

The Fate of Joel Hayward in New Zealand Hands : from holocaust historian to holocaust ?

By Thomas A. Fudge

For the past three years, newspapers, national periodical publications and television programmes have intermittently provided coverage about the Joel Hayward affair : a story of a New Zealand student who wrote a controversial thesis. Contestable work and arguable conclusions are not uncommon in modern universities but Hayward's unpublished work as a student seems to remain, after ten years, a point of unusual and continuing interest.

Late in 2002 the New Zealand *Listener* ran a "special report" on what is popularly termed holocaust denial. [1] Juxtaposed photographs of David Irving, Adolf Hitler and Joel Hayward on page 28 provide adequate summary of the article's focus. When asked why he was putting forth another piece on Hayward the author Philip Matthews replied that nothing had appeared for a while. The *Listener* article says little new or relevant and the questions of motivation might be raised. Is Canterbury University supportive of holocaust denial ? The university answers no. [2] Is Hayward a denier ? He claims he is not. Does his thesis constitute holocaust denial ? His critics say yes (though some without having read it), while others (who have read it) answer in the negative.

The story so far

In June 2002, Joel Hayward resigned from his position as senior lecturer in history at Massey University where he had been respected as an effective teacher and productive scholar. His departure generated applause from some quarters. Others lamented academe's loss. "[S]hame on the scholarly community for not rallying behind the universities' necessary freedoms." [3] What brought Hayward, a year and a half after the Hayward affair, still in the early stages of a potentially distinguished career, to this act of professional extinction ? The protracted "facts" in the so-called Hayward affair may be distilled briefly.

In 1993 Hayward was awarded a Master of Arts degree with First Class Honours in History by the University of Canterbury for a thesis on the historiography of the holocaust. He later wrote a PhD thesis and in 1996 was appointed to a lectureship at Massey University. In late 1999 the MA thesis was publicly denounced. The New Zealand Jewish Council alleged that the work amounted to historical revisionism constituting holocaust denial, and called on the University of Canterbury to revoke the degree. [4]

1. Philip Matthews, "In Denial: The continuing story of why a New Zealand university refuses to dishonour thesis denying the Nazi Holocaust" *Listener* (2–8 November 2002), pp. 26–30.

2. "We do not endorse or in any way condone Holocaust revisionism . . ." Daryl LeGrew, letter to university staff, 20 April 2000 and "Audit pans thesis on Holocaust" *The Press* (21 December 2000).

3. Tania Hinehou Butcher, "Relentless persecution of a respected academic" *Manawatu Evening Standard* (2 November 2002), p. 8.

4. Dov Bing, Professor of Political Science at Waikato University, raised the alarm as early as 14 December 1999 in an email to Vincent Orange. More specifically, *The New Zealand Jewish Chronicle* 56 (April 2000), pp. 1, 6. The New Zealand Jewish Council subsequently obtained official university documents that enabled it to make a formal submission on the thesis. David Zwartz made a formal request to Alan Hayward, University Registrar (and no relation to Joel Hayward), under provisions of the Official Information Act 1982 on 4 April 2000. In reply, Alan Hayward declined to release some materials. Acting on a request from the New Zealand Jewish Council, the Office of the Ombudsmen twice contacted Vincent Orange about the same materials on 19 June and 14 July. Orange declined to make public the requested documents. However, in his reply of 17 July 2000, Orange wanted to know how David Zwartz had knowledge of a letter dated 21 April that Orange had sent to the University Chancellor. Request for documents was again raised by the law firm of Macfarlane, Dougall, & Stringer, in a letter to Gerald Orchard, 9 August 2000, pp. 1–2.

Hayward repeatedly apologized for any harm or distress his thesis might have caused, agreed to the extraordinary step of including an appendix to his thesis modifying his findings, cooperated with the subsequent investigating Working Party and appears to have made efforts to distance himself from holocaust denial. [5] Under pressure, the University appointed an independent Working Party to investigate the claims against the thesis. [6] This committee consisted of retired High Court judge Sir Ian Barker and academics Professor Ann Trotter and Professor Stuart Macintyre to look into the matter and make recommendations. [7] The lengthy report concluded the Hayward thesis was "seriously flawed" and that Hayward "should not have essayed a judgment in such a controversial area..." [8] The report did not recommend withdrawal of the thesis by the University and did not agree with the allegations that Hayward's argument was racist or motivated by malice. While the opinion that the thesis did not deserve the high marks it received was widely publicized in the media, no fewer than six serving or retired members of the History department persisted in their own judgment that it was a first-class effort.

Notwithstanding the apparent finality of the report and its qualified exoneration of Hayward, during 2000, 2001, and 2002 Hayward received hundreds of pieces of "hate" mail, abusive telephone calls, threats against himself, his wife and small children, harassment at Massey University and continued negative media attention. [9] Further attempts to publish as well as efforts at finding other employment have been unsuccessful. The issue therefore goes beyond the apparent concern over alleged flawed (but unpublished) research. Is this issue really about academic values and freedom ?

Animosity towards Hayward arose not in 1999 but several years earlier. [10] The subject of Hayward's thesis was controversial before he wrote it and there were attempts to censure Hayward at the time. [11] Aware of these factors, Hayward embargoed the thesis for three years as soon as it was examined. When the embargo expired, he notified the University Library that the thesis could be made available to researchers. The library replied that it had decided to restrict the thesis so that it could be consulted only with Hayward's permission until January 1999. [12] Almost immediately allegations were published about his alleged "holocaust denial." That someone should have chanced upon the thesis so promptly seems an unlikely coincidence. Rather, events were to show that there were good reasons for the embargo on access. Was this because Hayward had written things that he knew to be reprehensible ? The Barker enquiry found no evidence of malicious intent, dishonesty or deliberate efforts to circumvent the truth on Hayward's part. Is it possible that the outrage over the thesis itself was also a device for attacking Hayward ?

5. *The New Zealand Jewish Chronicle* 56 (No.6, 2000), p. 6; *Sunday Star-Times* (28 May 2000); *The Press* (31 May 2000); letter to the University of Canterbury Working Party, 25 September 2000, 29pp, *passim*; *Listener* (24 June 2000), pp. 5–6; *Listener* (9 November 2002), p. 8; *Report by the Joel Hayward Working Party* (University of Canterbury, December 2000), p.34.

6. Dame Phyllis Guthardt, Chancellor of Canterbury University, letter to university staff, 20 April 2000; "Holocaust thesis investigated" *The Press* (27 April 2000); "Former High Court judge to chair Holocaust thesis inquiry" *The Press* (16 May 2000).

7. Barker: Chancellor of Auckland University from 1991 to 1999 and former Senior Puisne Judge of the High Court of New Zealand; Trotter: Emeritus Professor of History at the University of Otago; and Macintyre: Professor of History at the University of Melbourne. Suggestions were made that the Working Party permit observers at its proceedings, but they were held in private.

8. *Report by the Joel Hayward Working Party*, p. 86.

9. Some of that negative reporting is referred to in the notes of this essay. Telephone calls have caused Hayward several times to have his home telephone number changed and at times has received threatening or abusive email on a daily basis. Vincent Orange, letter to Miles Fairburn, 10 February, 2001, p.3.

10. Detailed in various documents and correspondence. For example, Joel Hayward, letter to Vincent Orange, 22 April 2000, pp. 1–2; W. David McIntyre, letter to Ian Barker, undated [2000], p. 2; W. David McIntyre, letter to Alan Hayward, 25 May 1992, p. 1; Kingsley McFarlane, letter to Alan Hayward, 5 May 1992, pp. 1–2; McFarlane, letter to Alan Hayward, 9 September 1992, p. 1; Ian Catanach, letter to Vincent Orange, 30 December 2000, p.3; and *Report by the Joel Hayward Working Party*, pp.17–19, 73.

11. The head of the History department at that time refused to consider the matter. W. David McIntyre, letter to Alan Hayward, 25 May 1992 wherein McIntyre stated "the interference they have attempted is intolerable."

