylor, Damien Cudmore, Luke Carroll and Tim McGarry. We had two rehearsal periods prior to the reading in which I worked with Williams and the actors to further revise, refine and edit the original script.

The rehearsals provided the first opportunity for me to hear the words of the play out loud, and the reading provided a forum for the words from the trial and judgment to be heard again for the first time since 1934. In this way, the reading mimicked the original oral mode of communication of both the defamation and the evidence given in court. This allowed a contemporary audience to engage with the historical events in a way that mirrored the original spoken form of the defamation and trial. Nanni and James, who wrote *Coranderrk*, state that any doubts they may have harboured about whether the transcript would make good theatre evaporated when the actors started uttering the words. They state, 'By re-uttering the words in the minutes of evidence *Coranderrk's* actors were converting these written records back into the oral form in which they were originally communicated' (Nanni & James 2013, p. 194). A similar effect was achieved in relation to *The Defamation* during the reading on

28 August 2014, and affirms the view that one of the reasons that transcripts lend themselves to dramatic re-enactment is that the written record was once the spoken word.

During the reading, all the actors held and read from scripts, affirming the primacy of the ‘document’ and the fidelity to verbatim words. The lighting was static and there were no props or costumes. Therefore, the form and style of the reading was not a ‘theatrical’ event, but focussed audience engagement on the words. In this way, the archival documentation on which the play is based was the engine for driving audience engagement.

The reading on 28 August 2014 was attended by approximately 100 people (the capacity of the venue) and was an opportunity for me to elicit feedback from audience members. Based on the feedback I received and on my assessment of the script, I identified further ways in which I wanted to develop the script. I was provided with a further opportunity to develop the script in August 2015 when I was approached by Daniel Grynberg, the then CEO of the Jewish Communal Appeal (JCA), to use *The Defamation* as the basis for a JCA event.³³⁵ The JCA is a registered charity that fundraises to support 22 communal organisations providing services and programs to the NSW and ACT Jewish communities in areas such as education, aged care, disability, security and sport (*Jewish Communal Appeal* 2016).

Grynberg put me in touch with Rivka Hartman, an actor/director/writer with whom I had many meetings to further develop the script for production purposes. Grynberg and Hartman also assembled a group of interested lawyers and actors to form an ensemble cast, and with whom we had several script development workshops.³³⁶ Through the meetings with Hartman and the script development workshops with the cast, I completed a tighter version of the play of approximately 9,300 words, comprising Chapter Five of this project.

The main dramatic innovation was the introduction of a narrator, which adds an element of diegesis to an otherwise mimetic piece. The purpose of introducing a narrator was to assist the audience in following the sequence of events, linking certain scenes and explaining

³³⁵ Since the time of writing, Grynberg has left the JCA and so his proposals with respect to the play have been temporarily put on hold. However, it is anticipated that the event will proceed in substantially the same form in the future and therefore the reflections and conclusions in this Chapter remain pertinent.

³³⁶ My first meeting with Hartman was on 10 August 2015, followed by several more including on 17 September 2015, 17 November 2015 and 1 December 2015. Between meetings, I worked on further edits to the script to progress the script for the next meeting. The first meeting with the ensemble cast was on 14 December 2015, followed by meetings on 4 February 2016, 15 March 2016, 17 May 2016 and 21 June 2016.

certain matters that are not apparent from the verbatim record, such as why the Defendants were representing themselves. Various creators of documentary theatre have incorporated (or experimented with) different means of presenting narration (see for example, Elvgren (1974) on Cheeseman; Watson (1981) on *Busmen*; and (Williams 2010, p. 193) in relation to *Deeply Offensive and Utterly Untrue*). The idea of a narrator for a reading of *The Defamation* was foreshadowed in the UTS reading on 28 August 2014 during which David Williams read out the stage directions. This simple and effective device, to assist the audience's understanding, led me to the creation of a dedicated role for a narrator. While not expressly written with this intention, the Narrator in the play could be interpreted as me, that is, the author of the work and also the great-granddaughter of Reverend Levy.

The revised script also focusses primarily on the courtroom scenes. The personal, imagined scenes have been significantly cut back. In this aspect, the script has moved away from productions such as Freed's *Inquest*, and closer to Herczeg and Herald's *The Burning Bush*, which is set entirely in a courtroom. Relevantly, in Piscator's 1949 production of *The Burning Bush* (as well as his production of Miller's *The Crucible*) Piscator added a prologue which placed the 'particular event recounted in the play within an expansive history of persecutions, continuing up to the year of the performance' (Arjomand 2016, p. 56). The JCA proposed that *The Defamation* reading be immediately followed by a panel discussion. *The Defamation* is intended to promote critical thought on both the specifics of the Greyshirt trial and its moment in history as well as the wide-ranging and fundamental issues that underpin it including antisemitism, racism and bigotry; freedom of expression; politics of division and exclusion; the impact and effects of modernity; the nature, use and power of conspiracy theories; and community and legal responses to racism. The panel discussion would operate as a form of 'coda' or epilogue, and generate conversation on these historical and contemporary issues. In this way, the reading invites the audience to think critically and contextualise the issues raised in the play, and the panel discussion invites the audience to engage in a public discussion and debate. Generating critical thought and public discussion were important goals for me in creating *The Defamation*, and the proposed reading under the auspices of the JCA would facilitate this.

The rehearsed reading as a communal event raises a number of dramaturgical and theoretical issues that are pertinent to my project as a whole, including the site of the performance, the actors and the audience. Grynberg proposed having the reading in a 1930s courtroom rather

than a theatre. He also proposed casting a prominent sitting judge as Justice Graham, a leading Sydney barrister as Reynolds and the current CEO of the NSW Jewish Board of Deputies, Vic Alhadeff, as Adolph Schauder, who was a member of the South African Jewish Board of Deputies. The rehearsed reading in a 1930s courtroom and with well-known members of the legal fraternity taking some of the parts would, in Grynberg's view, generate interest within the community. In many ways, Grynberg's assessment of the way in which *The Defamation* could be a catalyst for communal engagement supports my contention that a creative work is a means by which a broader (non-academic) audience can be engaged and, additionally, a medium through which to generate thought and debate on past events and contemporary moral and social issues.

Furthermore, many of Grynberg's suggestions regarding venue, cast and audience have significant dramaturgical and theoretical implications. The audience participates in the making of meaning by contextualising the work in the broader social and political environment. In the proposed JCA reading, the audience's role in contextualising the work and creating meaning would be heightened by the physical space proposed (a 1930s courtroom) and also by certain contemporary communal figures playing some of the roles. Marvin Carlson, in his book *The Haunted Stage: the theatre as a memory machine*, asserts that 'every play is a memory play' (Carlson 2003, p. 2). He argues that theatre, like dreaming, 'recycles past perceptions and experience in imaginary configurations that, although different, are powerfully haunted by a sense of repetition and involve the whole range of human activity and its context' (Carlson 2003, p. 3). In this way, memory and theatre are inextricably linked. Carlson goes further:

The retelling of stories already told, the re-enactment of events already enacted, the re-experience of emotions already experienced, these are and have always been central concerns of the theatre in all times and places, but closely allied to these concerns are the particular production dynamics of theatre: the stories it chooses to tell, the bodies and other physical materials it utilizes to tell them, and the places in which they are told. Each of these production elements are also, to a striking degree, composed of material "that we have seen before," and the memory of that recycled material as it moves through new and different productions contributes in no small measure to the richness and density of the operation of theatre in general as a site of memory, both personal and cultural. (Carlson 2003, pp. 3-4)

Each spectator at the JCA reading will weave together the *ghosted* (Carlson 2003, p. 7) elements of the historical story, the physical space, the theatrical conventions and the familiar cast to construct their own meaning, perception and memory.

While clearly a dramatic/theatrical performance/reading, *The Defamation* references the law as a medium by using real lawyers and judges and a real courtroom to emphasise modern parallels and encourage spectatorial engagement. It encourages the audience to reflect not just on the content but on the form: how law and theatre are connected and how truth and narrative are reflected within each discipline. It also promotes consideration of the intersection and interaction between law, theatre and society. The heightened theatricality of the performative aspects of the JCA reading may do more than merely have past and current events shed light on each other, but potentially create a ‘convergence’ of past and present in a similar fashion to the way in which Piscator made ‘audiences vacillate between multiple temporal and spatial frames’ (Arjomand 2016, p. 56). Arjomand notes that:

This vacillation relies on theatricality and aims to open aesthetic experience, in addition to rational understanding, for the audience. It is this sort of vacillation between frames of perception and understanding that differentiates aesthetic from non-aesthetic modes of performance. (Arjomand 2016, p. 56)

By converging past and present through theatricality and an aesthetic mode of performance, ‘The linear temporality into which the event seems to be archived is set aside as the event becomes present to audience members’ (Arjomand 2016, p. 57). Temporally and geographically there is a gulf between Grahmstown and Port Elizabeth in 1934 and Sydney in 2017. Thematically, however, these places and times are connected and *The Defamation* is a vehicle enabling audiences to make those connections, accentuated by the proposed casting and venue for the JCA reading.

The theatrical and aesthetic mode of the proposed reading of *The Defamation* encourages the audience to engage with the material on multiple levels simultaneously because what they are experiencing theatrically conflates the past and the present. The Greyshirt trial is not widely or well known. *The Defamation* and the proposed reading invites audiences into the past, but in a way that encourages the audience to bring contemporary values, challenges and perceptions to bear on the performance. In some ways, this represents an inversion of the

usual dynamic. Instead of viewing the present with the accumulated knowledge of the past, the audience is entering the past with all the perceptions, biases, and knowledge of the present world.

A further issue raised by Grynberg's proposal to have prominent members of the Jewish and legal community play comparable roles, is the question of 'essentialising' identity on stage. In my view, Grynberg's suggestion does not 'essentialise' the characters for two reasons: first, because Jewish actors will also play all the non-Jewish characters (cross-casting is practically unavoidable as regards the three Greyshirt leaders, von Moltke, Inch and Olivier) and secondly, as I argued above, the casting serves to conflate the past and present in a manner that is reminiscent of Bakhtin's 'chronotope' (see (Arjomand 2016) and also (Bemong et al. 2008)). Of course, South Africa in 1934 is not identical to the contemporary world, and the differences between the two eras are as important as any similarities. The casting serves as an invitation to engage in a conversation that explores these connections and differences, and to evaluate, among other considerations, the way in which racism and antisemitism have manifested in the intervening years. The form of the narrative therefore seeks to open up new avenues for audience perceptions of the past, present and future. The issue of staging identity has an interesting reverberation within the Greyshirt trial itself as the Plaintiff's lawyer, Barend Smulian, made a conscious and deliberate decision to engage a non-Jewish barrister (Frederick. G. Reynolds) to conduct the advocacy in Court (Smulian 1934g). This reflects the importance of identity to perceptions of impartiality and the related issues of truth and integrity. Having a non-Jewish barrister was particularly important in the context of Greyshirt allegations of a world Jewish conspiracy.

Overall, Grynberg's suggestions accentuate the dramatic qualities of the work and intensify spectatorial engagement. For example, casting prominent community members in comparable roles highlights issues of mimesis in performance. Additionally, Grynberg's proposals (together with Hartman's suggestion for each character to have a distinguishing prop to enhance identification) increases the theatricality of a rehearsed reading, in contrast to Paget's assertion that a rehearsed reading lacks theatricality (see (Paget 2010)). To the extent that the audience is 'enlisted' (in the sense described by Taylor (2011)), an audience may be shifted from a position of 'passive sympathy to active participation' (Taylor 2011, p. 229)) which aligns with Grynberg's aim of fostering positive social engagement. Taylor herself raises the rhetorical question of whether 'enlistment' is 'merely exploitative

manipulation’, which also ties in with Ben-Zvi’s broader question regarding the ‘subversive possibilities of political performance’. In this context, the deliberate absence of any contemporary references in the script reduces the ‘political’ elements of the play. While developing the script in 2016, I experimented with adding narration to the end of the play to contextualise the contemporary use of the *Protocols*. However, even the most neutral, factual examples of contemporary uses of the *Protocols* seemed to alter the nature and tone of the piece. When the draft text was read out by the Narrator at one of the script development meetings, it was obvious that those additional lines operated unintentionally as a ‘call to action’, which skewed the play in a way I had not intended and did not consider appropriate or helpful. The additional narration closed in the broader avenues of perception that were otherwise created by the play itself and, on that basis, I decided to exclude them from the text and allow the issues to be explored in the proposed Q&A session at the end of the reading.

There are many contemporary examples of the way in which the politics of exclusion, division, fear and hate are used to exploit, validate and compound existing social divisions. Nationalism, racism, xenophobia, anti-alienism and antisemitism can be exploited by politicians in order to mobilise support and gain political momentum. In this context, it is critical that lies and falsehoods, particularly libels such as a Jewish world conspiracy, are exposed, and *The Defamation* seeks to contribute to this endeavour.

CHARACTERS

NARRATOR

REVEREND ABRAHAM LEVY, age 56, Minister to the Port Elizabeth Hebrew Congregation, Western Road Synagogue

ADOLPH SCHAUDER, age 54, Port Elizabeth town Councillor, executive member of the South African Jewish Board of Deputies and friend of Reverend Levy

JOHANNES von STRAUSS von MOLTKE, age 26, leader of the local branch of a fascist movement known as the Greyshirts

HARRY VICTOR INCH, age about 29, associate of Von Moltke, leader of the Greyshirts

DAVID HERMANUS OLIVIER, age about 35, editor of *Die Rapport*, an organ of the South African Gentile National Socialist Movement

SIR THOMAS GRAHAM, age about 55, Judge of the Supreme Court of South Africa

FREDERICK.G. REYNOLDS, age 51, Barrister, Kings Counsel, representing Reverend Levy in court

NAHUM SOKOLOW, age 75, President of the World Zionist Organization

HENRY HAMILTON BEAMISH, age about 60, Publisher of the *Protocols of the Elders of Zion*, witness for defence

PROFESSOR GEORGE FRANK DINGEMANS, age 48, Professor of Afrikaans at Rhodes University College

CECIL NEETHLING MCDERMOT, age about 23, Advertising Clerk, witness for the Plaintiff

JOHN EDWARD HARGOOD, age about 35, Hide and Skin exporter, witness for the Plaintiff.

ELLIS CHARLES SIMPSON, age about 22, Mechanic, witness for the Plaintiff

ISRAEL SILPERT, age about 50, caretaker of the Emmanuel Hall, witness for the Plaintiff

NARRATOR

The Defamation by Lisa Miranda Sarzin. This play is based on historical events and a defamation trial that took place in South Africa in 1934. The court scenes and judgment are a verbatim adaptation from the court transcript of the actual trial. The story begins on Wednesday the fourth of April 1934 at the Feathermarket Hall in Port Elizabeth South Africa. Johannes von Strauss von Moltke, leader of the fascist Greyshirt Movement delivers an impassioned speech to a mass meeting. The Hall is packed. Von Moltke wears a military style uniform of the Greyshirts, with a swastika emblazoned on his army hat.

JOHANNES

Good citizens of Port Elizabeth. In our Christian State in South Africa, there is a hostile Jewish race. It is affiliated with other hostile Jewish races in other Christian states throughout the world. And I shall furnish you with the proof. The document I am about to read to you was stolen from the Western Road Synagogue, Port Elizabeth by a loyal person of our Greyshirt Movement, one Harry Victor Inch. The document says, and I quote:...

We are the pure people. The Christian religion is wrong. Christ was a false prophet. We who control financially and politically behind the scenes are promised earthly pomp, splendour, Imperialism, and everlasting sovereignty over the animals of the Earth. Christianity is Satan's religion, the religion fit only for the dogs that they are. Our elected leader will be the first Sovereign over all the Earth. The Communist World and at last the Talmud Torah and the Prophecies will be fulfilled. Signed 'Rabbi.'

