The General Medical Council's

FITNESS TO PRACTISE PANEL HEARING

of

Dr Andrew Wakefield,

Professor John Walker-Smith &

Professor Simon Murch

Martin J Walker

Contents

Countdown to Character Assassination

1990

Early in the 1990s Dr Wakefield's research into the causes of Crohn's disease, an inflammatory disease of the lower intestine, moved on to consider the possible role of wild or vaccine strain measles virus.

1990 – 1997

A number of patients presenting with a pervasive development disorder and gut problems were referred to the Royal Free Hospital. In most of the initial cases parents (or the child's GP) reported a temporal association between onset of symptoms and exposure to MMR vaccine. Wakefield and others were some of the first doctors in the country who sought to develop an understanding of the condition affecting these children. In these cases there appeared to be a possible link between measles virus, inflammatory bowel disease and autistic-like regression.

1998

Dr Wakefield and 12 other doctors and scientists at the Royal Free Hospital published an initial case series of 12 children in the Lancet. At a press conference following publication, Dr Wakefield suggested that it might be wise to return to single vaccines whilst research continued into the possible link between MMR, inflammatory bowel disease and autistic-like regression in a subset of children post-vaccination.

Following this statement, Dr Wakefield became the subject of an all out attack by the government, science lobbies and the pharmaceutical industry. Eventually his funding was withdrawn, his contract at the Royal Free was not renewed and he was forced to leave his post. These events prompted many people to further question the safety of the MMR vaccine.

2003

In 2003, Sunday Times journalist Brian Deer published a long 'expose' of Dr Wakefield, accusing him of a number of acts of professional, regulatory, ethical and legal misconduct. The article, which quoted a contribution from the Minster of Health, suggested that Dr Wakefield should be reported to the General Medical Council (GMC) of the UK.

Following the article and a subsequent television programme, the GMC began framing charges against Dr Wakefield.

2007

After a three and a half year wait with the charges hanging over him, during which the government vaccine policy continued relatively unchanged and Dr Wakefield's public reputation was destroyed, he and two other doctors, Professor Walker-Smith and Professor Simon Murch were arraigned before the GMC panel on over 80 charges of professional misconduct. The hearing opened on July 16th 2007.

The GMC hearing is scheduled to last for three months.

The Indictment

Like the rest of this affair, the indictment is a complex document. Below, are the main charges as they are drawn up against Dr Andrew Wakefield. Both Professor Walker- Smith and Professor Simon Murch have similar, but a lesser number, of charges. The charges as they are laid out below are bereft of both the background detail, and obviously, the defence rebuttal.

In relation to the **Legal Aid Board**, Dr Wakefield is charged that:

He was dishonest, misleading and in breach of his duty in managing finances and in breach of his duty in accounting for funds.

In relation to research and **Ethics Committee Approval**, and in relation to eleven children whose cases were reported in the Lancet paper, Dr Wakefield is charged that:

He carried out research on children which did not meet the inclusion criteria laid down by the ethics committee, and who did not meet the time criteria of the study given approval.

He 'ordered' investigations to be carried out without the paediatric qualifications to do so. That such investigations and research were contrary to the clinical interests of the children involved. That he caused such investigations to be carried out without some children being assessed first by a neurological or psychiatric expert. That he caused some investigations to be carried out which were not clinically indicated.

In relation to the **Lancet Paper (28 February 1998),** Dr Wakefield is charged that:

In reporting a link between MMR and a regressive autistic state, as he did in the Lancet, he was **dishonest, irresponsible and misleading**.

This charge amounts to spreading 'alarm and despondency' Clearly the science lobby, the pharmaceutical companies and various government departments consider it ethically correct to 'draw a line under' any research whose results reflect badly on their product or their political approach.

In reporting cases of children who for various reasons fell beyond the inclusive criteria of the ethics committee, he acted, dishonestly, irresponsibly and contrary to ensuring the provision of accurate information.