12. Joel Hayward, Letter to the University of Canterbury Working Party, 25 September 2000, p. 3.

Academic values

One of the complexities of the Hayward affair is its apparent relation to issues of academic freedom and intellectual fashions. Hayward's detractors claim that he is wrong in terms of both. One of his critics stated that "academic freedom cannot exist without academic responsibility." [13] However, considered legal opinion concluded that the interpretation of academic freedom being applied in the Hayward affair permitted a "very limited right to academic freedom." [14]

Proponents of academic freedom insist that universities should be great storehouses of wisdom and learning, and students ought to be able to go there, learn and choose. Academic freedom implies there are no taboo subjects, no off-limits topics. [15] The fuss made about this obscure piece of work fits rather awkwardly with the position taken by New Zealand academic libraries. Official statements read, "No library materials should be excluded... because of the... views of their authors [and] no library materials should be censored, restricted or removed from libraries because of partisan or doctrinal disapproval or pressure." [16]

International intellectuals also defend the right of dissidents to say things they disagree with. Noam Chomsky defended the right of "holocaust denier" Robert Faurisson to say what he thought about "Zionist lies." [17] Raul Hilberg objected when St Martin's Press cancelled David Irving's contract for his book on Goebbels, saying, "If these people want to speak, let them... I am not for taboos and I am not for repression." [18] Universities and other institutions of higher learning are regarded as marketplaces for the exchange of ideas ; as forums for discussion ; as venues for critical thinking, honest enquiry and the challenging of *status quo*. [19] In this context, the Hayward thesis was a legitimate academic exercise. Others argue that Hayward was simply wrong, his judgements flawed, his conclusions erroneous, his methodology ill-conceived and his entire MA thesis a sustained exercise in egregious violation of scholarly procedure. Amid such extreme position, one might ask whether the significance of the Hayward matter is an issue of truth ? Is it a crucial indictment of education in general ? Does it have to do with accountability within institutions of higher education ? Or, is it about the limits of toleration in New Zealand society ?

Just as there is no such thing as a perfectly free market, similarly academic "freedom" operates within a framework partly determined by non-academic considerations. Senior academics within New Zealand universities are often sensitive to public opinion and political moods. They may actively discourage graduate students from investigating certain topics. There are other topics that although encouraged or permitted, are sometimes subject to

13. "Submission to the University of Canterbury Working Party on the Joel Hayward MA Thesis," by the New Zealand Jewish Council, undated, paragraph 40, p. 8.

14. L.L. Stevens, QC, "Memorandum for Members of the Working Party," 15 September 2000, p. 15.

15. Part XIV of the Education Act 1989 underscores the essential principles of academic freedom. Section 161(2) (a) states that students and academics have the freedom, within the law, to query and test received wisdom, to advance new ideas and to state unpopular or controversial opinions. *Reprinted Statutes of New Zealand* (Wellington: New Zealand Government, 1996), volume 34, p. 167. Other relevant canons include the New Zealand Bill of Rights Act 1990, Section 14. Grant Huscroft and Paul Rishworth, eds, *Rights and Freedoms: The New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993* (Wellington: Brooker's, 1995), pp. 500-4 at p. 501.

16. Statement adopted by the Council of the New Zealand Library Association, 15 May 1980. <http://www.lianza.org.nz/censorship.htm> and commented upon favorably by library personnel. For example, John Redmayne, letter to Daryl LeGrew, 20 April 2000.

17. Noam Chomsky, "The Faurisson Affair: His Right to Say It" *Nation* (28 February 1991), p.231. Chomsky is a prominent Jewish intellectual.

18. Quoted in D. D. Guttenplan, *The Holocaust on Trial: History, Justice and the David Irving Libel Case*, (London: Granta Books, 2001), p. 302. Hilberg is a well-respected Jewish historian.

19. These principles are urged for example by Frank Haden, "Holocaust denier should have freedom to upset" *Sunday Star-Times* (21 May 2000) and Tim Darlington, "Politics has no place in thesis arguments" *Sunday Star Times* (4 June 2000). After the Working Party Report was released supportive letters to the editor were published in *The Press* (21 December 2000) and (26 December 2000). Hayward's students likewise expressed their support for him. "Backing for controversial ex-lecturer" *Evening Standard* (31 October 2002).

constraints on arguments that may be employed, evidence that may be weighed and conclusions reached. This is especially the case in areas that touch on contemporary political or ethical concerns. Many people do not regard these strictures as problematic but rather praise them as virtuous. [20] The Jewish holocaust is one of those delicate topics about which certain beliefs have become so fashionable as to be unassailable regardless of intellectual considerations. The Hayward affair elicited the pronouncement "that at least in this country anyone wanting to... question received notions about the Holocaust is controlled by accepted truth standards." [21] The danger in this thinking lies in the ambiguity of the term "truth standards". Does it mean "standards for establishing truth" or "propositions proclaimed to be true"? Some insist that the religious significance of the holocaust is equal to the revelation on Mt. Sinai to Moses. [22] Is that a "truth standard"?

What did Hayward say ?

The major issue appears to be the belief that Hayward rejected well-established facts about the holocaust. [23] His thesis examined the writings of some of those who question the holocaust industry which has reached significant political proportions in the past thirty years. [24] Setting aside the question of whether Hayward's conclusions were really so exceptional, is it not the duty of universities and researchers to challenge conventional understandings ? Modern philosophy teaches that all theories worth defending must be continuously subjected to re-evaluation and retesting.

In his MA thesis titled "The Fate of Jews in German Hands : An Historical Enquiry into the Development and Significance of Holocaust Revisionism" Joel Hayward investigated holocaust historiography, especially that branch thereof regarded as revisionist. [25] He concluded that some of the revisionist literature was unworthy of sustained scholarly consideration. [26] Other approaches within the genre he found to be significant and worthy. He came to three principal conclusions from the historiography, the weight of historical evidence and his own discernment : first, that there is no unimpeachable evidence that Adolf Hitler personally ordered the physical extermination of Jews. Second, that it is impossible to know how many Jews were killed and third, that gas chambers were not used systematically to murder Jews in European concentration camps. Do these conclusions make Joel Hayward a "holocaust denier"?

This allegation that he is can be easily evaluated. *First, there is no document which has yet come to light to prove that Hitler gave a "final solution" order. That Hitler was anti-Semitic is beyond denial. That Hitler wished for Jews to be subjugated is without argument. Hayward makes these points. That Hitler gave an order for Jews to be exterminated cannot be proven. [27] Second, Hayward agrees that millions of Jews perished during the ravages of the Second World War. [28] He regards the figure of 6,000,000 murdered as symbolic and impossible to actually prove on the basis of documentary evidence. There are no reliable or comprehensive records available to establish the exact number of those who*

20. There are academics who oppose this. For example, Chris Connolly, "Submission on Joel Hayward's Thesis," [undated, ca. July 2000] p.4 where he states, "We have no business trying to "neuter" history at the postgraduate level, turning out students who shrink from controversy."

21. "Submission to the University of Canterbury Working Party on the Joel Hayward MA Thesis" by the New Zealand Jewish Council, undated, paragraph 23, p.5.

22. Elie Wiesel, "Words from a Witness." *Conservative Judaism* 21 (Spring 1967), p. 43.

23. David Cohen, "Revisionist history casts campus shadow" *The National Business Review* (22 November 2002), p. 4.

24. An irrefutable historical, social and political phenomenon. See for example the thorough and dispassionate treatment in Peter Novick, *The Holocaust in American Life* (Boston: Houghton Mifflin Company, 1999) and Norman G. Finkelstein, *The Holocaust Industry: Reflections on the Exploitation of Jewish Suffering*, (London: Verso, 2000).

25. J.S.A. Hayward, "The Fate of Jews in German Hands: An Historical Enquiry into the Development and Significance of Holocaust Revisionism," unpublished MA thesis, University of Canterbury, 1993, 360 pp.

26. Hayward, "The Fate of Jews in German Hands," *passim* but especially pp.143-260.

27. See Christian Leitz, "Holocaust Research: The Current Position." *History Now* 6 (1) May 2000, p.28: "the search for a written order from Hitler will continue as long as there are still files of the Third Reich hidden away in the archives of Russia and elsewhere."

28. Hayward, "The Fate of Jews in German Hands," p. 336.

perished during the Nazi era. Projections must be calculated guesses which necessarily have variation. [29] The traditional figure of 11 million killed by the Nazis (Jews and others combined) is essentially the invention of Simon Wiesenthal, the famous hunter of Nazi war criminals. This speculative figure has attained virtual canonical status in holocaust historiography. [30] In 1986 Shmuel Krakowski, then archives director of Yad Vashem, the international center for holocaust documentation in Jerusalem, told the *Jerusalem Post* that of the 20,000 testimonies he had on hand from alleged "survivors" of the holocaust most of them were untrustworthy, fraudulent, lacking support or in some way untruthful. [31] Although this statement is at least as "revisionist" as anything Hayward wrote, Krakowski is not regarded as a holocaust denier. Wiesenthal admits that he manufactured figures but appears to have escaped censure ; Hayward merely questioned other suggested figures and was denounced for it.