(JOHANNES sits.)

(REVEREND LEVY is seated in the witness box)

NARRATOR

Three months later, in July 1934, evidence is heard in what became widely referred to as the Greyshirt Libel Action. Seated at the bench is the Judge-President of the Supreme Court in Grahamstown, Sir Thomas Graham. The Plaintiff, REVEREND ABRAHAM LEVY, Minister in charge of the Western Road Synagogue, is standing in the witness box being examined by his barrister, Frederick G. Reynolds.

(F.G. REYNOLDS stands)

Also in court are the three defendants: JOHANNES VON STRAUSS VON MOLTKE, his associate, leader of the Port Elizabeth Greyshirts, HARRY VICTOR INCH and DAVID HERMANUS

OLIVIER, editor of *Die Rapport*, an organ of the Greyshirt Movement, which carried a reprint of the document read by Von Moltke.

F.G. REYNOLDS

Have you read the document the defendants maintain was authored by you?

ABRAHAM

Yes.

F.G. REYNOLDS

Are you the author of this document?

ABRAHAM

No.

F.G. REYNOLDS

Had you ever seen or heard of this document before it was published by Mr. Von Moltke?

ABRAHAM

No, I had not.

F.G. REYNOLDS

Is this a document that would ever be created or kept in your Synagogue at all?

ABRAHAM

No.

F.G. REYNOLDS

And it is absolutely a false document?

ABRAHAM

Absolutely false.

F.G. REYNOLDS

On the twenty-fourth of March were you present at the usual Sabbath service at the Synagogue?

ABRAHAM

Yes.

F.G. REYNOLDS

Have you read the affidavit of the defendant, Harry Victor Inch, how he is supposed to have stolen this document from the Synagogue on the twenty-fourth of March this year?

ABRAHAM

Yes.

F.G. REYNOLDS

On that day had you conducted your usual service with the aid of your assistant?

ABRAHAM

Yes.

F.G. REYNOLDS

And were you the last to leave the Synagogue?

ABRAHAM

Yes.

REYNOLDS

Was this document present in your Synagogue?

ABRAHAM

No

F.G. REYNOLDS

Coming to the document itself. As far as you can, see do you detect any resemblance to this document in question with the language of the notorious antisemitic work called the Protocols of the Elders of Zion?

ABRAHAM

It has a synopsis at the beginning of each section which resembles the structure of the Protocols.

F.G. REYNOLDS

In the document it says 'We have arranged in our Talmud Torah and other Holy Books'. The 'Talmud' is a book?

ABRAHAM

Yes.

F.G. REYNOLDS

What is the Torah?

ABRAHAM

Law.

F.G. REYNOLDS

Do you refer to a book as the 'Talmud Torah'?

ABRAHAM

Never.

F.G. REYNOLDS

What is a Talmud Torah?

ABRAHAM

An elementary school for Jewish children.

F.G. REYNOLDS

They go on to talk about the 'Talmud and other Holy Books and that the Gentiles will be forced to drink the piss and eat the dung of the Jews', and it goes on to say 'that there has been a conspiracy through the ages taught and founded on the books against Christianity'. This accuses conspiracy?

ABRAHAM

Yes. I would say so.

F.G. REYNOLDS

Now these publications by the defendants, when you learned of them did they excite a great deal of feeling in Port Elizabeth?

ABRAHAM

Undoubtedly.

F.G. REYNOLDS

Did you find it seemed to make a great impact on your numerous non Jewish friends?

ABRAHAM

Yes.

F.G. REYNOLDS

Do you regard yourself as being highly damaged by the remarks made in this sheet?

ABRAHAM

Yes, I do.

F.G. REYNOLDS

Are all these charges as contained in this document ones that are absolutely abhorrent to you and also to your religion?

ABRAHAM

Yes.

(REYNOLDS sits)

NARRATOR

The defendants are not represented by Counsel, their lawyers having withdrawn before the trial began. So the defendants are conducting their own defence, and Harry Victor Inch, leader of the South African Greyshirts, cross-examines Reverend Levy.

(HARRY stands)

HARRY

Do you know me at all?

ABRAHAM

Never seen you.

HARRY

Can you tell the Court why I should want to single you out?

ABRAHAM

I have not the slightest idea.

HARRY

You say the allegations in this document are made against you and Jewry in general?

ABRAHAM

Yes. I am taking action against you because I consider the good name of myself and of the whole of Jewry has been offended.

HARRY

Now you allege you have suffered damages in connection with the publication of this, would you mind telling the Court how you suffered damages?

ABRAHAM

I know there must be people who think I am a traitor.

HARRY

You can't say there 'must be' people. How have you actually suffered?

ABRAHAM

I have suffered in my feelings, I have suffered anguish that such a statement should be fastened on me.

NARRATOR

The next day Reverend Abraham Levy is cross-examined by the defendant Johannes von Strauss von Moltke.

JOHANNES

Are you an Ashkenazi Jew or a Morana Sephard Jew?

ABRAHAM

Ashkenazi Jew.

JOHANNES

Are you aware of the fact that that is the worst type of Jew you can get in the world?

ABRAHAM

No I am not.

JOHANNES

What is your religion?

ABRAHAM

Oh please.

JOHANNES

You say in your affidavit time and again that you are a Jew, but you know Jews have all sorts of religions as long as they can pervert Christianity.

ABRAHAM

They do not pervert Christianity. Get that out of your mind.

JOHANNES

Do you wish the Court to believe that the spirit of the document from beginning to end is not the spirit of your race and the essence of Judaism?

ABRAHAM

It is diametrically opposed to the spirit of our people and to the principles of Judaism.

JOHANNES

Is Judaism fundamentally anti-Christian?

ABRAHAM

Certainly not.

JOHANNES

Can you give us any explanation why the Jews were always prosecuted and persecuted in every country and in every nation?

ABRAHAM

Why are we being persecuted today? Why is there this irrational, unrelenting hatred on the part of the Greyshirts towards the Jewish people?

JOHANNES

I want to come to the Protocols. You say that the Protocols of the Learned Elders of Zion is an absolute forgery?

ABRAHAM

Yes.

JOHANNES

The Jewish world plot?

ABRAHAM

Nonsense.

JOHANNES

From what you have gone through in the last few months in Port Elizabeth, would you say that it is possible that there may be agents provocateurs in Port Elizabeth?

ABRAHAM

I should say that men who are animated by such a bitter spirit of antisemitism are men who are engaged in a propaganda movement, which has similar manifestations in other parts of the world, notably Europe where such persecution of the Jews and antisemitism is going on.

JOHANNES

Under that category would I also fall as antisemitic?

ABRAHAM

I should think so.

JOHANNES

Have any pamphlets been distributed against you personally by the Greyshirts owing to your hostile attitude towards us?

ABRAHAM

I have not shown in any way that I am hostile by any act.

JOHANNES

You are so hostile towards this movement that you go out of your way to sue for seven thousand pounds damages, whereas if you had come to me about the document we could have cleared the position.

ABRAHAM

That document was read out on two occasions and we were challenged to disprove it.

JOHANNES

Were you individually challenged to refute the truth of this document?

ABRAHAM

Seeing that it is supposed to bear my name, I naturally think I am referred to.

JOHANNES

Where is your name on that document?

ABRAHAM

Rabbi.

JOHANNES

Is that your name?

ABRAHAM

That is what most people think it is.

JOHANNES

Were you challenged?

ABRAHAM

Yes, we apprehended very dire consequences if we did not accept your challenge, it was a very dangerous position you had precipitated. I stand here for myself and the whole of Jewry.

JOHANNES

Do the contents of the document I read out at my meetings constitute atrocious crimes towards humanity of the whole world?

ABRAHAM

Yes.

JOHANNES

Do you consider that any minister of the Jewish religion could have compiled or approved of such a diabolical document?

ABRAHAM

Certainly not.

JOHANNES

Could a liberal Jew have done it?

ABRAHAM

No. Any Jew true to the principles of his faith could not possibly have written that document or breathed forth a single of the sentiments in the document.

JOHANNES

Do you think that a Minister of a Christian creed could have written or compiled that document?

ABRAHAM

Certainly not.

JOHANNES

Do you think a non-Jewish atheist or unbeliever could have written it?

ABRAHAM

Certainly not. As a rule an atheist is a gentleman in many senses of the term.

JOHANNES

Under the categories I have mentioned, which one do you suggest?

ABRAHAM

I do not suggest anyone. I know that document was made use of at largely attended meetings, and it was given forth as a document purporting to come from the Rabbi, and the sentiments conveyed in that document were attributed to myself. A cry of shame went up when it was read, and to think that one who had enjoyed the confidence of the Christian Community at Port Elizabeth for twenty-one years should have uttered such blasphemous and filthy statements. I was not present at the meeting but I was given to understand that when this document was read a cry of shame went up.

JOHANNES

Do the Jews keep two sets of Talmuds, one to present in a Gentile Court, and another one in a secret court?

ABRAHAM

No, the idea is absurd. I feel ashamed to have to answer it.

JOHANNES

Have you any proof that I have ever incited our followers to violence, murder or riot?

ABRAHAM

If this document does not incite to violence then nothing else can. It is a most dangerous document.

NARRATOR

CECIL NEETHLING MCDERMOT, Advertising Clerk, who was present at the mass meeting of Greyshirts in the Feather Market Hall on the fourth of April, 1934 is being examined by F.G. REYNOLDS.

(CECIL stands)

F.G. REYNOLDS

After Mr von Moltke read the document did it seem to have any effect on the audience as far as you could judge?

CECIL

I certainly think so. There was such a quietness and stillness in the whole crowd that I could feel it had taken effect.

(CECIL sits. JOHN stands)

NARRATOR

JOHN EDWARD HARGOOD, Hide and Skin exporter, also present at the mass meeting is examined.

F.G. REYNOLDS

When Mr von Moltke came to the portion about Rabbi did he preserve his ordinary tone of voice or did he raise it?

JOHN

He emphasised 'Signed Rabbi'.

F.G. REYNOLDS

When you found out who was the Minister of the Western Road Synagogue, who did you think the document referred to?

JOHN

I thought it referred to Mr Levy.

F.G. REYNOLDS

Did this document seem to make any impression on the audience?

JOHN

A huge impression. They seemed astonished and dumbfounded. There was comment at the time of the reading, but afterwards there was a general muttering amongst the crowd which was not favourable towards the Jews. It made a very great impression, they seemed very incensed.

(JOHN sits. ELLIS stands)

NARRATOR

ELLIS CHARLES SIMPSON, Mechanic, present at the mass meeting in Aberdeen is examined.

F.G. REYNOLDS

What effect did the document have on you?

ELLIS

I was inflamed.

F.G. REYNOLDS

Against what were you inflamed?

ELLIS

I was inflamed against the Jewish people.

(ELLIS sits)

NARRATOR

After Court is adjourned for the day, Reverend Levy returns to his Grahamstown Hotel. He meets his long-time friend and executive member of the Jewish Board of Deputies, Adolph Schauder, for a whiskey.

ABRAHAM

I wish they were represented by Counsel. Their offensive questions are unbearable. For Von Moltke, the Court is no different to his town hall meetings. It's a platform for his vicious oratory. I think I've given him exactly what he wanted.

ADOLPH

When he lies about you, he lies about every Jew on earth. It's the black shadow of Hitler's terror in our very midst, and you didn't have a choice but to act. And it's why the Jewish Board of Deputies stands shoulder to shoulder with you.

ABRAHAM

Haven't I played straight into his hands? Haven't I just given him a greater and wider platform from which to disseminate his vitriol? The enmity and violence could escalate.

ADOLPH

It was escalating months before the trial even began. All this cutting of the Jewish people has been too much for our young men. They've already been in physical clashes.

ABRAHAM

Their feelings got the better of them.

ADOLPH

Better to concentrate the action within the Court room and expose the Greyshirt tactics and lies that way. Nothing has been produced the world over to counter his kind of fascist propaganda. This trial will be the counter-propaganda that's needed by Jews everywhere. The Board of Deputies has retained its own correspondent to cover the trial for exactly this purpose.

ABRAHAM

But even if we prove that the document is a complete fabrication, Von Moltke and Inch are going to try and show it contains inherent truth. They're out to prove a world Jewish conspiracy, and there are plenty of people who want to believe that that is true. It helps them make sense of very confusing and frightening times. I may be an expert on Talmud, an ardent student of English literature and a humble

servant of God, but without someone to refute beyond doubt the existence of a world plot, I'm not sure that we can achieve what you are hoping for.

NARRATOR

The next day, expert witness for the Plaintiff, Professor George Dingemans, Professor of Afrikaans from Rhodes University, is examined.

F.G. REYNOLDS

Professor Dingemans, are you acquainted with the Hebrew characters and language?

GEORGE

Yes, I am. I have studied Hebrew since I was 16 years of age and I have kept it up ever since. I am a philologist and a lifelong student of history.

F.G. REYNOLDS

Are you by religion a Christian?

GEORGE

Yes.

F.G. REYNOLDS

You have been asked to examine the document in question with a view to giving your opinion as to whether it is a proper document or whether it's in the nature of a forgery?

GEORGE

Yes.

F.G. REYNOLDS

What conclusion have you come to?

GEORGE

Having carefully and independently examined these documents, I have arrived at the conclusion that they are not what they pretend to be, namely, a secret document drawn up by an educated Jew. The grounds on which I base my conclusions are briefly as follows. They deal entirely with internal evidence. First of all the defective Hebrew script and the ludicrous incongruity between the Hebrew words and the purpose of the lectures. The words on the right hand side are obviously meant to indicate the Hebrew 'kosher lepesach' which means 'fit for passover'.

F.G. REYNOLDS

Does it ever apply to literature?

GEORGE

It applies to nothing but articles of food which are supposed to be ritually clean.

F.G. REYNOLDS

What is your criticism of the Hebrew script?

GEORGE

A great many of the characters are defective and the script is generally written slowly and with care. I have come to the conclusion that the Hebrew words in question were not written by a person knowing Hebrew, let alone a Rabbi, but by a person ignorant of Hebrew who has made a clumsy and unconvincing attempt to reproduce Hebrew characters. The Hebrew words concerned, being often found in English advertisements or announcements in Jewish periodicals, have been copied by that person as well as he could but he has made a mess of it.

F.G. REYNOLDS

Besides coming to the conclusion on the Hebrew words, did you examine the context itself to see if that would reveal anything to you?

GEORGE

I examined first of all the language and style of these lectures. If the writer's ignorance of Hebrew is complete, his command of English and his ability to construct grammatically correct English sentences are below the level of attainment which one may legitimately require from a Standard 8 pupil whose home language is Afrikaans. He did not only not know Hebrew and English, but his thoughts were quite incoherent.

F.G. REYNOLDS

On page one of the document it says: 'The Christian religion is wrong. Christ in the Jewish sense was a false prophet born of the womb of a foul bitch whose was in our eyes never married to Joseph'. What sense do you make of that?

GEORGE

I should prefer not to express an opinion on such foul statements.

F.G. REYNOLDS

They are absolutely absurd?

GEORGE

To my mind the internal evidence is overwhelming in favour of the supposition that this is an impudent and malicious forgery.

(REYNOLDS sits. JOHANNES stands)

NARRATOR

Professor Dingemans is cross-examined by the defendant Johannes Von Moltke.

JOHANNES

You are a Professor of 30 years standing?

GEORGE

I am.

JOHANNES

Do you know that you are crossing swords with a man of standard 8 education who left school in 1926. I am the man. Is it not significant that you mentioned Standard 8?