In relation to the Lancet paper, Dr Wakefield is charged that he failed to declare **disclosable interests** with respect to funding which he received from legal aid.

In relation to **Transfer Factor**, Dr Wakefield is charged that in relation to one child who was prescribed Transfer Factor, he acted against the clinical interests of this child and abused his position of trust as a medical practitioner.

At the time of his son's **birthday party**, he took blood from children, paid them £5 for so doing and later recounted the incident at a presentation in March 1999. In doing these things, he did not have ethics committee approval, carried out the procedure in an inappropriate social setting, offered children inducements, showed a callous disregard for the suffering and pain of the children involved, abused his position of trust and brought the medical profession into disrepute.

The Hearing Opens

Monday July 16

Inevitably the atmosphere inside the building was quite different from that outside. Inside the glass shell, there was a feeling of being in an underwater bubble. Anyone entering was greeted by an almost entirely black security personnel, attractively dressed young women with fixed smiles and confident young men in casual dress. On the third floor, through two sets of glass doors past a lounge area and the doors to the rooms provided for the press, off a corridor on the right is the entrance to the hearing room. All attendees in the public gallery and members of the press are searched before entering the long room.

About 60 foot long and 40 feet wide, the room is flanked by glass panels down one of its long walls. The atmosphere is one of quiet efficiency. There are between 30 and 40 participants in the hearing. The defendants and the adjudicators sit facing each other, the doctors with their legal teams are down the left hand side and the panel and GMC clerks down the right hand side.

It is difficult to imagine that this long mainly white room, with an oblong of tables in its centre, will be the daily place of work for the three doctor defendants in this case. For the next three months these highly trained doctors will have to defend many of the professional decisions which they have made over the last decade. Things that ‘just happened’ and that carried no particular importance at the time could now, in the light of this room, spell the end to their medical careers.

The room is not really like a court room, there is no central point of authority, although the principal prosecutor for the GMC, Miss Smith, sits at one end of the rectangular tables, she is not sitting higher than anyone else and is sometimes hardly noticeable amidst the books, boxes and reading rests that surround her. Nor are the ‘accused’ sitting together in a dock of any kind but dispersed amongst their lawyers.

Almost everyone in the room, outside the public area, is wearing black, its deadness only interrupted by the silver hair and white shirts of the men and on some women brief touches of ochre or translucent white of arms

and legs. There is a round and almost classic clock on the wall at the far end of the room, on its face time passes very slowly.

The first days of any juridical hearings, whether they be at the Old Bailey or the General Medical Council (GMC) are always the worst for defendants. It is in these first days that the complainants or the prosecutors make their case, and knowing that they have a free hand in tarring the accused, prosecutors always over-egg the pudding.

Consequently, defendants find themselves powerlessly listening to an endless litany of their dishonesties and their dishonest nature. Amongst many unfairnesses introduced into the judicial process by the GMC on this first day, was an evidently unrestricted number of charges – Wakefield was faced with some 40 heads each broken down into two or three separate accusations, while Professor Walker-Smith and Professor Simon Murch faced counts in their twenties and thirties. Anyone who has ever had any experience of juries or tribunals knows full well that with so many charges the the adjudicators are inevitably faced with a quandary. As the mud is thrown at the wall some will inevitably stick. ‘Well’, they will say ‘We have found for the defendant on some of the charges, we have to find against them on some’.

Dr Andrew Wakefield, Professor Simon Murch and Professor Walker-Smith, the three accused, faced a formidable number of charges. In fact, they faced so many charges that one might imagine that the GMC had purposely covered every bit of green beige on the roulette table to ensure a victory, if not on the red or the black, then at least on number 38, para 1 (i) small a.

All three defendants, listened throughout the whole of Monday to a reading of the accusations first from the GMC and then from defence council and finally again, ‘just checking’ from the panel chairman. Like demonstrating a Chinese water torture, it would seem impossible for any member of the panel not to have been hypnotised into believing that the defendants were definitely guilty in triplicate. This strategy is perhaps equal in unfairness to the bizarre three year delay in formulating the charges; a delay that would probably not be tolerated in most third world regimes or still surviving Stalinist enclaves.

