

LEWES CROWN COURT
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[SITTING AT HOVE]

The Law Courts
Lansdowne Road
Hove
BN3 3BN
East Sussex

28th and 29th June 2010

Before: HIS HONOUR JUDGE BATHURST-NORMAN
[Sitting as a Deputy Circuit Judge]

R E G I N A

- v -

ORNELLA SAIBENE
ROBERT NICHOLLS
THOMAS WOODHEAD
CHRISTOPHER OSMOND
HARVEY TADMAN
ELIJAH SMITH
SIMON LEVIN

MR. S. SHAY and MR. D. SULLIVAN appeared on behalf of the Prosecution
MR. C. BLAXLAND QC and MISS R. HILL appeared on behalf of the Defendant SAIBENE
MISS A. BAILEY appeared on behalf of the Defendant NICHOLLS
MR. P. TROOP appeared on behalf of the Defendant WOODHEAD
MR. D. DIAS and MISS P. ROSE appeared on behalf of the Defendant OSMOND
MR. S. POWLES appeared on behalf of the Defendant TADMAN
MR. HUSEYIN appeared on behalf of the Defendant SMITH
MISS B. CAMPBELL appeared on behalf of the Defendant LEVIN

[Transcribed from DARTS by Marten Walsh Cherer, 1st Floor Quality House, 6-9 Quality Court Chancery Lane, London WC2A 1HP. Tel. 02070672900]

28th June 2010

SUMMING UP. JUDGE BATHURST-NORMAN:

Ladies and gentlemen, I have two jobs at this stage. My first job is to tell you what the law is. What I say about that you must accept from me and apply when you come to decide the facts. My second job is to give you a short summary of the evidence.

Now obviously I don't go through every word, or we would be here for another three-and-a-half weeks, but in doing that I try to give you a bird's-eye view, and if I leave out something that seems to you to be important, you must take that matter into account, because you decide the facts and I don't. Equally, if I comment on this or that aspect of the case, if the comment helps you, take it into account; if the comment doesn't then ignore it all together.

The first thing I want to say to you about the case, and it applies to each defendant: the prosecution bring the case against these defendants, and before you can find any one of them guilty the prosecution must prove the case against that defendant. In order to do that the prosecution must satisfy you so that you are sure of guilt, or put another way, but it means exactly the same thing, they must prove the case beyond all reasonable doubt.

Now there are seven defendants. You consider each defendant separately. They don't necessarily have to stand or fall together. As you can see from the indictment, they are all charged with conspiracy to commit criminal damage. So what is a conspiracy? A conspiracy is basically an agreement. It is defined in this way: if a person agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement, then that person is guilty of conspiracy to commit the offence or offences in question.

A number of matters follow from this definition. For there to be a conspiracy, at least two people must be involved in the agreement; you can't agree with yourself. Once you are satisfied so that you are sure that there was an agreement you have to decide who were the parties to that agreement. You decide that by looking at the evidence against each defendant in turn and deciding from that evidence whether that defendant was party to an agreement. Once by other evidence you find a defendant was a party to the agreement then whatever another party to the agreement does or says in pursuance of the agreement is evidence in the case of each defendant who was a party to that agreement.

Anything said later to the police or anyone else about a defendant is only evidence in the cases of the defendant who is speaking, as the other defendants are not present and so can't agree or disagree with what is said. And once a defendant gives evidence, that evidence is evidence in the case as a whole, be it for or against any other defendant.

The agreement does not have to be written down or formally agreed in any way. Its existence can be inferred from the actions of the participants. In the execution of an agreement the various parties to it may play different roles. Some may play an active role, others may stand by ready to help if needed, or may only intend to encourage and in fact encourage those playing an active role. I have been careful to use the word "agreement", because an agreement does not become a conspiracy unless its objective is to commit a criminal offence, in this case the offence of criminal damage. That is a matter for you to decide.

So how is criminal damage defined? It is an offence for a person without lawful excuse to destroy or damage any property belonging to another, intending to destroy or damage that property.

So what is meant by "lawful excuse"? It is defined in this way: a person has a lawful excuse if he destroys or damages property in order to protect property belonging to another and at the time of the act alleged he honestly believed that the property was in immediate need of protection and that the means of protection which he adopted were reasonable, having regard to all the circumstances.

In this case a purpose of the defendants in damaging MBM's property has to be to prevent the destruction by the Israeli Air Force of property in Gaza. I want to stress the word "a" purpose; it doesn't have to be the sole purpose. Their purposes may not necessarily be exclusive. Also, it is the property that is in immediate need of protection not your actions to defend the property that has to be immediate, and the property itself has to be in immediate need of protection.

Now the question of anyone's honest belief in these circumstances is a subjective matter. It is not what you or I would believe, it is what each of the defendants believed. In this case you may think that no one doubts the honesty of these defendants' belief.

The same applies to the question of whether the means were reasonable; that too in this instance is a subjective test. If it is possible that a defendant honestly believed that the means he or she used were reasonable then that is sufficient to establish that the means so used were reasonable, again, no matter what you or I may think.

Now the second matter of law relied upon by the defendants is that by law a person is entitled to use such force as is reasonable in the circumstances in the prevention of crime. In this instance the test of reasonableness is an objective test.

And finally, the defendants raise the defence of necessity. That means the defendant whose case you are considering must have been acting reasonably and proportionately to avoid a threat of death or serious injury to others. Again, that is an objective test, and it involves furthermore two questions: was the defendant in question impelled to act as he did as a result of what he honestly believed the situation to be, and he had good cause to fear that otherwise death or serious injury would result? That part of it, of course, is subjective. Secondly, if that is possible, is it possible that a person of reasonable firmness, sharing the same characteristics as the defendant whose case you are considering, would have responded in the same way? If the answer to both questions is "yes" then the defence of necessity is made out.

Now it is not a prerequisite to the success of any of those defendants that the defendants had to succeed in their endeavours. When considering these defendants, which are all based on the same factual premise, if you think it possible in relation to whichever defendant's case you are considering that the Crown have not satisfied you so that you are sure that that defendant did not have a lawful excuse, or, and I stress the word "or" [they don't have to succeed on all three defences] was not using reasonable force in an attempt to prevent crime, or was not acting out of necessity, then your verdict in relation to that defendant will be one of not guilty, for at all times the burden of proving the case and therefore disproving any defence which is raised rests upon the Crown to satisfy you so that you are sure that the defence raised is untrue.

So we come to the steps to your verdict. In reaching your verdicts there are a number of questions you need to ask yourselves, and those are the questions before you on that questionnaire.

Is it possible that "a" [and again I stress the word "a"] purpose of the defendant in damaging [I am going to shorten it to] MBM's property was to protect property in Gaza from damage and destruction by the Israeli Military? If so, is it possible that the defendant honestly believed that that property was in need of immediate protection, and again, I stress it is the property that has to be in need of immediate protection. If so, is it possible that the defendant honestly believed that MBM were supplying the Israeli Air Force, whether directly or indirectly, with component parts for the F16 aircraft? If so, is it possible that the defendant honestly

believed that it was reasonable in the circumstances to damage MBM's property in order to protect property in Gaza? And again, I have already stressed it, it is the property, so far as question 2 is concerned, that needs to be in immediate need of protection.

Then we come to the prevention of crime defence. Is it possible that the defendant honestly believed that the Israeli Military were committing war crimes in Gaza? If so, is it possible that the defendant honestly believed that MBM were supplying the Israeli Air Force, whether directly or indirectly, and it doesn't matter for our purposes whether it was going to America or any other country, directly or indirectly, with the component parts for the F16. If so, is it possible that the defendant honestly believed that by damaging the property of MBM he or she was assisting in the prevention of either war crimes that he or she believed the Israeli Military were committing, or conduct by MBM which was ancillary to or assisting in the commission of such war crimes, for such conduct would be an offence under English law. If so [the fourth question] is it possible that it was reasonable in all the circumstances, as the defendant believed them to be, to damage such property?

Then to the defence of necessity. Is it possible the defendant reasonably believed that it was necessary to damage MBM's property for the purpose of preventing death or serious injury in Gaza? If so, is it possible that it was reasonable and proportionate in all the circumstances as the defendant believed them to be to damage such property?

Now I stress again, a defendant does not have to have been successful in carrying out what he was trying to do in order for any of these defences to succeed. Nor is it relevant to your consideration of these defences that if they were to succeed people might be put out of work. You try the case on the evidence in this court. Your sole consideration is not to consider whether the defendants' actions may or may not have an effect on others, you have to decide whether you are satisfied so that you are sure, it being a conspiracy, that two or more of them have committed a criminal offence.

Now bear in mind also in circumstances such as this the actions of one party may have the effect you intend in itself but it may also by its effects – you may achieve your objective by triggering a chain reaction so that the actions of others in response to what you have done may in themselves achieve your objective. A simple example of that: we will all have read of Israel's attack upon a ship on the high seas, killing nine people on board, and somehow, as the aggressors [puzzling for a lawyer like me] seemed to claim they were acting in self-defence. But the result of all that, of course, is that certainly the nature of the blockade on Gaza changed, because for once there was such a huge outcry of world opinion that Israel thought it had better try and regain face in the situation.

[Pause]

It matters not, again as I repeat what I have said really already, for your purposes whether the Israeli Air Force was being supplied by direct sales or via sales from some other country.

Now you may be wondering what on earth has the actions of the Israeli Air Force to do with this country. The short answer is that if the Israeli Air Force was committing crimes in the way that the agreed evidence outlines in the unlawful killing of Palestinians in Gaza and in the unlawful causing of damage to property in Gaza, then under the War Crimes Act and other legislation any member of the Israeli Air Force who set foot in this country and who acted in that way would be liable to arrest and prosecution, as is anyone within this country who knowingly helps the Israeli Air Force to commit such war crimes.

Next I want to say a word or two about...

UNKNOWN SPEAKER: Your Honour, I hesitate to get up, but please forgive me. I am having a hard time

in hearing and following your Honour, and I don't know whether the jury might be also.

JUDGE BATHURST-NORMAN: I thought I was... I hoped I was speaking loud enough. I had better pull that – I can't pull that across. [Indicating microphone] I don't want to look at the jury and yet I want them to hear me, but I can't move that. Are you hearing me all right? If not I'll shout a bit louder.

MEMBER OF THE JURY: Your Honour, if you might speak a little more slowly.

JUDGE BATHURST-NORMAN: Yes, certainly, certainly...

UNKNOWN SPEAKER: [Inaudible] Shorthand [inaudible, laughter]

JUDGE BATHURST-NORMAN: That's what I've been saying to everyone else. [Laughter]

Next I want to say a word about lies. This relates to Mr. Osmond and Mr. Levin, for when initially spoken to, Mr. Levin said he was just lighting a cigarette, and in their prepared statements in the bundle Tab 5, Exhibit 18 – I mean Tab 4, Exhibits 18 and 20, they both said that the break-in was nothing to do with them. They both now accept that they were parties to the agreement to break in and cause damage.

Lies in themselves prove nothing. People lie for all sorts of reasons. They lie out of fear, including fear of being arrested and locked up and kept in custody; they lie to protect others; they lie because though they have a genuine defence they don't think they will be believed. They lie out of panic; they lie to conceal discreditable conduct falling short of a criminal offence. It is only if you are satisfied so that you are sure of the following matters that you can draw any adverse inference from a lie: firstly, it is a lie and that that lie is material to what you have to decide; secondly, that the defendant in question knew it was a lie; thirdly, that the explanation for the lie given by the defendant is untrue; fourthly, that the only reason for the lie is that the defendant in question knew of his guilt and feared the truth coming out. In this case you may think the initial lies told by Mr. Osmond and Mr. Levin don't help you one little bit, because when they come clean they accept that they were a party to the agreement to damage EDO's property and they rely in their defences entirely on their reasons for so doing.

Finally, a number of the defendants gave written explanations to the police, but that they were entitled to do rather than answering police questions, so do not hold that against those defendants in any way. Those explanations set out their defences. The fact that they didn't answer questions was their right and does not in any way contribute to the proof of guilt.