Third, it was once held that concentration camps in Germany were used to gas Jews en masse. That hypothesis has now been abandoned by most historians of the Second World War without this being condemned as holocaust denial. [32] (See map, and the distinction made on it between "death camps" and "concentration camps".) There is stronger evidence for the use of gas chambers in Polish camps. Hayward relied upon certain studies (now regarded as highly controversial or discredited) to question the extent of the use of Polish gas chambers and for his skepticism was labeled a "holocaust denier" although he unequivocally states that millions of Jews perished under the Nazi regime through various means. [33] He wondered merely what contribution gas chambers made to these results. Some of his detractors, however, claimed that he denied the existence of gas chambers altogether. [34]

That the historic Jewish community has been subjected to various measures of discrimination and persecution must be acknowledged, but that does not mean that there might not be new understandings of that experience. It does not therefore provide that same community or any of its representatives with immunity to investigation. Nor is it true that what happened to Jews historically is fundamentally different from atrocities perpetrated against native Americans, Africans, Gypsies, the victims of the witch hunts in early modern Europe, those trapped in the Stalinist purges in Russian lands, the fate of Iraqis in the hands of Saddam Hussein, heretics hunted by crusaders, and indigenous peoples around the world throughout human history, in which large numbers of people have been subjected to campaigns of mass extermination. There is a great difference between anti-Semitism and arriving at research-based conclusions which do not support or conform to values, ideas and interpretations held by Semitic peoples and cultures.

Diversity of interpretation is not the same thing as discrimination. To contest common opinion is not racism. To argue against or disagree with conventional wisdom, regardless of the subject, cannot, *ipso facto*, be characterized as cultural or religious insensitivity. Even Jewish communities cannot stand detached from intolerance, violence and destruction against others. The conquests recorded in the Hebrew Bible are one example. To argue that the holocaust is in some way culturally specific or historically significant in unique ways on a universal level is opinion, neither binding, necessarily persuasive, nor intellectually

29. Israel Gutman, ed., *Encyclopedia of the Holocaust*, 4 volumes (New York: Macmillan, 1990), vol. 4, pp.1797–1802 projects a figure between 5.6 million and 5.9 million while stating the figures are "estimates." Estimated total deaths during and as a result of the Second World War are commonly estimated at between 50 and 60 million.

30. Yehuda Bauer, "Don't resist: A Critique of Phillip Lopate." *Tikkun* 4 (May–June 1989) p.67.

31. Cited in Barbara Amouyal, "Doubts over Evidence of Camp Survivors" *Jerusalem Post* (17 August 1986), p. 1.

32. A standard reference work, however, lists Neuengamme, Sachsenhausen and Ravensbrück as German camps where gas was used, but does not mention camps such as Dachau and Buchenwald which were formerly thought to have been primarily extermination centres. *Encyclopedia of the Holocaust*, vol. 2, pp. 539–41.

33. Hayward, "The Fate of Jews in German Hands," p. 336 and Appendix to the thesis, p. 2.

34. Hayward's discussion of gas chambers has sometimes been presented as concluding that no gas chambers existed at all. "POW angry over thesis" *The Press* (20 December 2000); "Audit pans thesis on Holocaust" *The Press* (21 December 2000) and "MP wants choice of tutor probed" *The Press* (9 January 2001).

obligatory. To insist that it amounts to "intellectual terrorism". [35] A holocaust of those dimensions is less about history and more about myth. To say so does not constitute a "total betrayal of Jewish history." [36] Whether Nazis were engaged in the "banality of evil" or in displaying collective consciousness is a matter to be investigated not legislated. [37] There may be good reasons for preferring Stanley Milgram over Daniel Goldhagen. [38]

The Working Party found that Hayward was not guilty of racism or anti-Semitism, or of deliberately falsifying data. Nevertheless, the report was critical of the quality of Hayward's work, and dissented from the grade that it was awarded.

Hayward's novice research exercise however, became widely regarded by academics, university administrators, news media persons and members of the general population, as the product of a contemptible scoundrel, a man lacking in probity, unfit to influence impressionable minds, and indeed unworthy of being employed even in non academic circles and whose writings, even though he has written nothing on the holocaust since his MA thesis, should be suppressed. [39] It should be borne in mind that unlike many ambitious young academics, Hayward made no attempt to publish any aspect of his MA thesis. [40] Nor was it the basis of his employment as an academic. Its only role in his career was to qualify him to proceed to the PhD degree, for which he undertook research on an unrelated topic.

Judging from the essays in *The New Zealand Jewish Chronicle*, the report issued by the Working Party in December 2000 and the articles appearing in the New Zealand news media, the Hayward affair might seem to be a rather straightforward case of incompetent research and defective supervision. [41] There are other details which have been less

35 Jean-Michel Chaumont, *La Concurrence des Victims*. (Paris: Editions le Doucouverte, 1997), pp.137, 148–49, 156.

36. As argued by Elie Wiesel. See Irving Abraham, ed. *Against Silence: The Voice and Vision of Elie Wiesel*, 3 vols. (Washington: Holocaust Library, 1995). Others argue the uniqueness doctrine amounts to "intellectual sleight-of-hand", fetish and cult characteristics (Peter Novick, *The Holocaust in American Life*, pp.9, 198) just plain silly (Jacob Neusner, *The Public Side of Learning* (Chico, CA: Scholars Press, 1985), p. 128) or "sterile" (Finkelstein, *The Holocaust Industry*, p.47). The most systematic treatment of the doctrine of uniqueness is Steven T. Katz, *The Holocaust in Historical Context*, vol.1. (New York: Oxford University Press, 1994) esp. pp. 28, 58, 60.

37. A reference to the outrage prompted by Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (London: Faber, 1963). It is noteworthy that "almost all scholars have come to accept Arendt's thesis." Novick, *The Holocaust in American Life*, p.137.

38 Goldhagen says institutionalised hatred of Jews among Germans produced the holocaust. Daniel Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (London: Little, Brown & Co. 1996). For a robust critique see Miles Fairburn, *Social History: Problems, Strategies and Methods* (London: Macmillan, 1999), pp.263–80 and Raul Hilberg, "La Phénomène Goldhagen," *Les Temps Modernes* 592 (Feb-Mar, 1997), pp. 1–10. On the other hand, Stanley Milgram, a Yale psychologist, in the early 1960s carried out experiments which suggested that ordinary moral people under dictatorial influence could easily engage in atrocities. Stanley Milgram, *Obedience to Authority: an Experimental View* (London: Tavistock, 1974).

39. For example, "Hayward lacks the integrity necessary to hold a position of trust in the academic world." Comment by David Zwartz cited in "Thesis supervision angers Jewish group," *The Press* (3 March 2001), p.1.

40. Hayward was criticised for having disseminated his thesis, while others condemned him for having embargoed it. It is true that Hayward did give copies of his thesis to two or three individuals. That does not constitute academic publication. While he has been criticized for this there is nothing unusual in it. Whether or not he was naive is hardly relevant. It is a common practice for people assisting research scholars with information to expect or even require a copy of the thesis in return for their cooperation. Hayward gave copies in this manner. "But I expressly forbade any use or publication of the thesis, in part or in whole, and even attached a clearly worded statement to the inside cover, which read: Copyright 1993 J.S.A. Hayward All Rights Reserved No reproduction, copy or transmission of any part of this MA thesis may be made without written permission from the author." Hayward goes on to say that as far as he was aware only Frederick Töben of the Adelaide Institute made any effort to further "holocaust denial" by using his thesis. As soon as this came to Hayward's attention he "took immediate and successful steps . . . to prevent any mischievous or harmful use of my thesis being made by that man." Joel Hayward, letter to the University of Canterbury Working Party, 25 September 2000, pp. 3–4. It came to wider attention only after a copy apparently was removed from the Canterbury University library, illegally photocopied and distributed. This act of theft was apparently never investigated by the authorities.