Of course, in a fairer system, the admissions and mutual agreements over some parts of the charges; those factual aspects which hold no legal or

ethical value judgements, would all have been sorted out well away from the panel or the public, at a much earlier time.

Lawyers, however, enjoy this kind of legal accountancy, perhaps more than actually fighting cases or defending their clients. The hearing room echoed with bold legal statements such as:

18 (i), little 3 and little 5, is admitted as is 18 small k.

Each barrister seemed to revel in this soliloquy of small letters and numbers. And of course such terminally boring speeches, gave opportunity for the pearls of legal language to be dredged up from the deep.

‘Yes’ one barrister said to the Panel chair, ‘Sir, you are right and I am wrong’.

Brian Deer also faced his persecutors inside the building. During the morning break, two parents objected to sitting in the same public gallery space and indeed breathing the same air as him. There was nothing that the GMC could do about the air problem but ever eager to show fairness, security personnel roped off the section of the public gallery which contained Deer and the other embedded journalists.

Then at a break in the afternoon a security guard, checking under seats with the ‘wand’, thought he had found a bug under the seat next to that used by Deer. It turned out to be a fault in the machine and no device was found.

The sense of utter tedium, however, masks a very serious operation which is intent on stopping Dr Andrew Wakefield from ever again acting as a doctor in England and perhaps more exactly ensuring that he never appears as an expert witness in any cases of vaccine damaged children.

The Hearing Trundles On

July 17 to 20 and July 23 to 26

Legal cases, whether they be seen from the perspective of the prosecuting or defending counsel, are dependant upon narrative; the telling of a story. Unfortunately for Miss Smith, the GMC have provided her with an already threadbare narrative which because it is all she has, she proceeds to bang on about as if it were the dead parrot in the famous Monty Python sketch. Watching Miss Smith try to construct a believable story out of her information is heartbreaking for anyone who enjoys the legal process.

But what is even the best lawyer to do without a story? You could hum and haw your way through the whole production - making it up on the hoof so to speak - or you could take the strategy for which Miss Smith has opted.

This strategy involves hurling chunks of disconnected information at the defence in the hope that at the end of the hearing some damage will have resulted. Because her case contains few specifics and very little fact, each plank of Miss Smith's prosecution is shaped in global terms.

In hearings of this kind, the nature of the defence is inevitably structured by the prosecution. So while it is clearly Miss Smith's intention to filibuster her way through the case, the defence has to respond with a careful, exact and specifically detailed revision of the local facts. Because the prosecution is based on partial information and a threadbare story, the defence has to bring to light the facts which make the story whole.

They have done this with great dexterity in the first two weeks of the hearing. Defence counsel's cross examination of the prosecution witnesses brought so far has been exemplary. They proceed quietly and with an erudite commitment to prizing out the truth. What is really exciting to watch is the way that defence counsel shape and place the bricks of their case with such smoothness that even the most professional of witnesses are unlikely to see the denouement.

Most of my experience of law is with criminal cases, where one is rarely dealing with complex arguments. The defendant knows not to say that he

carried out the crime while the police have spent hours in the canteen checking their notes to ensure consensus about exactly what time the defendant went for a pee the day before the robbery. In the GMC case, however, the arguments are subtle and the whole craft of cross examination might be observed at its most intricate.

The Prosecution Case

On Tuesday 17 July, after a morning to discuss legal issues, particularly that of the confidential nature of children's medical records, Miss Smith spent the afternoon giving a broad description of the prosecution case. She began with the words:

'It boils down to simple allegations against a research project to do with a new syndrome'.

If other members of the public and the press were thinking that this broad description under a number of heads was the opening of the prosecution case, to be followed by witnesses, they were to be sadly disappointed.