GEORGE

I can assure you that it is mere coincidence.

JOHANNES

So you take it this is an absolute forgery?

GEORGE

I believe this to be a deliberate and malicious forgery.

JOHANNES

Can you forge something that is non-existent?

(he picks up document)

How can I forge this book, this book that I have here, if I have not seen this?

GEORGE

If I am an enemy of any particular race I can easily write stuff to vilify that race and attempt to create the impression that the statement which I made emanated from the people whom I wish to vilify. That is an easy thing to do.

JOHANNES

That is not my question, you said it was a forgery. Can you forge something that is non-existent?

GEORGE

This document pretends to be what it is not. It pretends to be stolen from a Synagogue. It pretends to be written by a learned Jew, and I maintain that if it ever came from the Synagogue it was put there by the person who wrote it, and he was not a learned Jew, nor was he a learned Gentile.

JOHANNES

Do you believe that a man who does not do as Christ and his Apostles taught him, do you think that man is a false Christian?

GEORGE

We are all striving humbly, prayerfully, to serve our master. Those who wish to serve their land, and serve Jesus Christ, and call themselves National Christian Movements should be very careful that they entertain no hatred for their brother men, for the word of God says that he that hates his brother walks in darkness, and knoweth not whither he goeth.

(JOHANNES sits. GEORGE leaves witness box)

NARRATOR

Von Moltke calls his witness Henry Hamilton Beamish to the stand.

(HENRY stands)

JOHANNES

Mr Beamish, have you studied the Jewish question?

HENRY

I have. I have studied it for well over thirty years.

JOHANNES

You have published this book, the Protocols of the Learned Elders of Zion?

HENRY

Yes.

JOHANNES

Do you consider that the Jewish world plan as outlined in the Protocols have been fulfilled to date?

HENRY

My contention is that it's merely part of a plot which has been in existence for a large number of years and is now being rapidly brought into effect. It's part of a plot to destroy our civilisation and ideals generally.

JOHANNES

Who murdered the Imperial family in Russia?

F.G. REYNOLDS

Objection. Was the witness present?

HENRY

It was impossible for me to be present, I should be murdered if I was.

JOHANNES

Who were responsible for the manipulation of foreign exchange, inflations and deflations?

HENRY

The Jews.

JOHANNES

Would you like the Court to believe that the bulk of wars, including the Russo-Japanese war, the Boer war and the late World War were the result of Jewish intrigues?

HENRY

Yes, I can prove it, but I was not there; but I know it and have been publishing the fact all these years and so have others, and it has never been denied. Wars are the Jews' harvest, they are not yours or mine.

JOHANNES

It's also stated by all the authoritative Jewish witnesses in this case that all the Jewish organisations and bodies, like the Kahal etcetera are religious organisations and they do not interfere with politics at all. Is that correct?

HENRY

Certainly not. The Kahal is the centre of the Hebrew alliance really and the Jewish Board of Deputies the super-parliament of Great Britain, and you have one in this country too.

JOHANNES

You have written that by 1919, there was a plot of the International Financier to acquire world control. To what race does this International financier belong?

HENRY

To the Jews. Naturally they are the Jews. The only difference between 1919 and 1934 is that then though they had a grip over the world, today they have got it in a stranglehold. That is why the Hitler movement started. Hitler did not do this for amusement any more than I am.

REYNOLDS

Objection. The Court is being used for the purposes of propaganda.

JOHANNES

Do you know Chancellor Hitler?

HENRY

I taught Hitler.

JUSTICE THOMAS GRAHAM

On what particular subject did you teach him?

HENRY

On the Jewish question. I said to him: 'How do you propose to deal with the Jews'...and he said: 'I have made up my mind' and I said: 'What is that?' I always get other opinions first – and he said 'we are going to send all our Jews to the Allies' and I said 'I think they thoroughly deserve it.' But I said 'that won't cure the disease, if you have a mad dog and you tie him up in your backyard that does not get rid of the mad dog' and then Hitler became more reasonable.

JOHANNES

There are only two Jewish members in Parliament in South Africa?

HENRY

That has nothing to do with it, only one mosquito gives you malaria.

(JOHANNES sits. REYNOLDS stands)

NARRATOR

HENRY HAMILTON BEAMISH is cross-examined by F.G. REYNOLDS.

F.G. REYNOLDS

You approve entirely of Herr Hitler's anti-Jewish policy?

HENRY

I think Hitler is exactly like myself, he is not anti-Jew, he fights corruption, because they are one source.

REYNOLDS

You have said that Jews financed William the Conqueror in 1066, what is your authority for that?

HENRY

Records.

REYNOLDS

What historian mentions this?

HENRY

The British Museum.

REYNOLDS

You cannot name a single historian?

HENRY

I can look it up and tell you tomorrow.

REYNOLDS

You gave evidence that it was Jews who financed Oliver Cromwell. Can you name any historian who mentions this?

HENRY

It's a well-known fact.

REYNOLDS

Do I understand you to say that it was the Jews who induced Martin Luther to break away from the Roman Catholic Church?

HENRY

Yes, it's in the history.

REYNOLDS

What is your authority?

HENRY

I have not come here to trot out names of historians. Look at your history, you can see absolute chaos going on.

REYNOLDS

Since there is chaos, the only source is the Jew?

JOHANNES

I object to the manner of this cross-examination.

JUSTICE THOMAS GRAHAM

The witness has given certain historical facts and learned counsel is right in asking him for his authorities.

REYNOLDS

You cannot remember any historian?

HENRY

I cannot at the moment, but I will.

F.G. REYNOLDS

Moving on, have you looked at the letter of Mr Harry Inch of the twenty-second of June? Just look at it.

(A paper is handed to HENRY)

JUSTICE THOMAS GRAHAM

Is that the first time you have seen that letter?

HENRY

Yes.

F.G. REYNOLDS

You notice in the letter of the twenty-second how freely Inch used these block capitals?

HENRY

‘Spite’ and ‘malice’ I suppose he wants to bring that home.

F.G. REYNOLDS

Do you not agree that he frequently uses capital letters and also underlines letters he wants to emphasise?

HENRY

Yes, I see what you mean.

F.G. REYNOLDS

Does it not strike you on reading Inch’s letters that he makes grammatical mistakes too?

HENRY

Yes.

F.G. REYNOLDS

He leaves out words?

HENRY

Yes.

F.G. REYNOLDS

You notice how this occurs in the document itself?

HENRY

Yes.

F.G. REYNOLDS

Does it not strike you as rather remarkable that these similarities should exist between the document and the letter of Inch and it is Mr Inch that discovers the document in the synagogue?

HENRY

I may tell you I asked them to give me their word of honour and they did and I believed them. I believe them now. It's the first time I've seen these documents.

NARRATOR

After the Court is adjourned for the day, Harry and Johannes meet outside the Court.

HARRY

That barrister is trying to ridicule me in Court, talking about my grammatical mistakes.

JOHANNES

He's trying to show you had something to do with the document, but he's grasping at straws. Don't worry about it, focus on the bigger picture. You, me, Henry - we're all here to tell the truth about the Jews, and the Court is our megaphone.

NARRATOR

Elsewhere, Adolph and Abraham are waiting to meet Reynolds.

ABRAHAM

How much more of their vitriol are we going to take? Not only in Court, but now the Greyshirts are printing Beamish's testimony as more propaganda. It's fuel to their fire.

ADOLPH

But they're being rigorously questioned by Reynolds.

ABRAHAM

Even if we win in Court, will their lies ever die?

NARRATOR

Reynolds arrives and hurriedly greets Abraham and Adolph.

REYNOLDS

Gentlemen. You're not going to believe it! Nahum Sokolow happens to be in town from London. We've just met with him to explain the ordeal South African Jewry is now facing and the world-wide significance of this case. And he's offered to testify!

NARRATOR

Dr Nahum Sokolow, President of the World Zionist Organisation gives evidence on matters pertaining to the notorious antisemitic text, the *Protocols of the Elders of Zion*.
(*NAHUM takes a seat in the witness box*)

F.G. REYNOLDS

Is there any truth whatsoever in the suggestion that there was a Jewish plot to overcome the other nations of the world or anything of that kind?

NAHUM

No.

F.G. REYNOLDS

Please explain the aim or aims of the World Zionist Organisation.

NAHUM

Following thousands of years of negative discriminatory treatment of Jewish minorities around the world, during which time Jews remained defenceless and stateless – it was decided that the way to remedy the precarious existence of Jews was to normalise the situation of Jews among the nations of the world. It's the view of the organisation of which I am president that the way to normalise the situation of Jews is for Jews to have again—as they have not had since biblical times—their own sovereign nation state in the very land that has had an ongoing Jewish presence since biblical times. That land is now known as Palestine. Its name would be Israel, its capital would be the city of its ancient capital, Jerusalem. 'Zion' is another name for Jerusalem, hence we are the World Zionist Organisation and that is our objective.

F.G. REYNOLDS

And it has been so from the First Congress of your organisation in Basle in 1897?

NAHUM

Yes.

F.G. REYNOLDS

And it was under the leadership of Dr Herzl?

NAHUM

Yes.

F.G. REYNOLDS

Would you know what went on in the Committees and in the Congress?

NAHUM

Yes. I helped organise the Congress. I was on all the Committees, and read all their reports.

F.G. REYNOLDS

The defendants, as well as others before them, have asserted that the Protocols of the Elders of Zion were promulgated by Dr Herzl at the first Congress of the World Zionist Organisation in 1897. Is there any truth in that assertion?

NAHUM

There is not one word of truth in it.

F.G. REYNOLDS

I want to come to this question of the 1921 news articles in the *London Times* exposing the Protocols of the Elders of Zion as a forgery. Did you assist the author of that article?

NAHUM

Yes. When I heard of the existence of the Protocols in 1920 I went over to London and that's where I first read them. I can tell you that every word in the Protocols is a mischievous lie. It was clear to me it was written in order to excite the Gentiles against the Jews. All the accusations were invented. I met a Christian friend and we made enquiries about it all over, including the British Museum, where I am a long-time reader. We found out that some adventurer who came from Russia had written it. Then we tried to find out whether the Protocols was based on another earlier document and in what language it might have been written. We discovered a pamphlet which was written many years ago in the time of Napoleon the Third. It was a political pamphlet classified by the British Museum as an Anti-Napoleon

document. And this so-called Elders of Zion was a copy of that pamphlet with this difference: that where the author speaks of Napoleon this man had put in the Elders of Zion.

JUSTICE THOMAS GRAHAM

Did you actually see the original yourself?

NAHUM

I saw the original in London.

F.G. REYNOLDS

And was that a pamphlet by Maurice Joly, a Frenchman in the time of Napoleon the Third?

NAHUM

Yes.

F.G. REYNOLDS

And you have seen these passages?

NAHUM

Yes, and I compared them, and we were very much amused at that sort of rot, that the man should have taken out the whole text the same as the original with the only difference that instead of Napoleon the Third there was Herzl and instead of the French people of the Napoleon supporters there were substituted the Jews.

(REYNOLDS sits. DAVID stands)

NARRATOR

Dr Sokolow is cross-examined by the defendant David Hermanus Olivier.

DAVID

If we read the Talmud in English or Afrikaans and we find that I am correct and there are passages there against Christianity, do you expect us to be friendly to the Jewish race?

NAHUM

If you found those passages you say are there, you would be justified. But they are not in the Talmud.

DAVID

Would it be advisable for all the Governments in the world to act in conjunction with the Jews to burn all the Talmuds?

NAHUM

Why should they burn the Talmud? Would you like to return to the thirteenth century when there were burning rituals?

DAVID

If you consider it necessary at the present moment I would not mind that the Jews should be burned.

NARRATOR

Dr Sokolow is cross-examined by the defendant Harry Inch.

HARRY

Can you give me the name of any important papers in England or South Africa that are not directly controlled by Jews or Jewish advertisements?

NAHUM

In Africa? I am a stranger here...but I know *The Times* which is the greatest world paper, in London, is not controlled by Jews. Another paper, which has a wide circulation, the *Daily Herald*, I happen to know the editors, and there is no Jew amongst them.

HARRY

You say everything quoted against the Jewish race, is entirely false. Why, through the thousands of years has Jewry been persecuted, and no other race ever persecuted?

NAHUM

Please ask the persecutors.

HARRY

This book you call a forgery, the Protocols, it says in 1922 the Jews will control the world by base metals?

NAHUM

It is rubbish.

HARRY

I maintain it's true in fact and in substance because it's happening every day.

NAHUM

I am sorry for your ignorance.

(HARRY sits. NAHUM leaves the witness box.

HENRY and REYNOLDS stand)

NARRATOR

Henry Hamilton Beamish is recalled.

F.G. REYNOLDS

Now just coming to the Protocols of the Elders of Zion, I understood you believe firmly in these Protocols?

HENRY

I do.

F.G. REYNOLDS

You say these Protocols were promulgated and adopted as a principle of the 1897 Congress held under Dr Herzl?

HENRY

Yes.

F.G. REYNOLDS

Do you think having heard Dr Sokolow's account, how he helped organise this matter and attended the meetings, do you think he could have been ignorant of the Protocols?

HENRY

No, I think he probably knows a great deal about them. I have said 300 Jews control the world.

(HENRY sits. HARRY stands)

NARRATOR

HARRY VICTOR INCH, leader of the South African Greyshirts, is cross-examined by F.G. Reynolds.

F.G. REYNOLDS

Mr Inch, I want to see if I have got your account quite fairly. I understand that on Saturday the twenty-fourth of March you broke into the Western Road Synagogue?

HARRY

Yes. Sometime between three and five pm.

F.G. REYNOLDS

What made you decide to break into the Synagogue?

HARRY

On the fourteenth of March I took time off work to watch a secret meeting of Jews at the Emmanuel Hall. Two lads who I recognised from our Movement came up to me. They asked me if there was anything they could do and I told them that I wished them to infiltrate the meeting and gather intelligence about the activities of the Jews. The boys got into the meeting. After a while they came out and handed me two documents that suggested that some plotting was going on at the Western Road Synagogue.

(HARRY sits, ISRAEL stands)

NARRATOR

ISRAEL SILPERT, caretaker of the Emmanuel Hall, examined.

F.G. REYNOLDS

Can anyone use your Hall without you knowing it?

ISRAEL

Impossible. It's always locked. I live upstairs and can see everybody.

F.G. REYNOLDS

In his affidavit, Mr Inch said he saw a Jewish meeting on the seventeenth of March at the Emmanuel Hall. Take your record book and tell the Court what was happening on the seventeenth of March.

ISRAEL

It was booked by Miss Roos for a dance.

F.G. REYNOLDS

Mr Inch later said that he made a mistake and he witnessed the assembly of Jews on the fourteenth of March. Is there any record in your book for any meeting on the fourteenth of March?

ISRAEL

No.

(ISRAEL sits and HARRY stands)

F.G. REYNOLDS

Mr Inch, what did you do with the document that you say you found in the Synagogue?

HARRY

I put it in a sealed envelope to show to Mr von Moltke.

F.G. REYNOLDS

Where did you leave the document?

HARRY

In the sealed envelope with a member of my council.

F.G. REYNOLDS

Can you give us the name of that council member?

HARRY

Am I forced to give the correct name? He may be victimised. My council are involved in secret service. Is it necessary for me to quote his name?

JUSTICE THOMAS GRAHAM

You must quote his name, we have to test the evidence.

HARRY

That is so, but I do not intend victimising anybody else to make them lose their bread through me.

F.G. REYNOLDS

Do I understand you got into the synagogue through the fanlight?

HARRY

Yes.

F.G. REYNOLDS

You said there was no wire over the fanlight. Are you positive?