41. David Zwartz, president of the New Zealand Jewish Council put it bluntly: "We lay full responsibility on the experienced professional historians at the university whose job was to guide and assess his [Hayward's] work." "Making History" *The Press* (20 May 2000), p. 2. Astonishment later was expressed that Orange had been appointed convener of the History department Research Committee which oversees all thesis proposals.

publicised if at all. While some voices have condemned the lack of balance in the Hayward affair, [42] others have dismissed it all as a "hysterical diatribe." [43] Continuing publicity indicates that important parts of the story are not known.

The Working Party Report and the Reaction

In December 2000 the Working Party established by the University of Canterbury in April that year, to investigate the Hayward thesis released its report totalling 296 pages including supporting materials. [44] This report was received by the administration, adopted by the University council on 18 December and no public contest was offered to its findings. [45] However, the report was not accepted unanimously. Several senior Canterbury University historians took the view that their institution had been far too apologetic. [46] Vincent Orange, Hayward's thesis supervisor, contested a great deal in the report by the Working Party and that of Richard Evans (see below). [47] Professor John Jensen of Waikato University likewise did not accept these reports as fundamentally accurate. [48]

Other academics considered the report's verdict to have been "pre-determined", to have exceeded its own legal advice, and upon which the University of Canterbury assumed an official position "on a matter that seems to be the province of individual academics." [49]

In February 2001, the History Department at Canterbury took the report under consideration and concluded its deliberations by affirming that it "supports the broad thrust of the recommendations of the Barker inquiry..." [50] The vote was overwhelmingly in favor of this ambivalent motion but not unanimous. Three members of the department (besides Orange) put forward arguments in opposition to the report and to the nature of the enquiry. One member of the department insisted on being named in the minutes of the meeting as opposing both the report and the departmental support for it. [51] Among those who supported the motion were some who admitted having read neither the report nor the thesis. One senior member argued that the department should not be seen as being in opposition to the university. [52]

Vincent Orange, who absented himself from the February meeting submitted to the department for consideration a dossier consisting of thirty-one documents titled "A Case for

"Historian in thesis post" *The Press* (10 June 2000), p. 8. Elsewhere, Orange's resignation was called for. "Shonky thesis a dire scandal" *Sunday Star-Times* (14 January 2001), p. A8. See also the *New Zealand Jewish Chronicle* 56 (No.6, 2000), pp.1, 6, 7-8.

42. Lyall Lukey, letter to the editor of the *Sunday Star-Times* (19 January 2001).

43. Frank Jones, "Rabid Attack" *Sunday Star-Times* (21 January 2001).

44. *Report by the Joel Hayward Working Party* is 89 pages in length but also includes over two hundred pages of supporting materials.

45. A news media report claimed "amid tight security" the University Council "debated for two hours the findings. . . ." *The Press* (19 December 2000). According to the Vice Chancellor, "At its meeting on Monday 18 December 2000 the Council adopted the... Report from the Working Party and approved its public release." Daryl LeGrew, letter to Vincent Orange, 19 December 2000.

46. For example, Ian Catanach and Marie Peters to Vincent Orange, 30 December 2000. A dozen other scholars from around the country expressed their disapproval, some in strident terms.

47. Vincent Orange, letter to the Working Party, 18 October 2000, 7pp and Orange, letter to Miles Fairburn, 10 February 2001, 18pp.

48. "A tale . . . full of sound and fury, signifying nothing!" "Comments by Professor (retired) John H. Jensen on "Submission to the University of Canterbury Working Party on the Joel Hayward thesis" by the New Zealand Jewish Council and "Report" by Professor Richard J. Evans," undated, 5pp.

49. For example, Martin Lally, Victoria University, letter to Daryl LeGrew, 1 February 2001, p. 3 but *passim*. On legal advice, L.L. Stevens, QC, letter to Ian Barker, 10 October 2000, pp.1-2.

50. <http://www.hist.canterbury.ac.nz/news/index.htm>

51. Minutes of Special Departmental Meeting, 21 February 2001, p. 2.

52. At least three New Zealand academics (outside Canterbury) publicly calling for Hayward's disgrace admitted not having read the thesis. Certain individuals appeared on national television decrying the thesis but only afterwards read it. Elsewhere, "I have no hesitation in endorsing the New Zealand Jewish Council's condemnation of [Hayward's] University of Canterbury MA thesis." Greg Ryan, letter to the editor, *The Press* (5 May 2000), p. 4. A month later (6 June), Ryan, a lecturer at Lincoln University, admitted to a member of the Canterbury History department he had not read the Hayward thesis. See also Chris Connolly, "Submission on Joel Hayward's Thesis," p. 5.

the Defence of Dr. Joel Hayward." [53] The dossier included submissions from academics who had read Hayward's thesis, documents presenting another side of the matter and related materials. These materials had been submitted to the Working Party but appear to have had no significant influence on the ultimate report. [54]

The dossier was prepared for three reasons : first, for consideration by the Working Party, second, that it might be attached to the Working Party report as an extended appendix (to provide balance) and, third, so that it might be placed in the university library where scholars or students in the future considering this matter might have access to both sides of the story. The Working Party Report did not respond to the contents of the dossier. Efforts to have the dossier appended to the report itself were unsuccessful, and the other objectives were not attained. This casts doubt on the statement of the Working Party that it had "fully and properly considered the matters at issue" and on the corroborating comment by Vice-Chancellor Daryl LeGrew that the report submitted by the Working Party was "an open and thorough academic review." [55]

Why was this body of material not made more widely available to those actively involved or interested in the Hayward affair ? [56] Vincent Orange or other members of the History Department opposing the submissions of the New Zealand Jewish Council could very well have distributed the dossier on their own. The apparent reason that they did not do so appears to be that they agreed to acquiesce in repeated requests by university officials that no comment be made to the media and that the university administration be responsible for comment on the Hayward affair. [57] The university administration, though aware of the dossier, elected not to publicize it.

For this reason, the public has not been able to form a balanced judgment informed by testimony on both sides.

The Barker committee, however, did rely heavily on a report, noted above, by Cambridge University Professor Richard J. Evans who was engaged by the New Zealand Jewish Council (NZJC) to provide comment on Hayward's thesis. [58] The NZJC originally presented a fourteen page submission to the Working Party on the Hayward thesis which summarized their concerns and specified their wishes about the enquiry. [59] It submitted that the thesis was dishonest, the award of Hayward's MA should be revoked, and all University of Canterbury endorsement of Hayward's work towards the MA be withdrawn and by implication that the Hayward thesis be removed from the university library. [60]

53. Miles Fairburn, memorandum to History Department, 8 February 2001 and Vincent Orange, letter to Miles Fairburn, 10 February 2001, pp. 2–16. The dossier assembled formally by Orange in February 2001 consists of approximately 144 pages.

54. Vincent Orange, letter to Ann Trotter, 25 May 2000, pp. 1–2 referring to many of the documents eventually included in the dossier and attaches copies in advance of his own meeting on 26 July. Receipt of the documents also acknowledged by Stuart Macintyre, letter to Vincent Orange, 12 June 2000, p. 1. The documents again are referred to in some detail in Orange's letter to "Ian Barker and Colleagues" on 16 July 2000, pp. 1–4.

55. *Report by the Joel Hayward Working Party*, p. 86 and Daryl LeGrew, letter to the academic community, 21 December 2000.

56. The materials evidently were placed in the University archives. Chancellor Phyllis Guthardt, letter to Vincent Orange, 30 April 2001.

57. "We feel that the Department should be "closed lip" if approached by any media. Also we should wait until we have heard from the VC [vice chancellor], as to what we should say to the media." Judy Robertson (on behalf of Miles Fairburn, head of the department of history), letter to all history staff, 20 April 2000. This was the basis for Orange declining to appear in a proposed segment of the *60 Minutes* television programme. Vincent Orange, letter to Melanie Jones, 5 August 2000. A similar communiqué was circulated throughout the History Department on 2 February 2001 and again on 23 October 2002: "We are to give "no comment" and if anyone is persistent refer them to . . . the Registry."

58. Evans was supplied with the examiners' reports on Hayward's thesis as well as Vincent Orange's letter to the Canterbury Chancellor (21 April 2000) by Macfarlane, Dougall, Stringer, barristers and solicitors, and asked by David Zwartz to examine and comment on them. Richard J. Evans, letter to David Zwartz, 19 September 2000, p. 1. Evans concluded that all three documents are problematic, essentially repeating his arguments detailed in his report on the thesis.

59. "Submission to the University of Canterbury Working Party on the Joel Hayward MA Thesis," (undated) consisting of seventy statements.

