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# A New Historian?

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- Olivier Dumoulin, *Le rôle social de l'historien: De la chaire au prétoire* (Paris: Albin Michel, 2003), 346 pp., €21.38 (pb), ISBN 2226134800.
- Richard J. Golsan, ed. *Memory, the Holocaust, and French Justice: The Bousquet and Touvier Affairs* (Hanover, NH, and London: University Press of New England, 1996), 217 pp., \$24.95 (pb), ISBN 0874517338.
- Richard J. Golsan, ed., *The Papon Affair: Memory and Justice on Trial*. (New York and London: Routledge, 2000), 279 pp., \$90.00 (hb), ISBN 0415923646.
- Carlo Ginzburg, *The Judge and the Historian: Marginal Notes on a Late-Twentieth-Century Miscarriage of Justice*, trans. Antony Shugaar (London and New York: Verso, 1999), 211 pp., \$16.00 (pb), ISBN 1859848699.
- Richard J. Evans, *Telling Lies About Hitler: The Holocaust, History, and the David Irving Trial* (London and New York: Verso, 2002), 326 pp., £13.00 (pb), ISBN 1859844170.
- Independent Commission of Experts Switzerland – Second World War, *Switzerland, National Socialism, and the Second World War: Final Report* (Zurich: Pendo, 2002), 591 pp., €29.90 (pb), ISBN 3858426032.

-Your mother is a judge. It's her job to put a line through the past by passing sentence. I'm a historian. For me the past is a gold mine of surprises and possibilities.

-A gold mine? . . . A dunghill is more like it.

-Dunghills have their surprises too.<sup>1</sup>

President Ion Iliescu [of Romania] has just announced the formation of an international expert commission charged with studying the history of the Holocaust in Romania between 1937 and 1951.<sup>2</sup>

Historians are not judges. A historical commission is not a court of law.<sup>3</sup>

<sup>1</sup> A. B. Yehoshua, *The Liberated Bride*, trans. Hillel Halkan (Orlando, Austin, New York, San Diego, Toronto and London: Harcourt, 2003), 167.

<sup>2</sup> *Die Tageszeitung* (Berlin), 11 Nov. 2003.

<sup>3</sup> Independent Commission of Experts Switzerland – Second World War, *Switzerland, National Socialism and the Second World War: Final Report* (Zurich: Pendo, 2002), 521.

Almost a century and a half has passed since our ancestor historians, bolstered by new caches of documents and their critical research techniques, and accredited by an official identity defined by their professorial chairs and seminars as well as by their monographs, journals and scholarly associations, laid claim to the status of disinterested scientists. Yet almost at once the historical profession faced the question of its practitioners' underlying social and political engagement. Whatever their subject, professional historians, as public servants and citizens, have never escaped the burning questions of their age, either as participants or analysts, whether in studying the nationalist and imperialist struggles of the nineteenth and twentieth centuries or, more recently, in their investigations of how race, class, gender, language or mentalities have moulded the human past.<sup>4</sup>

Over the past two decades the subjects of the Second World War and the Holocaust have newly thrust historians into the public limelight. With the collapse of the Soviet empire a vast store of documentation suddenly became available to which new as well as old interpretations have been applied.<sup>5</sup> Although Germany's reunification in October 1990 officially brought the Second World War to a close, what followed were fierce debates over almost every monument and museum and every remembrance and commemoration of that vast, bloody struggle. These debates took place not only in Germany and in the former occupied, satellite and neutral countries on the European continent but also among the most distant bystanders to the Holocaust, such as New Zealand, Australia and South Africa, pitting survivors, historians, and politicians against themselves and each other before an often bewildered public.<sup>6</sup> In the process, many venerable myths have been punctured and many painful and complicated questions over guilt, justice and restitution have been reopened.

At the same time, the historical profession has been rent by internal divisions over dealing with the Third Reich and the Holocaust. On one side came the postmodernists' challenge to all claims of an objective science. Emphasising history's contingent and subjective basis, they have proposed new literary, philosophical and psychological methods for examining Nazism and its genocidal policies.<sup>7</sup> From the neo-Nazis and the Holocaust revisionists came reinforcement to this challenge, with their calls to 'relativise' and 'contextualise' the atrocities of the Second World War.<sup>8</sup>

<sup>4</sup> Useful overview in Gerhard Lozek, ed., *Geschichtsschreibung im 20. Jahrhundert: Neuzeithistoriographie und Geschichtsdenken im westlichen Europa und in den USA* (Berlin: FIDES Verlag, 1998).

<sup>5</sup> For an introduction see Saul Friedlander, ed., *Probing the Limits of Representation: Nazism and the 'Final Solution'* (Cambridge, MA, and London: Harvard University Press, 1992).

<sup>6</sup> See, e.g., Alice Eckhardt, *Burning Memory: Times of Testing and Reckoning* (Oxford and New York: Pergamon, 1993); Paul Bartrop, *False Havens: The British Empire and the Holocaust* (Lanham, MD: University Press of America, 1995).

<sup>7</sup> E.g. Alan Milchman and Alan Rosenberg, *Postmodernism and the Holocaust* (Amsterdam and Atlanta: Rodopi, 1998).