HARRY

There was no wire to prevent me getting through.

F.G. REYNOLDS

You know the window you say you got through has had undisturbed wire there for 12 years?

HARRY

Not to my knowledge.

F.G. REYNOLDS

You see Mr Inch you have got to be careful of this, I may inform you that the persons who supplied that wire some years ago can be ascertained and called?

HARRY

It does not worry me in the least. I am here to speak the truth.

F.G. REYNOLDS

I may tell you that the window has been carefully examined and the wire is not only there but it is corroded with age. May I tell you that on April the twenty-sixth of this year the Detective went and examined the windows of the Synagogue and the only portion they found pulled away was at the bush window?

HARRY

There was no wire on the window I got through.

F.G. REYNOLDS

When you got into the Synagogue you say you found yourself alongside what you call a table?

HARRY

Yes.

F.G. REYNOLDS

Next to a large curtain?

HARRY

Yes.

F.G. REYNOLDS

You were right up against it and you described it in your affidavit as red.

HARRY

Yes.

F.G. REYNOLDS

There has never been a red curtain in the synagogue.

HARRY

I cannot help that.

F.G. REYNOLDS

Now you say that on this table you found some documents?

HARRY

Yes. About half a dozen.

F.G. REYNOLDS

And they were simply lying there perfectly open?

HARRY

Yes, there was nothing covering them.

F.G. REYNOLDS

And you only took this one document and left the others?

HARRY

Yes, it was the only one I could read, the only one I could understand.

F.G. REYNOLDS

Did you read it in the Synagogue?

HARRY

No, I didn't. I immediately cleared out.

F.G. REYNOLDS

You got out with something without knowing what it was?

HARRY

If the document hadn't been concerned with my Movement, I would've by some means or other returned it to its proper source.

F.G. REYNOLDS

It was a stroke of luck you got this document?

HARRY

It may have been.

F.G. REYNOLDS

You broke into the Synagogue to find incriminating documents about a Jewish World Plot?

HARRY

Yes.

F.G. REYNOLDS

And when you went out of the Synagogue with the one document you selected, for all you know it may have been Monday's announcements of the sporting news?

HARRY

It may have been anything.

F.G. REYNOLDS

Having got this document, you look for a place to get out of the Synagogue?

HARRY

Yes.

F.G. REYNOLDS

Did you go to any of the doors except the one you say you got out of?

HARRY

I made straight for the back of the premises. I didn't examine the other doors.

F.G. REYNOLDS

Your luck held again, you found an unlocked door?

HARRY

Yes.

F.G. REYNOLDS

It seems rather curious, because this unlocked door you found is the only door that happens to have an ordinary lock and it was locked on that occasion.

HARRY

I wish you would leave out about 'luck held'. It seems so silly.

F.G. REYNOLDS

When you left the Synagogue, you went straight to your office and read the document. You realised that by a wonderful coincidence you had struck something really startling?

HARRY

It startled me.

F.G. REYNOLDS

What was it that startled you?

HARRY

Well, I wasn't really startled because I already knew that the Jews were looking forward to complete domination over the nations of the world.

F.G. REYNOLDS

You will agree that in some respects you are a very lucky individual?

HARRY

I wouldn't say that. I think I am rather unfortunate.

F.G. REYNOLDS

Look at what happens. According to yourself you have never taken time off work before, but the very first time you do so, you are duly rewarded by having two boys who give you two documents?

HARRY

That is perfectly true.

F.G. REYNOLDS

Then you speak to your comrade, Von Moltke, who expresses doubts about the documents and so you do another thing you've never done before and break into a synagogue?

HARRY

Yes, I would do it again. There's no disgrace in that.

F.G. REYNOLDS

And the first time you break into the synagogue you find the document that converts your comrade, lying nicely on a table there. That seems extraordinary.

HARRY

I don't understand what you're trying to get at.

F.G. REYNOLDS

And found in the Synagogue on Saturday, the very day they'd be holding a service in the morning and a children's service in the afternoon?

HARRY

I don't know anything about when they hold services. There was no service between three and five.

F.G. REYNOLDS

They must have heard about you coming and suspended things?

HARRY

Exactly, that's also possible.

F.G. REYNOLDS

That's a marvellous bit of luck that sort of befell you then?

HARRY

I'm rather unfortunate.

NARRATOR

DAVID HERMANUS OLIVIER, publisher and editor of *Die Rapport*, is examined by Johannes Von Moltke.

(DAVID stands)

JOHANNES

Did I tell you that the document was genuine and that Mr Inch had stolen it from the Synagogue?

DAVID

Yes.

JOHANNES

Did you accept my word?

DAVID

Precisely, I could not think that you would read such a document to the public and not be able to prove its genuineness.

JOHANNES

The impression you got from this document was that it was a kind of conspiracy of the Jews?

DAVID

Yes, precisely.

JOHANNES

What made you believe this document?

DAVID

Including everything I read, the Protocols and the articles you gave me to read and the other things which I have experienced myself, I could not come to another decision on them but that the contention was correct.

JOHANNES

You did not have the least doubt that this document had actually been stolen out of the Western Road synagogue?

DAVID

As I told you I would never have mingled with the thing if it had not been for that. It was not only your words that convinced me, but the fact that you read it out that convinced me. After you read it to the public I was entirely convinced.

(VON MOLTKE sits and REYNOLDS stands)

F.G. REYNOLDS

So you want to make clear to the Court that von Moltke read the document in such an impressive manner that others must have believed it was genuine?

DAVID

Yes, that is definitely certain, you cannot expect such a thing from a decent person.

F.G. REYNOLDS

You quite agree it must influence anybody against the document, anybody who believed it must be influenced against the Jewish race?

DAVID

You cannot get past that, definitely certain.

F.G. REYNOLDS

You have explained that when you published the document in your paper you firmly believed that it was genuine?

DAVID

Yes.

F.G. REYNOLDS

What is your position now after hearing the evidence, do you still believe this is a genuine document and has been found in Western Road Synagogue?

DAVID

Do you think I can believe that a Christian could draw up such a filthy thing?

F.G. REYNOLDS

You mean a true Christian?

DAVID

Anybody who believes in Christ.

F.G. REYNOLDS

Having heard all the evidence, do you still believe Mr Inch stole that document from the Synagogue?

DAVID

If Mr Inch believes in Jesus he must know he stood under oath.

NARRATOR

The witness breaks down. The next witness for the defence is Johannes Von Moltke. He gives his evidence in chief.

(JOHANNES stands)

JOHANNES

It became clear to me that there must be an alien community, a race that will not assimilate with my race that must be the key to the whole question...and I had to admit that my country was being rapidly taken away from me by a community of people only interested in exploiting the labour of the Gentiles. I became convinced that our dear homeland is being ruled and controlled by what I should call octopuses. These octopuses I found out were definitely Jewish in character. I was firmly convinced that Jewry was organised in business and politics. I read the Protocols of the Elders of Zion. Protocol number eight says 'around us again will be a whole constellation of bankers, industrialists, capitalists.' There is the land octopus. Interlocked with the same Jewish houses and groups is the food octopus. Any man walking with his eyes open will find that the bulk of retail and wholesale trade in South Africa is in the hands of one race, the Jewish race. To understand the Protocols, I'll give you an analogy: if you stand in front of a building with the plan in your hands and you find this building coincides in detail with the plan you have in your hand, you have every right to

believe that the building was put up by the author of that plan. I am not anti-Jew and I am at least an honest Zionist. I would like to see every Jew safely settled in his own homeland under his own vine and fig tree. I object to the Jew sitting under my vine and fig tree in my land and at my expense. There is only one thing to do: denationalise them.

(REYNOLDS stands)

F.G. REYNOLDS

I want the present state of your mind. Do you believe that this document was part of a genuine world plot, or simply put there to take advantage of the innocence of Mr Inch?

JOHANNES

I should say that that document after careful study makes me believe that this is a document that was concocted by a Jew with some or at least so much truth in it to make any gentile who studied the Jewish question, make him believe very firmly that it was a genuine plot he discovered.

F.G. REYNOLDS

You think it was put there as a trap?

JOHANNES

Yes.

JUSTICE THOMAS GRAHAM

When did you arrive at that belief?

JOHANNES

When I was listening to the evidence in this Court about the Hebrew characters.

F.G. REYNOLDS

I notice in your affidavit that you refer to Mr Inch's affidavit?

JOHANNES

Yes.

F.G. REYNOLDS

You say you knew all the time that the day Mr Inch got the documents from the Emmanuel Hall was the fourteenth and you were present when he signed his affidavit saying it was on the seventeenth.

JOHANNES

I went through his affidavit after I went to Mr Smulian's office, and I pointed it out to Mr Inch.

F.G. REYNOLDS

Why did you go through it?

JOHANNES

I was entitled to. Do you want to make out that I am a liar?

F.G. REYNOLDS

Certainly. I put it to you quite plainly you know perfectly well that Mr Inch committed deliberate perjury when he put down the fourteenth and you assisted him in that perjury?

JOHANNES

I deny it.

F.G. REYNOLDS

I do not think you know what deceiving means.

JOHANNES

I wonder if you do.

F.G. REYNOLDS

Well, I am beginning to understand it after meeting you. *(pause)*

Most of your knowledge about the Jews of South Africa, is the result of Mr Beamish's book?

JOHANNES

Yes.

F.G. REYNOLDS

And may I put it to you that the 'octopuses' came out of Mr Beamish's book?

JOHANNES

I think they came from Lithuania a lot of them, and Poland.

F.G. REYNOLDS

Have you ever tried to verify some of this information in Mr Beamish's book?

JOHANNES

I didn't think it was necessary. I believe the book is absolutely correct.

F.G. REYNOLDS

I suppose you believe in this book of Beamish as implicitly as you do about the Protocols?

JOHANNES

I do implicitly believe in the Protocols.

(JOHANNES sits)

NARRATOR

Harry Victor Inch gives evidence in chief.

(HARRY stands)

HARRY

The position is this. I came here to tell the truth. Everything I have done and sacrificed has been for my country and my people. I now hear that the cause for which I stand is nothing but ridicule and hot air. I now withdraw from the case.

JUSTICE THOMAS GRAHAM

You cannot withdraw from the case.

HARRY

I leave it to the Bench. I have nothing further to say.

NARRATOR

Harry leaves the witness box and walks out of the court. Court is adjourned, and Johannes quickly follows Harry out into the corridor.

JOHANNES

What do you think you're doing?

HARRY

Nothing more I could say would do any good. The Jews and their lawyers mean to ruin me financially.

JOHANNES

Only if they win. Only if they don't believe your story. And you told me your story was true.

HARRY

What happens if they don't accept my word?

JOHANNES

If they think you deliberately lied? Did you? You'd be held up for perjury! Then we'd both be undone. You didn't make it all up did you?

HARRY

I wouldn't be to blame if I did.

JOHANNES

Are you implying I'd be to blame?

HARRY

No, if we lose it's because of the Jews. It's always the Jews.

NARRATOR

After eleven days in Court, the trial finally concludes. A few weeks later, on the twenty-first of August 1934, Courtroom Number two of the Supreme Court in Grahamstown, with capacity for 40 spectators, is crammed with over one hundred people. It is packed with Nazi supporters on one side and religious leaders and their supporters on the other. Many reporters are present too. They have all come to hear Judge-President Sir Thomas Graham deliver judgment.

JUSTICE THOMAS GRAHAM

We have not the slightest hesitation in concluding that the story told by Inch as to the manner he obtained two documents from the Emmanuel Hall is false. We are also satisfied that Inch was never at any time inside the building of the Western Road synagogue as alleged by him.

After listening to all the evidence and after making a careful study of the contents of the document we have concluded that the three documents emanate from the same source. They bear unmistakable

signs of having been compiled by a member or members of the Greyshirt movement, and could easily have been compiled by the defendants Inch and von Moltke.

A great deal of evidence was called with the object of proving the existence of a so-called world plot organised by the Jews. The defendants have failed to produce a vestige of proof to establish the existence of this plot. The same authorities and arguments which were used to justify the persecution of Jews in the middle ages were used by the defendants' witnesses in the present case coupled with the contention that what are known as the Protocols of the Elders of Zion definitely brought home the existence of this great conspiracy.

It was alleged that the Protocols were secretly promulgated by Dr Herzl at the first Zionist Congress in 1897, held at Basle; but the evidence of Mr Nahum Sokolow, the leader of the Zionist movement, conclusively shows that no such document was ever referred to or mentioned in any way at that congress. The Protocols are an impudent forgery, a clumsy plagiarism of Maurice Joly's anti-Napoleonic pamphlet that made no mention of Jews. The Protocols are obviously published for the purpose of anti-Jewish propaganda.

The next two questions that arise for consideration are: are the words complained of defamatory and actionable and if so, do they refer to the plaintiff?

The language of the document is so profane and scandalous that the author would clearly be guilty of the crime of blasphemy.

From all the evidence it is abundantly clear that the persons who heard the document read or themselves perused it came to the conclusion that the 'rabbi' of the document was the plaintiff, Reverend Levy.

We award the plaintiff the sum of £1,000 as damages against the defendant Inch. And we award the plaintiff the sum of £750 against the defendant von Moltke, who, although less blameworthy than Inch, nevertheless shut his eyes to the truth.

NARRATOR

A copy of the judgment in the Greyshirt case is dispatched by the South African Jewish Board of Deputies to Switzerland, where it is being anxiously awaited by the Jewish community in Berne. They are about to commence an action against publishers and promoters of the Protocols under a Swiss law forbidding indecent writings.

Meanwhile in Berlin, Beamish's student, Adolph Hitler, has already proclaimed himself 'Führer und Reichskanzler' and required the armed forces to swear allegiance to him. A year later, in September 1935, the Nuremberg Laws are born and Germany's first anti-Jewish racial laws are enacted. Jews are no longer considered German citizens.

It's estimated that during the 1920s and 1930s, the Protocols was the most widely distributed book apart from the Bible.

Since the advent of the Internet, the Protocols has enjoyed a modern resurgence and is just one click away.

We conclude this piece with Reverend Abraham Levy's valedictory sermon of 12 February 1954, which he gave at the Western Road Synagogue, Port Elizabeth.

ABRAHAM

43 years have passed since
in obedience to the Command of that Heavenly Master,
to whose service I dedicated my life,
I came in your midst, as a humble disciple of Israel's law,
to speak to you the words of religion.
Young was I in years,
little experienced as you in the battle of life,
but with a heart full of hope,
aglow with enthusiasm for the God of my Fathers.
Here in your midst I have formed friendships
as sweet and, I trust, as enduring as were ever given to man.
Here have I sorrowed with you in your sorrows
and rejoiced with you in your joys.

I shall feel ever knit to you
by that enduring bond of affection
that grateful recollections weave between heart and heart.

May every home in this Community prosper under God's blessing.
May every heart in its midst be humoured with happiness
and strength.
And let me close with the hope that I may linger in your minds

And live in your hearts, as one who at all times
strove to do his duty
before his conscience and his God.

