

Tuesday, 18th April 2000

SUMMING - UP

JUDGE MELLOR: Members of the jury, it is now my task to sum this case up to you. Our jobs are quite distinct. Mine has two parts. First, it is for me to tell you what the law is insofar as it is relevant to your purposes and that you take from me. If I get it wrong in any way that is adverse to any of these defendants there are higher courts to put it right. The second part of my job, members of the jury, is to remind you of some of the evidence in the hope of helping you with your job, your job being to decide the facts, so that when you have decided them you can apply those facts to the law as I shall have set it out and return your verdicts.

There is no escaping the fact, members of the jury, that you have been balloted to try a case of more than usual significance. No doubt your decision will be widely publicised. As I said at the very outset, and I suspect shall repeat a number of times before I complete this summing-up, you are not here to decide who is right in the great debate about genetically modified organisms although one suspects that whatever decision you reach, some will, through ignorance imagine you have decided just that issue and it may be, in an age of spin doctors, that others will pretend to think that you have decided that issue.

Your duty as jurors is quite different. It is to come to an honest view as to the facts. Members of the jury, it could be, according to what your view as a jury as to those facts becomes, that it would become the duty of a juror who thinks that GM products are safe and likely to be of benefit to this country and to the wider world, to return verdicts of not guilty. By the same token, members of the jury, according to your honest view as to the facts, it could become the duty of a juror who supports each and every aim of Greenpeace and what they seek to achieve to return verdicts of guilty.

Your verdict will be significant and may have influence in other directions too, members of the jury. Perhaps I can deal with that in a shorthand way by saying you will be conscious of how a decision in another part of the country by the Crown Prosecution Service not to proceed with a case against two GM protestors has influenced the thinking or appears to have influenced the thinking of some of the defendants in this case.

Again, members of the jury, as to your duty one comes back to the same point; you reach an honest decision on the facts and apply the facts to the law and return true verdicts and the consequences, whatever they may be, are for others.

So far as the facts are concerned, members of the jury, they are entirely for you. This is trial by jury. There would be no point in the 12 of you, having sat throughout the evidence in this case, if anyone other than you 12 were to make those vital decisions. You decide who you believe, what you believe, what you make of the evidence, how it fits together, how it

fits with the admissions. What happened on 26th July, 1999? Although that may be an easy one because there is very little argument about that. And why what happened, happened.

You will remember, members of the jury, that it is for the prosecution to prove the guilt of each and any defendant. No defendant has to prove his or her innocence. The prosecution will have proved guilt if and when, only if and when you, on the evidence that you have heard, are sure that that particular defendant is guilty on whichever count you are considering at that stage.

Members of the jury, there are two counts in the indictment. You will consider each count separately and because you come to a conclusion one way on one count doesn't mean, in any sense that it would necessarily be right to come to the same conclusion on the other count.

That, members of the jury, is a matter for you according to what you make of the evidence.

There are 28 defendants for you to consider. This is not a case in which any defendant has stood up, as is sometimes the case, and tried to shuffle the blame somewhere else or draw distinctions between themselves.

Members of the jury, in an sense they are perhaps proud to stand together but it is still for you, as the jurors, to look at the evidence and decide what you make of it and whether in fact, count by count, the appropriate verdict, whichever way it goes, is the same in relation to all 28, or whether, having considered the evidence and reached your own conclusions about it, you find it right to reach different conclusions about some of the 28. It goes back, members of the jury, it is all matter for you, because you decide the facts. Telling you the prosecution have to prove guilt and make you sure about it begs the question, what do they have to make you sure of? The first count alleges damaging property and I shall leave out 28 names when I turn to the words. On the 26th day of July, 1999, without lawful excuse damaged a quantity of maize belonging to AgrEvo UK Limited intending to destroy or damage such property. I will not read the rest of it. It doesn't really arise.

Members of the jury, if I were to leave out the words, without lawful excuse it is, is it not, a totally accurate description of what the defendants did and say that they did. They damaged that property. On this count the case boils down to a single issue; have the Crown proved that they did not have a lawful excuse? The only possible lawful excuse is that provided by the Criminal Damage Act 1971. It has been called the statutory defence and I shall call it that afterwards.

It certainly was not drafted with Greenpeace or genetically modified organisms in anyone's mind; but it is a general defence and if it applies it applies.

I say it wasn't drafted with them in mind because one thing I think one can be confident of is that none of these defendants would have chosen, when defining property for the purposes of the Act, as parliament did, specifically to exclude wild creatures from insects to elephants and anything growing wild from fungi to oak trees. But those are excluded by the Act from its ambit or consideration.

But, members of the jury, the act provides a defence in certain circumstances. I will not turn it into a law lecture or read sections 5.2 and 5.3, but there is a defence in certain circumstances where property is damaged in order to protect other property. Members of the jury, as I said, I am going to avoid a law lecture and in the context of this case hopefully make your task somewhat easier by posing a number of questions which you will need to answer in the process of reaching your verdicts and I think those have been copied and will be available to you.

Members of the jury, dealing with this count, count 1 on the indictment, criminal damage, the first question for you to answer is the easy one, no prizes because nobody is arguing about the answer. Are you sure that X, that is whichever defendant you are considering a verdict in relation to, took part in damaging a maize crop belong to AgrEvo. The second question, was it or may it have been X's purpose to protect relevant property? And it may be, members of the jury, that this will be the most crucial question when you come to consider whether the defendants' conduct, either as a body or individual, fell within the statutory defence. Members of the jury, you will see I have put a little asterisk after relevant and a little below in small type so as it could all stay on one side of A4. Relevant property means maize crops liable to cross-pollinate the pollen from the trial crop and any other property susceptible to direct damage by that pollen, but does not include anything growing wild on any land or any wild creature. I have just dealt with the latter part of it.

When considering this second question, you bear in mind, as I have said, that you are not considering any potential effect on wild life, animal and vegetable. You are also not considering, members of the jury, the long-term effects or secondary or knock on effects, define them how you may, of an escape of pollen because those things fall outside the scope of immediate protection, a need for immediate protection as envisaged by the act. To fall within the statutory defence the purpose must have been to protect property from the pollen that would or might escape if the maize flowered.

Obviously, other crops of maize, within the range of that pollen, and of course there is a debate about that range, would be liable to be directly affected by it. It is the defendants' honest belief as to the range of risk that you have to consider.

Members of the jury, you also have to consider, insofar as you find it to have been in any particular defendant's mind, other property which that defendant believed to be at risk from what you might call a first strike by the pollen, direct damage by the pollen. An example was given, we will

come back to it later, of the pollen trap designed for health food purposes into which a contaminated bee might fly thereby contaminating the pollen trap. Another item of property that might be said to be within the scope of requiring immediate protection would be the soil on the trial crop field itself upon which of course the pollen would fall. That would fall as property for you to consider in the case of any defendant who had in mind that particular form of damage and honestly believed that the result of that would be that the value of the soil in the field itself would be diminished, because that would be a form of damage. Members of the jury, purpose, to protect that limited category of property which is within what I may call the first strike range of pollen and liable to be damaged by the pollen itself. Of course, members of the jury, life is not simple. Sometimes there are occasions when someone may act with more than one purpose in mind.

Two purposes, a dual purpose; you can have, I suppose, any number of purposes. On the other hand, members of the jury, someone may act with a purpose in mind and with something else seen as a side effect, a desirable side effect or an undesirable side effect, something extra or over and above the purpose.

How, members of the jury, do you distinguish between what may have been a defendant's purpose and what may have been such a side effect. Members of the jury, if a defendant would have done what he or she did for a particular purpose alone, that is a purpose, whether it is a single purpose or one of a number of purposes. But if a defendant would not have done what he or she did for that reason alone, then however desirable the defendant may have thought what would be done by it, that side effect, then it cannot be a purpose. And a defendant's purpose, members of the jury, can only be a purpose that defendant has in their mind. You obviously can't have a purpose you don't know about for doing something or you haven't got in mind.

Thus, members of the jury, if it is or may be the case that any particular defendant took part in the Lyng operation with a view to protecting particular property which he or she knew or believed to be within range of the pollen, not just property that they thought might be around, and took part in the operation to prevent direct damage by the pollen from the field to that property, and had that in mind as a sufficient reason by itself for doing what he or she did, even if only as one of a number of reasons, each regarded as sufficient, then you will proceed to consider questions three and four on this count.

If, on the other hand, you are sure that that is not so, for instance because that defendant never went beyond seeing the Lyng operation as an attempt to prevent the spread of pollen into the wider environment, or as just a step in the general Greenpeace campaign to prevent the escape from the trial fields, then your answer to the second question will be no and your verdict would be one of guilty.