Mr. Smith, Mr. Tadman and Mr. Levin haven't given evidence. They are entitled to remain silent, and you must not assume guilt from their silence. You try the case on the evidence which is put before you by the Crown. However, they are all entitled to rely on the evidence given by others in the trial, but silence at the trial may count against them because you may draw the inference that it is because they don't have an answer to the Crown's case, or none that would stand up to cross-examination, is why they have not gone into the witness box.

If you draw that conclusion you must not convict any of them wholly or mainly on the strength of it, but you may treat it as some additional support for the Crown case. You should only draw that conclusion against any one of them if you think it – sorry, I beg your pardon, I turned the wrong way – if you think it a fair and proper conclusion to draw and are satisfied that the Crown's case is so strong that it clearly calls for an answer and that the only sensible conclusion is that the one in question has no answer to it, or none that stands up to examination. In the light of the evidence in this case and what comes from the cases of their co-defendants and from their DVD statements and their statements to the police, you may think in this case that that direction does not lead you to the conclusion that it would be fair to draw any inference adverse to

any of them. In particular in the case of Mr. Levin, you may think because of his mental health problems that it would be particularly unfair to draw such an inference.

Democracy would not exist unless there were reporters and members of the public who were prepared to stand up for what they believe to be right, and sometimes, as in the case of the suffragettes, even to go to prison for their beliefs.

As Edmund Burke says: "For injustice to flourish, all that is needed is for good men to do nothing." Indeed, people like Mr. Osmond, who put themselves in harm's way to protect others may, in fact – there may be much to be admired about people like that. Perhaps if he had done it in this country in the last war he would probably have received a George Medal. However, that does not give anyone a licence without any justification to commit offences. It is your task in this case to decide whether it is possible that such justification existed.

I am going to start with the background relating to Israel and Palestine, and to the evidence which points to the war crimes being committed by Israel in Gaza, an area over which Israel has imposed a blockade.

The evidence shows that those war crimes are committed against the civilian population of Gaza and against the property of its residents, including the United Nations by the Israeli Forces.

Now you have to look at the evidence coldly and dispassionately. It may be as you went through what I can only describe as horrific scenes, scenes of devastation to civilian population, scenes which one would rather have hoped to have disappeared with the Nazi regime of the last war, you may have felt anger and been absolutely appalled by them, but you must put that emotion aside.

Equally, you must put aside any feelings of being thoroughly ashamed of our Government, of the American Government and the United Nations and the EU in doing nothing about what was happening. You just concentrate on the evidence and deal with the case on the evidence as it stands.

Dr. Taylor's evidence led us along the way. She told us how the immunity which the United States by the veto affords... in the Security Council affords the protection to Israel and prevents it from suffering any reprisals for its actions.

The result enables Israel to cock a snook at any decision of the United Nations or of the International Court of Justice by simply ignoring anything that is decided. The USA has exercised its veto in the United Nations Security Council to veto resolutions condemning Israel on no less than forty occasions. Israel has been able to ignore resolutions like 242, calling on it to withdraw from the Palestinian lands and calling for a United Nations Force to protect peace.

However, calls are made for Israel to pull... So whatever calls are made for Israel to pull down the barrier, and the judgment of the International Court holding it illegal and to stop building settlements in the West Bank are simply ignored by Israel in the occupied territories seized in 1967. One can see from the maps produced by Dr. Taylor that effectively Israel takes from the Palestinians more and more and more of their land. So with that broad picture in mind let me concentrate on Gaza.

Gaza is a small area twenty-five miles long by four to eight miles wide. Following the 1967 war it passed from Egyptian to Israeli control. It has a population of one-and-a-half-million, whose very existence depends

upon UN food handouts. It can best be described as a giant prison camp, for the Israeli withdrawal did not give Gaza its freedom. It is surrounded by a fence. That fence is patrolled by Israeli tanks, planes fly overhead; Egypt keeps the one small crossing into Egypt closed. That crossing is so small that, if used, insufficient aid would get in. The remaining crossings are controlled by Israel, and it is Israel that decides what comes in and who goes in and out. In international law the West Bank remains an occupied territory.

In January 2006 Gaza elected Hamas as its governing body. Israel's response was to impose a land, air and sea blockade. Even John Dugan, the United Nations Human Rights Commissioner, was refused entry to Gaza by the Israelis. What food or aid going into Gaza is decided not by the needs of the Gazans but by Israel.

Hamas took to firing rockets into Israel between 2001 through 2009. Nineteen Israelis were killed. Hamas has no Army, no Air Force and no Navy. Israel has a highly trained Army, a Navy and a Air Force with more F16s than any other country except for the USA. It is the USA's policy to ensure that Israel is kept well-armed.

So we come to 2006. Israel was at war in Lebanon, and named after an attack on a civilian quarter of Beirut, Israel developed what is called after that area the Dahiyah doctrine, namely that Israel would apply disproportionate force and cause great damage and destruction to any village from which Israel was fired upon. Israel regards such villages as military bases not as civilian villages. So with an election coming up and wanting to prove to the Israeli people that it was tough, on 27th December 2008 the Kadima government in Israel launched Operation Cast Lead against Gaza. It sealed the border so no one could get into it or out of it, it stopped journalists entering it and encouraged them to leave, and it claimed it was acting in self-defence.

Of course, in those circumstances Israel doesn't want journalists around, because if they are allowed to get in the full truth might get out. So far as self-defence is concerned it is only, of course, a defence if the force used is proportionate to the threat. If you use disproportionate or unreasonable force or act in revenge, or for some other purpose, you become the aggressor, even if you were acting in self-defence originally.

Israel's attack on Gaza involved the use of disproportionate force, despite the fears of the international community, and in particular the United Nations Human Rights Adviser, John Gaye. The Israeli plan called for a shock and awe bombardment. In three minutes 40 seconds, 250 Gazans were killed on the first day, as compared with nineteen Israelis killed by rocket fire in eight years. Throughout the campaign, and you have seen the papers saying they were still flying, the evidence of Dr. Taylor was that throughout the campaign – I should say still flying after the 17th – throughout the campaign F16s were used as bombers, apart from what the Israeli Army was doing on the ground.

Worse still, Israel dropped leaflets telling civilians to flee the urban areas, with a result that many took shelter in United Nations facilities, which under international law should have been safe, which were clearly marked and from the fact that the GPS co-ordinates had been given to the Israelis, but these were nonetheless bombed, with many people killed.

On 15th January the Al Quds hospital was bombed. Hospitals, ambulance depots, mosques, United Nations compound, industrial and agricultural sites, the sewage and the electricity power plants were all targeted and damaged or destroyed. Journalists and United Nations officials were kept out of Gaza whilst all this was happening.

Those with power to do something, the United Nations, the EU, the USA and the Quartet contented themselves by calling upon Israel to stop. No doubt protected by the United States, Israel ignored the calls, their confidence in the USA's protection, you may think, boosted by the fact that whilst the United Nations called for a cease-fire the USA abstained. Had the same events happened anywhere else, you may

think, there would have been military intervention by the powers in question, as there had been in Bosnia and Kosovo, but you may think double standards were applied because it was Israel... to Israel, because nothing happened.

You have seen the news reports as to what happened. They are harrowing, and I am not going to take you through them in detail. You will have them with you, and I need only say, I think, that the death toll mounted, with women and children being killed over and over again. To use Dr. Taylor's words, it was a turkey shoot; the civilians had no escape.

When it was all over, the United Nations Human Rights Agency set up a Commission to investigate what had happened. That Commission was headed by an eminent international juris[consul] Justice Goldstone, who is himself Jewish. Because his report was not to the liking of Israel he was condemned by Israel as being anti-Semitic. Israel, of course, had refused to co-operate with this Commission. Justice Goldstone – you have his reports before you and I am only going to concentrate on the summary – Justice Goldstone found that both Israel and Hamas were guilty of war crimes and crimes against humanity. He said that Israel's attack on the population of Gaza constituted grave breaches of the 4th Geneva Convention. He said that certain weapons – white phosphorous, flechettes and DIMES – though not illegal under international law, were used indiscriminately against civilians, and so their use should be regarded as a war crime. Israeli Forces had used Palestinians as a human shield, which was a war crime. Detaining Palestinians in degrading conditions, depriving them of water, food and sanitary facilities was a war crime.

He said that the objective of the Israeli defence force involved the use of disproportionate force, causing great damage and destruction to the civilian population and to the infrastructure, also causing suffering to civilians, which again was a war crime. The damage caused by Israel to property in Gaza was estimated between 1.1 and 1.3 billion pounds.

He said the targeting of the United Nations compound, the sewage system, the electricity power plant, was a war crime. He said the impact of the blockade and the military actions on the Gazan people meant that Israel had violated the 4th Geneva Convention and was a war crime. The 4th Geneva Convention protects people under occupation. He said the attack on the Palestinian authority's assembly building, the United Nation building, the ambulance depots and the hospitals violated customary international law.

He recommended that both Israel and Hamas investigate these matters, and said if they failed to do so it should mean that the allegations were brought to the International Criminal Court, and that as the crimes were so serious universal jurisdiction should be invoked to prosecute those concerned.

Israel has not carried out any investigations, and unlike in the case of Milosevic over Bosnia and Kabanda over Rwanda, nothing has been referred to the International Court. As you can see from Exhibit 29, you need not look at it for the moment, 1,086 Palestinians were killed, including 346 children and 79 women. 4,900 were injured, 1,709 of those were children, 724 were women, 140,000 children were suffering from stress and trauma; against nine Israeli soldiers killed and four Israelis killed in Israel and 58 injured by rocket attacks.

You have heard the unchallenged evidence of Sharyn Lock, one of the international volunteers on the ground in Gaza. She told how she was shot at by the Israeli Army in 2002, using fragmentation bullets – I think they used to be called dum-dums – at a time when she had her hands in the air and was trying to deliver, on foot, food aid to a village.

Courageously in 2008, December, when it was bitterly cold, she went back to help the injured. You saw her DVD outlining Israeli attacks upon civilians under eighteen, women and children being injured, dragging people from their homes, medical workers being targeted, hospitals being overwhelmed, and of the need for

an international response, at least with sanctions. The whole of the Gaza strip was being targeted she said. She hoped in vain that people like her could get the government to respond – I say "the government" – the governments to respond. They never did. The Israelis were targeting ambulances, she said, they would strike an area and when the ambulances arrived to collect the wounded they would strike again.

She spoke... She spoke of the Israeli Army making ambulance workers collect the wounded four or five days after they were wounded by hand-drawn donkey carts. She started to work in the Al Qud Hospital, where the Israeli Army attacked with white phosphorous. Civilians got caught up in that because, thinking it was a lighting system, they went out into the street. The use of water to put out the phosphorous fires, of course, just made them burn the more because of the oxygen in the water. There were tanks and snipers in the street; people ran to the hospital for safety.

A nine-year-old girl was brought in shot in the face by a sniper. Her DVD showed that child's mother and sister. As a result of the Australian Ambassador intervening and telling the Israeli government she was in the hospital the Israelis said they would stop shelling the hospital within an hour, but they continued for a further twelve hours. Four to five hundred people were sheltering in the hospital. With the Israeli's permission, but only to go on foot, the Red Cross tried to get those people to a school about a mile away, but by that time that school had been attacked. Later that day they had to evacuate the bedridden from the hospital as the roof was badly damaged by fire. She said F16s were used. She witnessed war crimes, she said, and those who supplied Israel had the blood of children on their hands.

Dr. Lucas, the MP for Brighton Pavilion and a former EU MP, led an EU delegation to Gaza. She was really shocked by the scale of the destruction: families who had left loved ones, homes, properties, sitting crying outside the rubble of their homes with no food. She was incredibly impressed by the efforts of the International Solidarity Groups and the courage they showed in defending others. It became clear to her that war crimes were being committed indiscriminately against civilians, so when she came back she tried to do something about it.