60. There is some dispute over this last point. "Holocaust thesis investigated" *The Press* (27 April 2000) stated the Jewish Council wanted the thesis removed from the library but Mike Regan of the New Zealand Jewish

Fresh from his very public victory over David Irving (a controversial figure in the German historiography of the 1930s and 1940s) in a high profile London court case in April 2000 wherein Irving was found to have falsified historical evidence, Evans submitted a 71 page report trenchantly condemning the thesis. Professor Gerald Orchard, one of New Zealand's most highly regarded lawyers, in turn denounced this report to the Working Party as "adversarial", the work of a "partisan advocate," and not an "objective expert", who engaged in exaggeration, omission of material and misrepresentation, and whose opinions in the Hayward case could not be relied on. [61] The Working Party acknowledged that Evans "appeared to diminish the objectivity required of an expert witness", submitted unwarranted allegations, and was "highly antagonistic." It professed to have "made every effort to discount Professor Evans' tendency to intemperate expression" but accepted the report as authoritative and seems not to have been influenced markedly by the sustained responses to Evans' report included in the "Dossier for the Defence". [62] But faced with the profound disagreement on the merits of Hayward's thesis between its official examiners (Orange and Jensen) and Evans, the Working Party had received legal counsel that preference for one perspective over the other was "a question for appropriate expert historians." [63] Macintyre and Trotter were historians but not "appropriate expert historians". No "appropriate expert historians" were approached. Why, on such a critical point supported by legal advice, did the Working Party not take this step? Vincent Orange and Joel Hayward made a strategic error in not also contracting an expert on holocaust historiography to review the Hayward thesis and submit a report. This step apparently did not occur to them at the time and the *faux pas* proved costly and monumental in its eventual implications. The willingness of the Working Party to accept a partisan opinion commissioned by an interested caucus is curious and places the enquiry itself in a troubling light.

Notwithstanding the Working Party's remarks on Evans's intemperate language and lack of objectivity, he appeared both to the Jewish Council and the Working Party as a witness otherwise above reproach. Evans is an excellent scholar but published reviews of his own books accuse him of sometimes "going over the top in ways that are unnecessary to his argument"; of engaging in "gratuitous speculation"; in certain cases of not having "studied the primary sources... under discussion"; elsewhere that he often misses the point, resorts to intemperate attack and is often confused. [64] In other words, in the opinion of some of his peers even Richard Evans violates many of the sound principles of historical method that he considered defectively employed in Hayward's thesis.

Evans is also curiously inconsistent in his attitude to scholars who have erred. In the 1980s a scandal arose over a book written by a young political scientist, David Abraham, and which Evans had reviewed favourably. When it was revealed that Abraham was guilty of egregious errors he was hounded out of the academic profession. Evans writes of how unfair this was even though, as he points out "the book was so riddled with errors" that Abraham was sometimes contradicting his own thesis. "My own view is that while Abraham did not deliberately falsify evidence, he was extremely careless with it, far more than is permissible in a work of serious historical scholarship." Nevertheless, he concluded, "To deny Abraham the... chance of making amends... was surely wrong." [65] In support of this conclusion Evans cites the case of Lawrence Stone whose early published work was exposed as fundamentally flawed and yet he subsequently spent a long and productive career engaged in highly regarded scholarship. His early work is barely recalled. Abraham's work was on the Weimar Republic, Stone's on early modern England. Hayward's alleged shortcomings were not of the same order as Abraham's, and were not published as Abraham's were, but Evans's

Council denied it (*Canta* 3 May 2000), as did David Zwartz. "Flawed arguments" *Sunday Star-Times* (28 May 2000) and in his letter to Chancellor Phyllis Guthardt, 4 April 2000, p.2.

61. Gerald Orchard, "To the Working Party inquiry into JSA Hayward's MA Thesis," 13 October 2000, 4pp.

62. See *Report by the Joel Hayward Working Party*, pp. 36–37.

63. L.L. Stevens, QC, "Memorandum for Members of the Working Party," 15 September 2000, p. 21.

64. *Journal of Social History* 32 (No.4, 1999), pp. 941–2; *History and Theory* 39 (No. 2, 2000), pp. 218–29; *The Times Literary Supplement* no. 4935 (31 October 1997), p. 10; *History—Reviews in History* (October 1999), and others.

65. Richard J. Evans, *In Defence of History* (London: Granta Books, 1997), pp. 121, 123.

report makes no reference to extenuating circumstances, qualifications about the nature of Hayward's preliminary research exercise go unnoted and Hayward is treated as though the thesis in question was the culminating work of a long career rather than an inaugural effort. Why? At the same time as Evans was recommending Hayward's censure and the revocation of his MA degree, he was also reflecting again on Abraham's situation with the comment, "this fate is also thankfully extremely rare." [66]

Continued dissent

The Working Party Report satisfied neither of the protagonists. It appears to have been intended to soothe by offering a compromise solution : it agreed with the Jewish Council and Richard Evans that there were serious flaws in the Hayward thesis, but not that it was either dishonest or fraudulent, or that it was unworthy of being awarded a master's degree, or that the degree should be withdrawn or that the thesis itself should be removed from library collections. [67] On the other hand, the report was not the exoneration of the thesis that Hayward and Orange had hoped for, and the university's examination procedures were severely criticised. Consequently both parties were embittered ; neither could claim victory, and indeed, everyone seemed discredited by the whole affair : the academics felt betrayed and the NZJC felt that its cause had been frustrated. The official Jewish view was that the outcome of the enquiry was unacceptable. [68] David Zwartz told a newspaper, "We must take it further." [69]

However, the University of Canterbury was unprepared to invest further time or financial resources on the Hayward affair which it considered resolved. [70] Since the university clearly was not going to revoke Hayward's degree, excoriate him any further, censure Vincent Orange (the thesis supervisor whom some regarded as ultimately responsible for Hayward's work) or keep the matter at the forefront, one might have expected that the Hayward affair had run its course. Hayward continued with his duties at Massey University and press releases seemed to indicate that his tenure there was secure and the university had no intention of withdrawing support. [71] The affair was closed at last.

It did not, however, end. There were people whose passions had evidently been aroused by the affair and the extensive publicity it had received, and these had recourse to informal and sinister methods of expressing their anger. In early 2001 Hayward began to receive even more vitriolic hate mail along with obscene and disturbing telephone calls. More than a year after the report by the Working Party became public, Hayward received death threats directed at his children. He continued occasionally to issue apologies for any unintended consequences created by his MA work and tried to get on with his life and career. Feeling ridiculed and harassed, and believing that even among his colleagues at Massey sentiment had turned against him, Hayward suffered an emotional breakdown. He spent over two years under medical care. [72]

More than that he became disenchanted with the world of higher education. He no longer believed universities (at least in New Zealand) were places for the free exchange of ideas. He had come to regard the exalted virtue of academic freedom as an illusion now sold out to considerations of expediency. He became convinced the ideals he had been taught by his professors and lecturers at Canterbury were simply rhetorical. He no longer believed in the alleged ideals of the academy. In brief, he no longer wished to be an academic. He

66 Richard J. Evans, *Lying About Hitler: History, Holocaust, and the David Irving Trial*. (New York: Basic Books, 2001), p. 248.

67. *Report by the Joel Hayward Working Party*, pp.3, 57, 70 and 86.

68. "An odious decision" *The New Zealand Jewish Chronicle* 57 (No. 3, 2000 [sic]), pp. 1, 7.

69. Comment by David Zwartz in *Sunday Star Times* (28 January 2001).

70. The cost of the enquiry has been reported at \$200,000. "Thesis casts shadow" *The Press* (20 December 2000). Also in Daryl LeGrew, letter to Vincent Orange, 19 December 2000, p. 2 estimated at between \$150,000 and \$200,000 and in "An open letter to our community from the University of Canterbury", 22 December 2000.

71. "Varsity leader defends historian" *The New Zealand Herald* (15–16 April 2000) wherein Pro Vice Chancellor Barrie Macdonald of Massey University affirmed the high regard the university had for Hayward.

72. Joel Hayward, letter to Vincent Orange, 9 May 2000, p.1 wherein he refers to specific treatment by a physician. In 2002 Hayward again referred to continuing care.

regarded higher education irreparably soiled by "indifference and moral cowardice." [73] In December 2001, in deep depression, Hayward tendered his resignation from Massey University effective in June 2002. Massey appears to have made no effort to assess Hayward's condition or provide support of the kind usually available to distressed employees.