<sup>8</sup> See, esp. Dan Diner, ed., *Ist der Nationalsozialismus Geschichte: Zur Historisierung und Historikerstreit* (Frankfurt am Main: Fischer, 1987); Pierre Vidal Naquet, *Assassins of Memory*, trans. Jeffrey Mehlman (New York: Columbia University Press, 1992); and Deborah Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory* (New York: Free Press, 1993); also, Michael Sherman and Alex Grobman, *Denying the Holocaust: Who Says the Holocaust Never Happened and Why Do They Say It?* (Berkeley: University of California Press, 2000).

On the other side, there has been the burgeoning field of public history, with numerous professional historians functioning as salaried experts, serving either as individual investigators or members of commissions investigating governments or private institutions, and producing official reports as well as testimonies for the courts.<sup>9</sup> And in the middle stand the bulk of Clio's practitioners in academia and outside, who, more than a half a century after the Second World War, facing the deluge of new documentation from the former communist world, have remained more than ever divided over the causes and nature of Hitler's dictatorship, the Second World War and the Holocaust.<sup>10</sup>

All the works under review mirror the external and internal debates of the post-cold-war era. All invite the reader to reflect on history's public role and its relationship to political power. And all but one underline the crucial remaining gaps in the record of one of history's most brutal epochs.

Olivier Dumoulin, one of the most assiduous specialists in contemporary French historiography and the author of a fine biography of Marc Bloch, provides a useful framework in *Le rôle social de l'historien: De la chair au prétoire*. Disturbed by Clio's migration from the amphitheatre to the witness box, Dumoulin frames his book between two major judicial proceedings, the 1898 retrial of Captain Alfred Dreyfus, when French scholars were enlisted simply to verify documents, and the 1998 trial of Vichy official Maurice Papon, when foreign as well as French historians, with no access to the evidence, were enlisted to provide context to the proceedings.

Dumoulin's three-part study begins with the birth in North America around 1970 of the phenomenon of the 'expert-historian' and its rapid diffusion in France. He then ranges back to the founding group of French savants first tested by the political rivalries of the Dreyfus Affair, and then, between 1914 and 1918, engulfed by their country's expansive war aims. Finally, he reviews the tumultuous period since 1920, when professional historians have divided between allegedly disinterested scientists on the one side and social and political combatants on the other.

In a book centred almost entirely on France, peopled with scores of names but regrettably lacking an index, Dumoulin surveys three long generations. He identifies Gabriel Monod as the scholar who defined the discipline of scientific history and Ernst Lavisse as the one who turned history into the school of the nation; Lucien Febvre as the activist who inveighed against a 'servile' history and Marc Bloch as the heroic figure who wavered between the claims of truth and justice; Emmanuel Le

<sup>9</sup> Richard F. Wetzell, 'Commissioning History in the United States, Germany and Austria: Historical Commissions, Victims and World War II Restitution', German Historical Institute, *Bulletin* (Spring 2003), 170–9; Oliver Rathkolb, 'Private Industry and Banking Commissions and the Holocaust Era Assets Debate', *Studia Germanica et Austriaca*, 2 (2002), 48–54; Regula Ludi and Jean-Marc Dreyfus, *Historians as Political Trouble-Shooters: Officially Commissioned Surveys in France and Switzerland*, Working Paper Series 80 (Cambridge, MA: Minda de Gunzburg Center for European Studies, Harvard University, 2001). For a useful introduction to the field of public history, see Phyllis K. Leffler and Joseph Brent, *Public and Academic History: A Philosophy and a Paradigm* (Malabar, FL: Krieger, 1990); also James B. Gardner and Peter S. LaPaglia, *Public History: Essays from the Field* (Malabar, FL: Krieger, 1999).

<sup>10</sup> G. Jan Colijn and Marcia Sachs Littell, *Confronting the Holocaust: A Mandate for the 21st Century* (Lanham, MD: University Press of America, 1997).

Roy Ladurie as the historian who brought his field before the grand public, Pierre Nora as the pioneer who placed the author at the very centre of historical study and, most recently, Henri Rousso as the defender of history's independence, who stood aloof from the courts, and François Bédarida as the champion of engagement, who claimed history's right to shape the present and the future (pp. 163–343).

Dumoulin displays considerable misgivings over the 'judicial' turn in his profession, whose political and ideological disarray was exposed throughout the Klaus Barbie case and during the bicentenary commemorations in 1989. The Fifth Republic's confrontation with its Vichy past has touched all segments of French society, from its scholarly and its literary heroes<sup>11</sup> to the president himself.<sup>12</sup> Who in Clio's service was actually qualified to characterise the four-year collaborationist regime before any official proceedings that, a half century later, would decide the fate of perpetrators and victims?

But Dumoulin also deplores the figure of the expert historian on humanist grounds, pointing out the obvious facts that paid specialists are not independent scholars and that historicised subjects can easily become commercialised items. Assigned concrete tasks by his or her state patron or private employer, the historian specialist becomes no different from the doctor, lawyer or architect, prone to the same technical mistakes and always tempted to relinquish the independent researcher's strict rules or evidence, critical perspective and precious ability to pronounce what is now, and may always be, unknowable.