The third question, members of the jury, is may have honestly believed when taking part in damaging maize that the relevant property was in immediate need of protection? Members of the jury, since the relevant property is that, as I have already defined it, which the defendant believed to be at risk from the pollen, that question really answers itself. If you get to question three, members of the jury, it is difficult to see what other answer there can be than yes. You wouldn't get to question three if you thought one of these defendants was a secret believer in the SCIMAC boundaries and thought that 50 metres or 200 metres or whatever were enough to protect the plants.

Finally. On this count, members of the jury, the fourth question would be, if you get that far, may X have honestly believed that in all the circumstances the operations in which he or she was taking part were a reasonable means of protecting the relevant property.

Members of the jury, if you get as far as this question you will already have decided in relation to the second question that that defendant had in mind or may have had in mind -- because the defendant does not have to prove anything, it is the Crown who has to prove the case -- the protection of specific property which that defendant knew or believed to be at risk from the direct affect of the pollen from the trial crop. You will have decided that and if you have already decided that, members of the jury, then, to put it in fairly homely language, the issue that is raised by question 4 is whether that defendant realised that what was done to achieve that small end was not reasonable, was over the top for that small end, however desirable it might be for the wider purposes of preventing escape of these things into the environment and so on, or however desirable it might be for the overall campaign.

In looking at that question, members of the jury, you look at all the circumstances and the Crown would say the importance of these other concerns about the wider environment are what lead that particular defendant to go over the top to this small end; and the defence would say, Well the importance of preventing these escapes is what led us to go as far as we did for that small end. Perhaps I should relatively small end.

Members of the jury, those four questions work out in this way, since there is no dispute that the answer to question 1 is yes, if you answer no to any of the questions 2, 3 and 4, then the statutory defence does not apply and your verdict will be one of guilty. If your answers to questions 2, 3 and 4 are yes, then your verdict will be one of not guilty.

I move now to the second count in the indictment.

Again it can be boiled down to four questions. This is the allegation against all 28 that they stole a quantity of maize belonging to AgrEvo UK Ltd. The first question is are you sure that X was a party to an enterprise that involved bagging and loading maize belonging to AgrEvo? As with the first question on the last one, that is the easy one, members of the jury. Each and every defendant has said just that. And enterprise just means

being in on it together, working together to achieve that end. The second question, members of the jury, is are you sure that X intended that the maize should be disposed of regardless of AgrEvo's rights. That, members of the jury, is a matter for you to consider. It is not, however, a question where motives, good or bad, come into it and it may be one that is very easy to answer. Put aside good motives and imagine somebody bagging up a crop to dump it at the owner's doorstep destroyed as a growing crop because they wanted to drive them out of business or sell their own product for more money or whatever. Very obviously, dealing with it, you may feel, regardless of the other's rights.

Members of the jury, that takes one to question 3 which is the ultimate jury question and one that appears in many cases because that question is, are you sure that by the ordinary standards of reasonable and honest people what X did was dishonest? You, members of the jury, are here as members of the public as reasonable and honest people, and you, members of the jury, set the standards. Dishonesty is a normal English word. Looking at what these defendants did for the reasons they did it, whatever your verdict on criminal damage, is their conduct something that you would describe as dishonest? If it is not, that's an end of this count. If it is then you would have to go on to have to consider the fourth question which is, are you sure that X, whoever it was, must have realised that her or his conduct would be viewed as dishonest by ordinary reasonable and honest people.

Members of the jury, the Crown have to make you are sure of two things. First of all, they have to make you sure that what they did is what you would call dishonest. Then if they do that they have to go on and make you sure that the particular defendant you have considered would have realised that is what you would have said about it and you would have called it dishonest.

So far as the second count on the indictment is concerned, members of the jury, if your answer to all questions is yes you will find the defendant you are considering guilty. If your answer to any question is no, your verdict will be one of not guilty.

Now members of the jury, we have heard something about the character of these defendants. Essentially, members of the jury, if one disregards, as I'm sure you will, the disappearance of a beer glass and a cabbage over 30 years ago they fall into two categories; people who have no convictions whatsoever, and people whose only convictions arise out of their action in support of causes in which they believe.

Insofar as the first category is concerned, members of the jury, you will consider it, they are entitled to ask you to consider it two ways, as any other defendants of good character are in any case; first as something you should bear in mind when you consider their evidence and the weight you attach to their evidence when reaching your decisions as to fact. Secondly, members of the jury, their entitlement to ask you, in fact would I have committed the offence alleged bearing the character that I do? So

far as the second count is concerned, members of the jury, it has been pointed out to you, and rightly, that they did not have to tell you that they had any convictions at all although I suppose, being realistic about it, if I had read out a list of those with none and then been deathly silent about the others you might have guessed something far worse than what the reality is.

But they, too, members of the jury, you may feel, are entitled to ask you, bearing in mind that and their pleas of guilty and so on, to give full weight to the evidence that they gave as you consider this case, as you will in relation to the other defendants. Certainly, members of the jury, the convictions on other occasions do not in any way show guilt of either of these offences on this particular occasion. That is a matter that you will decide on all the evidence.

Members of the jury, after the defendants were arrested all of them were interviewed, some chose to make short, prepared statements either, well in those interviews. All of them refused or made no comment to any questions. None of them were prepared to answer any questions. Many of those who chose not to make a short, prepared statement in interview, made one in response to the charge; and I shall remind you of those.

There are circumstances where it is appropriate for juries to sit back and say to themselves, Now why didn't they answer questions? Does that tell us something about them, does that entitle us to draw an inference about their conduct, an inference against them? Members of the jury, in the context of this case the advice you have heard about and how it happened, you may feel that what you have to do is to consider what they said and what meaning you attach to it in the context of the whole case and that there is no adverse inference to be drawn from the fact that they chose not to answer questions, nothing that is going to help you make a decision in this case.

Members of the jury, subject to one or two specific matters of law, that brings me to the second part of my summing-up which is to seek to remind you of some of the evidence, as I say, hopefully in an order and a fashion that will help with your task. But do remember this.

You decide the case. I shall deliberately leave out reference to most of the evidence that you have heard. I would go on for an intolerable time if I were simply to take up my notebooks and chunter through insofar as my bad handwriting and note taking allows me to do, that which the witnesses have all had to say.

However, just because I leave something out does not mean it is not important. If, when you retire and you are considering your verdicts, you find, yes, now that is a point in the evidence that comes to one of you that you think helps you with your decision then the fact I left it out is neither here nor there. You pay a full weight to it. Indeed, members of the jury, quite apart from the things I'm deliberately leaving out, I shall no doubt, by the end of this summing-up have left out things which at one

time or another I thought I was going to remind you of, for a variety reasons, not least sometimes I look down at my handwriting and it is so bad I can't read it so I slip on to the next one unless it is obviously terribly important.

The same applies to any aspect of the facts I seem to bang on about. If when you are doing your job, which is decide the facts, you find that really that does not help you towards making the decisions you have to make, disregard it. The same applies to comments, members of the jury. Any comments about the facts I may make, the comments made in the speeches on both sides by counsel about the facts; they are there for you, wherever they come from, as a jury to consider. If, having considered them, you agree with them and they help, well and good, use them. If having considered them you do not find they help, it is not just your privilege to disregard them, it is your duty to disregard them because this is trial by jury and you are that jury.

Members of the jury, what I intend to do now is, first of all, from the evidence we have heard, to put together some of the background then to go onto the events leading up to the visit to Walnut Tree Farm on 26th July, through what happened on 26th July and then on to some reminder of what the individual defendants had to say. We have had them in a number of orders. You have a plan. They start with Peter Lord Melchett and then run through to 28. We had pick and mix as they came to give their evidence but all gave evidence and in fact it strikes me as probably convenient, members of the jury, I'm going to start at the wrong end and start at number 28 and work back to number 1 as I remind of the evidence.

Then at the very end I shall shortly seek to draw matters together.

So, to the background, members of the jury. As I say, this I intend to sketch in from the evidence that we have heard but without saying X said this Y said that, I'm pulling little bits of the evidence together. So far as I deal with the technical part of the background as it has appeared, members of the jury, it is a task I approach with some trepidation because I'm conscious of the fact that there are in this courtroom a large number of people, not least these defendants, who are far more deeply informed on these matters than I am, and it may be that at some point I shall betray that I have misunderstood some part of the technicalities we have heard talked about. But I'm pretty confident that if I have done, it is not likely to be in any way that is remotely important in the context of the issues that you have to decide. I have no doubt whatsoever that if I do stumble into an error that is important in that context I will have it drawn to my attention before you finally retire to consider your verdicts.

Genetic engineering has been around for some considerable time. Peter Melchett told you that his worries dated back 10, 15 years following a meeting with an American scientist. At the core of this case is a variety of maize called T 25. That is a variety of maize that has foreign genes



inserted into it so as to make it tolerant to a herbicide with the trade name Liberty.