Conclusion

1. Protocols as a mobilising ideology and discursive weapon

From the time that the *Protocols* was first published in Tsarist Russia in 1903, it has reflected an ideological viewpoint and has been used as a discursive weapon by antisemites. Adapted and refined in many cultures and contexts, the *Protocols* has been used to fortify structures of thought that justify and organise the interests of particular groups. It also relates those structures of thought to the social, political and economic world by offering an all-encompassing explanation of history and society. Therefore, the *Protocols* plays a role in shaping attitudes and beliefs that influence social interaction and behaviour. Although the *Protocols* is a falsehood that can be demonstrably faulted, definitive exposés have not necessarily undermined its continuing impact. As discourse, the *Protocols* contains an architecture of deceit that can and has been tailored to suit the cultural and psychological state of its intended audience. The ideological dimensions of the *Protocols* contribute to its potency and popularity, particularly in times of stress, crisis and challenge when people often feel marginalised, disempowered, confused, frightened and even humiliated and angry. It is especially during these times that people attempt to make sense of their world and find their place in it. In this context, the *Protocols* offers a simple and appealing explanatory paradigm that plays on familiar and resonant antisemitic and conspiratorial themes. However, the *Protocols* can and has done more than simply explain history and the world to constituencies manipulated by those with specific agendas. The *Protocols* easily generates a politics of fear, hate and division. It has also frequently formed part of a genre of propaganda based on demonic mythology that is used to incite, authorise and justify collective violence.

2. Continuing impact

2.1 Relationship between hate speech and violence

The broader research and scholarship on the relationship between words of hate and deeds of hate is germane to this argument. For example, the United States Holocaust Memorial Museum (USHMM) 2009 report on hate speech and group-targeted violence documents the key findings from a 2009 seminar, convened by the USHMM,

which explored four contemporary case studies on hate speech and group-targeted violence as well as international law governing the area.³³⁷ The report suggests that while there is no ‘direct, incontrovertible evidence linking hate speech or propaganda to violence’, nevertheless, in the case studies that were considered:

...several common tactics and strategies with regard to the dissemination of hate speech and propaganda in relation to actual acts of violence were identified. Leaders manipulated core social, economic, and political issues by blaming a single enemy for them all and recasting problems in an ethnic light. Commonly, the perpetrators presented themselves as victims, while blaming and stigmatizing the target group, and then justified their actions as self-defense or preemptive self-protection. (Scutari 2009, p. 7)

This phenomenon (including the demonisation and dehumanisation of the target group, the appeal to a siege mentality and the construction of a single enemy) has been observed by others, for example, Zvagulis (2010, pp. 9-14), who argues that hate speech is a key element in collective violence. Zvagulis (2010, p. 12) goes so far as to say that:

it is important not to underestimate any instance of hate speech or scapegoating, because no matter how mild a particular expression may appear, in its deepest essence it represents an attitude based on genocidal logic, that the world would be a much better place without a specific person or group of people.

The *Protocols* is a document that successfully embodies all these elements and is therefore an attractive propaganda tool for those who are seeking to motivate and/or justify acts of violence. The *Protocols* also conforms to the analysis of leading scholars who have examined the connection between words of hate and deeds of hate. Colin Tatz (1997, p. 346) has expressed it thus:

Words, of course, not only hurt, but maim and kill....Neither small nor large matters of genocide occur in the absence of words. Genocide is not spontaneous combustion.

³³⁷The four case studies were Bosnia 1992-1995; the Rwandan genocide of 1994; the Guatemalan civil war of 1960-1996 and the genocidal violence of 1981-1983; and the Kenyan presidential campaign of December 2007. (Scutari 2009).

There is always a policy leading to its practice. Policy consists of words. There is a continuum of eight or nine steps: formulation of an idea, its articulation, its exposition and then its justification, legitimization and adoption.³³⁸

Tatz's assessment echoes Irwin Cotler's paraphrasing of the Supreme Court of Canada in *R v. Andrews and Smith* (1989) 65 O.R. (2d) 161 (Ont.CA) at 179; and *R v. Keegstra* [1990] 3 SCR 697, that '... the Holocaust did not begin in the gas chambers - it began with words. These, as the courts put it, are the chilling facts of history. These are the catastrophic effects of racism' (Cotler 2009).³³⁹

Similarly, Gordon Allport, whose book *The Nature of Prejudice* is regarded as the seminal work on the psychological dimensions of prejudice, states:

Violence is always an outgrowth of milder states of mind. Although most barking (antilocution) does not lead to biting, yet there is never a bite without previous barking. (Allport 1954, p. 57)

Allport (1954, p. 58) contends that in circumstances where violence has broken out, one can be 'fairly certain' that a progression has occurred, beginning with a long period of categorical prejudgment, verbal complaint against the victimised group'.

Kathleen Mahoney (1994, p. 9) argues that regardless of the form that hate propaganda takes:

...the effect is to lay the foundation for the mistreatment of members of the victimised group....Non-violent hate speech exists on a continuum which eventually and inevitably leads to violence once the weapons of segregation, disparagement and propaganda have done their work.

³³⁸The broader thrust of Tatz's argument is that while he believes in free speech, this is not an absolute freedom, and that words that 'maim and kill' should be subject to criminal prohibition, since 'there is not a scintilla of evidence...to show that race-education programs have ever caused a diminution, let alone any eradication, of people's prejudices or, more importantly, their racist behaviour' (Tatz 1997, pp. 346-7).

³³⁹ See also (Mahoney 2009) and (Cotler 1995, p. 369).

The *Protocols* is a form of hate speech that has a particularly paranoid and apocalyptic character, which, as Strozier (2012) argues, heightens the potential for violent action.

2.2 Significance of context

The scholarship and the case studies emphasise the significance of context. A key finding of the USHMM Report (Scutari 2009, p. 9) was that:

The meaning of speech depends on the context in which it occurs, and there are several factors that can affect or change it. Simply analyzing the words themselves does not tell the entire story. It is important to consider who is speaking, what his or her intention is, and what his or her relationship to the audience is. It is also important to consider the agency of the audience and its understanding of the message.

The USHMM report (Scutari 2009, p. 9) quotes Susan Hirsch who expresses it thus:

Certain utterances achieve terrifying power, in the right context. In a climate of ethnic animosity, statements of ethnic pride are indistinguishable from insults against one's opponents. And the converse is also true: Even the most hateful or inciteful speech remains benign, if it has no audience or if its audience is firmly and explicitly determined to keep the peace.

While the *Protocols* may fall into the category of 'the most hateful or inciteful speech', it remains politically and existentially unthreatening if it has no audience or if its audience applies critical thought and rejects it. This links in with a body of thought and scholarship that concludes that antisemitism is most threatening to Jews when it manifests in political life and in public policy – what Todd Endelman has termed 'public antisemitism'. In contrast, Endelman (1986, p. 104) defines 'private' antisemitism as the expression of contempt and discrimination outside the arena of public life, for example, in business, private schools, universities, on the stage and in the press. That is, expressions of contempt that have not made their way into the political arena. Endelman (1986, p. 104) concludes that 'public anti-Semitism clearly posed the graver threat to Jews, since it sought to mobilize the power of the state

against Jewish integration and socioeconomic mobility'. While it is true to say that 'public' antisemitism is a graver threat to the safety of Jews, 'private' forms of antisemitic expression can lay the foundations for 'public' antisemitism by potentially creating a more receptive and permissive environment for 'public' antisemitism or even 'shift' from the private to the public sphere, especially if mobilised, fanned and nurtured into a political movement. There is potentially a more fluid and osmotic relationship between these two spheres than may first appear. The danger is well expressed by Norman Cohn (1967, p. 18) who states that:

There exists a subterranean world where pathological fantasies disguised as ideas are churned out by crooks and half-educated fanatics for the benefit of the ignorant and superstitious. There are times when this underworld emerges from the depths and suddenly fascinates, captures and dominates multitudes of usually sane and responsible people, who thereupon take leave of sanity and responsibility. And it occasionally happens that this underworld becomes a political power and changes the course of history.

Cohn's analysis addresses one of the most important aspects of the threat posed by the *Protocols*: even if the *Protocols* resonates only in certain sub-cultures, history shows that ideologically-driven hatreds can move from the margins to the mainstream given the right social, economic and political factors.³⁴⁰ Once the ideology, terminology and imagery of the *Protocols* enters into mainstream debate and politics, then the safety and security of Jews are indeed threatened and, more generally, positive values within society are at risk of erosion. Moreover, many scholars have written about the nature and extent of the harm caused by hate speech (whether private or public) to society in general. For example, Katheen Mahoney (1994, p. 9) has stated that:

Members of such [victimised] groups respond to hate propaganda by being fearful and withdrawing from full participation in society. They are humiliated and degraded and their self-worth is undermined. As the Supreme Court of Canada has described it, hate propaganda is not merely offensive. It constitutes a serious attack on psychological and emotional health. Society as a whole suffers because such

³⁴⁰ For a detailed analysis of the way in which, for example, the ideology of white supremacy has shifted from the margin to the mainstream, see (Zeskind 2009).

expressions undermine freedom and core democratic values by creating discord between groups and an atmosphere conducive to discrimination and violence....

Echoing Mahoney's comments, B'nai Brith Canada's CEO, Frank Dimant stated 'This kind of hatred is infectious and insidious. It destroys the very fabric of Canada's multicultural society....' (B'nai Brith Canada 2010, p. 4).

3. Greyshirt case and context

The notion of a continuum (expressed by Tatz (1997, p. 346) and Mahoney (1994, p. 9)) as well as social context (identified in the USHMM report, and also explored by Savage (2007) who points out that violence can be *retrospectively* justified by words of hate) is useful in understanding the social dangers of the *Protocols*, and also provides a valuable framework for assessing and analysing responses to it. Even when the *Protocols* is embraced only at the social margins by 'fanatics', the words themselves are nonetheless capable of creating social discord and can influence, normalise and lay the foundations for more virulent attitudes at a later time.³⁴¹ In addition, the existence and persistence of the *Protocols* and its ideological foundations can form (and in fact has formed) the basis for racist behaviour, including exclusion, discrimination, attack and violence. Depending on the context (including the overall instability posed by the political, social, economic and cultural situation) the *Protocols* may be more or less threatening and this overall context has a direct bearing on the effectiveness of the nature, form and style of, responses to, and repudiations of the *Protocols*.

It is within this analytical framework that the Greyshirt case is highly significant. The *Protocols* is not a benign document, and the defamatory Document circulated by the Greyshirts contributed to an atmosphere of fear in South Africa, in which the potential for physical violence was real. Furthermore, although the Greyshirts were not a

³⁴¹ See for example, Kathleen Mahoney (1994, p. 14) who notes that propaganda 'relies on fear and ignorance to engender indoctrination over time. It works by socialising, by establishing that racism is expected and permissible'. Milton Shain (1994) has argued that the reception of fascist/Nazi ideology by Afrikaners in South Africa in the 1930s was facilitated by the decades of antisemitic stereotyping that preceded it. Similarly, in Goodman and Miyazawa's analysis of the perception in Japan of Jews, they note that with the alliance between Japan and Germany in 1936, the socialised antisemitism of the 1920s and 1930s became 'justified' in the minds of Japanese intellectuals (Goodman & Miyazawa 2000).

mainstream movement, they were a vocal and prominent group, reflecting and mobilising a militant, ideological and political agenda with a clear political manifesto and vision. The *Protocols* – as historical examples bear out – proved to be both a reflection of the Greyshirts’ worldview and an expedient propaganda tool used by them to exploit the underlying fears, anxieties, grievances and insecurities of their constituency. The Greyshirt trial was the single most important factor in determining the context in which the *Protocols* could be interpreted, understood and ultimately rejected by the general public. That is, the Greyshirt trial fundamentally altered the context in which the Document (and other antisemitic propaganda) circulated by the Greyshirts was understood by the general public at that time.

At this juncture, it is important to consider ‘audience’. As argued in Chapter Three, Reverend Levy and the South African Jewish Board of Deputies were not seeking to persuade committed antisemites and the far-right whose views would be unlikely to change. Through the defamation action, Reverend Levy and the Board were ultimately seeking to achieve balance and objectivity in public debate with an emphasis on, and commitment to, the facts.

Milton Shain (2011, p. 257) states that ‘Despite the outcome of the case and the Board’s publication of pamphlets to combat notions of a Jewish conspiracy, the *Protocols* continued to be quoted intermittently in far right literature’ (see also (Shain 2015, p. 83). Furthermore, Shain refers to Michael Cohen’s unpublished BA Honours thesis of 1968, which concluded that the Greyshirt trial ‘stimulated the acceleration of Shirtist activities’ (Shain 2011, p. 257). However, as argued in Chapters Two and Three and based on a detailed analysis of the trial, the audience as far as Reverend Levy and the Jewish community were concerned, was the mainstream public. It is unsurprising that the *Protocols* and other literature of that kind continued to be published in South Africa—von Moltke and Beamish proudly claimed as much in the trial proceedings. They stated in Court that they would continue to hold and promote their beliefs notwithstanding the judgment, although von Moltke maintained that he would be ‘more careful’ (‘Transcript’ 1934, pp. 487, 632, 754).

The fact that the references to the *Protocols* remained in far-right literature yet did not enter or underpin mainstream political discourse is, in my view, indicative of the

success of the trial. This is further supported by the effect of the Greyshirt trial on the Defendant, Olivier (the publisher and editor of the *Die Rapport*, which was the official organ of the Greyshirts). When confronted with the truth in court, Olivier broke down³⁴², and upon returning to Aberdeen, resigned from the Greyshirt movement and dissociated himself from the virulent and vituperative antisemitism that he had previously propagated in *Die Rapport* (Special correspondent 1934). It would seem that the trial proceedings had shaken him profoundly. The court process revealed with clarity that Inch had lied and Olivier appeared disillusioned that a Christian could perjure himself in court or concoct such a Document ('Transcript' 1934, p. 630).

Both Furlong (1991) and Shain (2015) point out that the antisemitism of the radical right influenced the ideology of the mainstream political parties. Furlong concludes that the political environment that the advent of the Shirt Movements in South Africa helped to create 'encouraged mainstream politicians of the Afrikaner right like Daniel Malan's Purified Nationalists to embrace the anti-Semitic message central to both Nazi and shirt movement ideology' (Furlong 1991, p. 27). Similarly, Shain (2015, p. 83) contends that the Greyshirts' antisemitic rhetoric was a 'poison' that seeped into the mainstream.³⁴³ However, Shain (2015, p. 319) also acknowledges that 'relatively few South Africans shared an affinity with the conspiratorial notions of the radical right – most evident in the peddling of the *Protocols of the Elders of Zion* – and many felt a distinct discomfort with vulgar Jew-baiting. Electoral contests, too, showed little support for the radical right.'

The contention of this project is that the Greyshirt case was one of the most significant factors—if not *the* most significant factor—in preventing the *Protocols* from becoming a more effective mobilising ideology. It can be argued that the

³⁴² See Reynolds' cross-examination of Oliver: 'Do you approve of any question being asked such as I have indicated, why the artist did not depict Christ as a hook-nosed Jew, do you think it is a Christian way of asking a question?---No answer (witness appears to be very distressed)' ('Transcript' 1934, p. 631). See also newspaper reporting ('Grey Shirts give evidence: Inch tells how he got documents, boys who have them to him ran away, Judge asks him if they are still running, Olivier creates a sensation' 1934; 'Greyshirts defendants in witness box: dramatic moments in examination of Olivier, views on Inch & the document, von Moltke's story of his life' 1934, p. 16; 'Sensation at Grahamstown: Grey shirt Defendants give evidence, story of stolen document' 1934; 'Transcript' 1934, p. 631)

³⁴³ See also Rubin (1957) describing the economic and racist antisemitism of certain Nationalists in the 1950s, including Dr N. Diederichs and Eric Louw.

Greyshirt case, by altering the overall discursive context of the *Protocols*, repelled ‘conspiratorial’ and ‘vulgar’ antisemitism and constrained its acceptability, appeal and growth within the general public. The way in which the Greyshirt case achieved this revolved principally around the following: (1) public and media coverage; (2) the power of words, facts and reason; and (3) faith in the law and judicial process.