Richard J. Golsan, who has written extensively on Vichy, has published two informative, meticulously edited books, *Memory, the Holocaust, and French Justice* and *The Papon Affair*, containing critical introductions, chronologies, notes and bibliographies. Both works, which treat the role of historians in the trials of Paul Touvier, the *Milice* leader responsible for the murder of scores of Jews, and Maurice Papon, the secretary-general of the Gironde, charged with signing over eight hundred deportation orders, also question whether the floor of the courtroom is 'an ideal space for establishing the truth of history' (*Memory*, p. 176).

*Memory, the Holocaust, and French Justice* begins with the agonising René Bousquet Affair, the case of the former secretary general of the Vichy police. Bousquet, who was responsible for the 1942 round-up of foreign Jews by French police, was acquitted by the High Court in 1949. After living a charmed life as a banker, businessman and man of influence under the Fourth and Fifth Republics, Bousquet in 1991 was finally charged with crimes against humanity, but was murdered two years later before being brought to trial. For those outraged by the complicity of France's higher reaches which had drowned the "dark years" in forgetfulness, Bousquet's murder eliminated the possibility of putting not only Vichy on trial but also of examining the unequal forms of justice meted out by the post-war purge courts.

<sup>11</sup> Julian Jackson, *France: The Dark Years, 1940–1944* (Oxford and New York: Oxford University Press, 2001); also Gisèle Sapiro, *La guerre des écrivains* (Paris: Fayard, 1999).

<sup>12</sup> Pierre Péan, *Une jeunesse française: François Mitterrand, 1934–1947* (Paris: Fayard, 1994), which contained a detailed account of Mitterrand's service to Vichy, forcing him to give an explanation on national television on 12 Sept. 1994.

For Golsan, the crux of the public controversy over Bousquet and Touvier, and later over Papon, lay in France's peculiar judicial definition of 'crimes against humanity'.<sup>13</sup> Declared imprescriptible in French law only in 1964 but rarely invoked thereafter, such crimes were significantly redefined in 1985. On the eve of the Klaus Barbie trial, France's Court of Appeals expanded the category of victims to include resistance members ('adversaries... regardless of the form of this opposition') but also limited the definition of perpetrators to those carrying out 'inhuman acts and persecutions... in the name of a State practicing a politics of ideological hegemony' (pp. 18–9, emphasis added). The burden thus fell on the accusers, and particularly on historians, to prove that Vichy's servants, instead of simply following the conqueror's orders, were themselves promoters of its racist ideology. Bousquet's claims of his limited room to manoeuvre and of his personal efforts to save French Jews had already been repudiated in the studies by the US historian Robert Paxton and the Canadian historian Michael Marrus of Vichy's native racist policies.<sup>14</sup>

The far more complicated Touvier affair involved another murky post-war history, including a presidential pardon, protection by the Catholic Church and a similar exculpatory defense for the *milicien's* wartime raids on Jews. On 13 April 1992, the Paris Court of Appeals, in acquitting Papon, denied that Vichy had practised a politics of 'ideological hegemony' (pp. 37–8).<sup>15</sup> After a 'massive public outcry' led by France's most distinguished historians,<sup>16</sup> a higher court overturned the decision. On 20 April 1994, Touvier was condemned for crimes against humanity, but solely for his role in the Rillieux-la-Pape massacre of seven Jewish hostages fifty years earlier in reprisal for the murder of Vichy's minister of information, Philippe Henriot, by the Resistance. Touvier was sentenced to life imprisonment not as a French functionary but as an accomplice of the Nazis (pp. 155–7, 159–61).<sup>17</sup> For Golsan, the equivocal condemnation of this aged, sick and still rancorous 'mediocrity' underlined the risks for historians of entering France's courtrooms, given the vagaries of the law as well as the challenges to their authority by the militant defenders of the victims and the accused (pp. 41–2).

In *The Papon Affair* Golsan presents the even more dramatic struggle that pitted historians, legal experts, philosophers and public figures against each other. The

<sup>13</sup> As defined in the Charter of the International Military Tribunal, 8 Aug. 1945, these consisted of 'murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial, or religious grounds'. (Golsan, *Memory*, p. 18).

<sup>14</sup> Robert Paxton, *Vichy France: Old Guard and New Order* (New York: Knopf, 1972), based largely on German records; and Michael R. Marrus and Robert Paxton, *Vichy France and the Jews* (New York: Basic Books, 1981), which included a limited number of French sources.

<sup>15</sup> The court also ruled that Touvier could not be prosecuted for war crimes since the statute of limitations had expired.

<sup>16</sup> Twenty of the most distinguished historians of modern France signed a petition calling for a public protest: text in *Libération*, 29 Apr. 1992.

<sup>17</sup> During the trial Touvier exclaimed 'it was horrible for us that it was the Germans who avenged Henriot' (p. 41).

second trial of a French citizen for crimes against humanity involved not only another high Vichy official but also a high-profile Gaullist servant of the Fourth and Fifth Republics who, on 17 October 1961 as Paris prefect of police, had directed the brutal repression of Algerian demonstrators (pp. 223–42). The six-month Papon trial in Bordeaux in 1997–98 – twenty years in preparation – was also the longest in French history.<sup>18</sup>

Much had changed since the condemnation of Touvier in 1994. During this contentious commemorative time of ‘facing the past’ and ‘asking for pardons’, France’s new president, Jacques Chirac, on 16 June 1995 had officially acknowledged the French state’s responsibility for persecuting the Jews between 1940 and 1944.<sup>19</sup> At the end of 1996, the legal logjam against trying Papon finally broke when his indictment in Bordeaux stated that Vichy officials had been ‘indispensable cog[s]’ in the Nazis’ machinery of destruction (p. 142), finally bringing the eighty-seven-year-old former minister and member of parliament to trial.