Presumably the idea, members of the jury, is that once such a crop is planted genetically modified, it is easy to spray with Liberty which clears the weeds and from the farmer's point of view he gets a higher yield for a lesser effort; and from the suppliers point of view, they get a sale of the seed.

It would appear, members of the jury, that the process of genetic modification involves what has been called a transformation event. Those seeking to achieve a transformation know which gene they want to introduce into the existing plant but they do not know where, in the DNA sequence of that plant, they want to get it so that it will be effective. So it is perhaps a case of insert and see or described also as a shotgun approach.

And once it is inserted, if what comes up when it is planted has the qualities that were hoped for when the transformation event took place then it is a hit. If what comes up does not have those qualities then it is a miss, and presumably goes off to the laboratory bin or whatever.

One thing we have not learned, members of the jury, is whether this being T 25, T 1 to 24 were hits or whether they were misses. One knows not and perhaps it matters not.

Once a new variety with the desired qualities has been created in this way in the laboratory, then we come to the spectrum of schools of thought as to what should happen. At one end there are those who subscribe to the theory of substantial equivalence. As I understand it, members of the jury, it boils down to: it looks like maize, it feels like maize, it tastes like maize, it is maize and let us go ahead.

From that end one moves through all shades of opinion, members of the jury, ultimately to those who say that these things should never have been created in the first place, which may be a category into which some defendants fall, and to those who stop short of that, and certainly some defendants do, but say that the risks from these creations are such that they should not be let loose in the environment at least until the most stringent tests and so on have been carried out to make it as sure as it can be that there will be no environmental harm coming from them. That has been described as the precautionary principle. If in doubt don't, if I may summarise that principle, members of the jury.

Central to the concerns of those who don't subscribe to the substantial equivalence principle is that what has been produced is a living thing that can replicate itself. That leads to the proposition that that being so, once it is loose in the environment it can never be called back again because it is out and it can breed with other like plants and so on. If you are of that school, members of the jury, and you want to choose a word to describe

it, or two words, you call it living pollution as many of the defendants have.

Indeed, members of the jury, one thing you will have observed from both sides as you watched this case is one can describe exactly the same thing with loaded words that show what you think of it, which way you are thinking about it, but used to describe what is in fact the same thing.

Members of the jury, there is a concern too in that alterations effected by a transformation event are invisible and they may take a substantial time to reveal themselves; or indeed, as I understood some of the evidence, may not even be there until the new creation is out in the environment and then it teams up with something else that is already there and in the ordinary process of natural change something new is created and part of that new thing, not having been itself moderated by being in the environment over aeons of time as applies to that which is not an artificial creation. The fear expressed is that the results could be catastrophic. One says could, members of the jury, because Peter Melchett himself says that the chances -- I presume he spoke in relation to only one modification -- are very low. He said one in a million or one in a hundred thousand. But then, those who have these concerns point out and refer to them as we are all aware accidents of very low probability do sometimes take place and in so far as GMOs are concerned it would seem that there was at least a body of opinion to the effect this North America Monarch butterflies, I think they run from Mexico to Canada, may have been adversely affected because GMOs have been released into the environment.

Of course American butterflies are wild life and nothing to do, in one sense, with this case; but that evidence is put forward to show the genuineness of the worries felt by the defendants and an instance of why they take the view that the precautionary principle is that which should be followed.

Members of the jury, in a way these things, risks are always a matter of probability and seriousness. If there is a risk of suffering a small bruise one probably will not take much in the way of precautions. If there is a risk of death, although it is a lot lower risk, one might nonetheless take more precautions.

Having set at that background may I unnecessarily remind you yet again that we are not here to decide who is right in the debate but the defendants' views and feelings are an inevitable part of the background to what their purposes may have been on the occasion that you are considering. Of course, members of the jury, a defendant would be just as guilty or just as not guilty whether he or she was right or wrong because we are actually dealing here with beliefs; and indeed being right is totally irrelevant to what you have to consider, or being wrong. This is a defence which deals with honest beliefs and it is a defence that is available for those who are totally right and, if it is an honest belief, it is available for a crank or somebody who is totally wrong. As I say, one is just not looking at the underlying issues.

Just as, members of the jury, matters like what the public think is not essentially relevant. The defendants would be just as guilty or just as not guilty if the public ruled for them or if the public ruled against them. And indeed public opinion is something that is liable to change. Perhaps no one would be more conscious of that than a campaigning body which starts with a small minority and hopes to convert it into an overwhelming majority. That's what campaigning is about.

Members of the jury, as I say, what matters is what is believed. There can be cases, members of the jury, where someone claims to believe something and it is appropriate to take up time considering who is right and who is wrong, but in the context of this case that could only be justified, members of the jury, if it could be said that what the defendants claim to believe is so obviously ill-founded that they cannot really believe it, and nobody suggests that. That being so, members of the jury, you have been spared umpteen scientists to say they are right, umpteen scientists to say the other side is right and no doubt in the interests of balance umpteen scientists from the middle to say that neither of them are right. But you have been spared that.

GM crops, members of the jury, we have also heard, have been widely planted in the United States, including within those millions of acres of T 25 maize with which we are concerned. Perhaps to that extent, the gene or the cat may be already out of the bag. The United States, it would appear from the evidence, started to export to Europe, including this country, substantial quantities of genetically modified agricultural products, particularly soya and maize. And, as I understand the evidence, when they first came into this country there was no method whereby people could tell whether what they were getting in processed foods, which is where most of soya or maize would have gone, was or was not in any way genetically modified.

There has been reference from the defendants to the initial concern of some of them being as to choice and the consumer was entitled to know whether there was some in it or not, so as the consumer could decide whether they would wish to have it or not.

Another central element to the background, members of the jury, is Greenpeace itself, a substantial world wide, environmental campaigning organisation, indeed so substantial that it is, I suspect, unlikely that any of you had not heard of it before you came to be on this jury. Peter Melchett is the executive director in this country and a figure of substance in the wider global movement.

Greenpeace, members of the jury, when it campaigns about environmental issues, adopts, it would seem all means of campaigning, lobbying, publicity, networking, events, leafleting all the way through to direct action and direct action may or may not be lawful according to what it is and what the circumstances are.

It seemed, from the evidence, members of the jury, that when direct action is in prospect Greenpeace calls upon the services of volunteers who are part of or who are organised by their active service unit and every defendant, whether a full time employee of Greenpeace or otherwise, is such a volunteer, trained in non-violence, proud of what they do, trusting other members of the unit and ready to support the operations of Greenpeace, which seem to be set up by those who coordinate or plan them on a need to know basis until the final decision is made that the operation should go ahead.

Perhaps a comparison which may cause unintended offence to both sides is to say that in some ways the ethos and approach of the active service unit would seem to be like that of an elite military unit. But as I say, neither side may want that particular comparison, one suspects.

Greenpeace early saw GMOs as an important environmental issue and has ever since campaigned against them. Members of the jury, you have heard from different defendants about various aspects of this campaigning. It seems 1996 was a particularly crucial year for many of them. You heard about the choice, the stickers on Flora, the Bean Feast campaign, supermarket tours and so on; and more recently the True Food Campaign. You have a leaflet about that. It deals with concerns about GMOs.

It goes further, members of the jury, into a wider debate that does not arise in this case, which is the organic, inorganic debate.

Certainly their campaign in relation to GMOs had a measure of success. You heard from Malcolm Walker, the chief executive of Iceland who gave evidence to you. He became aware of the issue in 1997 and some time later he was promoting for Iceland's own brand products that would be GM free and that seems to have been a successful initiative, however brave it was when it started because the evidence is that the other chains have followed suit; and indeed so far as choice is concerned, I think it may even have been in the course of this case, the European Union have issued a directive as to labelling to show whether or not there are GM ingredients in food that is for sale.

As I say, members of the jury, planted first in the United States, T 25 came to Europe. There is evidence from Judith Jordan of AgrEvo UK that was it was given a Part C licence in the early 90s. That is to say, the go ahead was given for it to be marketed commercially.

But despite the issue of that Part C licence, it would appear that T 25 maize has not been commercially marketed, certainly in this country, and had not been by the Spring of 1999.

I don't think it is specifically in evidence, members of the jury, but it may be a reasonable inference that the expression in a variety of ways by Greenpeace and others of their concern had led the authorities to feel it right or politic or both to show caution, and by the spring of 1999 a

voluntary agreement, accepted by AgrEvo was in place whereby instead of AgrEvo using its Part C licence it would plant farm scale trial crops for assessment by independent scientists and AgrEvo also agreed that those crops would not enter the food chain.