On that Tuesday afternoon and for all day on Wednesday, Miss Smith presented almost every detail of the prosecution case. This presentation inevitably made one wonder why the GMC were bothering to call witnesses to the hearing, as Miss Smith appeared to have given much of the evidence herself.

At one point on Wednesday afternoon, during an analysis of the route by which the children were introduced to what the prosecution call 'the research', a problem associated with this style of presentation obviously occurred to the leading defence council. He stood, to ask why Miss Smith, while appearing to introduce the whole case in detail, had missed out large chunks of the narrative that did not support their case.

The idea of the defence asking the prosecution to include defence material in their opening remarks left me momentarily bewildered. And in fact Miss Smith slid easily from beneath the guillotine, explaining that it was not up to her to introduce facts which helped the defence case. The defence, she said, would have ample opportunity to bring these matters to the attention of the panel, during cross examination or during the presentation of the defence case.

When, defence council must have been thinking, would it be possible to correct this view that children had arrived at the 'research' in an unorthodox and unethical manner. If each child's circumstances was not to be specifically presented as evidence, how was the defence to give a detailed map of each child's route to the research?

In fact, although each child's route to the Lancet case series is vital to the prosecution case, the children and parents have been left out of the hearing, obviously because they are all sympathetic to the defendants and furious about their prosecution. It is rather as if in a case of serious assault at the Old Bailey, the prosecution fail to bring the victim to give evidence because he insists that he was never assaulted.

When viewed from the perspective of the parents and children, the GMC hearing brings up other serious questions besides such things as research regulation and the power of pharmaceutical lobby groups. The hearing throws into our vision, the whole question of the individual's right to choose medical interventions and the doctor and research workers' right of freedom to prescribe and research in areas where policy is guided by corporations or governments.

The Case for the Prosecution

The prosecution has broken down the case against the three doctors under a number of heads, these are.

The Children: By presenting the GP's of each child whose case was reported in the Lancet paper, the prosecution hope to show that Dr Wakefield, Professor Walker-Smith and Professor Simon Murch touted for children whom they had no intention of assessing, or treating, but to whom they wanted access for the sole purpose of research. The prosecution case is also that some of the children did not meet the criteria for 'the study'; that some children did not present with symptoms which made them part of what the prosecution insist on calling the 'disintegrative disorder' group and that the defendants carried out unjustified, invasive, frightening and risky procedures on the children.

Ethical matters: The prosecution will try to show that from the beginning of the application to the ethical committee, Wakefield and others confused, if not lied about, their intentions. That after approval with reservations, the doctors went their own way. They will try to show that, amongst other things, the doctors broke ethical guidelines by

enrolling children in research outside the time frame of the ethical approval; confused the GP's about how the 'research' was being funded and failed to include details of 'research' procedures in the patients' notes.

The Lancet paper: Under this head, the prosecution will try to show that Wakefield and others completely misled the editor of the journal, especially in that they were well aware of the serious nature of their conclusions and the damage which it might do to the nation's public health. Part of the case against the paper is that Wakefield had failed to make a declaration of conflicting interests.

The Birthday Party: As the prosecution made the case, the taking of blood at a children's party and the 'inducement' of £5 to each child was made far worse a crime after Wakefield told a story about it during a lecture in America. This telling of a humorous story was considered, 'so inappropriate as to bring the medical profession into disrepute'. Of course, considering that the anecdote has always been the mainstay of both the medical and the legal profession, this is a culturally, if not legally, astounding position.

The actual case for the prosecution

Miss Smith went through the background to each of the children reported in the 1998 Lancet paper. She did her best to distance the children from any perceived vaccine-related event. She failed to mention that hundreds of other children had undergone the same procedures for clinically indicated reasons. She also failed radically to introduce the parents into the story. Had she done this, it would have become clear that, at the time and to this day, the parents were more than happy to have someone take an interest in their child's illness and to share with them the terrible ordeal of having a damaged child without any real hope being held out to them.