As Dumoulin has observed, historians had a rough experience during the Papon trial. Lawyers for the accused and the accusers, using handpicked scholars to bolster their case, treated the public to the spectacle of a divided profession unschooled in courtroom tactics. Historian-witnesses, denied access to the court records, were vulnerable not only to the theatrics of the courtroom but also to the gaps in their own first-hand knowledge. Vichy’s lawyer Jacques Trémolet de Villers dismissed Robert Paxton’s testimony as simply ‘one version of the past, neither more nor less reliable than any other’, thus prompting Golsan’s remark, ‘History itself, with a capital “H”, was, in effect, put on trial’ (p. 13).

The Papon verdict, a ten-year sentence for illegal arrests and arbitrary incarcerations but an acquittal on the accusations of murder – far milder than the Touvier judgement and just as equivocal over Vichy – has reinforced Golsan’s misgivings about historians in the courtroom. Henry Rouso, who refused to testify at either trial, insisted that no ‘lessons’ were learned and even contended that France’s knowledge of the Vichy past has ‘regressed’ as a result of the proceedings (pp. 205–11); Tzvetan Todorov dismissed the Papon trial as contemporary politics, not history. Moreover Golsan underlines the pitfalls of the ‘duty to memory’, cautioning that the obsession with infamous individuals and past atrocities ‘not only undermine[s] constructive action in the present but may also compromise a rigorous . . . understanding of the past’ (p. 25).<sup>20</sup>

<sup>18</sup> Lois Vines, ‘The Papon Affair’, *French Review*, 76 (2003), 626–7.

<sup>19</sup> See interview with Robert O. Paxton in *Libération*, 3 Oct. 1997, reprinted in Golsan, *The Papon Affair*, p. 179. Chirac’s admission of national guilt was later echoed by France’s Socialist premier, Lionel Jospin, on 20 July 1997, followed by representatives of the Catholic Church, the police and the medical profession (pp. 75–6).

<sup>20</sup> For similar views, see Charles Maier, *The Unmasterable Past* (Cambridge, MA: Harvard University Press, 1988); Tzvetan Todorov, *Les Abus de la mémoire* (Paris: Arléa, 1995); Éric Conan, *Le Procès Papon* (Paris: Gallimard, 1998); Henry Rouso, *La hantise du passé*. For the opposite view, on a global scale, Erna Paris, *Long Shadows: Truth, Lies and History* (New York: Bloomsbury, 2000).

The books by Carlo Ginzburg and Richard Evans delve further, providing first-hand accounts of two spectacular trials, one by an observer, and one by a witness participant. Both provide eloquent testimony of the temptations and risks of Clio's entrance into the courtroom.

Ginzburg, a specialist in probing sixteenth-century inquisitorial records and writing micro histories of the victims, uses court documents to scrutinise the notorious May 1990 conviction of his friend of thirty years, the journalist Adriano Sofri. Founder and leader of the radical left-wing group Lotta Continua from the 1960s until its dissolution in 1976, Sofri, along with his two co-defendants, was pronounced guilty of the 17 May 1972 murder of the police superintendent Luigi Calabresi, widely believed to be responsible for the death under interrogation of an accused suspect three years earlier.<sup>21</sup> Almost the entire case against Sofri rested on the testimony of one former Lotta Continua militant, Leonardo Marino. After a second career as an armed robber, Marino confessed in 1987 to a parish priest and in 1988 to three carabinieri offices his role as the driver in Calabresi's assassination; he also named his former Lotta comrade Ovidio Bompressi as the murderer and two others, Sofri and Giorgio Pietrostafani, as the authors of the deed (pp. 8–11). Despite his long-delayed declaration of guilt as well as important errors and inconsistencies in his testimony,<sup>22</sup> Marino's accusations were never seriously challenged.

Ginzburg, although a renowned investigator of non-elites under pressure from forces from above, was uninterested in Marino or his astrologer companion Antonia Bistolfi. While deftly demolishing Marino's testimony, Ginzburg neglected to examine the bases of the ex-thief's repentance, which had so powerful an impact on the court.<sup>23</sup>

Instead, Ginzburg's main subject is the presiding judge Antonio Lombardi, who 'with a clear conscience' and 'absolutely no doubt' pronounced the 'complete reliability [of] Marino's statements' (p. 103). Although acknowledging that historians and judges share the practice of contextualising their evidence, Ginzburg demands a far higher threshold of proof from the figure handing out sentences and berates Lombardi for his reckless and illogical leap in validating Marino's questionable story and condemning Sofri (pp. 110–18). Unlike the Papon trial, where prominent historians gave contrasting views of the Vichy past, the Sofri trial was dominated by the judge's and the prosecutor's shared trauma of a decade of violence. Thus,

<sup>21</sup> The suspect, a railway worker named Giuseppe Pinelli, either fell, jumped or was pushed out the window of Calabresi's office while under questioning about the bomb blast on 12 Dec. 1969 in the Banca dell'Agricoltura in Milan that had killed seventeen people and injured eighty-eight others. The subsequent official investigation showed that right-wing extremists, aided by the Italian secret services, had set the bomb. Donald Reid, 'The Historian and the Judges', *Radical History Review* 80 (Spring 2001), p. 144, n. 4. Lotta Continua immediately denounced Calabresi for the murder; the incident was the subject of Nobel Prize-winner Dario Fo's play, *The Accidental Death of an Anarchist*.