The EU has a Trade Association Agreement with Israel; it has a human rights clause in it, which says it can be suspended if Israel violates human rights. Although, she said, suspending it might be rather symbolic it would at least carry a message to Israel. So she tried to get the EU Commission to enforce that clause, but guess what? The Commission refused. They did nothing whatsoever, she said, to uphold their own values and support the Palestinians in that way. Perhaps that was the most direct, and greatest, and most depressing indictment she found of the EU's behaviour. She met Government officials in this country and tried to motivate the British Government into doing something, but because of the USA they were not willing to do so.

Because of the huge numbers of enquiries, which she got in her EU office, about EDO MBM she tried to investigate MBM. Her request under the Freedom of Information Act was refused. She tried to meet Mr. Hills, but the fact he demanded confidentiality in respect of the meeting – and what she might learn of any meeting – she, you may think quite rightly, refused to meet him on those terms, and as a result she concluded that what was happening at MBM was not above board. She said people in Brighton have done their best to make their voices heard in relation to MBM and have tried to influence the Council, but they have achieved nothing.

Finally, you have in respect of what happened the Goldstone Report. I have already summarised it, I am not going through it, save to say that it reaffirmed that in Gaza Israel were applying the Dahiyah doctrine.

That leads me conveniently to Mr. Hills. I am going to divide his evidence into three parts. I am going to begin by identifying the weapons we are concerned with. Firstly, there is the ZRFAU, the arming unit. This has the effect, when connected to a bomb, of turning a 'dumb bomb' – that is, one which is to say... an

unguided one, which you just drop and hope – into a smart bomb, one which can be guided towards its target.

Next there is the ERU-151, a bomb release unit, into which the ZRFAU fits. The ERU-151 shoots the bomb away from the plane without the risk of the plane being blown up. Then that has an FRCS cable attached to it. The purpose of that cable is to send a signal to the bomb release unit to release the bomb. The advantage it has over other types of release is it is reusable. Then there is the VER-2, the actual bomb rack, which holds two missiles and which were used with the ERU-151 and enables an F16 to carry two missiles under each wing. We have also heard about storage pallets for such bombs or missiles being made under sub-contract for MBM Brighton and sent to General Dynamics in Texas in the United States.

Now all the weapons I have described are for use with the F16 fighter bombers. In addition, there is the RAIDER, which is a smart multiple store carrier. This enables an F16 to carry not only the missiles under each wing but also to carry two under the belly of the plane without... Thereby increasing the plane's bomb load in safety. The RAIDER was developed between MBM and General Dynamics in the United Kingdom. General Dynamics UK, of course, is part of General Dynamics in the United States, a major arms company who supply Israel. Only the MALTS, which Mr. Hills has accepted was made in Brighton; that was a practise bomb carrier.

Now let's turn to who uses these weapons. Well, second only to the United States the Israeli Air Force has the largest fleet of F16s in the world. The VER, which is also made under licence by Elbit in Israel, is only used by the Israeli Air Force.

Now Mr. Hill tells you that with the exception of the storage pallets and the practise bomb dropping machine, none of these items are ever made in Brighton and then exported to Israel or to the USA, who might then be expected to re-export them to Israel, because the United States, as you have heard, does not consider itself bound by any End User Certificate. His explanation is that until it was wound up in 2008, all these items were made by Artisan in New Jersey.

So why does MBM come into the matter at all? The reason is that MBM acquired the intellectual property rights and patents from a company calling itself Lucas Western in the United States. At the time MBM were owned by Morgan Crucible, who were also the owners of Artisan. Almost as soon as MBM acquired the intellectual property rights and the patent, Morgan Crucible made MBM hand them over to Artisan, as Artisan was a small American company based in the United States, and has opened up the American market for Morgan Crucible, the biggest market, of course, in the world for these items. And, especially, it was helpful – and the United States Government's policy – to buy American, also to support small companies.

In October 2000 there was a management buy-out of MBM, and as part of the buy-out the new holding company, Emblem, received Artisan more or less for next to nothing. The new company was taken over by EDO in the USA in 2003; and again in 2007, ITT in the United Kingdom took over – which is part of the USA ITT group... acquired MBM. The last two companies, EDO and MBM are major USA arms companies. ITT is perhaps the biggest arms company in the world. It supplies Israel, and so did EDO.

So why do the protestors, who have been protesting since 2004, not accept what Mr. Hills says?

Firstly, the USA's policy is to ensure that Israel is supplied with weapons. 95% of Israel's weapons come from the USA, 4% from the EU and 1% from the United Kingdom. As I have said already, the USA refuses to be bound by the terms of any End User Certificate. What is an End User Certificate? If I want to export arms from this country I need to obtain a form from the DTI and fill it in, and then at the end of it there will be a box labeled "End User" and into that box there has to go a signature acceptable to the Government confirming that the person who signed there is indeed at the end of the chain and will not be selling items on.

Perhaps in comedy there is always a grain of truth. Some of you might, like me, have been a great admirer of the 'Yes Minister' series. I don't know if any of you ever watched a particular version of it, but if you did you may recall a scene in which Jim Hacker, the Minister, tried to get an understanding of the End User Certificate from Sir Humphrey, the Permanent Secretary, and he was concerned that a particular detonating device had found itself in the hands of Italian terrorists. He ended up by asking if the system was really a charade, to which he received the answer from Sir Humphrey: "I think this conversation should end here, don't you Minister!" [Laughter] Well, as you saw in that defence exhibit, the Oxfam Report, because parts can be exported, perhaps without the need for an End User Certificate, and then be assembled elsewhere into a weapon, you may think the system is one which it is not too difficult to circumvent. In the first three months of 2008 the United Kingdom exported to Israel £20,000,000 worth of weapons, that rising from £6,000,000 in the previous year. You saw Mr. Clegg refer to that in the news handout CAD 43.

Next, of course, Mr. Hills himself conceded that in the light of MBM's advertising material and of what could be found in various websites, a protestor might well both honestly and reasonably have thought that the weapons were made in Brighton. All you have to worry about is the word "honestly". Why is that? It is because over and over again when the weapons are advertised the name of MBM is used. You may have been puzzled by the fact that Artisan, who Mr. Hills claimed were the makers of ZRFAU were being used [it is his terminology] as a shop-window for MBM in the USA, and that was why the name MBM was used. Well, you may wonder what was the point of putting MBM's name on something when it was something they never made?

[Pause]

What is the value then to MBM of advertising such a weapon? It can only be worth advertising a weapon if MBM were going to profit by its sale. There is no cross-over of accounts between sister companies, each may benefit their holding company but not each other. You have documents in front of you, you have been taken through them at great but necessary length. I propose only to summarise the effect.

Firstly, all the advertising material, the flyers, were in the public domain; over and over again, it is the name MBM that comes up. In 2006, D1 if you want to make a reference to it in due course, EDO MBM were actively manufacturing the ZRFAU. The CRU-151 is described as being designed and developed by EDO MBM; over and over again the point of contact is described as Brighton, and that is so even on the Artisan website. For the USA consumption MBM becomes a division of Artisan. It never was such a division. "Ah", says Mr. Hills "but MBM defence systems, the word "defense" is spelt with an "S" rather than a "C" in America, so that shows it had nothing to do with Brighton. He then had to concede that, of course, if it had been spelt with a C that would have given the game away to the United States Government.

On 7th December 2005 you have the former managing Director, Mr. Jones, telling a court that the VER-2 is an Israeli Military industry project "and we are jointly marketing it for a third country", and Mr. Hills accepts that third country could only be Israel; they are its only users. You have the fact that shortly before a trial in 2005 a reference to the F16 bomb rack was removed from the website on Mr. Hills' advice. At first he claimed the changes to the website were normal reviews in the course of ownership changes. That perhaps was not the full truth, for in cross-examination, faced with his previous evidence in March 2009 that it was removed on his advice and that the protest played a part in the changes to the MBM website, and further that the reference to the ZRFAU were removed from their website in April 2007 because, as Mr. Hills put it, some aspects of the website confused the protestor community, he had to accept what he had said previously in court.

At the time he was unwilling to disclose the company's export licence. In June 2007 there is a letter from the DTI to Mr. Gibbons, saying that the only export licence for MBM was an export licence for the export of

two ZRFAUs to the United States for scrap. To the outsider, who would not know the full history, it must, you may think, have looked very suspicious that these two items were in the United Kingdom at all. You may think that to the outsider, the protestor, the very fact that these two items were sent here and the necessary checks as to why they had failed had to be carried out here could only be attributed to a belief that they were manufactured in this country, for why should the reservoir of expertise to examine them, to decide why they had failed, reside in a company that had never ever made such items?

There are two other final matters, H19, the letter from Mr. Jones to Mr. Osmond dated 25th May 2004, saying it is impossible for any company manufacturing components to state where those components may eventually be used; and lastly there is the fact that ITT, the owners of MBM, are one of the largest defence corporations in America. They supply Israel, they were fined, if you remember, 100 million dollars in respect of their lack of regard for export regulations in America; and also American General Dynamics, another very large defence company, supply Israel, as does Raytheon, one of the largest missile manufacturers, if not the largest missile manufacturers in the world. It was Raytheon who contracted MBM to supply missile pallets for shipment to General Dynamics in the USA. MBM then sub-contracted that contract to another company.

Let us look very briefly at the question of the damage caused.

Let me sound a firm warning at the outset: do not confuse the word "reasonable" with the word "effective", they do not mean the same thing. You may think it doubtful whether any action of this kind would in itself put MBM with the huge resources of ITT behind it out of business. Damage, whether major or minor, may cumulatively lead to keeping a factory closed for a considerable period. In this case I think we were told it was a week. You may think it would be a mistake to look at individual items of damage, such as lockers, or Health and Safety notices or microwaves. Look rather at the cumulative effect. Equally, bear in mind whereas a small demonstration outside the gates of a factory may achieve nothing, events of this kind may focus the minds of factory owners, and perhaps even politicians, on a situation in question so that they review what they are doing.

Let me briefly review what happened. In the early hours of 17th January these defendants climbed over the perimeter using a ladder. Osmond and Levin remained outside. Those who went into the factory caused damage to the value of £187,000. It is set out in detail on the list, Exhibit 2, which sets out the damage to doors, windows, computers, machinery, lockers, microwaves, the Health & Safety notice, and we know also that papers were just thrown out of the window left, right and centre. I am not going through it in more detail.

Before going into action, Mr. Smith, Miss Saibene, Mr. Woodhead, Mr. Nicholls and Mr. Tadman all made video-clips setting out what they were doing. Let me go through what they said; Exhibit 3, Tab 4 I think in the Crown's documents.

Mr. Smith: "Hello there, my name is Elijah Smith. I'm 43 years old and I'm too old for this shit. As I'm looking at the world scene, yeah, I'm getting more and more horrified. This is disgusting. I don't know why I didn't notice it before, but I've been looking at the law and I don't feel that I'm actually going to do anything illegal tonight, but I am going to go into an arm's factory and smash it up to the best of my ability so they cannot actually work or produce weapons or the munitions that these very dirty [inaudible] have been providing to the Israeli Army so they can kill children. I said I would come on and do an interview. I can't be arsed with interviews, yeah; the time for talking is gone, a little bit too far, yeah, I'm not a [inaudible], yeah, I'm just a person from the community and I'm deeply disgusted. We have laws in this country,

specifically Section 3-1 of the Criminal Law Act 1967. That says – to the best of my knowledge of law – ignorance of law is no excuse, and I'm allowed to decommission an infrastructure if they're committing greater crimes, and that, Sir, is what I'm going to do. Thank you very much."

Ornella Saibene: "Yeah, okay. My name is Ornella Saibene. I believe that ITT-EDO are making weapons of mass and indiscriminate destruction that breaks international law. It's up to us citizens to make sure that companies in this country do not betray international law."