In fact, the beliefs of AgrEvo as expressed by Judith Jordan are quite simply that there is no difference between herbicide tolerant maize such as T 25 and organic maize and that it is perfectly safe. That is, of course, not a belief shared by these defendants. One side issue, since I'm mentioning Judith Jordan, perhaps I should deal with although it is a background matter, is that she gave evidence to the effect that the Lyng crop was of value to the experimental trials and would be a source of data. We have had other evidence, members of the jury, including that of Dr Avery for the Royal Society for the Protection of Birds that would indicate that the scientific committee that was set up to oversee the trials had not actually got round to meeting until after the crops were planted and that in October 1999 that committee decided, perhaps for that reason and because the methodology had not been worked out by the time of planting, that the crops would not be of value for those purposes.

One doesn't know, members of the jury, whether the late meeting is the result of a conspiracy or the other thing that causes, but it may be quite simply, members of the jury, that Judith Jordan, going to the scene on 26th of July, was not aware of what the committee would be saying in October about the value of the experiments and the data.

It would appear, members of the jury, that the experiments were aimed at considering the impact on biodiversity of the T 25 maize. Peter Melchett regards them as misconceived not merely for lack of methodology and so on but in any event because they will compare the impact of T 25 maize with ordinary inorganic crops, that is to say ones that have been sprayed and treated with chemicals or artificial fertilisers, and not against organic crops which are not so treated and which, he would say, would be better than either. But I mean, members of the jury, that really is another battle that does not arise.

Organic crops, on the evidence, are one to two percent at the moment but exploding, was I think Mr Walker's word for them, and no doubt one could have a long debate as to whether it was more legitimate to compare with them or to have a comparison with what currently is the other 98 percent of how crops are in fact grown in this country.

Members of the jury, in the spring of 1999 the T 25 maize was planted at Lyng and planted out at other sites too. AgrEvo followed the SCIMAC rules as to separation, that's the 50 meters for forage, 200 meters for other maize crop separation at barriers. The defendants regard those barriers as totally inadequate for the reasons they have given and in so far as they have adopted a radius adopt the radius of six miles which seems to be that the Soil Association, as the certifying body for organic farms, regards as appropriate.

Greenpeace and those of a like mind had the strongest of objections to these open air trials and Greenpeace and others sought to do all they could initially, short of direct action, to prevent them from taking place or continuing. As I say, members of the jury, defendant after defendant has told you of the varying different ways in which before the Lyng operation they took part in activities designed to further the aims of Greenpeace with regard to GMOs.

Meanwhile, members of the jury, Karly Graham and her friend Jo Page who lived not far from Walnut Tree Farm, had heard of the trials and we have had it in evidence they worked together to set up a meeting. Peter Melchett was recruited through Michael Uwins to be one of the two to speak for the anti GM point of view. A former MEP was roped in to chair the meeting and Mr D'Souza from AgrEvo and a scientist from the John Innes Institute were called in to speak for the pro GM side at what apparently was a packed meeting and, on what we have heard, ended with some substantial concern being shown by the Lyng locals about the trials.

By this time, members of the jury, it is quite clear that Greenpeace, and in particular Peter Melchett, were getting concerned about how far they had got with their campaign and he told you that having met the Prime Minister he had come away with the strong feeling that he was, and I quote, very determined to make sure the technology went ahead; and he said that his experience of Tony Blair was that the government was not going to slow down the introduction of these crops into the environment.

It would seem, members of the jury, that about two days after that meeting another defendant, Timothy Copley, the manager of the active supporters unit, was looking for recruits and Mark Dombowsky had been made action coordinator. Some days after that, on 15th July, and you have the letter, Peter Melchett wrote to William Brigham, calling on him in effect to pull the trials. The latter when he gave evidence said that he would have replied but he was busy and had not got round to it by the time one came to 26th July.

The 16th or 17th July, another defendant Timothy Hewke, assistant to special events organiser of Greenpeace, was asked to drive the lorry that, it was envisaged, would be used for the action.

Spencer Cooke, another defendant and a Greenpeace researcher, was sent off to investigate and he prepared, amongst other things, a map of the Lyng vicinity. We do not have a copy of the final map, members of the jury, as he prepared it but we do have a copy application and you will have it with you when you retire. It shows a number of nature sites and the like which obviously fall outside the contemplation of the statutory defence we are considering, and on the copy that you have, shows an organic farm to be within five and a half miles or so of the trial site. But as to that Spencer Cooke said that the map, he believes, in its original form had another sticker on it showing another organic farm within the six mile

radius which must have fallen off by the time the photocopy which you all have was made.

It was Spencer Cooke, members of the jury, who rang around and obtained the cutter shown in the photographs, designed, he said, to be capable, when towed by a Unimog of cutting down the whole trial crop within one hour. Meantime another defendant Iain McSeveny who was to drive the lorry but who worked in logistics or accounts section of Greenpeace, had provided £6,000 for the tractor unit, the Unimog. We know from an admission, members of the jury, we move on through the dates on 20th July, Rachel Murray, another Greenpeace employee, had hired the minibus that she was to drive to the scene.

On 21st July Timothy Hewke travelled up to Norwich to make a reconnaissance for points at which the vehicles could rendezvous near to the Lyng site and also of the route from Lyng to East Winch where the offices and research establishment of AgrEvo are to be found. He noted car parks, some hard standing and the office steps and so on and someone, members of the jury, arranged for the delivery to his home, no doubt because he was to be one of the lorry drivers, of five to six bundles containing, and his guess was 50 to 100 bags each, for the crop to be bagged up for delivery ultimately to AgrEvo. So one has on that something between 250 and 600 bags.

Members of the jury, I do not know about you but I am getting tired of my voice. We will have a quarter of an hour.

(Short adjournment).

JUDGE MELLOR: Members of the jury, I think we had got the bags to Timothy Hewke wasn't it. Meantime of course the recruiting had gone ahead, members of the jury. Michael Waldram had been approached to drive the Unimog and some time between the 12th when Tim Copley started recruiting and the 19th it would seem that all the defendants had been contacted, expressed their willingness in principle to go on an action round about the date concerned, and, in effect, they were on standby.

Except for those with specific functions it would appear none of them seem to have known where they were to go or what they were to do and in some cases didn't even know it was about GM until they assembled at the briefing points in South Yorkshire, Islington and Stoke Newington late on the evening of the 25th July, 1999. Perhaps that discretion, members of the jury, makes operational sense from the point of view of those organising it. It is not the case of necessarily worrying about betrayal but somebody says something in the pub to somebody else and somebody else hears it and it is out.

Members of the jury, clearly many of the defendants travelled, in some cases very considerable distances, because of their willingness to take part without knowing precisely what it was they were going to do although knowing they would be entitled to back out if they did not like that which

was put forward, but that working they must have done, on the assumption that it was a Greenpeace direct action and from their experience of Greenpeace they would expect it to be justified and that the alternatives to direct action would have been explored. Of course each and every one of them was, in one way or another, an anti GM campaigner already. So they are on standby, members of the jury. The final decision to go seems to have been reached, on the evidence, when the Farmers Weekly on 23rd July said that the Lyng crop was about to flower. So, members of the jury, early on 26th the defendants, in various groups, set off for Lyng. You have Peter Melchett, Michael Waldram, the action coordinator whom we have not seen and so on, at the farm in Norfolk. Rachel Murray ready to drive the mini bus up from Stoke Newington, those in that bus briefed by Tim Copley and then you have the South Yorkshire contingent briefed by Spencer Cooke and you have the Islington contingent or Highbury and Timothy Hewke and Iain McSeveny with the lorry.

They reach the area shortly before 5 o'clock. First into the field the Unimog cutter and lorry, called in at five. There is some evidence that there had been an injunction on the gate. The evidence is that it was no longer there when any of the defendants you are considering arrived; and indeed one can see how if it had not fallen off somebody whom we have not seen might have thought it very sensible to remove it so as nobody could see it. It would be a fairly logical ploy. But it did not name any of these defendants in any event.

Iain McSeveny cut the chain and padlock on the gate to the highway, substituting a chain and lock that he had brought with him. You have heard differing evidence about that, members of the jury, reference to health and safety and his explanation for it was it was a desire to gain extra minutes which could be vital if they were to succeed in cutting the crop down. The gate having been relocked by him the ground forces, if I can call them that, climbed over the gate, went on to the field and set about cutting, bagging and uprooting the crop. There were a couple of strimmers there, but I don't think we have found who, if it is anyone amongst these defendants, had the strimmers but it doesn't matter. They all admit taking part.

They were obviously seen almost immediately because the farmer William Brigham, the elder brother in the partnership came out. He was balked by the newly locked gate but climbed over it and went to remonstrate.

Whatever the hopes the defendants may have nurtured, and as you heard their evidence there were different degrees of optimism about how far they would be able to go, any hope they had of being left to get on undisturbed was not to be fulfilled because shortly afterwards one of Mr Brigham's brothers arrived with an industrial loader, the gate was taken off its hinges, the lorry moved out of the way and the industrial loader used to bring the cutter to the contingent remained true to their non-violent training but persisted with the operation. The first police arrived at 5.25. The first arrest was made about ten minutes later. Basically the



defendants carried on doing what they were trying to do until they were arrested and Stokely Webster had gone limp and was being carried away at 6.10. By then all the arrests had been made. So it took place over a period of 35 minutes.