With Hayward out of Massey and his academic career at an end was the Hayward affair now truly over and done with? Efforts were made to link another Canterbury thesis to holocaust denial and to Hayward but came to naught, [74] but for Hayward there was more to come. In early December 2002 he was informed by HarperCollins, a major international publisher, through their Auckland office, that they wished to withdraw from publishing a book of which Hayward was co-editor. The volume in question was a collection of essays about New Zealand airmen. [75] The book was fully prepared and ready for printing. Hayward was shocked at the news and pressed for an explanation. A volume of essays about New Zealand airmen seems innocuous enough. HarperCollins was reluctant to provide Hayward with an explanation for their eleventh-hour decision apart from saying they had been put under considerable pressure not to associate with Hayward on account of the negative publicity surrounding him. [76] Somehow, the matter had been taken far beyond the question of whether a thesis had been honest.

Nor is HarperCollins alone in shunning Hayward. People fear being seen in a café with him. Others are afraid that emails might be monitored and association with him might have serious consequences for their own careers. They no longer converse with him for fear of being linked to him. Some of his former associates suspect their own work has been scoured for traces of "heretical" thinking about topics on which freedom of thought and independence of expression are unwelcome. Was this a consequence that could have been imagined when the Working Party submitted its report a year earlier?

Shortly after the HarperCollins shock, Hayward was hired by Fonterra, the large dairy and meat company as Communications Coordinator with responsibilities for writing the company's internal communications, information and training documents. [77] His employment with Fonterra, however, ended the day he began when the company decided to terminate the position having been advised that employing him was a very risky proposition. [78] Was this commensurate with what Hayward was alleged to have done ten years before?

Why won't the Hayward affair come to an end?

Apologies have availed nothing. Resignation has been for naught. Passivity has been unproductive and the Hayward affair continues. One feature which has been entirely overlooked in all the publicity is why an unpublished, embargoed, research-training exercise should have been given such notorious publicity. Do the alleged (but contested) deficiencies of the thesis justify the chain of events from the unauthorised copying of a thesis, to a highly publicised but not public inquiry, to nation-wide ridicule and humiliation, personal threats, isolation and termination of a career? What good was it thought was being served by this action? Relatively early in the story, some senior New Zealand academics wanted to know why the issue was pursued, and called for an enquiry into the "motives for such

73. Joel Hayward, letter, 6 December 2002, read publicly at Orange's retirement function at Canterbury University on the same day. The letter was an expression of gratitude and congratulations to Orange who devoted forty years to Canterbury.

74. "Second Holocaust thesis controversy" *The Press* (24 October 2002) and "Essay was revisionist" *Waikato Times* (23 October 2002). The suggestion was advanced by Dov Bing. Ironically, an editorial shortly thereafter dismissed Bing's suggestions as "Trivial to-do" *The Press* (29 October 2002). One wonders why editors of a leading newspaper permitted a "trivial" matter to appear on the front page or composed an editorial on the same "trivial" subject?

75. Glyn Harper and Joel Hayward, eds, *Born to Lead: New Zealand Military Commanders and their Style of Command*.

76. Tony Fisk, letter to Joel Hayward, 29 November 2002. Fisk is the managing director of HarperCollins in New Zealand.

77. Joel Hayward, letter to Vincent Orange, 4 December 2002.

78. Joel Hayward, letter to Vincent Orange, 5 February 2003.

activities." [79] On the most recent publicity, even a senior Canterbury University official wondered what the motivation could be in keeping the Hayward affair at issue. [80] Another opinion was blunt: "There seems to be a determination both to break Joel's career and to silence enquiry into the facts about the Holocaust." [81] On the latter, the implications are precipitous. Dogmatic emphases on the holocaust only "reinforces and legitimates closed-mindedness, unrealistic foreign policies and barbaric behaviour." [82]

Further, why has Joel Hayward been frustrated in attempting to publish or work even in fields totally unrelated to his MA research exercise ? These are questions the media have not asked. Do they deserve an answer ? What specifically constitutes denial of the holocaust ? Is it as simple as questioning whether less than 6,000,000 Jews died ? Does it extend to expressing sympathy for Germans in Dresden in 1945 ? Questioning testimonies of survivors ? Alleging that countries other than Germany committed war crimes ? Denying that Jewish suffering during the Second World War was somehow unique ? [83] Is it anti-Semitic to try to remove the element of "sacred myth" from 1940s Jewish history ? Is it really so intolerable to deny that the holocaust "transcends history", that it is "the ultimate event" or the "ultimate mystery"? Is it truly obligatory to acquiesce in the view that "any survivor has more to say than all the historians combined about what happened ?" [84] Alternatively, to express sympathy with the Palestinian cause in the contemporary Middle East in some quarters suggests hostility to the Jews and to argue that Palestinians perhaps should be accorded their own autonomous territory free from Israeli oppression is regarded as anti-Semitic. Such arguments are as specious as they are jejune but the shackles of a new orthodoxy suggests universities can not allow certain assumptions to bear the weight of enquiry. Can morality be that flexible ?

There is nothing redemptive about the holocaust and arguably less redemptive value in the pursuit of Joel Hayward along a journey from holocaust historian to the fate of personal holocaust. A consideration of the larger story suggests quite clearly that the Hayward affair is not just "a storm in a teacup."

What is the motivation for keeping Hayward on the front burner ? Justified come-uppance ? Malice ? Witch hunting ? Witch hunters in early modern Europe were renowned for tenacity, success and ruthless application of their programme. Would their successors be any less vigilant ? Are there "witch-finder generals" in New Zealand ? Has the ghost of Joseph McCarthy appeared again ? Is Joel Hayward a victim of outlooks analogous to these ? If so, how should New Zealand society respond ? [85]

79. John H. Jensen, submission to the Working Party, p. 8; Hayward, letter to the University of Canterbury Working Party, p. 25 and Hayward, letter to Melanie Jones, 6 October 2000 declining to participate in the proposed *60 Minutes* programme.

80. Alan Hayward, letter to Vincent Orange, 17 October 2002.

81. Vincent Orange, letter to Alan Hayward, 7 May 2000, p. 4.

82. Charles Liebman, "What should have been done?" *Jerusalem Report* 2 (9 January 1992), p.37.

83. All of these are considered constituent aspects of holocaust denial in Deborah E. Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory* (New York: The Free Press, 1993). On what basis can these criteria be considered binding?

84. Elie Wiesel, "Trivializing the Holocaust." *New York Times* (16 April 1978), p. 2:1; Harry J. Cargas, "An interview with Elie Wiesel." *Holocaust and Genocide Studies* 1 (1986), p.5.

85. Neither Joel Hayward nor Vincent Orange has been associated with the preparation of this article and neither has seen it prior to publication.

Under pressure, the university appointed an independent working party to investigate the claims against the thesis. This committee consisted of retired High Court judge Sir Ian Barker and academics Professor Ann Trotter and Professor Stuart Macintyre.

Their lengthy report concluded that the thesis was seriously flawed, and that Hayward should not have essayed a judgment in such a controversial area. The report did not recommend withdrawal of the thesis by the university and did not agree with the allegations that Hayward's argument was racist or motivated by malice.

While the opinion that the thesis did not deserve the high marks it received was widely publicised in the media, no fewer than six serving or retired members of the history department persisted in their own judgment that it was a first-class effort.

Notwithstanding the apparent finality of the report and its qualified exoneration of Hayward, during 2000, 2001, and 2002 Hayward received hundreds of pieces of hate mail, abusive telephone calls, threats against himself, his wife and small children, harassment at Massey University and continued negative media attention.

Further attempts to publish, as well as efforts at finding other employment, have been unsuccessful. The issue therefore goes beyond the apparent concern over allegedly flawed (but unpublished) research. Is this issue really about academic values and freedom?

ANIMOSITY towards Hayward arose not in 1999 but several years earlier. The subject of Hayward's thesis was controversial before he wrote it and there were attempts to censure Hayward at the time.

Aware of these factors, Hayward embargoed the thesis for three years as soon as it was examined. When the embargo expired, he notified the university library that the thesis could be made available to researchers.

The library replied that it had decided to restrict the thesis so it could be consulted only with Hayward's permission until January 1999. Almost immediately allegations were published about his alleged Holocaust denial.

That someone should have chanced upon the thesis so promptly seems an unlikely coincidence. Rather, events were to show that there were good reasons for the embargo on access.