<sup>22</sup> Marino gave the wrong color of the stolen car and incorrectly described the assassination route (pp. 22–5, 72–97).

<sup>23</sup> 'I do not know what pushed Marino to lie. The psychological motivations... seem... wholly irrelevant.' (p. 97).

according to Ginzburg, much like the earlier inquisitors, they were all too ready to accept even the most defective confirmatory evidence.<sup>24</sup>

To be sure, in writing as an advocate for the defence Carlo Ginzburg appears to have suspended his own critical judgement. Not only are most witnesses in criminal trials unreliable, forgetful and self-contradictory, particularly sixteen years after the event, but also key evidence is often missing.<sup>25</sup> Nonetheless, *The Judge and the Historian* is itself an important historical document. Underlying Ginzburg's approach is a spirited defence of old-fashioned historical inquiry against the postmodern challenge, as well as a strong assertion of the existence of proof and of truth (pp. 16–17).<sup>26</sup> Moreover, a century after another flawed trial, Ginzburg's *J'accuse* not only demonstrates how those in power continue to rewrite history (in this case holding Lotta Continua responsible for 'the years of lead') but also suggests disquieting links with Italy's Fascist past (pp. 119–20).

At the end of 1997, Richard J. Evans, an accomplished and prolific British historian of modern Germany about to embark on a new study of the origins of the Nazi regime,<sup>27</sup> was engaged by the defence lawyer to serve as an expert witness in a famous libel trial. David Irving had sued the US historian, Deborah Lipstadt, author of *Denying the Holocaust*, for characterising him as a prominent Holocaust denier and a falsifier of historical evidence with an ideological commitment to fascism.

Because English law protects everyone against defamation regardless of grounds or motive, the defence was compelled to prove Lipstadt's statements by discrediting Irving's scholarship. Faced with Irving's prolific output and notoriety – many of his thirty works on Hitler and Nazi Germany had been extravagantly praised by professional historians as well as the public, although others had expressed serious reservations about Irving's over-reliance on questionable primary sources and his biased interpretations (Evans, pp. 14–27) – the defence devised a three-pronged strategy. Three leading historians of the Holocaust provided documentation refuting Irving's revisionist allegations; several political scientists corroborated his connections with right-wing neo-fascist organisations; and Evans' task was to scrutinise Irving's body of work to challenge his credentials as a reputable scholar. Through pretrial discovery, Evans also gained access to a vast store of Irving's private diaries, research notes, interviews and book drafts (pp. 35–6).

<sup>24</sup> Pierre Lepape, 'Les procès de l'erreur', *Le Monde*, 26 Sept. 1997; Carlo Ginzburg, 'Le cas Sofri', *ibid.*, 3 Feb. 2000.

<sup>25</sup> According to Ginzburg the police had deliberately destroyed key pieces of material evidence, including the bullet, the car and Calabresi's clothing (pp. 159–60). In one of his earlier important works, 'Unis Testis', Ginzburg had defended the credibility of a single witness to a medieval pogrom.

<sup>26</sup> Ginzburg, 'Checking the Evidence: The Judge and the Historian', *Critical Inquiry* 18 (1991), 79; Ginzburg, 'Just One Witness', in Friedlander, *Probing the Limits*, 82–96. 'In some ways, the Sofri case is a poststructuralist historian's dream, in which what constitutes proof is very much in the eye of the beholder.' Alexander Stille, 'When History Gets Personal', *New York Times*, (11 Mar 2000), B7, to which Ginzburg has retorted: 'If a poststructuralist historian had a friend on trial for murder, they would rediscover the idea of proof', *ibid.*

<sup>27</sup> *The Coming of the Third Reich* (London: Allen Lane, 2003).



From the start, Evans recognised the ‘intellectual principles’ at stake (p. 40). Aided by two able research assistants, he spent almost two years examining Irving’s huge *oeuvre* for errors, falsification and bias. Outsiders went further, some characterising the impending libel trial ‘as nothing less than a trial of the truth of the Holocaust’, while others called it ‘a farce’ (pp. 40–3).<sup>28</sup>

Evans’s discoveries, contained in a 750-page report and outlined in four thick chapters, were scarcely surprising. Irving’s admiration for Hitler and his disdain for the Führer’s racial enemies were easy to prove. Following a consistent pattern of questionable sources and falsified statistics, distorted evidence, omitted passages and inaccurate translations, Irving had downplayed Hitler’s antisemitism, minimised Jewish suffering, invented Jewish conspiracies and constructed a case for Hitler’s ignorance of, or opposition to, the Final Solution. Using Irving’s work, deeds and speeches, Evans also validated Lipstadt’s claim of Holocaust denial. And finally, Evans demolished Irving’s most celebrated work, his 1963 study of the Allied bombing of Dresden, with its massive inflation of the number of German victims, deliberately placed alongside the reduced number of Jewish victims of Auschwitz (pp. 188–9).