Mr. Woodhead: "Israel are committing a grave crime in Gaza. 350 children, I think, have been reported dead. It's absolutely disgusting that weapons are being made in our cities, in our country, that are being used to kill innocent women and children, and are being used indiscriminately; it's about time that something was done about it. If the law and the police can't do anything about it, it's about time somebody else did."

"Are we rolling yet? Hi" – this is Mr. Nicholls – "I'm Bob. This is a brief note I'm going to submit to the local Constabulary when they eventually arrest us. The Israeli defence force is guilty of war crimes in Gaza. EDO and many other arms manufacturers around the United Kingdom are aiding and abetting the commission of these humanitarian crimes and war crimes. The action we have taken is intended to hamper or delay the commission of war crimes and prevent this greater crime. The glorification of war and the mass production of arms and weapons is a sickness in the heart of those involved."

Mr. Tadman: "Yeah, okay, hi. My name is Harvey. I've just heard that the Israeli Air Force dropped leaflets telling Palestinians to leave their homes otherwise they would be a legitimate target, and then – so then I read that the Palestinians should leave their homes. They took shelter in the United Nations compound. They were still targets. The warehouse that was storing humanitarian aid and first-aid, food, whatever, had been targeted so now it's time to have it out with EDO. Thank you."

Mr. Osmond and Mr. Levin were arrested in the woodland close to the factory. The remaining defendants were arrested in the factory. I have covered what Mr. Osmond and Mr. Levin said at their arrest. As you know, in Mr. Osmond's first defence case statement he went on to say that he had nothing whatsoever to do with it. Mr. Levin in Tab 1 – you have seen the statements – said exactly the same, the demonstration was nothing to do with him, and what the other defendants have said is really covered by their evidence in this case, so I am not going through their statements to the police. I have looked already at what Mr. Smith and Mr. Tadman said. Mr. Tadman, as you know, didn't say anything to the police, but he did make that DVD.

I think at that moment, before my voice packs up, I am going to break. Tomorrow I shall probably be, I should think, another hour and then you will be considering your verdict. Now, it is vitally important at this stage, I have not finished my summing-up, do not start talking about the matter between yourselves; you will have plenty of time when you retire. We can't have some of you getting into one corner and agreeing one thing, others into another corner agreeing something totally different without you all being there to hear the arguments that are being put forward, so keep it to yourselves. Yes, thank you. Thank you, please go.

[In the absence of the jury]

JUDGE BATHURST-NORMAN: I hope everyone heard that, as I was defeated by the fact that this is on this side [indicating microphone].

[Following further matters being discussed, the case adjourned until the following morning]

29th June 2010

SUMMING UP [Continued]

JUDGE BATHURST-NORMAN: Ladies and gentlemen, after we adjourned last night I received a message from you saying that you would like to have my directions on the law in writing. Despite my daughter's criticism of my handwriting as resembling the wanderings of a drunken spider [laughter] Mr. Dias believes he can read it, and is very kindly going to type it out for you, but because I have rather summarised what I said yesterday I am going to go through it very shortly in summary form, and that is what you will have.

In the process I shall answer the question you have asked, which is: "Does the objective test of reasonableness also apply to the prevention of damage to property, as has been quoted re the prevention of war crime?" The answer is going to be no it doesn't, that is a subjective test, and I will come back to that in a moment.

What I said to you yesterday is you consider each defendant separately. The prosecution must prove the case against each defendant. The prosecution must satisfy you so that you are sure of guilt.

Conspiracy: if a person agrees with any other person or persons that a course of conduct shall be pursued which if the agreement is carried out in accordance with their intentions will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement then that person is guilty of conspiracy to commit the offence, or offences in question.

Matters following from that definition: at least two people must be involved for there to be a conspiracy. Once satisfied there was an agreement, look at the evidence against each defendant in turn and decide if that defendant was a party to the agreement. Once you decide that a defendant was a party to the agreement then whatever another party to the agreement does or says in pursuance of the agreement is evidence against all who are party to the agreement. What a defendant says to the police is only evidence in the case of that defendant. Evidence given in court by a defendant is evidence in the case as a whole. The agreement can be inferred from the actions of the participants.

Criminal damage: the charge is conspiracy to commit criminal damage. Criminal damage is defined as: it is an offence for a person without lawful excuse to destroy or damage any property belonging to another intending to destroy or damage such property.

Lawful excuse: a person has a lawful excuse if he destroys or damages property in order to protect property belonging to another and at the time of the acts alleged he honestly believed that that property was in immediate need of protection, and that the means of protection which he adopted were reasonable, having regard to all the circumstances. A purpose of the defendant in damaging MBM's property has to be to prevent destruction by the Israeli Air Force of property in Gaza. A purpose, and I emphasise the word "a" there, means that the purpose does not have to be the exclusive purpose. Also it has to be the immediate needs of the property which you consider, not how quickly the defendants acted.

The test for honest belief is a subjective test, it is what each defendant believed, not what you or I believe. The same applies under this heading to the question of whether the means adopted were reasonable. If it is possible that a defendant honestly believed that the means adopted were reasonable then that is sufficient to establish that the means he used were reasonable, no matter what you or I might think, and that is the answer to your question.

Prevention of crime. By law a person is entitled to use such force as is reasonable in the circumstances in the prevention of crime. The test of reasonableness in this case is an objective test.

Necessity. Necessity means that the defendant whose case you are considering must have been acting reasonably and proportionately to avoid a threat of death or serious injury to others. The test involves two questions: was the defendant impelled to act as he did because, as a result of what he honestly believed the situation to be, he had good cause to fear that otherwise death or serious injury would result to others. Secondly, if that was possible, Is it possible that a person of reasonable firmness, sharing the characteristics of the defendant, would have responded in the same way? If the answer to both questions is "yes" then the defence of necessity is made out.

General comments on the defences. It is not a prerequisite to the success of any defence that the defendants had to succeed in their objective. As the burden of proof rests on the Crown, the Crown has to satisfy you so that you are sure that a defendant did not have a lawful excuse, or was not acting out of necessity, or was not using reasonable force to prevent crime. It is sufficient for any defendant to succeed on any one of these defences for your verdict to be one of not guilty. The defendants do not have to succeed on all defences. Sometimes a person will achieve his objective indirectly through the response of others to his actions; sometimes he will succeed directly. It matters not whether MBM supplied the Israeli Air Force directly or whether they supplied a third-party, who then supplied Israel. I just insert there, I am saying "MBM" rather than EDO MBM or ITT-EDO MBM, it is just shorthand as MBM.

Back to what you shall have in writing. Do not consider the effect of your verdicts on others, for example, whether if these defences succeed people may be put out of work. Your task is to consider whether two or more of these defendants have committed this offence.

Next. Consider the questions in the steps to verdict questionnaire.

Next. If the members of the Israeli Air Force commit war crimes they can be prosecuted in England, as can anyone who knowingly helps the Israeli Air Force to commit such crimes or is complicit in their commission.

Eight. Lies...

Sorry, that should be Nine, or it could indeed be Eleven, I beg your pardon...

Next. People lie for all sorts of reasons, out of fear, including fear of being held in custody until trial – I would add there so that they can get on with what they want to do – to protect others, for fear of not being believed though they have a genuine defence, out of panic. You can only draw an inference if you are satisfied, firstly, it was a lie and that that lie is material to what you have to decide; secondly, that the defendant in question knew it was a lie; thirdly that the explanation for the lie given by the defendant is untrue; fourthly, his only reason for lying is that he knew of his guilt and feared the truth coming out. In this case lies by Osmond and Levin may not help you, as they admit they were party to the agreement to damage EDO MBM's property.

Twelve. Written explanations to the police. The defendants were entitled to take this course and they were entitled to set out their defences in this way and not to answer questions. Do not hold it against them, it does not contribute to proof of guilt.

Thirteen. Not giving evidence. Smith, Tadman and Levin have not given evidence. They are entitled to remain silent. You must not assume guilt from their silence. You try the case on the evidence. These defendants are entitled to rely on the evidence of their co-defendants. Silence may count against them, because you may draw the inference that they have no answer to the Crown's case, or none that would stand up to cross-examination. If you draw that conclusion you must not convict any of them wholly or mainly on the strength of it, but you may treat it as some additional support for the Crown's case. You should only draw

that conclusion against any one of them if you think it is a proper and fair conclusion to draw, and are satisfied that the Crown's case is so strong that it clearly calls for an answer, and thirdly, that the only sensible conclusion is the defendant in question has no answer, or none that would stand up to examination.

Having regard to the evidence in this case and to what their co-defendants have said and what they have said in their DVD statements and, where applicable, in their written statements to the police, it may be that you will not think it fair to draw any inference against any of them because they have not given evidence. In the case of Mr. Levin because of his mental health problems you may think it would be particularly unfair to draw any inference adverse to him.

Thank you very much, Mr. Dias; you can now disappear and do the hard work.

MR. DIAS: Well, your Honour, I think we can thank Mavis Beacon, which is the software programmer that taught me to touch-type! [Laughter]

JUDGE BATHURST-NORMAN: Thank you very much.

MR. DIAS: And I will go and do my best.

JUDGE BATHURST-NORMAN: And that, as you realise, answered your question on the damage question. Thank you very much. Then that is that.

Well, let's turn then – because I finished the prosecution case yesterday – to the defence case.

Miss Saibene gave evidence. Apart from matters arising out of a demonstration against weapons, Miss Saibene is a person of good character, aged fifty. Treat her previous conviction as really a matter arising out of the same principles which has caused her to be before this court. Do not hold it against her in any way; it would be unfair to do so, as her actions were based on her very, very firm principles.

So what does good character mean? Good character in itself is not a defence to a charge. However, you take it into account and you weigh it in the scales in this case in her favour, in the case of others in their favour, in two ways. Firstly, she has given evidence, and as with anyone of good character it supports her credibility. In other words, you take it into account and you weigh it in the scales in her favour when you come to decide whether it is possible that she is telling you the truth. Secondly, the fact that she is of good character may mean that she is less likely to have committed this offence than otherwise might be the case. What I have just said applies to others in this case who have given evidence. I will deal with each defendant as I review their evidence, but in relation to each, where it arises, that their only convictions arise out of their firmly held principles, do not hold these convictions against them and treat them all as being of good character. The same applies to Mr. Osmond in relation to his row over the ticket on which he spent £120 and then wasn't allowed to use; I suspect we would all get a bit hot under the collar in those circumstances.

I particularly say that in this case because there has been no challenge by the Crown to the honesty of any of the defendants' beliefs that Israel was committing war crimes in Gaza, unlawfully killing civilians and damaging property, including water, electricity supplies and sewage plants, that MBM were supplying components for F16s to the Israeli Air Force, whether directly or through a third-party. Those facts do not bring the case to an end, because you still have to answer remaining questions that are before you.

Back to Miss Saibene. She is aged fifty and is clearly a person with a very deep social conscience who has made great contributions to her community. Judith Davies wrote of the work she had done in St. Paul's in Bristol, helping to respond to the wave of crime and injustice young people were suffering, looking at the need for a Youth Centre, lobbying the Council, supporting a community art project, contributing to a youth

community event, supporting the Full Circle, a family youth project, fund-raising, and the Saturday Better Days Play Club.

Mr. Clarke, who is a member of the Bristol Stop the War Coalition described her as a dedicated campaigner for issues she believes in, always behaving with passion, integrity and honesty.

Mrs. Lynch described her as her best friend, and told us of the enormous help and support which she had given to Mrs. Lynch's disabled son, and of her work helping the disabled and homeless. She also told us of Miss Saibene's commitment to the peace movement.

Mrs. Baker, the director of Child Victims of War charity met Miss Saibene through the peace movement and they became friends. She described Miss Saibene as a person for whom she has great respect, being a wonderful member of the local community and being involved with Gaza and Stop the War in Bristol.

Dr. Dye, himself closely involved with what is happening in Gaza, knew Miss Saibene through the Bristol Solidarity Campaign. He made documentary films in Gaza in 2005 and 2006 and he gave copies of the DVD to Miss Saibene to encourage her interest in Gaza. He described her as a very intelligent peace-lover, believing in justice and peace for everyone seeking a better world.