Was this because Hayward had written things that he knew to be reprehensible? The Barker inquiry found no evidence of malicious intent, dishonesty or deliberate efforts to circumvent the truth on Hayward's part.

Is it possible that the outrage over the thesis itself was also a device for attacking Hayward?

One of the complexities of the Hayward affair is its apparent relation to issues of academic freedom and intellectual fashions.

Hayward's detractors claim that he is wrong in terms of both. One of his critics stated that academic freedom could exist without academic responsibility.

However, considered legal opinion concluded that the interpretation being applied in the Hayward affair permitted a very limited right to academic freedom.

Proponents of academic freedom insist that universities should be great storehouses of wisdom and learning, and students ought to be able to go there, learn and choose.

Academic freedom implies there are no taboo subjects, no off-limits topics.

The fuss made about this obscure piece of work fits rather awkwardly with the position taken by New Zealand academic libraries.

Official statements read, "No library materials should be excluded ... because of the ... views of their authors [and] no library materials should be censored, restricted or removed from libraries because of partisan or doctrinal disapproval or pressure."

Senior academics in New Zealand universities are often sensitive to public opinion and political moods. They may actively discourage graduate students from investigating certain topics.

There are other topics that although encouraged or permitted, are sometimes subject to constraints on arguments that may be employed, evidence that may be weighed and conclusions reached. This is especially the case in areas that touch on contemporary political or ethical concerns.

Many people do not regard these strictures as problematic but rather praise them as virtuous. The Jewish Holocaust is one of those delicate topics about which certain beliefs have become so fashionable as to be unassailable regardless of intellectual considerations.

The Hayward affair elicited the pronouncement that at least in this country anyone wanting to question received notions about the Holocaust is controlled by accepted truth standards. The danger in this thinking lies in the ambiguity of the term "truth standards".

What did Hayward say?

The major issue appears to be the belief that Hayward rejected well-established facts about the Holocaust. His thesis examined the writings of some of those who question the Holocaust industry, which has reached significant political proportions in the past 30 years.

Setting aside the question of whether Hayward's conclusions were really so exceptional, is it not the duty of universities and researchers to challenge conventional understandings?

In his MA thesis, *The Fate of Jews in German Hands: An Historical Enquiry into the Development and Significance of Holocaust Revisionism*, Joel Hayward investigated Holocaust historiography, especially that branch of it regarded as revisionist.

He concluded that some of the revisionist literature was unworthy of sustained scholarly consideration. Other approaches he found to be significant and worthy.

He came to three principal conclusions from the historiography, the weight of historical evidence and his own discernment.

First, that there is no unimpeachable evidence that Adolf Hitler personally ordered the physical extermination of Jews.

Second, that it is impossible to know how many Jews were killed and third, that gas chambers were not used systematically to murder Jews in European concentration camps.

Do these conclusions make Joel Hayward a Holocaust denier?

This allegation that he is can be easily evaluated.

First, no document has come to light to prove that Hitler gave a final solution order.

That Hitler was anti-Semitic is beyond denial. That Hitler wished for Jews to be subjugated is without argument. Hayward makes these points. That Hitler gave an order for Jews to be exterminated cannot be proven.

Second, Hayward agrees that millions of Jews perished during World War II. He regards the figure of six million murdered as symbolic and impossible to prove on the basis of documentary evidence.

The traditional figure of 11 million - Jews and others - killed by the Nazis is essentially the invention of Simon Wiesenthal, the famous hunter of Nazi war criminals. This speculative figure has attained virtual canonical status in Holocaust historiography.

In 1986 Shmuel Krakowski, then archives director of Yad Vashem, the international centre for Holocaust documentation in Jerusalem, told the Jerusalem Post that most of the 20,000 testimonies he had from alleged survivors of the Holocaust were untrustworthy, fraudulent, lacking support or in some way untruthful.

Although this statement is at least as revisionist as anything Hayward wrote, Krakowski is not regarded as a Holocaust denier. Wiesenthal admits that he manufactured figures but appears to have escaped censure; Hayward merely questioned other suggested figures and was denounced for it.

Third, it was once held that concentration camps in Germany were used to gas Jews en masse. That hypothesis has now been abandoned by most historians of World War II without this being condemned as Holocaust denial.

There is stronger evidence for the use of gas chambers in Polish camps. Hayward relied upon certain studies now regarded as highly controversial or discredited to question the extent of the use of Polish gas chambers, and for his scepticism was labelled a Holocaust denier although he unequivocally states that millions of Jews perished under the Nazi regime through various means. He wondered merely what contribution gas chambers made to these results. But some of his detractors claimed that he denied the existence of gas chambers altogether.

That the historic Jewish community has been subjected to discrimination and persecution must be acknowledged, but that does not mean that there might not be new understandings of that experience.

It does not therefore provide that same community or any of its representatives with immunity to investigation.

Nor is it true that what happened to Jews historically is fundamentally different from atrocities perpetrated against native Americans, Africans, Gypsies, the victims of the witch hunts in early modern Europe, those trapped in the Stalinist purges in Russian lands, the fate of Iraqis in the hands of Saddam Hussein, heretics hunted by crusaders, and indigenous peoples around the world throughout human history, in which large numbers of people have been subjected to campaigns of mass extermination.

There is a great difference between anti-Semitism and arriving at research-based conclusions which do not support or conform to values, ideas and interpretations held by Semitic peoples and cultures.

Diversity of interpretation is not the same thing as discrimination. To contest common opinion is not racism. To argue against or disagree with conventional wisdom, regardless of the subject, cannot, ipso facto, be characterised as cultural or religious insensitivity.

Even Jewish communities cannot stand detached from intolerance, violence and destruction against others. The conquests recorded in the Hebrew Bible are one example. To argue that the Holocaust is in some way culturally specific or historically significant in unique ways on a universal level is opinion, not binding, necessarily persuasive, or intellectually obligatory.

To insist that it amounts to intellectual terrorism. A Holocaust of those dimensions is less about history and more about myth.

To say so does not constitute a total betrayal of Jewish history.

The working party found that Hayward was not guilty of racism or anti-Semitism, or of falsifying data. But it criticised the quality of Hayward's work, and dissented from the grade that it was awarded.

Hayward's novice research exercise, however, became widely regarded by academics, university administrators, news media persons and members of the general population as the product of a contemptible scoundrel, a man lacking in probity, unfit to influence impressionable minds, and unworthy of being employed even in non-academic circles and whose writings, even though he has written nothing on the Holocaust since his MA thesis, should be suppressed.

It should be borne in mind that unlike many ambitious young academics, Hayward made no attempt to publish any aspect of his MA thesis. Nor was it the basis of his employment as an academic. Its only role in his career was to qualify him to proceed to the PhD degree, for which he undertook research on an unrelated topic.

Judging from the essays in the New Zealand Jewish Chronicle, the report issued by the working party in December 2000 and the articles appearing in the New Zealand news media, the Hayward affair might seem to be a rather straightforward case of incompetent research and defective supervision.

There are other details which have been less publicised, if at all. While some voices have condemned the lack of balance in the Hayward affair, others have dismissed it all as a hysterical diatribe.

Continuing publicity indicates that important parts of the story are not known.

In December 2000, the working party established by the University of Canterbury to investigate the Hayward thesis released its report.

Totalling 296 pages, including supporting material, this report was received by the administration, adopted by the university council on December 18 and no public contest was offered to its findings.

However, the report was not accepted unanimously. Several senior Canterbury University historians took the view that their institution had been far too apologetic.

Vincent Orange, Hayward's thesis supervisor, contested a great deal in the report, as did Professor John Jensen of Waikato University.

In February 2001, the History Department at Canterbury took the report under consideration and concluded its deliberations by affirming that it supported the broad thrust of the recommendations of the inquiry.

The vote was overwhelmingly in favour of this ambivalent motion but not unanimous. Three members of the department (besides Orange) put forward arguments in opposition to the report and to the nature of the inquiry.

One member of the department insisted on being named in the minutes of the meeting as opposing both the report and the departmental support for it.

Among those who supported the motion were some who admitted having read neither the report nor the thesis. One senior member argued that the department should not be seen as being in opposition to the university.

Vincent Orange, who absented himself from the February meeting, submitted to the department a dossier of 31 documents, titled A Case for the Defence of Dr Joel Hayward. The dossier included submissions from academics who had read Hayward's thesis, documents presenting another side of the matter and related material.