The prosecution reported the cases of these children in the context of a health care system which is without fault. A health care system in which GP's, for instance, always give parents the right advice and quickly reach correct diagnostic conclusions. In fact the reality is almost the opposite. All the GP's who gave evidence followed the advice of parents that they wanted their children referred to the Royal Free specifically because no one else was able to offer a diagnosis.

The prosecution called a majority of the GP's who initially dealt with the children whose cases were reported in the Lancet paper. There was some reluctance amongst a number of them to appear. This was summed up by one GP who responded acerbically to one question: 'I have been drawn into something which is bigger than me and I would rather be back at my practice seeing patients'.

The clearest impression garnered while the GP's were giving evidence is that the prosecution is doing everything they can to avoid bringing the children, the plight of the parents, vaccination or MMR into court.

As Miss Smith took the hearing through each of these cases, the children and their illnesses were all carefully distanced from their vaccinations or the possible adverse effect of these. Equally, the parents were very cleverly painted out of the picture, so that to all intents and purposes it appeared that they had been put into a terrible dilemma by a rogue doctor wanting to experiment on their children.

Just so that I could clear my mind on this matter, I asked one of the parents – of a child who was not actually included in the case series – whether she and her husband had been disturbed by the offer of tests given by the Royal Free team. 'I think that my boy would have died if he hadn't had the tests which were proposed'. 'It was the logical step to take, we had absolutely no doubt at all about the tests'. She thought for a moment: ' I don't know any parent who had any doubts about the tests'.

Listening to Miss Smith, one lost count of the number of times she said, 'Neither the GP nor the Consultant mentioned that there were any gastrointestinal problems in this case'. To which one is bound to answer, 'Well they wouldn't would they, this is the reason they ended up with Dr Wakefield, who outlined a NEW syndrome'. This of course is the nature of serious scientific research, that medical research workers find solutions by looking at a numbers of cases, where GP's remain confused by the experience of individual cases.

I have always thought that it would be the parents who will win this case and for that matter the campaign. From the beginning the 'lobbyists' have sent out a clear message that Wakefield is on his own; a 'lone maverick'. Only the parents could save him from this description, by coming forward for the case and the campaign and making it clear that he has their full support.

However, when it comes to working with children and parents, lawyers have an approach similar to that which WC Fields had towards children and animals. They seem to be considered by lawyers as loose cannons. It is for this reason almost entirely that the real story will not come out of this hearing. What the hearing has done is refocus the matter entirely on Dr Wakefield, and to a smaller extent the other doctors, at the expense of the parents and children. It puts all the power into the hands of doctors at various levels of authority and takes away from the parents their experiential evidence of their children's damage. In this, the defence is playing a similar game to the prosecution. Neither team wants the hearings to leak out beyond the professional domain and into the public.

Dr Pegg the Anaesthetist

On Tuesday July 25 Miss Smith began to address one of the main planks of the prosecution case; Dr Andrew Wakefield's alleged failure to abide by ethical rules governing the practice of research. A lawyer with a good story might have started by leading the first witness through their evidence in chief, asking them to describe the role of ethics committees before moving on to tired old lines such as,

'Was there a time in 1996 when Dr Andrew Wakefield approached the Royal Free ethical committee with a research project.'

If the answer is 'yes' then the project can be investigated.

Aware of her lack of story, Miss Smith began by reading what seemed like every pertinent document, word for word, which addresses ethics and research on human subjects. Having dealt with the historical and global, little of which had anything at all to do with anyone in the hearing, she then moved directly to the witness.

When, however, she asked Dr Pegg, Consultant Anaesthetist at he RFH and Chair of the hospital's Ethics Committee, to agree the history of ethics in the developed world since the second world war, Dr Pegg immediately responded, 'Yes but you have missed out the most important reference, The Declaration of Helsinki'. Miss Smith immediately hunkered down to read this document word for word as well.