From the opening of the widely misnamed ‘David Irving trial’ on 11 January 2000 there was a swell of fear and anticipation. Was this an ‘appropriate setting to rule on the interpretation of history’?<sup>29</sup> Was a mere judge capable of ‘meting out justice to history’?<sup>30</sup>

Richard Evans was pleased with the proceedings. Not only was Judge Charles Gray well equipped to handle the case, but also the three-month duration gave ample time for a careful, leisurely examination of the evidence. A well-prepared defence turned its expert witnesses and copious documentation of deliberate lies and falsification against the hapless Irving, who represented himself in an eccentric, argumentative manner.<sup>31</sup> Evans, who spent twenty-eight hours in the witness box, stood up well to Irving’s bluster.<sup>32</sup>

Judge Gray’s verdict, contained in a 350-page judgement, ruled for the defence, charging Irving with departing ‘from the normal standards of objective historical research and writing’, deeming him pro-Nazi and anti-Jewish and serving a right-wing political agenda and imposing a bill of more than £2 million in defence costs (pp. 235–6). Evans has celebrated this ‘victory for history’ – the trial represented

<sup>28</sup> Perhaps the most balanced evaluation came from Ian Burrell in the *Independent*, 4 Mar. 2000, 10: ‘If [Irving] wins . . . the door will have been opened for revisionists to rewrite any event in history without a requirement to consider evidence that does not suit them and without a fear that they will be publicly denounced for their distortion.’

<sup>29</sup> Anna Seba, in the *Times Higher Education Supplement* (Evans, p. 195).

<sup>30</sup> Werner Birkenmaier, in *Stuttgarter Zeitung* (Evans, pp. 195–6).

<sup>31</sup> In a perhaps fatal slip, Irving addressed the judge as ‘Mein Führer’ (Evans, p. 231).

<sup>32</sup> The journalist, David Guttenplan, who, in *The Strange Case of David Irving: The Holocaust on Trial* (New York: Norton, 2001), takes a different view of the proceedings, described Evans in the witness box as a ‘pedant’s pedant, demanding to see documentation before answering the most innocuous question. Querulous and arrogant, he made a tempting target for Irving’s mounting frustration, especially after the judge, in response to Evans’s complaints, reminded him that as a witness, he was “there to be shot at”’. ‘I Shall Tear Him to Shreds’, *New Statesman*, 22 July 2002, 46.

an identification and a judgement of massive ‘untruth’ (pp. 270–1) – as well as the setback for the agenda of the revisionists and postmodernists.<sup>33</sup> But Evans has also acknowledged the political fallout – the resilience of Irving’s supporters, the viciousness of Lipstadt’s critics and the persistence of Holocaust denial. Moreover, Evans admits that the court’s decision has neither proved nor disproved the history of the Holocaust and the Jews’ suffering; that painstaking work of scholarly research has still to continue.<sup>34</sup>

On 13 December 1996, one year before historians were enlisted against David Irving’s action for libel, the Swiss federal government had decided to hire scholars to investigate its history during the Holocaust era. Responding to enormous domestic and foreign pressure over the dormant accounts still in Swiss banks, the Berne government took the unprecedented step of establishing an independent commission of experts (ICE) to examine the ‘scope and fate of all types of assets’ which had reached Switzerland during the Second World War (pp. 5–6).<sup>35</sup> The commission’s narrow mandate was almost immediately expanded to encompass another long-shrouded issue in Switzerland’s past: its wartime relationship to Nazi Germany (pp. 6–7).<sup>36</sup> Given a limited five-year mandate but also unprecedented access to public and private resources, the ICE represented a major expansion of public history on an international scale. In its investigation of a key bystander in the Second World War, it threatened to challenge Swiss memories and myths as well as Switzerland’s laws, politics, business practices and society.<sup>37</sup>

To fulfil its huge agenda, for which the Swiss parliament allocated 22 million francs, the ICE established several research teams and employed more than forty researchers who combed the archives not only in Berne and Zurich but also in Austria, Germany, Israel, Italy, Poland and Russia. The result of the ICE’s five-year-long labour, a well-written, heavily annotated 525-page text studded with informative side bars, graphs and statistics, containing a selective 42-page bibliography and published

<sup>33</sup> Indeed, he had just published a work (Richard J. Evans, *In Defence of History* (London: Granta, 1997)) dealing with such ‘vexed questions as objectivity and bias in historical writing, the nature of historical research, the difference between truth and faction and the possibility of obtaining accurate knowledge of the past’ (Evans, p. 14).

<sup>34</sup> Eva Mesasse, *Der Holocaust vor Gericht: Der Prozess um David Irving* (Berlin: Siedler, 2000), 170, notes the dearth of Holocaust studies in Germany.