This material had been submitted to the working party but appeared to have had no significant influence on the ultimate report.

The dossier was prepared for three reasons:

* For consideration by the working party.

* That it might be attached to the working party report as an extended appendix (to provide balance).

* That it might be placed in the university library, where scholars or students in the future considering this matter might have access to both sides of the story.

The working party report did not respond to the contents of the dossier. Efforts to have the dossier appended to the report itself were unsuccessful, and the other objectives were not attained.

WHY was this body of material not made more widely available to those actively involved or interested in the Hayward affair?

Vincent Orange or other members of the History Department opposing the submissions of the New Zealand Jewish Council could very well have distributed the dossier on their own. The apparent reason is repeated requests by university officials that no comment be made to the media and that the university administration be responsible for comment on the Hayward affair.

That administration, though aware of the dossier, elected not to publicise it. For this reason, the public has not been able to form a balanced judgment informed by testimony on both sides.

Prof R Evans The Barker committee [working party] relied heavily on a report by Cambridge University Professor Richard J. Evans, who was engaged by the Jewish Council to provide comment on Hayward's thesis.

The Jewish Council originally presented a 14-page submission to the working party which summarised their concerns and specified their wishes about the inquiry.

It submitted that the thesis was dishonest, the award of Hayward's MA should be revoked, and all University of Canterbury endorsement of Hayward's work towards the MA be withdrawn, and by implication that the Hayward thesis be removed from the university library.

Fresh from his very public victory over David Irving in a high-profile London court case in April 2000, wherein Irving was found to have falsified historical evidence, Evans submitted a 71-page report trenchantly condemning the thesis.

Professor Gerald Orchard, one of New Zealand's most highly regarded lawyers, in turn denounced this report to the working party as adversarial, not objective and could not be relied on.

The working party acknowledged that Evans appeared to diminish the objectivity required of an expert witness, submitted unwarranted allegations, and was highly antagonistic.

The committee professed to have made every effort to discount Professor Evans' tendency to intemperate expression but accepted the report as authoritative and seems not to have been influenced markedly by the sustained responses to Evans' report in the dossier for the defence.

But faced with the profound disagreement on the merits of Hayward's thesis between its official examiners (Orange and Jensen) and Evans, the working party had received legal counsel that preference for one perspective over the other **was a question for appropriate expert historians**.

No appropriate expert historians were approached. Why, on such a critical point supported by legal advice, did the working party not take this step?

Vincent Orange and Joel Hayward made a **strategic error** in not also contracting an expert on Holocaust historiography to review the thesis and submit a report. This apparently did not occur to them at the time and the faux pas proved costly and monumental in its eventual implications.

THE willingness of the working party to accept a partisan opinion commissioned by an interested caucus is curious and places the inquiry itself in a troubling light.

Notwithstanding the working party's remarks on Evans' language and lack of objectivity, he appeared both to the Jewish Council and the working party as a witness otherwise above reproach.

Evans' report makes no reference to extenuating circumstances, qualifications about the nature of Hayward's preliminary research exercise go unnoted, and Hayward is treated as though the thesis in question was the culminating work of a long career rather than an inaugural effort.

The working party's report satisfied neither of the protagonists. It appears to have been intended to soothe by offering a compromise solution.

It agreed with the Jewish Council and Richard Evans that there were serious flaws in the thesis, but not that it was either dishonest or fraudulent, or that it was unworthy of being awarded a master's degree.

It also disagreed that Hayward's degree should be withdrawn or that the thesis should be removed from library collections.

On the other hand, the report was not the exoneration of the thesis that Hayward and Orange had hoped for, and the university's examination procedures were severely criticised.

Consequently, both parties were embittered; neither could claim victory, and indeed, everyone seemed discredited by the whole affair.

The academics felt betrayed and the Jewish Council felt that its cause had been frustrated.

The official Jewish view was that the outcome of the inquiry was unacceptable. [Council president] David Zwartz told a newspaper: "We must take it further".

However, the University of Canterbury was unprepared to invest further time or financial resources on the Hayward affair, which it considered resolved.

Since the university clearly was not going to revoke Hayward's degree, excoriate him any further, censure the thesis supervisor or keep the matter at the forefront, one might have expected that the affair had run its course.

HAYWARD continued with his duties at Massey University and press releases seemed to indicate that his tenure was secure and the university had no intention of withdrawing support. The affair was closed at last.

But it did not end. There were people whose passions had evidently been aroused by the affair and the extensive publicity it had received, and **these people had recourse to informal and sinister methods of expressing their anger**.

In early 2001, Hayward began to receive even more vitriolic hate mail, along with obscene and disturbing telephone calls. More than a year after the working party's report became public, **Hayward received death threats directed at his children**.

He continued occasionally to issue apologies for any unintended consequences created by his MA work and tried to get on with his life and career.

Feeling ridiculed and harassed, and believing that even among his colleagues at Massey sentiment had turned against him, Hayward suffered an emotional breakdown. He spent more than two years under medical care.

More than that, he became disenchanted with the world of higher education. He no longer believed universities (at least in New Zealand) were places for the free exchange of ideas. He had come to regard the exalted virtue of academic freedom as an illusion sold out to considerations of expediency.

He became convinced that the ideals taught by his professors and lecturers at Canterbury were simply rhetorical.

In brief, he no longer wished to be an academic. **He regarded higher education as irreparably soiled by indifference and moral cowardice.**

In December 2001, in deep depression, Hayward tendered his resignation from Massey University effective in June 2002. Massey appears to have made no effort to assess Hayward's condition or provide support of the kind usually available to distressed employees.

With Hayward out of Massey and his academic career at an end, was the affair now truly over and done with?

Efforts were made to link another Canterbury thesis to Holocaust denial and to Hayward but came to naught. For Hayward, though, there was more to come.

Early last December, he was informed by HarperCollins, a major international publisher, through their Auckland office, that they wished to withdraw from publishing a book of which Hayward was co-editor.

The book, a collection of essays about New Zealand airmen, was fully prepared and ready for printing.

Hayward was shocked at the news and pressed for an explanation.

* HarperCollins was reluctant to explain their eleventh-hour decision.

* Nor is that company alone in shunning Hayward. People fear being seen in a cafeteria with him.

* Others are afraid that emails might be monitored and association with him might have serious consequences for their own careers.

Some former associates suspect their own work has been scoured for traces of heretical thinking about topics on which freedom of thought and independence of expression are unwelcome.

Shortly after the HarperCollins shock, Hayward was hired by dairy company Fonterra as communications co-ordinator with responsibilities for writing internal communications, information and training documents. But the company decided, on the day he began, to terminate the position.

Why won't the Hayward affair come to an end? **Apologies have availed nothing. Resignation has been for naught. Passivity has been unproductive.**

Do the alleged (but contested) deficiencies of the thesis justify the chain of events, from the unauthorised copying of a thesis, to a highly publicised but not public inquiry, to nationwide ridicule and humiliation, personal threats, isolation and termination of a career?

What good was it thought was being served? Relatively early in the story, some senior academics wanted to know why the issue was pursued, and called for an inquiry into the motives for such activities.

On the most recent publicity, one opinion was blunt: There seems to be a determination both to break Joel's career and **to silence inquiry into the facts of the Holocaust**.

On the latter, the implications are precipitous. Dogmatic emphasis on the Holocaust only reinforces and legitimises closed-mindedness, unrealistic foreign policies and barbaric behaviour.

What specifically constitutes denial of the Holocaust? Is it as simple as questioning whether fewer than 6 million Jews died? Questioning testimonies of survivors? Alleging that countries other than Germany committed war crimes? Denying that Jewish suffering during World War II was somehow unique?

Is it anti-Semitic to try to remove the element of sacred myth from 1940s Jewish history? Is it really so intolerable to deny that the Holocaust transcends history; that it is the ultimate event or the ultimate mystery?

Is it truly obligatory to acquiesce in the view that any survivor has more to say than all the historians combined about what happened?

Thomas A. Fudge

The shackles of a new orthodoxy suggest universities cannot allow certain assumptions to bear the weight of inquiry. There is nothing redemptive about the Holocaust and arguably less redemptive value in the pursuit of Joel Hayward along a journey from Holocaust historian to the fate of personal holocaust.

[Our emphasis]

<<http://www.fpp.co.uk/BoD/origins/Hayward/NZHerald220703c.html>>

<<http://www.fpp.co.uk/BoD/origins/Hayward/NZHerald220703d.html>>