Personally, I felt that Miss Smith missed a good opportunity when she failed to read out the Nuremburg Codes, which would quickly have tarred Dr Wakefield and his co-defendants as Nazi's as well as mavericks.

In leading Pegg through his evidence-in-chief, Miss Smith kept her creature on a very short leash. But because she had hopelessly overcrowded the evidence with irrelevant detail, the shape of her narrative was lost, certainly on me and perhaps on the panel. Prosecuting with a witness such as Pegg, one needs to coax from him clear and simple ways in which the defendants had acted unethically. But Pegg was almost apologetic, and like the GP's, of course, keen to watch his own back;

'Don't forget, these were the guidelines which we used 11 years ago' and

'Yes that was probably my secretary (referring to a wrongly dated letter) *she was overworked'*.

Oddly enough, Pegg, who clearly came across as having something simple to say about the defendants ignoring ethical guidelines, found himself guided by Miss Smith into byways of obfuscation. That, and the fact that in this complex case pages in evidence folders appeared frequently to rearrange themselves, provoking endless speculation about page numbering, inevitably drew attention to the weakness of the prosecution case.

When Pegg had been led through his evidence in chief, it looked as if the prosecution might have dug up a couple of sharp points about the doctors' behaviour. Had the defendants not, for example, enrolled children in the 'research', before the start date granted by the ethics committee? Had they continued to give lumber punctures in some cases even though the ethics committee had warned them against this.

However, when Mr Miller rose to cross examine, holding a sheaf of papers which turned out to be letters, sequentially important in the actions of the RFH group, even these issues were well on the way to being resolved. When Miss Smith said with muted complaint,

'I just want to make clear to the panel that we have not seen these letters',

one was tempted to ask 'Why not?' was she saying that after three years of assembling the prosecution case, she had based her case on an incomplete exchange that had gone on between the defendants and the ethics committee?

Three quarters through the cross examination of Dr Pegg, the whole matter of documentation became even murkier. Looking for the rest of any exchange which might help his client Mr Miller asked Pegg:

'Do you have any ethics committee records at the Royal Free?'

'No there is no paper work. Everything is shredded after three years'.

The matter appeared to have been dropped but then an hour later, Miller approached it again.

'You have no record of these letters?'

'No we have no record, everything is shredded after three years'.

'That seems a very short time to keep records'.

'No everything has been digitised, after it has been digitised all the paper records are shredded'.

When Miller appeared surprised at the deception that had apparently been practiced on the defence. Pegg added scathingly.

'If you want something, you can go and search through all the discs if you want'.

This in a tone of voice which suggested that what he meant by their being no records had been clear all along.

This was, amongst other of Pegg's acerbic asides, an indication of his general attitude to the defence. Throughout his cross examination, his manner was unhelpful and truculent. At one point having answered a string of carefully framed questions from Mr Miller, with breath short stunted 'yeses', he answered the final one with:

'Well I've answered all the others with yes, I might as well answer this with Yes as well'.

In a proper court, like so much else, this childishness would have earned Dr Pegg a rebuke, if not a warning, but in the court of Miss Smith, Dr Pegg, a creature of the prosecution was allowed to bring the tribunal into disrepute. Nor was Dr Pegg able to stop himself from openly insulting Mr

Miller, suggesting in a hardly veiled manner that he was ‘stupid’ and perhaps illiterate.

The evidence of Dr Pegg must have left a bad taste in the mouths of many people in the hearing room. It was evidence which only the defence barristers walked away from with some kind of honour. Watching Miller, Koonan and Hopkins hold their tempers while revealing Pegg’s bolshi nature to the panel was an object lesson in how to cross examine a difficult and rude witness.

Just as the prosecution had, at the end of the day, been utterly unable to depend upon the general practitioner witnesses to state clearly that Dr Wakefield and his colleagues had trawled the country for children to experiment upon and then had failed to treat these children, so Dr Pegg failed to aid the prosecution in simplifying how Wakefield had broken the guidelines of the ethical committee.