Miss Saibene herself told us of her involvement with the peace movement for thirty years, being involved in CND, Greenham Common, the [inaudible] demonstrations against the Iraq War. She spoke of designing leaflets, banners and posters, and of organising film shows. She spoke of her involvement with the Palestine Solidarity Group.

She dealt with her knowledge of her co-defendants. Mr. Nicholls is a peace campaigner from before the invasion of Afghanistan back in 2000/2001 and is a man who works with the homeless. Mr. Smith she knew from the Autumn of 2008 when she joined the Raytheon campaign in Bristol. Mr. 'Tadman' she had met around 2003 when campaigning against the Iraq invasion. He would drive her to the Raytheon vigils. He would give her newspaper cuttings and discuss them. He was dreadfully moved by the plight of the Gazans over Operation Cast Lead and he took part in the making of those video clips that we have seen, Tab 4, and referred to them. Mr. Smith, she said, lived in the Red Factory, apparently a squatters' building where a number of social events took place. They had discussed the Israeli Forces killing Gazans and the Raytheon booklet about the Raytheon 9. They had discussed "On the Verge" and they had discussed and agreed that action was necessary. Mr. Woodhead she had met in about August 2008 during the Raytheon campaign. He was actually temporarily staying with her in Bristol. During that campaign a journalist brought her a book about the Raytheon 9, that is your exhibit, dealing with their break-in to Raytheon in 2006 and their decommissioning a computer there. They were charged with criminal damage, they raised the same defences as in this case, and were acquitted. This gave her confidence that she was acting within the law.

She took us through the horrors, and there is really no other word for it than horrors, that emerged in the press and on the news, and the footage as to what the Israelis were doing in Gaza during Operation Cast Lead. Women and children were killed, many more injured, United Nations buildings bombed, civilians having taken shelter there. You may think that perhaps "Hell on Earth" would be an understatement of what the Gazans endured at that time.

She took us through that DVD where the Israelis themselves were protesting at the action of their government, saying it was illegal, and even a man who was retired from the Army and was a reservist refusing to join his unit and encouraging others to become refusers.

She dealt with Tab 3, our items 6 to 12 and 16 to 17 of the defence bundle, taking us through it and referring to the various articles. She dealt with the fact that the Israeli Chief of Staff referring to Operation Cast Lead had said: "This is only the beginning."

She dealt with her researches showing that the United States supplied 95% of the weapons to Israel, the EU 4% and the United Kingdom 1%. The United States sanctions against the supply of arms to Israel – sorry, I must correct myself there, and all of this despite the United Nations sanctions against the supply of arms to Israel. She had seen the film "On the Verge", which firmly pointed the finger at EDO MBM as a supplier of components for F16s to Israel, and to this time, that is 4th January, she had limited her protests to writing to MPs, going to demonstrations, talking to the press and trying to get attention to focus on what Israel was doing. All of this proved fruitless.

From the Smash EDO and Palestine Campaign websites, and from leaflets and from word of mouth she had learnt quite a lot about what MBM were doing. She knew that they made bomb release mechanisms for the F16; she knew EDO MBM, now owned by IIT, had massive contracts with the US Government and that MBM made the bomb release mechanism without which the weapons wouldn't work. She had seen the clip from "On the Verge" where the solicitor spoke of war crimes and the fact that the Directors of a company which had manufactured gas during the last world war had been held complicit in war crimes at the Nuremberg trials. That solicitor, of course, was the solicitor to several of the defendants in this case. She had no doubt that MBM were making release mechanisms for bomb racks for the Israeli F16s. People were looking for ways, she said, that would interrupt the arms supplies to Israel.

Events came to a head at a meeting on Monday 12th or Tuesday 13th January, organised by Stop the War. Someone suggested that anyone interested in direct action should meet at the back of the hall. She, Mr. Nicholls and Mr. Woodhead attended that meeting at the back of the hall.

There followed a further meeting in Mr. Nicholls' house on Wednesday 14th. She, Mr. Smith, Mr. Nicholls and Mr. Woodhead were there. They talked about the situation and decided on non-violent direct action. Someone suggested that they went to Brighton. This was the first mention of Brighton. Her aim was to try to stop the carnage.

Someone having suggested going to Brighton the next day. On 15th January they met at her house. Mr. Tadman also came to her house. They took what they needed and got into Mr. Woodhead's van and went to Brighton, and when they arrived there they went to Mr. Osmond's house in the early evening. The journey seems to have taken about eight hours. There had been no plan to go to Mr. Osmond's home, it was simply a case of finding somewhere to stay, and he, it seems, is the first person known to one of their number who was in, or perhaps it wasn't he who was in, but it was Mr. Levin who shares accommodation with Mr. Osmond who answered the door, and let them in.

Mr. Osmond came back later, they all discussed the situation in Palestine and decided to take direct action. The next day they reconnoitered the MBM factory to see how to get in, purchased hammers with which to smash everything, and made the DVDs explaining their reasons for their actions. Their purpose was to get in the way of the war machine so no components or technical support could reach Israel. MBM became the chosen target, because that was where the components were being made, and by choosing it they would prevent spares reaching Israel.

They made the film setting out what they were going to do. She knew she wasn't committing a criminal offence if she was acting to save lives. The suffering of the Gazans, she said, was terrible and they could not escape and she believed that anything that she and the others could do would help. The police had been asked to investigate MBM, but after one day that investigation had been dropped. The democratic process was going nowhere and was not upholding the law. Therefore she thought to stop the MBM factory for as long as possible was reasonable in the circumstances.

They broke in. She injured her hand; it required two operations. She and others threw things out of the window, she using her good hand. She said there was a lot more stuff thrown out of the windows than the

photographs show. Clearly all the paperwork had been cleared up before those photographs were taken, but she recalled in particular something like a badge-making machine which was very heavy which was thrown out and is not shown in any of the photographs taken. The police photographs were not taken until later and Mr. Hills' photographs were taken not straightaway because it was dark, but when it was daylight.

Mr. Nicholls, turning to him, is fifty-two. He is a Buddhist. He lives in Bristol and has no previous convictions whatsoever. He has worked with the homeless in hostels and as a Housing Support Officer dealing with people with multiple problems. He has also been involved in voluntary work in Bristol. He is a political activist; he has travelled to India and worked with young people there. He was a Parish Councillor for the Green Party. He has participated in peace vigils over Iraq during the last seven years. He has been involved in campaigns against the arms trade for the last sixteen years. He wants, if possible, an ethical arms trade to prevent arms reaching regimes which carry out atrocities and violate human rights. He wants to encourage governments to follow that route. He has been involved mainly in protests against Israel's actions in Palestine. He has written to the Ministry of Defence about Trident, and the reply is at Tab 30 in your bundle.

He learnt of EDO MBM when he saw the film "On the Verge". It made him very interested in the campaign against the arms trade and against arms being made at MBM. The film came from the "Smash EDO" campaign and he saw it around the end of 2007 or the beginning of 2008. The campaign had run for three or four years and he found out a lot about what MBM did. He looked at their website and was convinced that EDO MBM was a military facility involved in the manufacture of components going to Israel.

Israel had been oppressing its own population and committing atrocities in the Lebanon, where property was destroyed and civilians were killed on a massive scale. He was interested in companies facilitating international war crimes. Israel had a fleet of about 300 F16s, a key part, he said, of modern warfare. Israel over decades had been supplied by the USA. The F16s are assembled in America and are shipped to Israel. F16s have lots of parts; each supplier has only expertise in the supply of a certain part. EDO MBM is one of the contractors or sub-contractors, he said, supplying such parts.

He dealt with his knowledge of his co-defendants. He had known Miss Saibene through peace vigils, but not very well. She was a political activist. Mr. Smith he met when he was involved in the Raytheon rooftop protest in Bristol in December 2008. He knew him as a fellow activist. Mr. Tadman, a fellow activist, he first met at a peace vigil three or four years ago. Mr. Woodhead he met for the first time at the meeting at the Centre on 12th January 2009. Mr. Osmond he did not meet until 15th January – I think he meant 16th January when he came to Brighton, but he had seen him feature in the "On the Verge".

On 27th December Cast Lead began. Before that he knew Gaza as a small, highly populated area where people were denied the usual facilities and to where humanitarian aid was controlled by Israel. Before Cast Lead Israel had restricted water supplies to Gaza. Due to the Israeli blockade medical facilities were poor. There was a lot of poverty. All this he learnt mainly through the Palestine Solidarity Campaign. He knew Dr. Dye, who ran the Bristol Palestine Solidarity Campaign, which he and Mr. Nicholls joined two or three years ago.

He had read Tab 26, that is in the defence bundle, the one with the red star on it, about the Israeli colonisation and ethnic cleansing of Jerusalem. He knew of the Israeli colonial settlement policy. He knew of the apartheid roads along which only Israelis could travel, not Palestinians. He knew of Israel removing Gazan settlements. He knew Gazans had suffered for a very long period of time under a very oppressive government so he has helped with the Palestine Solidarity Campaign, distributing leaflets, explaining the situation in Gaza and writing to his MP.

On 27th December 2008 Cast Lead started. He doesn't have a TV but he learnt about the horrendous situation caused by Cast Lead by using his local library, and the articles which he read you will find again in the red star bundle, Tabs 33 to 41. He had read David Miliband's statement, Tab 33; he had read Gordon Brown's call for a cease-fire at Tab 37; he had read of Israel being accused of war crimes by the United Nations Human Rights Chief, Tab 40. He had read of the United States undermining the calls for peace by abstaining at the United Nations Security Council motion which called for a cease-fire. He read of the death-toll passing a thousand. He went on three marches in Bristol and attended peace vigils.

On 12th January he attended the Bristol meeting and talked to others, including Miss Saibene and Mr. Woodhead. He felt more was needed to be done. A third of the casualties in Gaza were children, and as in the Lebanon, the Israeli Air Force was destroying the infrastructure in Gaza, destroying water supplies, hospitals and houses. He had no faith in any government doing anything to stop it and he didn't anticipate the United Nations doing anything.

He wrote to his MP about Gaza and he got the reply on 15th January, or rather the reply was dated that; he couldn't recall if he had received it by hand or it had been delivered by post. He felt upset and frustrated; it was all talk and no action. Israel, he said, was always using extreme force and was using disproportionate force in Gaza. He believed MBM was committing war crimes in supplying Israel. He decided to join in with the decision to take direct action against MBM. He believed by destroying equipment, making the workplace unworkable and stopping the means of communication they could shut MBM down and stop the supply of components to Israel. This action took him out of his safety zone, but he was 100% sure it was the right thing to do.

Well, I am not going through again what happened, because I have already been through that with you. Well we learnt more about Mr. Nicholls from others. Anita Lewis, the Deputy Manager of Redwood House for the homeless in Bristol, she knows Mr. Nicholls as a Project Worker with clients who have a variety of problems. She described him as a highly valued member of her team. She said he considers others when he makes a decision and would not do anything to harm anyone.

Mr. Davey, a teacher, has known him for over twenty years through his active membership of the Green Party and the campaign against the arms trade. He described Mr. Nicholls as a man of integrity, totally committed to social justice, care of the environment and the rule of law in both national and international affairs, who was always well-informed about current affairs and mature in his analysis of important issues.

Justin Crenell has known him for eighteen years and described Mr. Nicholls as a considerate person and a valued member of the community in East Bristol.

The Buddhist Priest the Reverend Jakid [?] has known him for four years. The Buddhist run a Maytree Project in India in order to help poor children to gain confidence and access jobs and education. Mr. Nicholls volunteered to take part in that programme. He was one of the few to be accepted, because apparently it requires some rather special talents, and he went to India and did a fine job. He is a deep-thinker, he said, who cares very much about what is happening to people around the world.