3.1 High profile of case and media coverage

Far from depriving the issues of oxygen, the Greyshirt trial drew public attention to the defamatory antisemitism being advanced by the Greyshirts. The prominence of the case had the effect of enlarging and further ventilating the issues in dispute. However, the forum of the court proved decisive and successful in distinguishing truth from lie and, in this way, advanced public discourse and played a role in limiting the circulation of and belief in the *Protocols* and reducing the risk and potential for physical violence. The Greyshirts’ words of hate were rendered less harmful because the general public had a reliable factual basis for concluding that the Document and the *Protocols*, on which it was based, were in fact concocted and untrue.

3.2 Emphasis on words

As outlined in Chapter Two, until the commencement of the libel action by Reverend Levy, there were a range of views in the Jewish community as to how best to deal with Greyshirt vitriol and propaganda, ranging from silence to counter-propaganda to physical resistance. As I pointed out, none of these responses amounted to an effective counter-discourse. The legal action initiated by Reverend Levy brought the conflict between Greyshirts and the Jewish community into a forum that privileged process and procedure, words and facts over irrationality and physical violence. The same defamatory antisemitism that had been uttered in town-hall meetings and printed in Greyshirt newspapers took on an entirely different meaning when uttered within the courtroom. It is here that we see so demonstrably the power of the forum to influence and shape perception and begin to alter the overall context in which the words of hate had been previously understood. The power of the Greyshirts’ defamatory antisemitism was significantly diminished within the courtroom. Social attitudes, in

tandem with administrative policies and practices can easily construct, validate and justify a hierarchy of human difference (Avrutin 2007, p. 16). The Greyshirts used a racialising process to seek an elevated political and social position and to persuade their constituency that all turmoil – past, present and future – was the handiwork of a conspiratorial elite of Jews intent on exploiting other ‘races’ for their own gain.

Grounded in racist antisemitism, the Greyshirt rhetoric generated a politics of fear, division, exclusion and hatred. As the broader scholarship has shown, focussing public attention on an imaginary enemy and an illusory cause of collective frustration, creates a distraction from real social issues and problems, and consequently distorts – if not utterly perverts – public discourse and lays the groundwork for a potential escalation in violence. The Greyshirt trial injected into this volatile and difficult context an objective and rational assessment of Greyshirt allegations and proved them to be a tissue of lies, thereby restoring some measure of balance into public discourse. Since the *Protocols* is discourse and the law is discourse, the Greyshirt trial provided a framework in which the discursive struggle between Greyshirts and the Jewish community could effectively take place.

3.3 Faith in judicial process

A key element in the success of the Greyshirt trial in altering the overall context is the faith placed by all participants in the legal system to arbitrate fairly the issues in dispute. Without a system that does (and is perceived to) pursue truth, the ‘legal truths’ generated from the trial would not translate into accepted factual truth in the public sphere. This supports the idea articulated by Bronner that it is the strength of liberal democratic institutions that guards against antisemitism (and the dangers of the *Protocols*) (Bronner 2003, p. 68). Building on this line of argument, it is crucial to have strong public institutions, including executive, judicial and legislative functions, in which the public has confidence. The fundamental relationship between the public and its governing institutions once again evokes Cover’s (1983) analysis of the way in which the law interplays with society. As the truths from the Greyshirt trial were conveyed into the public sphere, the general public were able to make more informed judgments about Greyshirt propaganda and tactics and also about Jews and Judaism. In

this arena where judgments are formed and made, the stage is also set for how society itself is shaped.

4. Limitations of Greyshirt trial

4.1 Notions of 'race' and common humanity

In South Africa, it never reached the point where Jews were excluded or ejected from South Africa or subjected *en masse* to physical violence. The Greyshirts sought to advance a dystopian social vision and proposed an 'ideal' South Africa in which Jews played no part, and the *Protocols* formed part of their justification for this view. It is impossible to know what would have happened in the absence of the Greyshirt case, but based on my analysis of the trial documents and the context in which it took place, my view is that the trial played a significant role in (1) discrediting the *Protocols* among the general public; (2) discrediting Greyshirt methods; and (3) affirming the common humanity of the Jewish community, something that the Greyshirts had called into question. Tragically, colour-coded racism gathered political momentum in South Africa and so the common humanity of all people was not enshrined as a social value in mainstream political thought and action over subsequent decades, manifesting in the official policy of Apartheid from 1948 to 1994, a policy, based on skin colour alone, that dehumanised and brutalised the majority of the South African population who were not considered 'white'.

As a detailed examination of the court transcript demonstrates (and as I showed in Chapter Three), notions of 'race' were being advanced by the Greyshirts to justify and organise their worldview. As I demonstrated, these notions of racial difference, categorisation and hierarchy were confusing and alien to the Jewish witnesses.

As early as 1894, Bernard Lazare cautioned about the dangers of human categorisation based on 'race' and pointed out that 'race' was a mere construct. He wrote:

Since the eighteenth century attempts have been made to classify men and distribute them under well-defined, distinct and separate categories. As a basis for it quite different indices were taken: the section of the hair – oval section for negroes with woolly hair, or round section; the shape of the skull – broad or elongated; the colour of the skin. This last classification has prevailed: nowadays three races of mankind – the negro, the yellow, and the white race – are distinguished. Different aptitudes are ascribed to these races, and they are arranged in the order of their superiority in a ladder of which the negro race occupies the lowest and the white race the highest ground.

Race is, however, a fiction. (Lazare 1995, p. 119) [footnotes omitted]

The Greyshirts used the *Protocols* as part of a discourse that sought to racialise Jews. The Greyshirt trial was successful in attacking the basis for religious antisemitism since this was its main aim, but it did not attack the very foundations of ‘race’ in the sense explicated by Lazare, notwithstanding Reverend Levy’s statement in Court that ‘all nations are regarded as God’s creatures’ (‘Transcript’ 1934, pp. 24-5), which reflected his personal and also the Judaic belief in ‘universal equality’ and the ‘unity of the human race’ (Poliakov 1974, p. 327).

A close examination of the Greyshirt case reveals the ways in which classic, religious Jew-hatred was combined with racist, defamatory antisemitism to produce an ideological platform from which the Greyshirts launched a concretely political agenda. Their political agenda derived sustenance and validation from racist ideologies that had been developing in late imperial Europe – ideas that enshrined permanent and unbridgeable human differences and made them hierarchical.³⁴⁴ The attempt by the Greyshirts to racialise Jews through the Document, was ultimately unsuccessful. However, the ideological basis on which their arguments rested was the same ideological platform used to give legitimacy to colour-coded racism in South Africa.

³⁴⁴ For a detailed analysis of the origins and history of the Aryan myth see (Poliakov 1974).

4.2 Protocols continued currency

While the Greyshirt case was highly successful in achieving its primary and immediate aim of exposing and nullifying Greyshirt lies about Jews and Judaism to the South African public, it had a limited effect on a global scale, as ideologically driven hatred and violence relied on substantially the same myths and falsehoods about Jews and Judaism. Furthermore, those same lies and falsehoods have persisted into contemporary discourse, modified for today's particular crises and challenges. Additionally, the same politics of fear, division, exclusion and hate that Greyshirts directed against Jews (and of which the *Protocols* formed part) appears today and is directed at others, including Muslims and Islam. Racialising processes and the politics with which it is associated is a dominant feature of contemporary discourse. It works in tandem with fear, anger and hate and is set against the backdrop of confusing, changing and frightening global events. Again, we are confronted with the difficulty of distinguishing between truth and lie in public debate and the difficulty in challenging and responding to irrational myths and false logic. Again, we see these issues seeping into debates about national identity and belonging.

5. Re-affirming the power of words: documentary theatre as counter-myth

In the light of the global resurgence of ideologically driven hate and the challenge of distinguishing truth from lie in public discourse, a major finding and conclusion of this thesis is that words matter, facts matter and the form of the narrative matters. All these elements: words, facts and the form of the narrative weave together to influence and shape our individual and collective perceptions of history and society, and indeed, our visions for the future. The idea of a documentary theatre script based on the Greyshirt trial transcript emerged from the central question of this project: why, despite definitive exposés of the *Protocols* as a fabrication, does it continue to have widespread currency and appeal and what, if anything, about the *form* of the narrative influences and shapes perception of the *Protocols* as true.

The Defamation is intended as an intervention in contemporary antisemitism with an emphasis on, and a commitment to the power of words to transform positively ourselves and our society. As argued in Chapter Four, by dramatising the Greyshirt

trial, in which the *Protocols* and other falsehoods were exposed, *The Defamation* functions as an 'anti-myth'. In this way, I see a strong correlation between the overarching imperative, social purpose and aims of the Greyshirt trial and the overarching imperative, social purpose and aims of the documentary theatre script. That is, to influence constructively the social context by promoting critical thought and helping to distinguish truth from lie.

Appendix A: Examples of modern antisemitic manifestations (incidents and discourse)

Part I: Examples of direct and indirect references to the *Protocols* in antisemitic manifestations in Australia

In October 2010, a lengthy antisemitic email was sent to a Jewish organisation in Sydney alleging Jewish conspiracy to cause ‘floods, earthquakes, fires, hurricanes, typhoons, tsunamis...’ and in the same month an email was sent to a Sydney Jewish organisation which said: ‘jews are evil they control banking the medis porn and control western governments through donations. Jews did 9/11 as an excuse to attack Afghanistan and irqa the jews now want us to attack iran. The jews caused the 2nd world war pressing the world to attack the gallant and great german people, the german people knew of the evil jew and in a humane way tried to rid Europe of parasite jews, jews always take advantage of the host country jews have been expelled from every European country why? I hope iran nukes Israel a good jew is a dead jew jews are behind most wars the great man henry ford knew this’ (Jones 2011).

The themes of Jewish control, world domination and secret manipulation recur in antisemitic emails, postal mail, and pamphleteering. For example, lengthy letters to Australian Jewish community leaders and organisations in November 2014 entitled ‘What is Cultural Marxism?’ included statements such as ‘Cultural Marxist have taken over the institutions of the media (DOMINATED BY JEWS), finance (DOMINATED BY JEWS), pornography ditto, education...’ (Nathan 2015, p. 33).

A message via Facebook sent to a Jewish media organisation in May 2015 stated, inter alia, ‘you Zionist Jew are one of the most evil people on earth and never stop plotting against gentiles world, the satanic zionist Jew main aim in the world is to corrupt and enslave the world...’ (Nathan 2015, p. 32).

In June 2015 leaflets were letterboxed to homes in several Sydney suburbs by a neo-Nazi group, Squadron 88. ‘The two page leaflet states in part: “Jews push for controls on free speech, exercise disproportionate influence in Australian politics [...] Despite being a tiny minority [...] they have a surprising, and insidious influence over what passes for culture in this country and abroad. The perfidious Jews collectively own most US TV networks, almost

all major Hollywood studios and own and operate 97 per cent of all print media and news networks, have an iron grip on politicians, determining which politicians get voted in and which don't. [...] Holding these people to account is our moral duty as a nation and as a people.” (Nathan 2015, p. 35).

Selected examples of ‘world domination’ and ‘Jewish control’ language used by perpetrators of antisemitic incidents in Australia

On 18 July 2015 at the far right Reclaim Australia rally in Melbourne, verbal abuse was directed at a Jewish journalist, including ‘you Jewish parasite’. The journalist was told that his book was only published ‘because of the Jewish puppet masters that control everything’ (Nathan 2015, p. 29).

Examples from the most recent ECAJ Antisemitism Report, include:

- ‘Two ultra-Orthodox Jews at a synagogue in Melbourne were physically attacked by a man who began verbally abusing them, then assaulted them in separate incidents (26 Nov 2015). The verbal abuse included: "Go back to Israel", “Do you want to swear to Allah?” and “Do you really think you can rule this land?”’ (Nathan 2016c, p. 26); and
- ‘An Orthodox Jewish couple walking on a beach in Melbourne were accosted by a male, with a dog, who yelled antisemitic abuse at them including "Paedophiles, baby killers, bloody Jews, kikes" and other abuse. When the couple mentioned calling the police, the man made a comment about Jews controlling the police (10 January 2016)’ (Nathan 2016c, p. 28).

See also p. 36 of the ECAJ Report that refers to an antisemitic letter containing allegations of Jewish control.

The ECAJ Report expresses concern about the number and virulence of the antisemitic online public comments made in response to mainstream media stories and posts. The examples of the antisemitic comments (made even when the site is moderated) include comments about Jewish control and the Jewish ‘lobby’. For selected examples, see (Nathan 2016c, pp. 48, 9, 50, 1, 3). See also Nathans’ reporting on antisemitic comments

made by Malcolm Roberts, One Nation Senator, that reflect canards in the *Protocols* (Nathan 2016c, pp. 72-3).

Part II: Protocols in modern antisemitic discourse in the Arab world

Examples of the Protocols being treated as historical fact

Palestinian Media Watch (PMW) (which monitors and analyses the Palestinian Authority through its media and schoolbooks) and other Middle East Media monitoring and reporting institutions have documented numerous examples of the *Protocols* being treated as historical fact by political leaders, academic ‘experts’ and clerics. For example, PMW reports that in December 2003, Dr. Riad Al-Astal, history lecturer, Al-Azhar University in Gaza, said the following on Palestinian TV: ‘The idea of the Zionist Renaissance developed, and the seeds of what is called The Protocols of the Elders of Zion appeared at the end of the 18th century. These are the Protocols that were presented at the Basel Congress in Switzerland [the First Zionist Congress in 1897]’ (Palestinian Media Watch 2012).

See also (Middle East Media Research Institute 2006a, 2006b, 2007a, 2007b, 2008c, 2017) (Middle East Media Research Institute 2012).

According to Tel Aviv University’s report, Antisemitism Worldwide 2010 General Analysis:

... the year 2010 witnessed a decrease in the intensity and virulence of anti-Semitic manifestations in Arab countries due...to the fact that it was a year with no major military action or political development in the Palestinian-Israeli arena. Yet, articles, Friday sermons, and TV programs featuring antisemitic themes, such as the blood libel, *The Protocols of the Elders of Zion*, and the Jews’ responsibility for various disasters, as well as the equation of Israel and Zionism with Nazism, continued throughout 2010, particularly in the Islamist media and internet sites (The Stephen Roth Institute for the Study of Contemporary Antisemitism and Racism 2010, pp. 9-10).

A 2005 Report by the Intelligence and Terrorism Information Center, singled out Egypt for the sheer volume of antisemitic publications produced there and then disseminated across the region and Arab and Muslim world (Intelligence and Terrorism Information Center 2005, p. 2). The *Protocols* has been a prominent feature of this literature (Intelligence and Terrorism Information Center 2005, p. 2), including a version entitled *The Protocols of the Elders of Zion and their Biblical and Talmudic Origins* that was co-authored by Dr. Ahmad Hijazi al-Saqa, a Professor of Comparative Religion at Al-Azhar University, ‘a respectable and reputable institution exerting far-reaching influence over matters of Islamic law all across the Muslim-Sunni world’ (Intelligence and Terrorism Information Center 2005, p. 4), and also included a foreword attributed to the Grand Mufti of Egypt, lending it credibility and authority and contributing ‘to a more efficient assimilation of The Protocols’ messages of hatred’ (Intelligence and Terrorism Information Center 2005, p. 4). Significantly, in January 2007, the Grand Mufti of Egypt publicly denied having written the foreword that was attributed to him in the 2003 edition of the *Protocols*. He also referred to the *Protocols* as a ‘fictitious book, which has no truth to it.’ This refutation is regarded as highly significant because it appeared in a popular Arabic-language newspaper and was ‘by a senior Muslim-Arab religious personality, commanding extensive religious authority in Egypt and in the Sunni Muslim world.’ (Intelligence and Terrorism Information Center 2007a, p. 2).