The prosecution needed Dr Pegg to be able to make simple and obvious statements about how Dr Wakefield had acted unethically. However, because like the GP’s, Pegg also had to watch his own back, he seemed unable to accuse Wakefield in a straightforward manner.

Did Dr Wakefield or any member of his team write back and discuss the changes that the EC had asked for? Pegg wasn’t sure and had no records.

Was it just Dr Wakefield involved in this project? Pegg couldn’t really remember who was involved. When the signatures of around ten clinicians and technicians on the submitted forms were brought to his attention he seemed surprised.

But by far the biggest failure of Dr Pegg’s evidence came when he was asked about the requirement for applicants to declare sources of finance. He had to admit that, because of the routine way in which all funding had been handled by the RFH trustees, there was no requirement for a declaration of original sources of finance on Dr Wakefield’s (or anyone’s) part when completing the relevant ethics form. Given that such specific information about financial sources was not required in the financial section, it was unclear where one might make mention of it. The best Dr Pegg could do was to suggest that Dr Wakefield might at least have declared legal aid funding under ‘objectives of the study’, which seems rather odd to say the least.

The defence was clearly preparing the path for the argument which will inevitably take place around the authors' failure to state any conflict of interest relating to the Lancet paper. On this matter Pegg was immensely helpful to the defence claiming that such matters were *'…not even on the radar in 1996.'*

A second key matter on which the defence was eager for commitment from Dr Pegg was whether a 'case study' - that is a clinical report of one or more similar cases – did or did not need ethical committee approval. On this matter, Pegg was hardly helpful to anyone. If the doctor concerned knew from the beginning of a case that he was going to write it up, then he needed ethical approval. If he did not initially intend writing up the case but did anyway, then he didn't. This was a ridiculous explanation and one suspects it was made up on the hoof. What he probably meant to say, was that if individual children were examined for the sake of a scientific study then the doctor concerned needed ethical committee approval. If, however, all the children were seen on the basis of clinical need and at some point a number of the cases were written up, no ethical committee approval was needed.

On the evidence so far, after almost two weeks of the hearing, the defendants appear to be in very good shape. However, it will not be clear up until the last breath of the hearing what value the panel members will place on the evidence. With a case such as this, which has been in the public domain for over three years and which panel members have probably read about extensively, it would seem almost impossible that they do not have pre- conceived notions about the three defendants.

Transcripts were freely available through week one, when allegations were being read out without rebuttal. After cross examination began it was decided not to make them available any more.

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Finally, I have to make it clear to visitors of this web site, that these accounts will not on the whole contain silly stories about Brian Deer. The GMC hearing is a very serious matter.

However, someone who read the report about the first day of the hearing told me that I had missed a little story about Brian. Apparently, during the first day, he had returned after lunch to the GMC building with MP Evan Harris. After facing a hostile crowd, and in his haste to get back

inside, he missed the door and bumped into the glass wall of the building. Confused, he turned round, faced the crowd momentarily then tried to find the door again, only to bump into the glass wall a second time. Eventually a concerned and rather amused police officer, guided him gently back inside.

Prosecuting For The Defence

Monday July 30th to Monday August 6

Despite having chosen to sit directly beneath the air conditioning vents in the hearing room, I occasionally nod off. On Wednesday of last week I had a very disconcerting experience, I nodded off during the evidence of Dr Berelowitz, a psychiatrist who was one of the co-authors of the Lancet paper and who acted at that time as a psychiatric-paediatric liaison worker.

I must have only dozed for a moment but it was long enough for me to become caught up in a disturbing dream which I now can't remember. I can, however, remember just before I woke, my head was full of the sound of stampeding people, running and shouting as if they were trying to escape a natural disaster. I could see the front runners as they scrambled over everything in their path, amongst them I recognised Dr Berelowitz and realised that the deserting crowd were mainly witnesses fighting to get out through the door of the GMC hearing room. Behind them was Andrew Wakefield sitting completely alone apart from some vague ghosts of friends and his defence counsel.