Also present at the scene were the reporter from The Guardian, somebody with a camcorder who made the film which has certainly been widely seen since, and there was a stills photographer present and you heard the evidence and the arguments of counsel about the significance of their presence. But effectively it is said on behalf of Greenpeace that the prime purpose wasn't publicity so much as to have an independent record of how they were behaving and what they were doing should any allegations be made against them.

So, members of the jury, we come to the defendants and number 28 is Jacqueline Westwood. She has supported Greenpeace since the 1980s. She is a beauty therapist and a gym teacher. She doesn't agree with GM foods being introduced at all. She told you she's worried about the pollination, horizontal gene transfer and the unpredictability of the science. She was involved in Bean Feast and lobbying and putting stickers on supermarket products. And she said her intention was to carry on on that day until the field was cleared and the crops were to be bagged and returned to AgrEvo. Greenpeace had taken all sorts of measures and this was the last resort to prevent that crop flowering and she was one of those, I will not say it every time the point is made again, well licensed, yes; licensed to grow but not to pollute. And she was one of the many who trusted her fellow Greenpeace workers and the organisation.

She had made, and you have it, members of the jury, a statement to the police in interview hereafter she made no comment but where she had referred to the threat to the environment, wild life, organic farming and public health and so on. Dealing with quite a wide range of concerns.

You also heard, members of the jury, from Stokely Webster Greenpeace foods and agricultural policy researcher until recently. She has a previous conviction for trespass, pleaded and she has an MA in philosophy. She has been long involved with Greenpeace campaigns, Soil Association, involved with three tons of soya beans outside number 10 and a banner from Nelson's column, but that was to do with the rain forest. She said that Greenpeace were making every effort possible to stop genetic pollution in all its forms and to stop the farm scale trials that had been announced in March of 1999.

She was concerned to see that it was an action -- this is the direct action - - intended fully to decontaminate the field. She did not regard it as a publicity stunt. Greenpeace does those but this wasn't one to her mind. She said publicity may have been the side effect but it was not the focus. She was not concerned with lawfulness one way or another but she said this. If ICI had five toxic waste pipes and I could only stop one it would still be appropriate to stop one. But Greenpeace were making every effort it could to stop all the trials, as were the others. We try to stop pollution

wherever we can. She too was trying to stop, doing all she could to stop trials and she dealt with the possibility that, the farmer might try to stop us starting, but she thought that once they got on the field, as long as they did that, he would not intervene and that the living pollution would be safer on AgrEvo's concrete car park than left in the field and she referred, as did a number of defendants, to the return to sender policy of Greenpeace.

She did not make a statement in interview but when she was cautioned she said this. I've said it many times before. I perceived it as an imminent danger from this crop to the environment and wild life and people's livelihood in case it gets in the food chain and it must be destroyed. We then move on to Margaret or Maggie Weaver. She is now a student at Royal Holloway but she has long been involved in these things and apparently was quoted in a newspaper in Berkshire. She said that, We are guinea pigs in the biggest experiment ever carried out. The ultimate aim of the campaign was to stop field trials as a potential threat to the environment. And she said this in almost a Shakespearean way, Some things have changed maybe as a result of what we did at Lyng that day. She was concerned as to the distance to which pollen could travel and three years campaigning had seen, she felt, little change, and her object on that day was to remove a crop which posed a threat to other property and to the wider environment.

She said the feasibility of stopping every trial was difficult to contemplate but Lyng was not a token gesture and on her mind was the removal of the crop to prevent pollution from that crop damaging other crops and again, and the wider environment. She was one of those who was aware of what had happened to, I think they have been called, the Totnes two. When she was cautioned she was one of those who did not make a statement. She said, I feel totally justified in the actions I have taken. Lisa Weatherley has a BSc in psychology. She has been working full time for Greenpeace in supporter services and public information unit since June 93, so she is a long time supporter. She is one of those with a conviction. It was for being part of a roadblock and she has campaigned on GMOs and Sellafield. She was concerned, she told you, about the release of GMOs into the environment. She felt the Greenpeace campaign wasn't working and this crop was due to pollinate and it wasn't something she could do by herself -- that is a point made by a number of defendants -- but she was confident in the action team and it would be effective in stopping the GM pollution. Again, she was in favour of the return to sender policy and she said that they had been pursuing all other means. They had hoped that the government or the company or the farmer would stop the trials but she was concerned about the risk of genetic pollution and saw no other way of stopping it; and she knew Greenpeace would have explored the other avenues and she too had done what she could short of direct action.

Her comment, when cautioned, because she didn't make a statement in interview was perhaps surprise at what is now count two when she said, I did not steal any maize. Michael Waldram, members of the jury, he has no convictions. He has worked for a long time in the forestry industry with

the forestry commission and now as a contractor. He is very active in GM campaigns at supermarkets. He has been involved in the production of a leaflet himself. He was phoned up and asked whether he could drive agricultural machinery, he said he could so he went round to Lord Melchett's the evening before where they talked about deer and bees and so on, relaxed but serious, and he was aware that Lyng was the first crop to flower. At the scene, of course, he drove the Unimog and he said he had been aware of other occasions when decontaminators were allowed to continue, and he also seems to be aware of the dropping of the necessary charges.

He was concerned about GM decay and leaking into the soil and one must be aware of the environment in general. He said he was convinced that the pollen would be released, all avenues had been closed and that direct action was the last option and he would be happy to take direct action against any farm scale trial. He thought of all the possibilities as to intervention. He said that the (inaudible) told him that the farmer had been told -- this came in evidence, Brigham told by AgrEvo not to intervene and indeed we heard that from a number of other witnesses. But he, Michael Waldram thought that he might appear quite quickly and then might or might not intervene.

He told you about the family disapproval of what he had done and some affect on his business. He said they would not have taken the Unimog and the mower just for a publicity stunt.

He was one of those who did make a statement, a copy of which you have with you. He said, amongst other things, he thought that genetically modified crops, I think it is the greatest threat to anything basically at the moment. It tampers with our food chain, threatening wildlife and everything that I believe in. The crop itself is in imminent danger of flowering which will cause irreversible and irrecoverable contamination of other crops in the food chain and in the natural world. Hence he did what he did. Michael Uwins, members of the jury, he was the Oxfam gift coordinator, has organic connections. He had been involved in the supermarket campaign and in the True Food campaign but something which he said impacted heavily on him, and it is something that was referred to by other defendants, is apparently an announcement which he saw in the Eastern Daily Press that the John Innes Institute - which researches for the government, had said that to a degree pollution from pollen was inevitable from the farm trials and he had sought, through his MP, to contact the minister but by the time we are concerned with, had had no response at all. It was he who passed on the question request to Peter Melchett to speak at the Lyng meeting.

He said he wanted to stop pollution, destroy the crop and remove it. I firmly believe that pollution by GM crops is one of the biggest dangers mankind faces. He felt powerless, he was pleased to participate and to have an opportunity to carry out his beliefs. There was a possibility that the farmer would intervene but he thought there was every chance,

starting at 5 am, that they would destroy the crop and the policy was to take the pollution back to source, and that was what was planned.

He did not make a statement but when charged, or at least in transit to the police station he had this to say. The officer said to him, Well you know, you will get a lot of publicity, which indeed they did, and Uwins replied, That's not our intention at all. Our intention was to prevent contamination of the environment. That maize would have flowered within the next week and we had to stop that. We don't believe it's safe and it must be destroyed. We didn't finish it all today but it will be stopped. It has to be. Then after charge he said, Because science now accepts that genetically modified plants can pollute the environment I feel that it is right and just that these crops should be destroyed. Andrew Tate, members of the jury, is an assistant campaigner with Greenpeace, has been full time this year but wasn't last time. He read politics at Warwick University and he has worked in drug rehabilitation and as a researcher apparently for an MP. He was another of those aware of the Totnes decision, had been involved in a number of campaigns, and he had been concerned back in 1996 about choice and the introduction of GM maize and soya into many foodstuffs. I dealt with that part of his evidence when dealing with the background.

When he was first aware of the field trials he at first thought it made sense to have trials but he later came to understand the prejudice to organic agriculture from release into the environment. He was one of those who heard about the tortilla chips been infected by GMOs and he wasn't happy with the SCIMAC cordons and he spoke of the spreading of pollution by the wind, by bees, that might go for one or two or three miles and the pollen being viable for one or two days and the crop continuing to flower over one or two weeks; and he spoke of the Soil Association and the devaluing of land for organic purposes and his understanding as to that.