Mr. Smith, as you know, had the two newspaper cuttings in his possession, the picture of an injured child in the [inaudible] and the article saying that the Gazans' fight was one-sided. His solicitor, that was the lady who participated in "On the Verge", was present in his interview and he contented himself with what he had said in the DVD which I told you about yesterday, Tab 1, and in what he said in his – I correct that, Tab 4, and what he said in his written statement in Tab 1, and as he has not given evidence I think it right that I should go through that Tab with you.

[Pause]

Sorry, it has 35 at the bottom, in fact, it wasn't numbered at the top.

He says: "On 17th January I entered EDO MBM in Brighton and decommissioned it. I have not committed any offence. I had lawful excuse and acted out of necessity. I consider it to be my civic duty to prevent a greater crime, namely the slaughter of innocent children in Palestine. At all times I acted reasonably and proportionately and out of consideration for others. I now wish to exercise my right to remain silent."

As I have told you already, he was perfectly entitled to take that course and no adverse inference should be drawn.

The same applies to Mr. Tadman, who contended himself with what he had said on that DVD, the one I told you about yesterday, in Tab 1. Again he had his solicitor present. On 12th January he had written to his MP and had received a reply in the same terms as the letter to Mr. Nicholls; that is Tab 32 if you want to look at it. He, of course, had not read this letter before the events of 17th January, and you may think if you read that letter perhaps it would not be too unkind to say that it holds out no hope and rather waffles on.

Mr. Woodhead gave evidence. He is nearly twenty-six and has never been in trouble before. He is of good character. Again, we know a bit about him. He has lived in Bristol for the last five years. He was brought up a Roman Catholic in Yorkshire. Father Gott, his Parish Priest in Yorkshire, met him when he was fourteen and found him to be very quiet, reflective and unusually sensitive. He went on the church's visit to Holy Island. He went to Russia with the church and saw the predations people suffered in their daily lives. He went to Poland and spent a summer working at an orphanage for disabled children. He visited Auschwitz and was deeply moved. He joined campaigns against poverty. He stood up for peace and justice and has demonstrated against poverty. He is a good man with a good heart who eschews violence and who thinks and cares deeply about these issues.

Mr. Cooke, who knew Mr. Woodhead first as a neighbour and then as an employee, described him as being the opposite of violent, never having seen him angry or bad tempered or committing any kind of violent act. He describes him as a peaceful young man who is involved in politics and cares deeply about the world. His parents are teachers.

Apart from the matters to which I have referred, he also went to South Africa where his sister and her husband live and he said there were still signs of apartheid and the contrast between rich and poor which he found upsetting. For four years he has worked with his present employers, a company concerned with recycling. He has worked with community groups. He went to his first protest in 2000 with his parents. It was a protest against third world debt. He has been involved in Palestine protests and in the Anti-Iraq War demonstrations, again with his parents.

His sister Ruth went to the West Bank before 2009 and he learnt of the situation through her. At checkpoints his sister had been treated badly by settlers in the West Bank. Through a friend he learnt that MBM were supplying weapons to Israel and to the Iraq War and so it was that that in June 2008 led him to go to MBM, or to the adjoining woodland for the Carnival Against the Arms Trade. There he learnt more. He met Mr. Smith, who he had seen before; they shared common beliefs, both being disgruntled over the Iraq War and the Palestine situation.

He met Mr. Osmond at a Book Fair in Bristol in late 2008 in which Mr. Osmond spoke about MBM. They spoke about MBM and others supplying arms to Israel. At the end of 2008 he and Mr. Smith were both living at the Red Factory in Bristol and they talked about MBM. He and Mr. Smith showed the film "On the Verge" in Bristol. They both accepted what was said in that film. A journalist friend of his got copies of the Raytheon 9 and circulated that book. It dealt with the nine people decommissioning an arms factory in Derry which was supplying Israel. He learnt that they were later acquitted of the charges against them.

MBM's website gave him information about what MBM supplied, as did others such as the Smash EDO website. He read books dealing with the arms trade and the torture trade. He read about ITT and its links to the Nazis. He learnt that Israel used missiles sold to them by Raytheon which had killed three generations of a family in Lebanon in 2007 and which were being used in Gaza. He joined the protests at Raytheon's premises in Bristol. Miss Saibene, Mr. Tadman and Mr. Smith were all involved in those protests.

He became very familiar with the blockade in Gaza. He had read newspapers, he would go on the internet, listen to the radio, watch Al Jazeera, that is the English Arab News station, he would read blogs and read the Palestine Solidarity Movement website. Once Operation Cast Lead was started he spent at least half-an-hour a day reading about what was happening in Gaza. Tab 42, dated 30th December, was the report and photo of five young girls killed in a house. This affected him deeply as they were obviously innocent children. F16s were being used to kill girls and to attack the girls. Tab 39, the Guardian 7th January, showed a school where three people were killed and a lot of others caught in the shelling. Tab 44, 7th January, the report of 15,000 sheltering in UN schools which were being attacked resulting in many deaths and injuries. 9th January, The Independent report of the four children being found next to their dead mother, the Red Cross being forced to use donkey carts to rescue them as the Israelis wouldn't let ambulances through. Then there was the shelling of the United Nations building, where families had been told to take shelter, as he understood it. There was Exhibit 30, the Channel 4 newscast on 8th January. The United Nations suspended aid as a United Nations worker had been killed by the Israelis and two others had been wounded. He realised the attacks would continue until the United States said enough was enough. The International Red Cross, a body which normally remains silent, accused Israel of breaching international law. He was disgusted by all of this.

On 16th January there was the report in The Independent of the United Nations being attacked with white phosphorous, a horrendous weapon whose effects are worse than Napalm, which causes babies to be born with deformities. He and Mr. Tadman were both very disturbed by this report and by the fact that food supplies had been attacked and civilians had been killed, and by the fact that schools and hospitals were attacked when civilians were sheltering there. He knew the words of Justice Robert Jackson, one of the Nuremberg prosecutors, that in this situation there was a duty above national interest to protect civilians from atrocities. He was shocked by the press release, Tab 43, in which Mr. Clegg spoke of the value of the UK arms exports to Israel rising from £6,000,000 in the whole of 2006 to £20,000,000 in the first three months of 2008.

In 2002, as we know, the United Kingdom had signed up to an ethical arms policy not to supply arms to countries who are in breach of United Nations resolutions. He knew this and that Israel had breached numerous United Nations resolutions. He reported Raytheon to the police on 13th or 14th January, but the Desk Sergeant just laughed at him and said it was a matter that was out of their jurisdiction. His view, and that of his co-defendants, was that the United Kingdom Government, the United Nations and the USA had failed to stop war crimes and so something needed to be done, a view with which his co-defendants fully agreed. MBM was chosen as the target as they believed MBM were producing the ZRFAU, the arming unit and bomb release equipment for Israel in Brighton, whereas they couldn't say where Raytheon was producing missiles for Israel.

He first met Mr. Levin on 15th January, when he and the others arrived in Brighton after an eight-hour journey in his van. They talked to him and spoke of their plan. They also spoke to Mr. Osmond when he got back after midnight about it. Mr. Osmond said he could help to record what had happened as none of them wanted any violence. They were trying to stop war crimes and to stop components for F16s reaching Israel. They wanted to bring MBM to a standstill and to stop them supplying components.

When they went into the factory Mr. Smith found a JDAM missile [in fact I think it turned out from the evidence of Mr. Hills as a dummy missile] which confirmed their belief that MBM was involved in the F16 bomb release mechanisms. They intended to be arrested, and he said Mr. Osmond had been to Palestine and

was deeply affected by what was happening in Palestine. Mr. Osmond was very well-informed about the situation in Gaza and had been drawing attention to MBM's activities for some years. He was appalled at the lack of action by the British Government.

Mr. Tadman he had met in 2008 over protests about Raytheon. Mr. Tadman had attended meetings of the Palestine Solidarity Campaign. They shared their concerns over the plight of civilians in Gaza. Mr. Tadman was concerned that paramedics were being shot at in Gaza. He had seen "On the Verge" and was aware that ITT-EDO supplied components to the Israeli Air Force. Mr. Tadman showed Mr. Woodhead a letter he had received from his MP. They all wanted to damage the main server and the computers at MBM in order to hinder communications with Israel.

So we come to Mr. Osmond. I am going to divide his evidence into two, his own account and then what he told us about Mr. Levin. That part of his evidence I will deal with when I deal with Mr. Levin's case.

[Pause]

Well – forgive me a moment.

[Pause]

What did he have to tell us about his own position? His parents are teachers. He got a First at university, and on leaving university he worked in medical aid to Palestine, fund-raising for the provision of medical resources. His interest in Palestine had started when he went to work on an Israeli kibbutz after school where he had an Israeli friend. He saw the Palestinians were badly treated by what he regarded as a very militaristic society. They were discriminated against.

After that visit he went both to the West Bank and to Gaza. Both were under Israeli military occupation. He visited Jericho and found that the crossing from Israel was like crossing from a developed to an undeveloped country. He travelled via Gaza to Egypt. Gaza looked like a prison, a ghetto. Rafah, the town where there is the Egyptian crossing, looked as if it had suffered badly under the occupation. This led him to his views on the occupation.

In 2002 Israel had launched a full-scale military invasion of the West Bank and Gaza. They had occupied all major towns on the West Bank and destroyed all government buildings. In Ramallah they had destroyed the Palestinians authority's compound. That compound had no defence force, or that authority had no defence force and it couldn't even control its own borders. The Israelis trapped the civilians, shutting off the entrances and exits. They put the population under curfew, they destroyed houses, they also put armoured vehicles on the street. They occupied the houses of other people, they occupied Jenin. A disabled man who was too disabled to leave his own house was crushed to death by them knocking the house down. Their operations there went on until 2004 and later, and he didn't think what Israel did in Gaza in 2009 would end there, the Israelis would go on committing war crimes in Gaza effectively for long into the future. These were acts of collective punishment.

He started going back to Palestine as he felt that no one there could tell the story and that he needed to be a voice for the Palestinians by speaking to someone. He learnt of the work of the International Solidarity Movement, a non-violent organisation in getting supplies to people trapped in their homes. He showed us the photograph, the starred bundle Tab 1, that showed the destruction of the Tubas police station in 2002 by Israeli bulldozers with air support.

He hoped by taking statements to break the isolation of the Palestinians. In Nablus the Police Station was bombed by F16s, and so he came to get involved with the Palestinian Solidarity Campaign as he realised that

Israel was violating international law. Sometimes when he has been present Israeli military behaved better because he is there. Sometimes he has seen men detained for unreasonable lengths of time and they are blindfolded.

He went to Fulani, where land was being illegally taken from the Palestinians. The separation wall divided the village from 70% of its agricultural land. Israelis were cutting down Palestinian olive trees. He saw the mayor watching this happen and took a photo. The building of the wall was against international law so he decided to campaign against it. He went to see his MP, who put down an Early Day Motion calling for the government to oppose the war and use its influence to stop Israel building it. Of course, nothing happened. This was in 2002.

He went in 2003 back to Jayyous in the West Bank, where the wall had separated villages from their farmland. This benefitted an illegal settlement on the Israeli side of the wall as if the villagers couldn't get to their farmland the Israeli settlement under Israeli law could just appropriate it for themselves. He helped the villagers to pull the wall down; I think in fact it was a fence at that point. The Israeli Army arrived and he was arrested. Israel tried to deport him, but an Israeli intervened to assist him. He attended the International Court of Justice when it held that the wall was illegal. In fact, the struggle of the wall then became a joint struggle between Palestinian and Israeli members on one side and the Israeli government on the other side. Israel ignored the International Court of Justice ruling. Apparently by demonstrations some of the Palestinians got their land back. At one demonstration in [inaudible] he was grabbed by Israeli soldiers, punched in the face and kicked. He was hit with wooden sticks and was detained in the sun by the soldiers. Many of these demonstrations against the war were met with rubber bullets and beatings. He was hit by a rubber bullet in one demonstration and was hit in the shoulder by a live bullet in another. Israeli Forces had used teargas and modified water cannons, filling those cannons with foul-smelling water which makes one vomit, or with chemicals that burnt the skin. Both in Israel and here he has been arrested.