<sup>35</sup> The ICE, appointed on 19 Dec. 1996 and chaired by the Swiss historian Jean-François Bergier (and thus often referred to as the Bergier Commission) consisted of eight historian-specialists in the Nazi era, four Swiss (Bergier, Georg Kreis, Jacques Picard and Jakob Tanner), and four foreigners, one from Poland (Władysław Bartoszewski), one from Israel (Saul Friedländer) and two from the United States (Harold James and Sybil Milton (replaced after her death in 2000 by the economist, Helen B. Junz)), with one Swiss lawyer, Joseph Voyame (replaced by Daniel Thürer) and with a Swiss citizen, Linus von Castlemur (followed in April 2001 by Myrtha Welti) as secretary general.

<sup>36</sup> See also Jean-François Bergier, ‘Sur le rôle de la “Commission Indépendante d’Experts Suisse-Seconde Guerre Mondiale”’, *Schweizerische Zeitschrift für Geschichte* 47, 4 (1997), 800–8; for the difficulties in contextualisation, see Jacques Picard, ‘Das Forschungsprogramm der Unabhängigen Expertenkommission Schweiz-Zweiter Weltkrieg’, in Philipp Sarasin and Regime Wecker, eds., *Raubgold, Réduit, Flüchtlinge. Zur Geschichte der Schweiz im Zweiten Weltkrieg* (Zurich: Chronos, 1998).

<sup>37</sup> Regula Ludi, *Historians as Political Trouble-Shooters: The Swiss Case* (Cambridge, MA: Minda de Gunzburg Center for European Studies, 2001).

simultaneously in German, French and English, sets a new standard for international intellectual collaboration.<sup>38</sup>

The introduction, which sets out the historical background and reviews the historiography, describes the commission's distinctive approach to the subject. The project proceeded in several phases, the first involving a broad-based investigation of sources followed by the establishment of working teams which, beginning in autumn 1998, produced seventeen studies, six short papers and two anthologies on various subjects, a total of 11,000 pages. The 2002 publication, two years in preparation, was preceded by negotiations between the ICE and various private companies that had opened their archives to research and additional research by commission specialists (pp. 35–6). Acknowledging the public debate over Switzerland's role in the Second World War, the ICE set out to ask new questions and reopen old ones (p. 25); quoting Marc Bloch's *Apologie pour l'histoire*, it declared, 'Clear questioning is the first principle of any genuine historical research'. Charged with undertaking a 'historical and legal probe', the commission set out to 'present interpretations and make assessments, without passing judgment' (p. 32), but did not shrink from scrutinising Switzerland's own legal norms and practices during and after the Second World War.

What significant information and conclusions has the commission brought forward? In chapter 2, 'The International Context and National Development', the authors detail the xenophobia, antisemitism (pp. 71–2)<sup>39</sup> and authoritarian tendencies among Switzerland's pre-war public and government officials; however, they treat the crucial post-1945 period all too briskly (pp. 22–7). In chapter 3, the re-examination of Switzerland's refugee policies, the authors deemed the confederation's record 'comparable' to other European and overseas countries. Nonetheless, they also concluded that Switzerland's expulsion policies<sup>40</sup> and its closed borders after 1942 did 'violate a conception of international law that [had begun] to unfold during the period between the wars' (p. 165).<sup>41</sup> Moreover, the ICE found no evidence that accepting more asylum seekers would have endangered Switzerland or created insurmountable economic difficulties.<sup>42</sup>

Chapter 4, the longest in the book,<sup>43</sup> contains twelve subsections summarising the previously published studies of Switzerland's foreign trade, armaments industry, electricity exports, alpine transport services, gold transactions, banking system and financial services as well as those of the Swiss insurance companies and industries in

<sup>38</sup> Helen B. Junz, 'Confronting Holocaust History: The Bergier Commission's Research on Switzerland's Past', *Jerusalem Center for Public Affairs* 8 (1 May 2003): 1–7.

<sup>39</sup> The Federal practice of stamping the Star of David on personal documents began in 1919.

<sup>40</sup> To be sure, the policy of non-refoulement, the refugees' right to be protected from expulsion to a persecuting state, was only recognised internationally in 1951 (p. 396).

<sup>41</sup> Switzerland admitted about 21,000 refugees; but after 1942 at least 24,000 refugees from Nazi Germany were stopped at the border despite clear knowledge of their fate. For an extremely critical evaluation of the 'contradictions, mistakes and omissions' in the Commission's initial report on refugee questions, reflecting inadequate research and overhasty publication, see Elmar Fischer, 'Flüchtlingsbericht der Bergier-Kommission', *Zeitschrift für Geschichtswissenschaft* 48, 9 (2000), 807–37.

<sup>42</sup> See discussion in the *New York Times*, 11 Dec. 1999.

<sup>43</sup> It is 245 pages long, almost half of the book.

Germany and their use of slave labour and of Germany's camouflage and operations in Switzerland. Despite an uneven amount of detail and interpretation, this key chapter brings several new things to light, including the extensive participation by Swiss companies in Germany's rearmament *before* 1933, the Swiss government's acquiescence in the Aryianisation of the property of its Jewish citizens abroad, its relentless policy of expelling fleeing forced labourers; the extensive involvement of Swiss art dealers and museums in looted Jewish art; and, particularly, the 'wide range of covert services', financial and business – still not fully documented – that Switzerland's government and private institutions provided to Nazi Germany.