He also told you, members of the jury, about bee keepers collecting pollen traps for health food and the risk of what they call first strike, not his term, contamination from the bees going straight to that. He did not, as I understand his evidence, indicate that he knew or believed that there was any particular pollen trap within immediate range of the Lyng trial site. He said that the trials were an unnecessary risk, threatening other farmers' livelihoods, particularly organic farmers and he did know of two organic farms within a six mile radius and he knew that one usually grew maize but he did not know in fact whether it was growing any in 1999. Of course, if it had been it could be cross-pollinated with; if there wasn't one there, or wasn't such a crop growing it couldn't be cross-pollinated with.

He thought the crop should be destroyed because it was about to pollinate. It could affect the other crops in the area as well as wildlife and biodiversity. GM should not be tested in the open and he said Greenpeace had tried to stop the living pollution and his intention was trying to protect property in the immediate area, maize crops and the local wild wildlife. Then he dealt with the food chain and labelling and that the cutter showed

that it wasn't a gesture. But he was one of those who expected arrest but he hoped to finish and he was surprised to be charged with theft. He saw the objective as discouraging the company from continuing the technology. It was not a publicity exercise; absolutely not. It was a genuine attempt to remove the crop before it flowered so that it could not contaminate.

When he was charged, he said, I understand that the GM maize crop concerned is due to flower within the next few days. I acted to try and prevent inevitable genetic pollution of the local environment that will result if this crop flowers and to try and minimise the risk of horizontal gene transfer from this genetic crop. I acted because the presence of GM crops such as this one will inevitably and irreversibly contaminate organic and conventional agriculture in this country. He was one of those who was thinking very wide.

You also heard, members of the jury, from Brenda Ramsey. She has been a full time Greenpeace campaigner since 1996. Rain forests are her speciality. She has no previous convictions, twice arrested but then de-arrested. She joined the gene team in early 1999, worked on the True Food campaign and said the overall goal was to persuade the government and chemical companies to halt farm scale trials and in that context she helped organise the Greenwich organic picnic. It was she who referred to the Mori poll on supermarkets no longer stocking GM products. She said she was aware of the farm scale trials, the sense of urgency and it was a pressing issue and they looked at as many options as they could -- this is Greenpeace -- to keep the pressure up. Pressurising the government and chemical companies to take notice and listen. But she believed that time was running out and they needed to make an urgent collective decision as to the next steps. She was one of those who was influenced by the John Innes report and she said it was scary that GM pollution would be in the local environment and the wider environment. The chemical company, knowing that, was deliberately prepared to release effectively the pollen.

She said it was a critical moment. The release would be not just to neighbouring farms but wider, and they intended to enter the field early so there was plenty of time to remove as much as they could, load it on a vehicle and return it to AgrEvo. It was to remove all crops or remove as much of the crop as they possibly could. She said all her campaigning activities from the beginning of the year had been a concerted effort to lobby government and the chemical companies. She saw this as critical. It was the last option and it was the right thing to remove pollution from the local environment and the wider environment.

She was one of those who made a statement referring to her deep concern about the impact of GM crops on our environment, wildlife and farming. Then to the contamination she took the action to protect public health, the environment and the organic farmers because no one else is doing anything about that serious issue.

Emma Protz is the PA to the Greenpeace campaign director. She has a BA in English Literature, no convictions. She became aware of GM first, it would appear, through an Iceland leaflet. She had come to regard it as unnecessary, unsafe for the environment and possibly unsafe for human health. It might encourage use of herbicide and super weeds. She was aware that there was an organic farm near the Lyng trial and believed that it grew maize. Her intention was to clear the field of maize and prevent it from polluting the environment. She was also concerned about movement through the soil and Lyng was a genuine attempt to prevent pollution. She said it is was part and parcel of the campaign to stop all the GM crops. It is a continual process. She thought there was every chance the farmer would try and stop them but there was a realistic possibility they would complete the job. The purpose wasn't just to heighten publicity.

Indeed she had hoped that the Melchett letter would have worked to persuade the farmer to pull the crop himself.

When charged she said, I was concerned about the imminent and real danger of pollution and felt the need to take personal action to try and prevent this. Martin Porter has a BSc in Physics and Astrophysics and a Diploma in Social Work and is a care manager in north Yorkshire. He has campaigned on the GM issue, tours of the supermarkets, working for True Food and so on. He was not impressed with the trial as a scientific trial. He was one of those who was aware the committee had not met before planting and he doesn't accept the substantial equivalence arguments. He said that he was concerned that the farmer might intervene if he had got to know about it, he could stop people getting to the field or call the police. But he was optimistic that they would have cut the crop down by the time the police arrived. There was a range of possibilities.

He was one of those who did make a short statement in interview when said he was there to safely decontaminate the genetically modified crop. He believed damage was well documented that they could cause and he had to act because no other agency would act and had to be now because once the crop flowers the pollution will spread.

Adrian O'Neill has a BSc, studied the countryside and the environment, been a volunteer and an area networker for Greenpeace, various campaigns but including those relating to GM and he said of the operation that the intention was to remove all sources of pollution from the field and the bags were then to be taken to AgrEvo. He took part because he felt he had to and the time had come to have the courage of his convictions. It was possible that the farmer would try to stop them but every chance he wouldn't, and it was he, who was the last witness, who said, Lack of sleep is not a problem when the body is full of adrenaline. It wasn't a token gesture. The purpose of that day was to remove invisible and significant pollution. When he made his statement to the police after arrest, he said GM maize posed an immediate threat to the environment, farming, food and biodiversity as a whole, and he believed his actions were the only choice left to him in order to prevent further damage to the environment.

Genetic engineering in food is uncontrollable and once the genetic pollution begins it will be unstoppable.

Moving on to Rachel Murray. She is an administrative assistant in the action unit and she indeed was the mini bus driver from Stoke Newington. She had been involved in directing some of the planning of the GM campaign since the spring and she spoke of lobbying and the hot air balloon project and the tent over the field project; and she helped Timothy Hewke with his maps. She said of her intentions that she felt that believing the crop was about to flower and produce living pollution the only step left was to remove it and that was a last resort.

She said one is not able to ignore pollen. When cautioned she said, I feel justified in the action that I have taken. Iain McSeveny is a graduate accountant who has worked in the Greenpeace administration since 1989. He is one of those with convictions for criminal damage and obstructing the highway, again in support of causes. He was approached in the course of his work to arrange the finance for the tractor, £6,000. It was Timothy Hewke who asked him to participate and he was one of those at the Islington one which was briefed by Lindsey Keenan whom we have not seen. He set out in the lorry and I have dealt with what he did with the gate and so on.

He said, The first minutes were vital to level the crop. Pollen was a very new, very serious form of pollution, and it was unpredictable and he felt it was likely they would get the crop up and make a first shipment, that's down to AgrEvo, but no more than that. He was of course directly involved with the lorry.

He was worried they would not get it all done. The intention was to complete it all, if they could, that's taking it right back to AgrEvo. But the most important part of the operation was to cut the polluting crop and pollination of the crop was a strong enough reason for doing what he did.

He had nothing to say either in interview or after caution on the day of arrest.

We also heard, members of the jury, from Joanna Melzack. She is someone with no convictions, a teacher who has long been a supporter and more recently a full timer with Greenpeace; worked on virtually all the GM campaigns from the original arrival of the soya, mixed and unidentified in this country. She first became concerned about genetic engineering and the patenting of life in the early 1990s. She believed that the chemical companies were developing a new technology when they did not understand the long term effect which was unpredictable and represented an enormous threat to the environment.

She said she had been told there was a crop about to flower which would spread GM pollution to the surrounding countryside, and she thought the aim was to remove the crop and decontaminate the area. Once pulled up it would be taken to AgrEvo's offices. I feel strongly this is a form of

pollution which is an irreversible danger; no idea what it will do in the long term. Because it was about to pollinate she saw the action as urgent. I knew Greenpeace had been working full time to stop these crops. I care deeply about the system of food production worldwide and the monumental importance of pollution to the surrounding countryside and wider environment.

She too was concerned about the soil, but the main focus was to get on with the job of bagging and pulling up. It was the right thing to do to return the pollution to the responsible company. And after charge she said, because the pollen escaping from the genetically modified maize crop is a serious danger to the environment it was of the utmost urgency to try to stop this happening.

Andrew McParland has a BSc in Electronic Engineering. No previous, Greenpeace supporter for 15 years, involved in Bean Feast, True Food, supermarkets, lobbying MPs and so on. He became aware of the GM issue in 1994 to 5 when there were crops being mixed, soya and ordinary crops and GM crops with no identification and no consumer choice. He believed that by 1999 that GM plants were very unpredictable, couldn't be controlled once out there when evolution could do anything with them.

Rendezvoused at Stoke Newington.