He dealt with his convictions but said that he disputed his conviction for calling Mr. Hills "murdering scum"; he hadn't in fact called him that, although he so thought of Mr. Hills. He said his conviction for obstructing the highway related to MBM as they were manufacturing components for the Israeli Air Force who are committing war crimes.

In Israel a woman he knew was shot in the groin with a rubber bullet and was badly hurt. In Jenin a resident was shot in the chest with a modified teargas canister and died. People he worked with to his distress have been killed. Palestinians have told him to go back to this country and try and deal with the situation as no one was helping them.

You will remember he took these requests very seriously. He knew of the Philadelphi corridor, the corridor made around the boundaries of Gaza by the illegal demolition of Palestinian homes by the Israeli Army, during which Rachel Corrie, one of the International Solidarity Volunteers, bravely stood in front of a bulldozer which was being driven by an Israeli soldier and was effectively murdered when he drove that bulldozer over her in 2003. He had read her e-mails, and you will find them in Tab 5 of the red bundle, of the red star bundle. He was so moved that he decided to return to Israel. He went to Rafah and saw that many buildings had been destroyed and houses were riddled with bullets. As a result of seeing the destruction of homes on DVDs he joined a convoy bringing aid from Egypt to Rafah. The aid was let in, but he wasn't.

He went to Hebron in 2006/2007 going to the Tel Rumeida project. That city has an illegal Israeli settlement in the heart of a Palestinian city. The illegal settlers were extremely violent to Palestinian civilians. They took to walking Palestinian children to and from school, and during the day they would stay on the street, he and others that is, to monitor and video the situation in the hope that violence would be avoided. Often eight to ten-year-olds would be the ones he walked to school and who were attacked by settlers who would throw stones at them. One of a group of adults with the children on one occasion was so seriously injured that he

had to be hospitalised. On Saturdays, the Jewish Sabbath, the attacks would escalate. He was attacked then he was monitoring a situation where settlers were illegally trying to break down the door of a Palestinian's home with a view to illegally taking over the house. He and others made their presence known, whereupon the settlers attacked them. He was punched and kicked and fell to the ground. He was kicked in the head and pushed down into a rubbish hole. In 2006/2007 he tried to organise the Brighton Tubas Solidarity Group. They built a school; you will see that, I think, at Tab 15. He took statements from a Bedouin family who had been killed when Israelis made an air strike on a car carrying someone who Israel wished to assassinate. He told us of Israel's assassination policy; it wasn't a policy of arrest and trial.

He told us of hundreds of Palestinian homes built on land in the Jordan Valley which was Palestinian land would be demolished by the Israeli Military, and if it had not been for the support of the international groups how they even more would have been demolished and how they had built a school, despite the Israeli Military claiming that it was illegal.

He told us of the massacres in the Sabra and Shatila Lebanese refugee camps in 1982, when 800 people were massacred, Israel having sealed off the camps and allowed their allies in. He said that the people were trapped in Gaza. He told us about the incident at Cana [?] when the Israelis dropped leaflets telling the people to leave the area, and when the people did, shooting them. He said as a result twenty-eight people in one house who dared not leave were killed in an F16 strike. Sixteen of those were children. This led to a rooftop demonstration, he said, MBM, with the banner which you have seen in Tab 10 being unfurled across the roof. He knew the Israelis applied the Dahiyah doctrine of disproportionate force, killing civilians and he knew that they would do so in Gaza in 2009. He dealt with Israel's destruction of the village Al Hadidiya, using military bulldozers.

He first came across MBM in 2003, when he came across a reference to Brighton. This reference said EDO and MBM were working with Raytheon as part of the Paveway missile team. When he looked at the EDO MBM website he found advertised the VER-2, the bomb carriage used only by the Israeli F16s. He continued his investigations and found more provable links between MBM and Israel. The Iraq War was his motivation to start protesting against MBM as he believed war crimes were being committed, and like many, he did not believe that it was a legal war. There were weekly demonstrations at the factory.

He attended over 100 of these. There were three protest camps during the summer. They spoke to an Argos journalist. He wrote to Mr. Jones, the then Managing Director of MBM. His response was unsatisfactory, as he said he couldn't be sure where any equipment finished up when it went to a third-party. This tended to suggest, so far as he was concerned, that MBM didn't comply with the regulations. He didn't believe the Directors when they said they didn't supply Israel either directly or indirectly, as the US EDO website advertised the ZRFAU arming unit used by the Israeli Air Force. All the documents put out by MBM contradicted their assertion that they didn't supply Israel as it would have been illegal to do so, it was in the company's interest to make such denials. He dealt with his approaches to Mr. Lepper, his then MP, and helped compose a Council Motion condemning MBM and he took a petition to the police station, all without result. He learnt of the ITT motto: "One team one mission", effectively complaining that its factories wherever they were worked to the same cause.

On 28th December he left for a pre-booked holiday in Thailand, not realising the seriousness of the situation, but in Thailand the appalling horrors of the situation unfolded. He got the e-mails at Tab 16, the pictures of the policeman being killed at a passing-out parade. He followed the International Solidarity Movement's website. He read Jenny Linnell's website, Tab 19, reporting, among other things, that the port had been cut off. He read Sharon Lott's website. Perhaps I can summarise it by saying the appalling tragedy that unfolded before us in what we have read over the last few days unfolded before him. He believed that the Israeli Air Force was using F16s. He read Rachel Corrie's e-mail, Tab 5 page 2, referring to being in the middle of genocide; she, of course, was dead by this time.

He returned to England on 14th or 15th January, and on 15th January he attended a meeting in Brighton on the subject of Gaza, returning home in the early hours of the 16th to find his co-defendants at his house, they having been let in by Mr. Levin. Then it was that he learnt of the plan to decommission MBM. He thought it was a good thing to do; it could save some lives in Gaza and stop war crimes being committed, but he didn't believe it would bring the Israeli Air Force to its knees, he thought it would be a while for them to stop the manufacture of the ZRFAU and the support that MBM was giving to Israel. He thought MBM was complicit in Israel's war crimes. He didn't think that Operation Cast Lead would be the end of Israel's activities in Gaza. Israel's war crimes continue in his experience, and don't just happen when Israel is conducting operations.

By way of illustration he took us to Tab 7, the picture of the girl whose family had been shelled and killed by the Israeli Navy whilst enjoying a picnic on the Gaza beach. He had also seen the report of 9th January of the US trying to hire a merchant ship to deliver ammunition to Israel, a repeat of what had happened in 2006 in relation to the Lebanon, and not surprisingly, therefore, he didn't believe the United States' claim that this delivery was not linked to Israel's attack on Gaza when it was arriving in the middle of such an attack.

He took us through the various reports as to what was happening in Gaza. I am not going through them again; I have already summarised them. He said that the destruction of the UNWRA building meant that supplies in Gaza would be non-existent and that Gazans would starve as Israel had cut off fishermen from the sea and farmers from their fields, and that the destruction of their homes would leave Gazans without shelter at the coldest part of the year.

He dealt with Israel getting journalists to leave Gaza and with the fact that Israel had a very effective publicity machine which falsely puts out the reports that Israel is only responding to attacks on them, and falsely claimed in the case of the UNWRA building that they were being fired on from there, which was untrue. The United Nations Mr. Gung said over and over again there was no firing from that building.

He then returned to what his role was in the events of the 17th January. He said he agreed to go along with what was happening. Those going into the factory wanted it to be non-violent, and so in case there were clashes with security guards or with the police, he wanted to film the event to show that those who had gone into MBM were acting peacefully. His experience in Palestine showed that if you were there with a camera then people tended to behave peacefully on all sides. He and Mr. Levin would remain outside.

He previously knew some of those who went in. Mr. Smith had been involved in publicising "On the Verge" in Bristol. They had had fairly long conversations at camps in the wooded area adjacent to MBM. Mr. Smith had worked for the Solidarity Campaign from before 1997. He knew that Mr. Tadman had been present in a talk in Bristol in 2006. He accepted that he had gone to MBM with the others for him to film the event.

He then dealt with what he said to the police, accepting as he did that he had lied. His reasons for lying were these: firstly, he feared he would be kept in custody as he had been something of a thorn in the side of the police over demonstrations, and that would prevent him going back to Palestine, but to Gaza in particular to help at a time when help was badly needed. He was worried about the effect on his parents if he was kept in custody; they worry about his activities. Equally, if he was kept in custody, he couldn't pursue his relationship with his partner and he was worried about the effect of his being in custody upon her, but above all, it was his desire to go back to Palestine that led him to lie.

In his first defence statement dated 10th September he stuck to that lie which he had agreed with Mr. Levin. As part of his bail conditions at that time he was not allowed to contact Mr. Levin and had to live elsewhere. Mr. Levin had been deeply affected by what he, Mr. Levin, had seen in Palestine and had had numerous breakdowns because of the pressures of this case. Mr. Levin was withdrawn and wouldn't talk to anyone following his experiences in Palestine, and so that would go on for months, and so seriously was Mr.

Levin's health affected by the trials that he, Mr. Levin, couldn't even think about it. Mr. Osmond was very worried for Mr. Levin who was a very good friend of his, and so felt that in his first defence case statement he couldn't change his account without first being able to tell Mr. Levin what he had done, as they had agreed about what they would say when they were outside the MBM factory. He knew, of course, that Mr. Levin was not very well. However, he now accepts, as he said in his second defence case statement, that he was part of the plan to break into MBM.

Again, we know a certain amount about him. Mrs. Hallam, who spoke of his admirable work over the last six years in the Solidarity Group, she told us of their two visits to the Jordan Valley in 2007 and the help they gave there to Palestinians. Mr. Osmond arranged the travel for the group and he took care of the health and welfare, particularly that of an elderly man aged 75. She dealt with the situation in Fasayil where the Palestinian homes had been wiped out, where they were not allowed to rebuild and where their water supply had dried up due to an Israeli irrigation project, with the result that they were forced to buy expensive water from Israel. She told us that Mr. Osmond was a caring person, careful about looking after people, and was a person who could be trusted. She described him as a man of very strong principle, committed to the peace movement and to causes in which he believed, giving of his time selflessly to work for such causes.

Mr. Brooker, the UNICEF Donor Relations Team Manager in this country has known Mr. Osmond for twelve years. He suffered a stroke at the age of twelve, he said. He has developed his passion for trying to help people and he has seen him grow into a mature thoughtful man, taking a keen interest in the issues affecting society and supporting those who are most vulnerable with patience and respect. He has never known him to be violent, he has a strong sense of loyalty to people close to him, which sometimes can cause him to act to his own detriment. He is, he said, a kind, considerate and caring person.

Mr. Rolf is his employer at Corporate Watch. He described how Mr. Osmond's work focuses on Palestine, particularly the occupation, with specific reference to companies involved in profiting from the situation and who help to supply the Israeli Defence Forces with weaponry and help and to build and sustain illegal Israeli settlements in Palestine.

He described Mr. Osmond as a hard-working, dedicated and passionate member of their team, who works with undiminished enthusiasm and vigour. Zoe Oles [?] had been the Administrator of Sussex University and has known Mr. Osmond for eight years. He is involved in organisations, she said, involved in peace and resistance to injustice and violence in the Palestine Solidarity and Human Rights and Refugee support. She went to Palestine with him in 2002 and saw his commitment to non-violence and had tried to resist the building of the wall and the attacks on ambulance drivers. She said he is very idealistic, committed to non-violence in his promotion of peace, showing huge energy and patience in trying to achieve these ends.

So we come to Mr. Levin. He is Jewish, he is thirty-five, he has no convictions, cautions or reprimands recorded against him, and so is of good character. He suffers from cyclothymia, a mental health condition which causes severe anxiety and persistent low mood. This has a major impact on his self-esteem, which adversely affects his levels of confidence and how he relates to others when stressed. For this illness he is receiving ongoing treatment and support, together with medication from the Community Mental Health Team.