Nevertheless, the *Protocols* continues to be disseminated. It was among books available at the Cairo International Book Fair between 24 January and 4 February, 2007 (Intelligence and Terrorism Information Center 2007b).

Other earlier examples include the screening of a 41-part television entitled *Horseman without a Horse*, on Egyptian television during the month of Ramadan in 2002. In this series, the *Protocols* feature as a main theme in the plot. Following the damage that the series caused to Egypt’s reputation in the Western world, Osama el-Baz, a political adviser to the then President, Hosni Mubarak, published a series of articles in the Egyptian daily newspaper, *al-Ahram*, in which, inter alia, he refers to the *Protocols* as being an unfounded and forged document (Intelligence and Terrorism Information Center 2003, p. 6 and 27).

In 2003, the Syrian TV series, *Al-Shatat* (‘The Diaspora’), (which was also screened in Jordan, Lebanon and Iran) depicts Jews as intent on world domination through a secret,

international government and also incorporates depictions of Jewish ritual murder (Shea & Hoffman 2006).

Select examples of Hamas and other Palestinian leaders publicly referring to the Protocols as true and authentic

On 9 April 2008, the Hamas Culture Minister said in an interview on Al-Aqsa TV: ‘I return to this book – the Protocols of the Elders of Zion – time and again. The Protocols of the Elders of Zion is the faith that every Jew harbors in his heart’ (Middle East Media Research Institute 2008b).

On 14 May 2008, the Hamas deputy minister of religious endowment was interviewed on Al-Aqsa TV and said inter alia:

The goal of the Zionist movement is to establish a state in Palestine, which would become a base for ruling the entire world. Its other goals are to destroy the religions it opposes, particularly Islam; to corrupt values and morality; to spread permissiveness and sex; and to generate moral decline.

...The Protocols of the Elders of Zion, which are a product of the 1897 Basel Congress, discuss how the Jews should seize control of the world... ’ (Middle East Media Research Institute 2008a).

More broadly, PMW states that the *Protocols* is one of the numerous libels that have been disseminated by Palestinian leaders of the Palestinian Authority, Fatah and Hamas (Palestinian Media Watch 2017). PMW provides numerous examples of the ways in which the *Protocols* is referenced by various Palestinian leaders as if it was true (Palestinian Media Watch 2012). In 2004 the PA Ministry of Education included the *Protocols* in the official Palestinian school curriculum, treating it as historical fact in a Grade 10 schoolbook, ‘There is a group of confidential resolutions adopted by the [First Zionist] Congress and known by the name “The Protocols of the Elders of Zion,” the goal of which was world domination. They were brought to light by Sergey Nilos and translated into Arabic by Muhammad Khalifah Al-Tunisi.’ [History of the Modern and Contemporary World, Grade 10 (2004) p. 60-61] (Palestinian Media Watch 2012). In 2005 PMW drew this to the attention of

Members of the European Parliament and the offending text was removed from subsequent editions of the book (Palestinian Media Watch 2012).

Appendix B – Full text of the Document

‘Copy for Mr. M. Lazarus

Lecture No. 2.

Subject: - “Our plan of attack”

Our Attitude to the Christian Faith; The Unholy Christ; We are the Chosen of God; Division of the Churches; the Rebirth of Catholicism; the Greyshirt Menace and how it will be combated; Gentile Decay; “Live and let live – Our greatest Asset; Our Imperial Plan in comparison to other Empires; Our attitude to the Brit. Emp. World Socialism; The Next Attack and Riot; How we shall achieve our wish; How the gentile dogs shall crave for mercy and our refusals; our Bolschevic Propaganda Scheme.

A. OUR ATTITUDE TO THE CHRISTIAN FAITH.

As I have explained to you in previous meetings, our attitude to Christianity is one of great interest to the High Circle of The Jewish Citizens of Port Elizabeth. As you all know the divisions in the Christian Church were of our construction. It was our ancestors that urged Luther and other reformers to break from the Mother Church. i.e. The Roman Catholic Church for our own private purposes which would hasten the fulfilment of our World Imperialism. The Roman Catholic Church was severely wounded in the head (that is, literally), and the Protestant Churches, are as dead as mutton. But, my beloved Council, the R.C.C has been unconscious for countless centuries, but it is beginning to stir to life again. It has awakened after a long and great sleep and its influence is beginning to be felt throughout the Earth. (Did not the Fascist, Mussolini, make treaties with the Pope, and is not Hitler a Catholic?) We must destroy it. It is interfering with our World Socialism.

I mentioned to you before several times at our Conci [sic] Meetings of the Select that we are the pure people. The Nordics in our eyes are in no wise different to the Chinese Dogs or the Turks. They are all our destroyers, our enemies. The Christian religion is wrong. Christ, in the Jewish sense was a false prophet born of the womb of a foul bitch whose husband was in our eyes never married to Joseph.

In our Talmud torah and other holy books it does say that the gentiles will be made to drink the Piss and eat the dung of the Jews.

PHAROAH

2. Lecture on Judaism v. Chistianity

Antisemitism and the South African Greyshirts.

Pharaoh, the King of Egypt was the first Anti Semite, and I can assure you that Hitler will be the last. As far as the Greyshirts are concerned; we shall cripple them as follows.

We have receive [sic] information through A.4. that the Greys are to have a meeting in the Feather Market Hall after the Christian holidays. All preparations are being made disguising a crowd of our most trusted servants as Greyshirts. We shall see that they are supplied with swastikas and Grey Ribbon. Their duty is to heckle the speakers, kick up a row, and sing so-called Patriotic songs that to us, Internationals as we are, have no meaning whatever, in preparation for the greatest Riot ever witnessed from the Cairo to the Cape. We are prepared for Homicide, Murder and Manslaughter. Hit right and left, wherever you see a Gentile Face. The equipment that must be brought are to be Pepper Pots, Blackjacks, Knuckle dusters, Revolvers, Lead piping, Sticks, Stones and boxing gloves. We have arranged, that if there is no police around, for a contingent of our fellows to be near the parapets ready to fling rocks and boulders through the opposite windows. We are confident in our success. We always get through unscathed. We who boast of our survival over all empires. We the Chosen of the Almighty, who guides and approves of our every action. Our cult of Gold. These Greydogs are to us as the sougning of the wind on a Wintry day – We who control, financially and even politically behind the scenes, yea, the chosen, who were promised all these things. Earthly pomp, Splendour, Imperialism, and everlasting sovereignty over the ANOMALS [sic] of the Earth. Christianity, I repeat is Satan's Religion, the Religion fit only for the dogs that they are, who go to their churches to see whether their neighbour has on a Paris Model or Print Dress. What foolishness. What utter foolishness.

THE “LIVE AND LET LIVE” MOTTO of the Churches is our greatest Asset I can assure you. The British Imperialism was one of help to Christian Civilisation, but ours is the direct opposite.

We stand for World Communism, for Dictatorship of the Proletariat. Our Imperialism or “PAX JUDAEICA” is one for the downfall of Western Civilisation and its replacement by the Eastern or Japanese System. We have seen the progress of the U.S.S.R. since 1917 when our Agents, Lenin, Stalin &c murdered the Tsar. The Pope is a religious Imperialist, and that interferes with our world Plan. As we have got control over Russia, so we will also control the Union, and so achieve our object in the destruction of the British Empire by making propaganda for wars that as a result will fall to bits as did mighty Rome. Yet we survive and our object has been fulfilled. Such is the Mission of Judah. It is our plan to give South Africa to the Natives, “South Africa and Africa for the Black Man” said Abruhaman and our several Loyal Agents. However we have the prospect in view that if South Africa is given to the sons of Ham, we shall not be in any way molested.

Of the British we may say that they are innocent of our plan to deprive them of the countless possessions she has herself developed, and of the Dutch we may say that they are the most lovely of our specimens of Gentile Decay, and are of as much account as the Unclean Meat, Pigs Flesh that they consume in such large quantities. The Natives are of no account. They are brainless as their Teutonic Cousins – Rapers, Blackguards, Thieves and Spies.

The following papers financed through us are the “*Express* (Mr Barlow editing with our approval. The Socialist Review, the Anti-Nazi, and Mr Lazarus’ Propaganda Scheme). We will fool the public, so that their belief in Live and Let Live will be intensified a thousand fold. We will make them digest as much silly rot as their decayed and filthy minds are capable of understanding. Hitler, Lunatic Goering, Von Papen and their co-Lunatics, with the Asylum Contingent (namely the Brownshirts), are guilty of devastation, and crimes against Civilisation, which we have built up. They raped our women, murdered our old men, bombarded and dynamited our Synagogues, Threw our children to the hunting dogs, - Made our little ones to dance on hot coals until they fried. Made our husbands run the

gauntlets in the passage ways to our clubs, while they themselves struck them as they passed. These low common Sons of a filthy womb know not the Japanese Menace that is upon the face of Europe and Africa.

Brethren, although for countless centuries you have been despised and hated, in the near future the races of the Earth will kiss your feet and worship you, they shall bow down before thee and shall exalt and praise thee. They shall beg mercy of thee and thou shalt refuse. They shalt acknowledge that thou art the Chosen, the Infallible. Our elected leader will be the first Sovereign over all the Earth. The Communist World. and [sic] at last the Talmud torah and Prophecies will be fulfilled. I may say that we are on the threshold.

On your very life take care of these instructions, do not mention a word to not even your own what is contained in these pages. You know our law. You know the Result. The propaganda that will shortly arrive from Moscow, that will be in our safe keeping in the Syn. West. RD will be handed to trusted members of the local and Cape Trade Unions and F.S.U. as soon as the appointed time arrives. We shall instil into the warped minds of Goya then that we are the proverbial “Now Know Alls.”

ISSUED BY THE SELECT HIGH CIRCLE OF THE ANTI-NAZI
PROPAGANDA VIGILANCE COMMITTEE C.X.V.O. 3838 AND
AUTHORISED FOR USE BY THE TRUSTEE AND THE SIX COUNCIL
MEMBERS ONLY.

RABBI.”

Appendix C - The 'Challenge', printed in *Die Rapport/The Truth* on 6 April 1934

The Historic Document.

For the first time in the history of South Africa a document has come into the hands of gentile South Africans which throws light on the persecution of the gentiles by Organised Jewry throughout the world. Unless the Jews refute the authenticity of this document, to the satisfaction of all non-Jews, the non-Jews in South Africa should refrain from any action until such time as the accused have had an opportunity of defending themselves. If they cannot definitely prove their innocence of this notorious document, they go by default and there can be only procedure for our Christian State: the ejection of Jews from South Africa.

The Eastern Province Leader of the S.A. Gentile National-Socialist Movement has openly admitted that the document in question has been stolen from the Western Road Synagogue, Port Elizabeth and he has challenged the Jews and the judiciary of our land to call him to account. This is a fair challenge and unless the Jews and our judiciary take up the gauntlet, we have no right whatsoever to doubt the genuineness of this document.

Whatever steps the Jews may deem necessary to take let them not procrastinate.

Appendix D – Summerfield (1935b) on individual and group libel and key international developments post World War II

In a 25-page Appendix to his manuscript about the Greyshirt trial, Summerfield sets out the limitations of the law of the British Empire with respect to what he calls ‘communal libel’ in the context of the rise of Nazi Germany, noting:

One of the inevitable concomitants of the repression of all opposition, whereby autocracy lives and rules, is slander and libel....In lands where liberty has not yet been completely submerged by the rising tides of ignorance, fanaticism and hatred Jews and other sections of society who find themselves assailed may still resort to the law for protection....But the courts of law are powerful to administer only existing law, they cannot create new law.

Summerfield then proceeds to explain the weaknesses and limitations in libel law only applying to individuals, not a class of people. He suggests that vulnerable groups (that is, Jews and ‘all their fellow-citizens who may suffer disabilities by reason of political or religious affiliations’) should suggest measures for the ‘preservation or enhancement’ of the ‘cherished marks of the British Empire’, being freedom of conscience and equality of citizenship (Summerfield 1935b, Appendix A, p. 2).

Spurred by the cataclysmic events of the Holocaust, there was a move in international law to enshrine fundamental human rights and freedoms and many international instruments are concerned with ensuring equality of all people and the protection of traditionally vulnerable groups. Relevantly, the *International Convention on the Elimination of all Forms of Racial Discrimination 1965* (which came into force in 1969) considers any ‘doctrine of superiority based on racial differentiation’ to be ‘scientifically false, morally condemnable, socially unjust and dangerous’, and requires signatories *inter alia* to make it an offence punishable by law to disseminate ideas based on racial superiority or hatred or incite to racial discrimination. Acts of violence or incitement to violence against any race or group of another colour or ethnic origin is also required to be punishable by law (see Article 4). For the purposes of the Convention, ‘racial discrimination’ is defined as ‘any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political,

economic, social, cultural or any other field of public life.’ Note also the affirmation of the fundamental right to freedom of opinion and expression in Article 5(d)(viii).

For a more detailed description of the international conventions, see (Tourkochoriti 2014, p. 557).

The manifestations of hate speech and hate crime have differed over time and place and responses have also differed. For an evaluation of the effect of hate speech and hate-crimes laws in liberal democracies see (Bleich). The mere availability of a legal remedy for group libel or hate speech does not mean that it will always be strategic to utilise it. See for example, Woeste’s analysis of the policy of the American Jewish Congress in relation to the defamatory statements of Henry Ford (Woeste 2004). Furthermore, the implementation of international obligations into domestic law has its own difficulties. In Australia this is reflected for example, in the community and political debate over Section 18C of the *Federal Racial Discrimination Act 1975* (Cth) (see (Narulla 2014), (Soutphommasane 2014), (Liddle 2015; Soutphommasane 2015); and in New South Wales over Section 20D of the *Anti-Discrimination Act 1977* which criminalises racial vilification and has never been invoked despite some clear-cut cases. See also the current push by a coalition of community groups for the State Government to enact legislation to ‘fix the failures of the current law’ and protect traditionally vulnerable groups from hate speech (*Keep NSW Safe* 2016). For a critique of some of the problems of s20D (especially its placement in anti-discrimination legislation rather than within the body of criminal laws) see (Meagher 2006). Although specifically focussed on hate crime (not just hate speech), see also (Mason 2009). For an Australian perspective on the cyberspace implications of criminalising racial hatred, see (Taylor 2001). For a general review of religious vilification legislation in Australia and the UK (including the Victorian Court of Appeal case on religious vilification of *Catch the Fire Ministries Inc v Islamic Council of Victoria Inc* [2006] VSCA 284), see (Blake 2007). For an argument against religious vilification legislation on the grounds of its chilling effect on legitimate expressions of religious freedom, see (Parkinson 2007). For additional perspective, see (Gray 2012).

Appendix E – An analysis of the support provided to Reverend Levy by the South African Jewish Board of Deputies as evidenced by the trial correspondence

Practical support

The file correspondence from Goodman (Secretary of the Board of Deputies) shows the type of assistance that he provided to Barend Smulian (Reverend Levy's lawyer) in support of the action. In particular, a letter dated 1 June 1934 to the President of the Hebrew Congregation at Windhoek in South-West Africa states that 'The Board of Deputies is placing its full resources at the services of the Port Elizabeth Community, in order to expose the whole conspiracy, and prove that the documents are forgeries....'