My intention was to have the crop cut down to stop it pollinating so it would not contaminate the environment, bag it and return to AgrEvo. Asked whose property he was protecting he said, Well the environment in general. Once it escaped it could escape further and propagate. In re-examination he dealt with HGT. He made a no comment interview but after charge he said, HI feel I'm justified in acting to prevent the genetic pollution of the local environment which may well be caused by the imminent flowering of genetically engineered maize. Christopher Holden, Cardiff BSc in biochemistry. He has actually done a gene transformation as a third year student. It would appear he had a conviction for aggravated trespass linked to animal welfare; concerned about the hidden side effects of GM. He was one of those who mentioned the Monarch butterflies. No one knows the effect of the random process. And he dealt with the effect of his evidence, as I understood it, he was one of those who took the view that the trials as set up certainly did not qualify as a scientific experiment.

At the briefing at Highbury he was made aware that there was a crop about to flower and decided then to continue with the operation. And he said that living pollution cannot be withdrawn from the environment. He hoped that the trials would be stopped. A large number of people dedicated to stopping them but it was extreme urgency and the crop needed to be destroyed as soon as possible. He was happy that he was given the opportunity to work with people who had the resources to do it. He made a no comment interview and did not say anything on charge.



Timothy Hewke, Greenpeace employee, assistant special events organiser now researching on the rain forest, background in building trade management, no convictions, involved in various campaigns, the stall at Glastonbury Festival, the organic picnic and so on. He was the lorry driver. I have told you about his part there and in the reconnaissance. He said his purpose was to stop contamination of the surrounding area by genetic pollution. He was aware that one farmer in relation to other trials had withdrawn and another farm had been decontaminated by other protestors, but pollution in the environment is potentially unstoppable and he said how he intended to unload it on the steps at AgrEvo.

He said in the statement he made to the police on the day. There was the immediate threat of genetic pollution from the crop, that is the maize at Walnut Tree Farm, due to its coming into flower this week. Because of the unscientific way in which these crop trials are being run nobody knows of the lasting impact that genetic pollution will cause to the environment, wildlife and to other crops. Emma Hargreaves, a BSc in sociology but now studying gardening, has worked as a voluntary hospital worker, involved in the various campaigns, information stalls and leaflets. She said her intention was to remove all the GM material in the field and then return it to the owner.

And she participated because of the threat to the environment from pollen pollution which she regarded as urgent. She had very strong views. She knew of the campaign to change government policy about trial sites and she trusted Greenpeace to get on with the campaign and deal with them one at a time and her effort was to remove this crop before it flowered.

She made a no comment interview but when charged with theft she said, We didn't take it. Simon Hackin, members of the jury, is an Edinburgh man with no convictions, works with special needs children but has a post-graduate diploma in environmental management specialising in pollution control. He had been involved in the various GM campaigns. He was one of those who was not impressed by the methodology or lack of it in the trials in 1999. He said he was confident that Greenpeace was working to stop other trials as well. My job was to remove that pollution from that site. Then he referred to the enormity of the threat from its release.

I was working on a campaign to use all methods to stop release into the environment. For the rest what he said there fits with what a number of other defendants said.

He had this to say in his statement. I believe that what I was doing this morning was preventing the greater threat to the environment of the release of genetically engineered stock plant pollen into the environment. I felt that the course that was taken was the necessary course to take. Keith Dawson, now researching sound systems or at the time of Lyng was researching sound systems. He lost his job because of the publicity arising from these matters.

He was the man who was interested in, he said, the solution side and he had shinned up the BP offices in Aberdeen to put their solar panels on to persuade them to invest more in that form of energy. He said of the Lyng operation he intended to remove, bag and return. He had heard the arguments put forward by Greenpeace would remove the threats and he felt strongly that pollution needed to be stopped and it was not a publicity stunt, this operation. He had spent years wishing they could get more publicity and on this one he had lost his job because of it.

On the day he made a short statement to the police before a no comment interview. I believe that all the genetically modified crops pose a significant threat the environment. The maize crop's close to flowering at which point the risk of genetic contamination to the environment is, I believe, intolerable and the only course open was to take direct action.

Timothy Copley has been full-time with Greenpeace since 94. Since September 1997 he has been manager of the Active Supporters' Unit, conviction for trespass at the French Embassy and he's been famed in a number of areas that includes the GM campaigns and he said this: By 1999 I regarded genetic engineering as a fundamental threat to the environment, uncontrollable and a hazard of enormous scale, wholly undesirable that I and my family should have this stuff in the food we eat. He referred to the dispersal of pollen by wind, bees, animals and then the transfer through soils, streams and rivers.

He was looking for appropriate recruits, non violence trained, appropriate personalities and so on, and he did the briefing of the Stoke Newington contingent and looked after his team on site. He said: The field was a threat. That the project of cutting down the crop with the number of people, the weather and the cutter was eminently achievable and he was bitterly disappointed that they didn't achieve it. He wasn't aware of any plans for direct action against other trials but he said the purpose was to take back the pollution to AgrEvo. It confronts people who are the source of pollution with the thing that causes contamination. His objective was to clear the field and return the source of pollution to its owner.

When he was cautioned he said I believe that the field of GM maize is a fundamental threat to the environment. It is a source of pollution which endangers the surrounding countryside and wildlife and it must be destroyed. You also heard, members of the jury, from Nicola Cook. She is a farmer's daughter from Sussex, trained at an agricultural college, now of Diss. She was on a farm and then she had an organic smallholding and now involved in a vegetarian restaurant. A long time supporter of Greenpeace. She's done letter writing, lobbying, talking to customers, various campaigns and so on. A member of Norfolk Genetic Information Network and was actually aware of debate at Lyng. After the Lyng meeting she had apparently suggested a way round of removing the top male part but that hadn't been taken up, then dealt with whether that would have worked or not, but anyway that wasn't taken up.

She said that she'd seen from her smallholding, where she was growing maize, pollen going through her hedge into the neighbouring land on a windy day; so it didn't all just drop into the field. At the same time on her smallholding she'd had bees and the residents of her hive sometimes buzzed off to blackthorn hedges a quarter of a mile away.

She was also concerned about soil transfer and she thought all neighbouring farmers and Mr Brigham himself were threatened, although interest threatened, by this crop. She was aware of two organic farms within the six mile limit and of the Apache Tortilla Chips.

She referred to Linda McCartney and the Fakenham Factory but it would seem what she was talking about there, members of the jury, wasn't first strike action by pollen but she was talking about them using GM ingredients without realising they were using them and having a problem as a result of that.

She told you about another occasion when they had indeed cleared a GM crop. It had been taken up by protesters and the farmer, once he had been talked to, she said, had understood and then it seems that there was a replanting from a farmer of an organic crop and she was involved in that.

She was seeking to remove pollution from the Lyng site to stop the crop being grown but they were stopped before the decontamination was finished. She saw it as important to get the crop off the land and back to where it could be destroyed.

She made a statement on the day. She said, I wish to say that the reason I pulled up AgrEvo genetically modified maize was because the crop was due to flower and this would mean the release of genetically modified pollen on a large scale resulting in contamination of the environment. And she referred to environment wildlife, farming, public health and the unpredictability of GMOs. Members of the jury, I had thought, before I realised how slowly I was going before the break that I would finish before lunch. I haven't but we are substantially towards the end, members of the jury. We'll break off now, and I hope I am moving somewhat faster now and perhaps I'll get even faster after lunch.

It won't be long before you retire to consider your verdicts.

(The Court adjourned and reassembled at 2.05pm)

JUDGE MELLOR: Members of the jury, I think before lunch we had been considering Nicola Cook. I move on to Spencer Cook. He has a BSc in Applied Biology, Ecology and Agriculture and is a Greenpeace researcher. I have already told you about his part in preparing the map with the SSIs - Sites of Special Scientific Interest, NWT is I think Norfolk Wildlife Trust, county nature reserves and so on on it, and finding the tractor. He was concerned about the impact of the trials, the potential of pollen pollution he told you was great. He also talked about micro organisms moving

through the soil and there was a real danger of great harm that could not be recalled or repaired. This is if the crop was allowed to flower. Within an hour we would have prevented the pollination but we were arrested and he was concerned about leaving it on the ground because that could lead to GM escape and hence the plan to return to East Winch for disposal.

He'd taken the view that once on the field there would be a high probability of completing decontamination because he was not aware of any case of a farmer intervening before and he was aware that AgrEvo had told them not to, but he said of his purpose, The action was not merely to protect an inorganic farmer pollution would affect anyone growing maize. He was there to protect the bees, to prevent the GM escape into the soil and the action was part of a wider campaign. He told you he hadn't heard from the organic farmer shown on the plan and assumed, but it's not necessarily so, but that must indicate that that farm in fact fortunately remained GM free, but the crop was an immediate threat and an immediate danger and it was imperative that its potential be minimised.

He was one of those who neither replied to the charge nor made any statement in the course of his interview on that day.