On his arrest in his possession were those leaflets and papers Exhibit 15, Tab 15. All those are aimed at trying to prevent Israeli war crimes. He had sent two texts from his mobile phone on 15th January, one to Mr. Osmond saying Mr. Smith was in Brighton and one on 17th January saying: "EDOs getting trashed, don't know who it is but I love them." He made no comment to the police, but, as you know, gave them a false statement saying that he was no part of what had happened, but in his defence case statement he accepts that he was party to what happened at MBM.

We learnt a certain amount about him from Mr. Osmond. Mr. Osmond believed that Mr. Levin had suffered a nervous breakdown and had been treated by the Community Mental Health Team. His breakdown was because of this case, and any mention of it made Mr. Levin worse. Mr. Osmond was very worried about Mr. Levin's mental health. They had met in 2003, when Mr. Osmond spoke at a meeting about Palestine in Brighton and they became friends. Both Mr. Levin's grandparents had been killed in – or great grandparents had been killed in Auswitchz. This helped him to connect to the suffering in Palestine.

Mr. Osmond shared with Mr. Levin what he discovered about MBM from late in 2003. Mr. Levin demonstrated outside MBM and was arrested. In 2004 Mr. Levin went to Palestine with the International Solidarity Movement, that being a movement, in fact, in which both Palestinians and Israelis participate. Mr. Levin lived with Palestinians in the Balata Refugee Camp and witnessed the Israeli invasions and incursions, coming with no warning and forcing civilians from their homes, shops and offices and keeping farmers from their fields. He was quite badly beaten up by Israeli soldiers intervening at checkpoints trying to protect Palestinians. He would also accompany to their fields the various Palestinian farmers and, of course, being of Jewish background he was treated all the worse.

He witnessed the sonic booms over the camps. You will remember the F16s come over low, break the sound barrier, and he said the terror -- that Mr. Levin witnessed the terror that the civilian population suffered from these sonic booms, and when he came back to Brighton he tried to publicise these atrocities. He wrote to The Independent on 2nd July 2006, and that is Exhibit 31 in the starred bundle, setting out his experience and I just want to read through that:

"Sir, I agree that the Israelis have the right to live in peace and security, but I wish to refute the claim that violence in the occupied territories is a one-sided affair. I lived and worked in the Balata Refugee Camp in the West Bank Palestine last year and can assure you as an eyewitness that the Israeli soldiers do target civilians. At least two or three times a week Israeli armoured vehicles would drive into the civilian areas, and soldiers shout at you in Arabic through their loud speakers. This brought children onto the streets to throw stones; the Israeli army would reply with gunfire. I have witnessed the destruction of family homes by the Israeli Army in retaliation for suicide attacks in Israel. I would not consider this self-defence, this is collective punishment. I have queued for hours in the blazing sun at checkpoints where Palestinian civilians are pressed like cattle in what appears to be a deliberate attempt to humiliate them in their own land, and I have accompanied peaceful demonstrations against the annexation of the war. The war continues to be built on land recorded to Palestinians under the Oslo Agreement, dividing Palestinians from their water and agricultural lands. These demonstrations, often supported by brave and idealistic Israeli activists I count as my friends were broken up with teargas, percussion grenades and rifle fire. If there is to be peace in the region Israel must stop provoking Palestinians into armed responses."

Mr. Levin, said Mr. Osmond, was deeply affected by his experiences, he was deeply anxious and worried about the Palestinian people because of the effect of the Israeli war crimes upon him. He continued to protest against MBM, often acting as legal observer filming what took place.

He joined organisations linked to Palestine. In 2006 Mr. Osmond and Mr. Levin started to share a house. They discussed Israel and Lebanon and the atrocities in the Sabra and Shatila camps. They both accessed all information they could about Palestine. They both became aware of the Dahiyah doctrine, and in 2007 Mr. Levin led a delegation to the Jordan Valley. From there he put information on the internet using the pseudonym Brett Cohen, in order not to prejudice his ability to get into Israel. When three months later he returned to Brighton, Mr. Levin was deeply affected by what he had seen. He was shocked and was motivated to go on working to reveal Israel's war crimes. He felt that what was happening needed to be stopped, and that affected his view of MBM, and this was his motivation for joining the events on 17th January.

He stayed outside the factory with Mr. Osmond so he could lend support. Breaking into the factory was something different to anything they had done before. At the factory both he and Mr. Osmond discussed what they were going to say.

They were both known to the local police because of their demonstrations over the previous five years. They had previously been arrested and spent nights in police cells, and you will remember they had books on them in case that happened again. Both feared they would be remanded in custody until this trial, and so they decided they would say they were not part of the plan.

We heard a bit more about Mr. Levin from Mrs. Goth, a former teacher now working for a charity in Brighton. She is a member of the Brighton Tubas Solidarity Group. She has known Mr. Levin since 2003. She knew he went to the West Bank and he spoke to her of his experiences. When he went to the West Bank she spoke to him every day, as she was part of his backup team as he was a leader and coordinator of the group that went, helping them to cope with their experiences. He sent her e-mails and published on the internet that which he found there, using the Brett Cohen pseudonym at all times. He was amazed by how the Palestinians managed to cope. He sent her Exhibit 32, it should be – I said 33 originally it should be 32, that e-mail setting out perhaps with somewhat ironic passion the horrors of what he found. You have it before you; I can't remember which tab it is in but you have it before you:

"Our first night was spent in Al Jiftlik, a village with a surreal scenario being half Area B and half Area C, meaning half gets electricity and building works while the other half lives in the 9th Century. We ate in Area B and slept in Area C. At least Palestinians have permission to do this. Area B you will remember under the Oslo Accord was joint occupation, Area C was entirely Palestinian land. This is the village reported by the previous delegation as having a tent school, due to Israel's refusal to allow the Palestinians to educate themselves, and while the head teacher at Al Jiftlik school explained that thanks to serious pressure from the Manager of UNESCO France on the Israeli authorities they were finally allowed to build a permanent structure, the small school made by the efforts of the local community has already seen its first graduates go to the [inaudible] university in Nablus. A larger school is in the final stage of being built with Malaysian government funding. Connecting electricity to the school was a separate battle finally won. Apparently Israel felt that the electric infrastructure would ruin this area. Messing up the environment is a victor's privilege I guess. I was surprised to find the school is in Area B and therefore by their own rules should have been allowed to be built with no fuss.

"The next stop was the United Palestinian Medical Relief Council's clinic, one of the two clinics in Al Jiftlik. This has one doctor, one dentist and two health workers. There are two clinics, but this is the only one with a doctor who lives locally and so opens in the day and the evening and has a doctor able to do night visits, this for more than 5,000 people in the area he has to cover. The other doctor lives in Jenin and cannot always get through the checkpoints to work. The main reason for this is the difficulty of attracting a doctor to an area without electricity. Most would prefer to work in Jericho or Nablus. This doctor, however, prefers to live in the village he was raised. As well as his official duties he has responsibility for the UPMRC and is on the Management Committee of a local NGO at a non-governmental organisation with responsibilities for preventative health classes. Frankly, I wonder how he gets time to sleep.

"Later we moved on to a food security project, developed by the Economic and Social Development Centre of Palestine, funded by Oxfam. The project helps poverty-stricken farmers to gain food, security and independence. Part of the project is a creche to look after the children of farmers working in the fields. Part is a women's group setting up a food and handicrafts production centre and marketing the produce through exhibitions, a bit like farmers markets back home, which has already resulted in their work being sold in supermarkets in Ramallah. They also have a solar powered drying machine for herbs and semolina, a greenhouse project, and have provided the poorer families with five goats or a sheep each, plus training in livestock. We were told families with five sheep now have thirty-six. ECD start the project and will give

advice until members feel confident they can run it themselves.

"After lunch we were showed the innate superiority of the Palestinian farming methods over ours. We moved to Fasayil in order to see the school which the Brighton Tubas Group had helped to build. I was impressed to see they've started to build themselves a clinic, despite the likelihood that it will be demolished. There is an injunction against the building of the school which is going to be fought in the Israeli courts.

"There was supposed to be a hearing in March. MA'AN, a Palestinian NGO, is paying the legal costs as well as providing furnishings for the school. A recurring theme of all these projects shows there is more resourcefulness and tenacity of the Palestinians. The only reason they need money donated is the stranglehold Israel has placed on their economic development. Everything else they do for themselves and do well: allowed to build, have electricity, use their own water as they please, go and give them freedom of movement and trade these people would flourish."

Well, Susan Dane had known him for four years and she became involved in the Brighton Tubas group. They worked together sharing thoughts and ideas, planning delegations to the West Bank and ways of raising awareness in the occupying of the West Bank. Mr. Levin has helped to host Palestinians in the United Kingdom. She described him as a sensitive, kind and thoughtful man, with a keen sense of justice and fairness, nonviolent in his approach to all, direct, honest, a man of integrity, those being his chief weapons.

Mr. Porter, a retired nurse and an active member of the Brighton & Hove Palestine Solidarity Committee, has known Mr. Levin for four years. He admires him and regards him as an inspiration for his actions in going to Palestine. Mr. Levin, he says, shows particular courage, coming as he does from a Jewish background, his actions always being motivated by his empathy for the Palestinian people. He describes Mr. Levin as an honest, conscientious and dutiful individual in respect of his beliefs and ideals which are nonviolent.

Finally you heard from Mr. Kiderat. I think he appeared on one of the blogs or the DVDs. He does so much to help Palestinians in the Jordan Valley against what they suffer illegally at the hands of the Israelis. He said of Mr. Levin that he first met him in 2005, when he visited the UK to highlight the very serious situation in the Jordan Valley. On that visit he said: "I spent some time in Brighton and invited several activists to Tubas and the Jordan Valley in the hope that we could form a [inaudible] and work together long-term." Three years later in 2008 Mr. Levin brought a fact-finding delegation of six people from Brighton to Palestine. As leader of the group he took responsibility for their welfare and ensured they got the most out of the visit.

They stayed in the local villages, feeling what it is like to have very little water, no electricity, no rights to renovate or rebuild their houses, watching the Israeli settlers farm the land that used to be theirs and having Army watchtowers and Jeeps constantly watching and harassing them. Mr. Levin helped them to understand the background to our situation, the importance of going back to the United Kingdom and telling people what they had seen. What he brought to the Jordan Valley was a lot more than this, he had such a natural understanding of the situation in the Jordan Valley that he made some very good friendships. With only a limited amount of Arabic he managed to really communicate with people, and many people took him to their hearts. He is described as an open, compassionate and committed young man. Mr. Kiderat said that he and the Palestinians think a lot of him and always look forward to when they will see him again.

Well, ladies and gentlemen, that brings me to the end of the evidence.

Two final matters. Firstly, when you retire, will you ask one of your number, the previous volunteer or

someone else, to act as your foreman or forelady to return your verdict when you come back into court and to take the chair at your discussion, because I think you will find any discussion goes the more smoothly if someone is keeping a bit of order to it.

Now you may have heard or read about majority verdicts. Please put anything you have learnt about them right out of your minds and concentrate upon reaching a unanimous verdict, one upon which you are all agreed, because not only is that very much more satisfactory from everybody's point of view, but by law it is the only verdict you are entitled to reach until and unless I give you any further directions in the matter.

Should you decide you need to see any of the DVDs or any of the recorded blogs again, just let the jury bailiff know and we will come back into court and they will be played to you. Otherwise, please take with you your bundle of the exhibits and your papers and retire and consider your verdicts.

[The jury bailiffs having been sworn]

JUDGE BATHURST-NORMAN: I take it that with the jury bailiff is going to go the jury's crib by way of an index to their exhibits.

MR. SULLIVAN: There can be. It hasn't been circulated amongst defence counsel yet.

JUDGE BATHURST-NORMAN: Well perhaps we can send that through to you when defence counsel have seen it, as well as Mr. Dias's efforts to type out what I said this morning. Oh, you have got those... Oh, those have just got to be printed out, so they will be with you very, very shortly. Go and start talking.

[The jury retired to consider their verdicts]