Did Swiss laws and administrative practices betray a Nazi bias? Chapter 5 states that between 1933 and 1945 the Swiss legal system underwent a 'radical transformation', starting with periodic emergency federal decrees and culminating in the 1939 grant of emergency plenary powers to the government, which restricted freedom of political opinion and imposed heavy press censorship. Switzerland's implicit adoption of Germany's racial laws was manifest in its 1938 demand for the 'J' stamp on foreign passports and in its arbitrary treatment of those refugees able to cross its borders.

Unable to complete its initial assignment in chapter 6 – to settle the entire question of property claims<sup>44</sup> – the ICE, in its concluding chapter, directly confronts the larger historical issue: was Switzerland an Axis sympathiser? Based on its investigations, the commission has concluded that although its government and citizens neither prolonged nor profited from Hitler's war, their private and public behaviour was far from neutral (pp. 398–402, 508–9). Aware of the events across their borders, the Swiss 'adapted' to Nazi policies either out of economic or political self-interest or both (pp. 505, 514). By way of explanation the commission, carefully avoiding historical or cultural interpretations, simply depicted a government in Berne which, at the time, only loosely controlled the business and industrial sectors (pp. 516–18).<sup>45</sup>

*Switzerland, National Socialism and the Second World War*, which has forever erased the image of a 'neutral, decent, innocent' bystander,<sup>46</sup> has had a mixed political impact. The ICE's historians have undoubtedly bolstered the work of their Swiss colleagues long marginalised for questioning the national myths,<sup>47</sup> and may have a lasting impact on Swiss public life.<sup>48</sup> On the other hand, it is not surprising that their scrupulous work has raised strong criticisms in a country unaccustomed to the glare of international scrutiny and drawn the ire of partisans of 'Swiss tradition'.<sup>49</sup> There

<sup>44</sup> The ICE has called for additional research on bank accounts, insurance policies, looted securities and cultural goods, as well as other confiscated property (pp. 423–86).

<sup>45</sup> But they also underlined the impact of Switzerland's property laws that privileged the *ordre public*; during the war this allowed the Swiss to withstand Nazi pressure but ironically, in the post-war period, enabled them to resist outside demands for restitution (pp. 409–14, 511ff.).

<sup>46</sup> *Berner Zeitung*, 30 Nov. 2001.

<sup>47</sup> Georg Kreis, ed., *Switzerland and the Second World War* (London and Portland: Frank Cass, 2000).

<sup>48</sup> Albeit a limited one. With education a cantonal, not a federal responsibility, few of the ICE's findings have yet found their way into the history curriculum. Junz, 'Confronting Holocaust History', 6.

<sup>49</sup> As soon as the ICE's first publications appeared, Swiss scholars began challenging the authors' economic, statistical and historical knowledge and Swiss veterans questioned the commission's ability to comprehend a distant past. More recently, Swiss right-wing groups have adopted the ICE's findings in

is also the reality of a new outbreak of Swiss antisemitism, only partially fanned by outsiders' charges and investigations.<sup>50</sup>

What contribution do these six books make to guiding history in the twenty-first century? Despite Dumoulin's and Golsan's reservations, Clio's practitioners have now become regular fixtures in the courtroom; and senior and junior scholars staff hundreds of international, national and local commissions as well as private investigatory bodies throughout the world.<sup>51</sup> Although they mete out no sentences and impose no reparations, these expert historians now inhabit a complex world of memory and forgetfulness, politics and bureaucracies, verdicts and judgements far remote from their university training. Also, these scholars have renounced the privacy and protection of their classrooms and research institutes to become public figures serving a specific paymaster, subject to strict external deadlines, exposed to blistering press and official criticism and also subject to the laws of supply and demand.

The testimonies of Ginzburg and Evans and the recommendations of the Bergier commission encourage us to broaden the education of today's historians. The profession needs not only to provide training in the law and in working with public and private institutions but also to establish scholarly and ethical standards of investigatory practice. Proceeding from Dumoulin's critique, we need to develop an even more sophisticated comparative historiography of public history. And as scholars traverse national boundaries to serve in courts and commissions, the agenda for international history has been greatly expanded.

To be sure, as all these authors have cautioned, the vocation of the expert historian can be arduous as well as rewarding. Their accomplishment depends as much on the resources provided by the initiators and the co-operation of the subjects under investigation as on their own skills, autonomy and good judgement. The task is not insurmountable. Throughout today's global community, wherever the past is publicly contested, there is a growing body of new historians who represent voices of fairness, meticulousness and scrupulousness, able to set research agendas, analyse and interpret documents and identify untruths, but who also admit the remaining gaps in our knowledge.

support of their country's isolation from the United Nations and the European Union. Ludi, *Historians as Political Trouble-Shooters*, 10–14.

<sup>50</sup> Federal Commission against Racism, *Anti-Semitism in Switzerland: A Report on Historical and Current Manifestations* (Berne: EDMZ, 1998).

<sup>51</sup> See, e.g., 'Brown U. to Examine Debt to Slave Trade', *New York Times*, 13 Mar. 2004.