Malcolm Carroll, you remember him he was the second witness called, a Baptist Minister that works for the Church of England active in the Christian Environmental Movement. He'd taken part in the campaigns. He was one of those very worried by what John Innes has had to say about the inevitability of contamination to some degree from the pollen and concerned about the validity of the trials and he said that by the 26th July having, in relation to direct action, examined his conscience and considered the position with care and by the 26th July I believed the crop was a direct danger. Once it's let out into the environment it cannot be called back. It would spread beyond the field boundaries one way or another giving risk of a dangerous uncontrollable pollution. It's a living thing that replicates itself. You can't predict it, you'll never control it, and it's a threat to bio- diversity everywhere. He said that up until June or July he'd been hoping the Government would change its mind.

He was hadn't heard of Lyng, save as a name on the list of sites, until he was briefed in South Yorkshire but he wanted to stop the release in the environment and thought that starting at five o'clock they'd be able to do it. He said it was a deliberate act to stop contamination not an act for publicity.

He made no statement in interview but he had this to say after caution: I did this of my own free will. I feel justified in the action I have taken. Simon Bowens had been involved in nuclear campaigning. He had a conditional discharge for obstruction, something to do with BNFL, Bachelor of Science, a mathematician, a member of the Chartered Institute of -- my notebook says PS and I'm not quite sure, public suppliers, perhaps -- and he is working for a substantial organisation in relation to suppliers sums being paid of the order of £600 million. He'd first been concerned

with the ozone issues but become aware of GM, and he was confident that Greenpeace would have taken to law if there was the opportunity. Up till the time it came for direction action he'd been hoping that legitimate means would prevail but he didn't want genetic pollution to occur and if it was going to flower other means had to be employed.

He did make a statement when interviewed saying The threat of contamination of genetically engineered crops to the environment, habitats and the wildlife is both unpredictable and immediate, and despite all other methods the threat to the crops still remained and the only course of action remaining was non-violent direct action and that is why he did what he did that morning. Alistair Beveridge is from Aberdeen, in computer science got a first class BSc. He had been involved and had a conviction more recently than this matter in relation to the incomplete trampling of the GM crop at Aberdeen that he told you about which in fact happened a day or two before this matter. He'd been involved in the various campaigns to prevent GMs and he said that GM leads to replicating pollution which will spread further and further. Had he not been interrupted it was his intention to clear the whole field and take it to AgrEvo headquarters and he did what he did to stop pollution escaping from that field and to prevent contamination of surrounding land. It wasn't a gesture it was an attempt and it was to stop genetic pollution, and it's pollution all over the world. He had expected to be interrupted but by then he'd hoped that he'd seen a very good chance to get the crop cut before that stage.

When charged he said that the GM crop being grown was about to flower and cause pollution for many square miles around the field. Destroying the crop seems the only way to stop this pollution.

Then we have Paul Bellotti, the grandfather who has been a caretaker at Greenpeace Headquarters since 1992.

He, through Greenpeace and the newspapers, has picked up knowledge about GMOs and he was asked to and agreed to take part in this action. He said he intended to fully demolish the crop and he was told it would go back to AgrEvo. I back Greenpeace. All I knew was I had to help to prevent what was happening with reference to pollution from the crop.

He made a statement, I care deeply for the environment and I believe that the crop was dangerous for animals and plant life, to the countryside, and indeed to us all. Also the crop was nearly in flower and I don't believe that the Authorities would or could cope with it. Finally, you heard the first defendant Peter Melchett. He told you, members of the jury, about his background. He is a Hereditary Peer, ex Government Minister, Executive Director of Greenpeace and so on. He dealt with a lot of background matters to which I have referred to a considerable degree already when I dealt with the background before moving into the individual defendants and I won't take up your time at this stage by repeating those matters.

He went into some detail about the very varied efforts that Greenpeace had been making to stop the spread of GMOs and his own part in appearing before Select Committees of Parliament, speaking to Ministers and the two meetings with the Prime Minister about which I have already reminded you. He has, as a campaigner, one previous conviction for criminal damage.

He then told you about the sequence of events. His part in the Lyng meeting leading up to the final decision, based it would seem on the Farmers Weekly article leading to the direct action at Lyng. He said that at that stage he knew there was no means of taking a case or stopping the Government pursuing its policy and once it became clear that neither the farmer nor the chemical company would respond before the likely flowering and pollination he felt that action had to be taken and that he should be involved personally having been at the Lyng meeting and having his organic farm in Norfolk he felt a personal obligation.

He said of the operation that it was a genuine attempt to stop and remove genetic pollution, that's why we went there to remove the entire crop; we failed. He was seeking to protect all property outside the GM field at Lyng. In my mind there was the belief that GM genes in maize at Lyng could spread and could spread to the entire country and it could be an unstoppable, irreversible process. In immediate terms the threat was to nearby and adjacent property and he referred to the organic farm within six miles to the north. He didn't know if maize was grown upon it. Maize only pollinates maize but he referred to his fears about horizontal gene transfer to a virus and thence to the soil, and the hope was to remove from the soil every single plant and to get them to AgrEvo. The intention was to bag the crop and take it to AgrEvo and he referred to the return to sender principle, his expectations as to incineration. He explained the presence of the cameramen and the man from the Guardian to in fact refute allegations of violence or unfounded allegations against Greenpeace.

He knew it was possible he'd be arrested but he didn't positively expect that he would be.

In his case, members of the jury, you have a copy of the interview. He made a statement but no comment to the questions that follow. He referred to the maize crop as an immediate and major threat, a damage to organic farms, to conventional that is non-genetically modified farming, to organic and conventional allotments and vegetable gardens, to the soil, to the wildlife and to the environment in general. He also referred there, as he and others had referred to in evidence, the potential for spreading pollen found wide by insects like bees, the activities of birds and deer and it could be spread to neighbouring farms and from there to many other parts of Norfolk including indeed eventually to my own farm which is partly organic, but he is in the process of changing the other part over for certification. His belief was that the crop was a real and immediate danger and that he knew that it wasn't going to be removed by the chemical company and that was all that he wished to say at that stage.

Members of the jury, at an earlier stage in this summing-up, which has taken me longer than I anticipated, I referred to pulling all the threads together. Perhaps that would be unnecessarily repetitive and I shall merely comment on what maybe core issues. I say maybe because you decide the facts and what is core issue or not will arise out of how you see the facts, but you may feel counsel for the defence was justified in his descriptions of these defendants and see them as intelligent, informed, idealistic and decent people who have a profound belief in the causes they serve. If they are right in the ends they seek, and I emphasise that if because it's not for us to decide whether they are right or wrong, we shall all have reason to be grateful if they succeed in their campaign, but in relation to the count of criminal damage you are concerned with the means they adopted on a particular occasion which cannot be lawful unless they had a purpose falling within the statutory defence. The Crown case is that, at it's highest, is that this was a publicity stunt or a token gesture.

Clearly if that is your view of the facts you will find these defendants guilty if that is how any defendant saw it. The defence case as to that is if you look at the cutter, the Unimog and what was done and all the evidence, they were certainly in deadly earnest about cutting that crop down before it flowered if they could, and if you see it that way then you will of course reject the Crown case as at its highest and if you reach that point it may take you to what may be the -- may or may not be according to how it be -- the core issue in this case which is, defendant by defendant, what did that defendant have in mind? May it be that in his or her mind the purpose or a purpose of what was done at Lyng was to protect properties of which he or she was aware or which they had reason to believe existed and were in need of immediate protection from direct damage by the pollen coming from the trial site. In that context you may find it helpful, but again it's a matter for you, to consider the defendants one by one, those who planned and those who briefed through to those who only found out that the planned action had anything to do with the GM campaign let alone Lyng late on 25th June of last year and to consider whatever there may be, if there be anything as you consider it defendant by defendant, to indicate that that defendant considered the purpose or a purpose of the action other than in the context of the wider environment or the overall Greenpeace campaign against the farm-scale trials and then seek to answer the questions I have posed in relation to the first count in the context of the law as I have set it out and all the facts as you and you alone find them to be.

So far as the theft count is concerned, members of the jury, it is probably repetition for me to say more than that you may find it helpful to go to question three first and the issue of whether the conduct of these defendants or any of them was of a nature which you would describe as dishonest in the ordinary meaning of that word and then again consider the four questions that are posed in relation to that count.

You will have heard about majority verdicts, members of the jury, forget all about them. Time would have to pass and you'd have to be brought back to court for further directions, which certainly wouldn't take place today, before there could be any question of verdicts other than verdicts upon which all twelve of you are agreed.

Members of the jury, if you haven't done so already make your first task the election or appointment of one of your number to act as your chairman or your chairwoman to fulfil two functions; to speak for you when you return to court and to chair your discussions so that each of you may contribute that which you have to contribute to your collective verdicts in this case.

(The jury retired to consider their verdicts)