Among other things, Goodman used the resources and connections of the Board to help gather relevant information requested by Smulian in the lead-up to the hearing. The type of information included both antisemitic propaganda and documents to counter it to assist Smulian prepare arguments for court (see, for example, Smulian's letters to Goodman of 15 May 1934 and 16 May 1934 requesting this type information) (Smulian 1934c); (Smulian 1934e). Smulian also requested Goodman's assistance in obtaining confidential and other background information on Von Moltke (see Smulian letter to Goodman dated 16 May 1934 and a follow-up letter of 19 June 1934; (Smulian 1934e) and (Smulian 1934b)); Inch (see Smulian's requests dated 23 May 1934 and also 13 June 1934. (Smulian 1934d) 'Can you please use whatever means are available to confirm reason why he [Inch] was discharged from the Police....I should like to be quite sure that the information is correct before it is put to him in cross-examination') and Beamish (see Smulian letter to Goodman of 29 May 1934 requesting that Goodman immediately cable London to request 'full particulars of the Mond Libel Action and any other proceedings in which Henry Hamilton Beamish took an active part...') (Smulian 1934h).

Goodman also provided practical and logistical assistance to Smulian by liaising with various witnesses for the Plaintiff and also assisted Smulian in impressing upon the Board's Legal Committee the importance of securing Sokolow as a witness (see for example Goodman's letter to Morris Alexander M.P. dated 15 June 1934 in which he states, 'Smulian has written a letter to the Legal Committee, asking that Sokolow be requested to give evidence.... It would appear that the Legal Committee did not attach sufficient importance to Smulian's original

request for Dr. Sokolow, and suggested Rabbi Kossowski. May I submit that the Port Elizabeth case is one of the greatest importance to World Jewry, and if it is at all possible for Dr. Sokolow to give evidence, every endeavour should be made to secure his eminent services. His evidence would not only be an uplift to World Jewry, but also for the Zionist Movement. I will be extremely grateful if you will give this your immediate attention and inform me of your opinion, and of the result of your interview with Dr. Sokolow.’ (Goodman 1934j).

Goodman also wrote to Mr Jack Alexander, Secretary of the South African Zionist Federation on 1 July 1934 to organise a variation to Sokolow’s tour in order to facilitate his appearance in court). Smulian also asked for Goodman’s assistance in communicating with Pencharz, Chair of the Board’s Legal Committee, after Smulian struggled to get a response from him in relation to ‘matters of the utmost importance’ (see letter from Smulian to Goodman dated 30 June 1934). For further examples of the type of enquires made by Goodman on behalf of Smulian as well as the information he then supplied to Smulian, see Goodman’s various correspondence of 18 May 1934 (Goodman 1934g), 30 May 1934 (Goodman 1934i), 1 June 1934 (Goodman 1934h) (Goodman 1934e), 10 June 1934 (Goodman 1934f, 1934k), 11 June 1934 (Goodman 1934f), 15 June 1934 (Goodman 1934d; Goodman 1934j), 22 June 1934 (Goodman 1934c), 25 June 1934 (Goodman 1934b), 29 June 1934 (Goodman 1934a); 2 July 1934 (Secretary of the South African Jewish Board of Deputies 1934d, 1934g), 4 July 1934 (Secretary of the South African Jewish Board of Deputies 1934a), 5 July 1934 (Secretary of the South African Jewish Board of Deputies 1934d, 1934e), 6 July 1934 (Secretary of the South African Jewish Board of Deputies 1934b, 1934f), 8 July 1934 (Secretary of the South African Jewish Board of Deputies 1934b), 11 July 1934 (Secretary of the South African Jewish Board of Deputies 1934c).

Significance of case to the Board and Jewish community

The correspondence from the Board reveals the urgency and importance of the matter from the Board’s perspective. For example: ‘The Board of Deputies is placing its full resources at the service of the Port Elizabeth community, in order to expose the whole conspiracy, and prove that the documents are forgeries...’ and ‘The entire honour of South African Jewry depends on our defeating these enemies...’ (South African Jewish Board of Deputies 1934).

The correspondence regarding Sokolow also highlights the significance of the case to the community. 'The trial is of world-wide Jewish importance, and South African Jewry is indeed fortunate in being blessed with your presence in its midst, at a time when it is undergoing the greatest ordeal in its history' (Secretary of the South African Jewish Board of Deputies 1934g).

Appendix F – Select list of contemporaneous media reporting of the Greyshirt trial and judgment

There was extensive daily reporting of the case as well as widespread media interest in the judgment.

For reporting on the judgment see for example:

(£1,775 damages for Rabbi: judgment in the Port Elizabeth case, documents held to be false, compilation attributed to Grey-Shirts' 1934; *Extract from the Cape Argus: The Truth About the Grey Shirts* 1934; 'Grey Shirt case judgment: £1,775 damages and costs for Rev. A. Levy, defamation claim succeeds' 1934; 'Grey Shirt Case Judgment: Port Elizabeth Rabbi awarded damages: documents held to have been forged' 1934; 'Grey Shirt case: Judgment against von Moltke, Inch and Olivier' 1934; "'Grey Shirt" documents a foolish plot: Damages awarded to Rev. A. Levy by Couty, Synagogue was not entered, von Moltke and Inch denounced by Judge' 1934; 'Judgment for Rev. A. Levy in defamation case: total damages of £1,775 against three Grey Shirt leaders' 1934; 'Three Grey Shirts to Pay £1,775 Damages: Rev. Abraham Levy Wins his Action' 1934; Argus Correspondent 1934e; Reuters 1934) .

For reporting in *Die Burger*, an Afrikaans daily paper, see:

('Die Lastersaak in Port Elizabeth' 1934; 'Die Lastersaak in Port Elizabeth: Besondere Rabbi bedoel?' 1934; 'Enorme' mag van Jode: hulle en Afrikaanse Koerante, getuienis van 'n Gryshemp' 1934; 'Gryshemp in 'n lastersaak' 1934; 'Inch stap uit die hof, wending in die saak teen Gryshemde, wat von Moltke nou dink' 1934; 'Laster teen die Jode: Sokolow ontken bewerings: eis van £6,000 in Port Elizabeth' 1934; 'Man wat Hitler geken het' 1934; 'Teenslag vir Gryshemp' 1934)

For daily reporting in *The Natal Mercury*, see:

('Grey Shirts in Court: Rabbi under examination: three men sued: allegations of defamation: prominent Zionist's evidence' 1934); ('Names in the News' 1934), this item provides a short biography of Sir Graham, and describes the case as 'the Nazi case', noting that the matter before him 'is likely to be very much in the news.'; ('Jews' Respect for Christianity: Founder

a Great Teacher: Court Evidence: allegations of defamation: Rabbi sues three Greyshirts' 1934); ('Action against Greyshirts: Allegations of defamation: Rabbi's claim: Complaint about headlines: Defendant appeals to Court' 1934); ('Rabbi's Claim against Grey Shirts: Allegations of defamation: More evidence: Three men sued for £2,000 each: Jews and a world plot' 1934) (this article notes, 'There was again a large crowd present this morning'); ('Jews and world plot: Defamation case evidence: Witness influenced by document' 1934), (article notes, 'The court was crowded this morning when the hearing was resumed...'); ('Told Hitler of Jewish Menace: Defamation case evidence: remarkable statements by witness' 1934) (article states that 'the Court was again full, there being many Jews present from afar'); ('Grey Shirt in witness box: How document was got: Story in defamation action: Evidence by one of the defendants' 1934); ('Defamation case evidence: Blasphemy Alleged in Talmud: Grey Shirt leader's contentions: passages about Christ' 1934); ('Dramatic event in Court: One Grey Shirt walks out: refused desire to withdraw: efforts for cause called "hot air"' 1934); ('Grey Shirt case nears end: Court reserves its judgment' 1934)

For daily reporting in the *Cape Times*, see:

('£2,000 defamation case: argument concluded at Graham's town' 1934; '£6,000 defamation claims: Greyshirt case from Port Elizabeth, Statements against Jews' 1934; 'Alleged Jewish world plot: defence evidence in defamation case, Inch's "burglary" at synagogue' 1934; 'Author of "Jews" Who's Who': witness in Grey Shirt case, more about the "Protocols"' 1934; 'Bay defamation case: members of synagogue give evidence, von Moltke pleads justification' 1934; '"Calculated to inflame": Document read at Gret Shirt meeting, evidence in £6,000 action' 1934; 'The Grey Shirt case: von Moltke's case closed, "real apostle of Christianity"' 1934; 'Grey Shirts at the Bay: The mystery of a document, experts say it is a forgery' 1934; 'Grey Shirts in Court: "No Rabbi could write such filth"' 1934; 'Man who "taught Hitler": remarkable evidence in Grey Shirt case, Jewish world plot allegations' 1934; 'Von Moltke gives evidence: the defamation case at Port Elizabeth, Olivier causes a sensation, belief shaken after Inch's story' 1934)

For daily reporting in *The Cape Argus*, see:

('Claim for £6,000 damages: Alleged slander of a Jewish preacher' 1934); (Argus Correspondent 1934i); (Argus Correspondent 1934c); (Argus Correspondent 1934a) (Argus

Correspondent 1934j); (Argus Correspondent 1934d); (1934h); (Argus Correspondent 1934b); (Argus Correspondent 1934g) ; (Argus Correspondent 1934f)

For reporting in the *Port Elizabeth Advertiser*, see for example:

('Grey Shirt case: Closing stages, Judges inspect Western Road Synagogue' 1934; 'Grey Shirt leaders in Court' 1934; 'Grey Shirts in court: evidence closes in defamation case, Inch proclaims his withdrawal, Judges to make inspection in loco' 1934; 'Grey Shirts in court: Further evidence alleged in defamation case, Beamish's story of world-wide Jewish control, Inch relates synagogue entry' 1934)

For reporting in the *Eastern Province Herald*, see for example:

('"Bad Hebrew and bad English": An expert's verdict on Grey-Shirt document, product of a distorted mind, Professor and Rabbi give evidence' 1934; 'Did not enter synagogue in Western Road: M. Lazarus's evidence in £6,000 civil action, witness details his movements' 1934; 'Further statements about world Jewish plot' 1934; 'Grey shirts the victim of conspiracy: von Moltke's plea in address to court, Mr. Levy's claim for damages, Judges to inspect the Synagogue' 1934; 'Greyshirts defendants in witness box: dramatic moments in examination of Olivier, views on Inch & the document, von Moltke's story of his life' 1934; 'Inch's story of how he broke into P.E. synagogue: cross-examination by Mr. Levy's counsel, Emanuel Hall "documents"' 1934; 'Judges examine synagogue' 1934; 'Letter sent to Gen. Smuts: Questions by Inch to Mortimer Carne, £6,000 civil action, case closed for Rev. A. Levy' 1934; 'Now believes document placed as a trap: von Moltke and the synagogue theft, his "insults" to Mr. Levy' 1934; '"Protocols by the Elders of Zion": document proved to be sheer fabrication, Jewish leader's evidence' 1934; 'Rev. A. Levy claims £6,000 damages: Action brought against three Grey Shirts' 1934; 'Witness who talks of Jewish plot: Studied question all over the world, was in Maud Allan case' 1934)

For reporting in the *Rand Daily Mail*, Johannesburg, see:

('Greyshirt gives evidence: Inch's story of visit to synagogue, says he got in through open fanlight' 1934; '"Greyshirts" give evidence: Inch begins to have doubts, how Olivier raised commando' 1934; 'Hebrew scholars' evidence in Grey Shirt action: Professor questioned on

the document, "impudent and malicious forgery", witness criticises the writer' 1934; "'It is nothing but a plant": Greyshirts and the stolen documents, Sir Thomas Graham and the "Jewish conspiracy"' 1934; 'Jew's appeal to General Smuts: read in Grey Shirt action, letter said to have been stolen' 1934; 'Major H. H. Beamish and Hitler: consulted by Nazis on Jewish Question' 1934; 'Nahum Sokolow's evidence in Grey Shirt Action: closely questioned on power of Jewry, "malicious allegations about the Elders of Zion"' 1934; 'Three Grey Shirt leaders sued for £2,000 each: action taken by Jewish minister, document alleged to be a forgery' 1934)

For reporting in the *Daily Dispatch*, East London, see:

('Bay synagogue case: sensational evidence by an Admiral's son, witness tells strange story' 1934; 'Broke into a synagogue: Inch's story of how he got the documents, unable to find his helpers, Defendant's tale in defamation case' 1934; 'The code of the Jews: Grey-Shirt leader sued for defamation, alleged theft of document' 1934; 'Defamation case finished' 1934; 'Defamation case: Defendant objects to newspaper headline, Judges comments' 1934; 'Forgery alleged: Professor's view of Hebrew document, Grey Shirt leaders sued' 1934; 'Inch walks out: Annoyed at not being taken seriously, unusual scene in court' 1934; 'Jews not in control: no world-wide plot to undermine civilisation, interview with the Pope, unusual evidence in defamation case' 1934; 'No Jewish world conspiracy: fifth day's hearing of claim for damages, Plaintiff closes his case' 1934; 'Sensation at Grahamstown: Grey shirt Defendants give evidence, story of stolen document' 1934; 'Witness who knew Hitler: unusual evidence in defamation case, expert on Jewish "menace"' 1934)

For reporting in *The Friend*, Bloemfontein see:

('Alleged world-plot by Jews: amazing evidence in Grey Shirt case, theories of Mr Beamish, Says he instructed Hitler on Jewish Question' 1934; 'Grey Shirts case: Inch tells his story - how he broke into Synagogue - Beamish to retire to island: no Jews or lawyers there' 1934; 'Grey Shirts give evidence: Inch tells how he got documents, boys who have them to him ran away, Judge asks him if they are still running, Olivier creates a sensation' 1934; 'Grey Shirts sued: Jewish Minister seeks damages, £2,000 from each of three, describes document as "diabolical"' 1934; 'Levy to call fifteen more witnesses: further evidence in Grey Shirt suit' 1934; 'Sensation in Grey Shirts case: Inch wants to withdraw, leaves the Court, resents what

he has done being called "hot air", court to inspect Bay synagogue' 1934; 'Suit against Grey Shirts: Inch takes exception to headline, court sees no contempt' 1934; 'Suit against Grey Shirts: woman who took notes at meetings' 1934; 'Traps being laid for Grey Shirts: von Moltke convinced of it, documents "planted" on Inch' 1934; 'Witnesses for Grey Shirts: evidence in Levy case, persons influenced by document' 1934)

For reporting in *The Zionist Record*, see:

('Nahum Sokolow Gives Evidence in "Grey-Shirt" Libel Case: Deep Impression Created in Court: Remarkable Action in Grahamstown' 1934), 'One of the most extraordinary civil actions in the history of the South African Courts and one which vitally affects the welfare of the Jewish community in this country as a whole, began in Grahamstown....The Court was crowded.' (p.5) The article also stated, 'Legal as well as Zionist history is being made at Grahamstown in consequence of Mr. Levy's action against the Grey Shirt leaders, who appeared in Court in uniform; von Moltke being in the uniform of the South African Gentile National Socialists, and the other defendants in Grey Shirt regalia. Everyone in Grahamstown appears to be discussing the case, but the general feeling towards Jews is one of friendliness.' (p. 6); ('The Grey-Shirt Libel Action: Inch, Von Moltke and Olivier in the Box' 1934). The Zionist Record also reported extensively on the judgment ('The Grey-Shirt libel action: Judgment in favour of Rev. A. Levy, the documents declared a forgery concocted by Grey-Shirts' 1934)

The official organ of the Greyshirts, *Die Rapport*, also reported on the case. See for example:

('Jew versus Gentile: Greyshirt leaders in action, £2000 damages claimed from each' 1934; 'Jew vs Gentile: Dr Sokolow in box' 1934; 'Mr. H. H. Beamish on the Jewish question' 1934; 'Questions of headlines in E.P. Herald: Greyshirt leader's objections, "case prejudiced", Judge-Presidents observations' 1934). Die Rapport also reported on the judgment ('"Grey Shirt" document a foolish plot' 1934)

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