I woke with a start and tuned back in to Berelowitz's evidence. He was saying that he had been happy to be a part of the research which led to the Lancet paper. He was happy with the ethical position of the research team, yes, he was also happy with the investigative tests which were carried out on the children. As far as he was concerned such tests were common in the diagnosis of bowel disorders.

However, Berelowitz went on, he had been upset and disconcerted about what had happened at the press conference. As far as he was concerned, the Lancet paper should naturally have called an end to the rather spurious tenet of the research into any link between MMR and autism. The paper clearly stated that no link had been proven and Berelowitz, for some reason apparent only to himself, had taken this to mean that no link could ever be proven. On the basis of this fundamental and rather startling misunderstanding he had expected any future research to take a completely new direction. This, naturally, had proved not to be the case and Dr Berelowitz seemed unsure of who was to blame. Was it the media? Was it Andrew Wakefield?

He suggested that his relationship with Wakefield, and his association with the research, had utterly collapsed after the press conference. Berelowitz recounted the story of how a journalist friend, present at the press conference, had got up to interview Wakefield, who had just opined that perhaps use of the triple injection should be suspended until research definitively answered the question of a link between MMR and regressive autism. Berelowitz had apparently said to his friend, *'The story is here in the paper, it shows that there is no connection between MMR and autism'*, his friend had answered, *'No, the story is over there with Wakefield'*.

So, as far as Berelowitz was concerned, he had opted out of the research either because Wakefield was intent on pursuing the MMR theory or because the media seemed determined to pursue it. Both these reasons gave Berelowitz a way out, a way of setting himself free from his association with Wakefield and his 'crimes'.

Dr Berelowitz would, he said, have nothing to do with Wakefield after the press conference. So vehement was he on this matter, that it occurred to me for a second that he was going to say that Wakefield had forged his signature on the protocol form for subsequent research in which he had clearly been involved. In the event, however, Berelowitz claimed that he was tentatively involved in the research in name only and after a time had not gone through with any involvement. His parting shot on this matter was the simple logic that Paul Shattock was involved in the research and he, Dr Berelovitz would never be involved in anything in which Shattock was involved because his research methodology had been found wanting.

In many ways Dr Berolovitz was hoist by the same petard as all the other prosecution witnesses. He had willingly taken part in the research for a period of time, and he, as those before him, now had to somehow cast that involvement in an innocent light, while appearing happy to endorse the prosecution against Wakefield.

This situation is perhaps the worst in which any prosecutor could find themselves, calling upon a gaggle of reluctant witnesses who should, if the defendants are in fact guilty, all be with them in the dock. This predicament further accounts for the manner in which Miss Smith and Owain Thomas, the prosecutors, often appear to all intents and purposes to be presenting the case for the defence when leading their witnesses through their evidence-in-chief.

Take the matter of Dr Berelowitz and lumbar punctures. The GMC prosecution have presented these as highly invasive, risky procedures which should on no account be used on children; they were portrayed as arcane and evil experimental methods. But how could Dr Berelowitz agree with the prosecution on this matter? If he did, he too would surely be admitting guilty involvement. So, on this, as on a number of other matters, Berelowitz, witness for the prosecution, essentially gave evidence for the defence.

He had, he told the hearing, done his own research into lumbar punctures and children, just to assure himself that he was not involved in anything unethical. His quick perusal of the literature had led him to believe that lumbar punctures were commonly used in a whole series of clinical situations involving children and were used in research by some of the most authoritative institutions in Britain and America.

Dr Berelowitz had to make a similar defence on the issue of ethical approval, another of the main planks of the prosecution case. On this he maintained very clearly, as others have done before him, and as others will no doubt do after him, that the writing up of a case-series does not require ethical approval.

It has been apparent from the first day of the hearings that the prosecution is leaking like a stricken boat trying to get to harbour in a storm. Not only has Miss Smith presented portions of the defence case, but the GMC is having to depend upon, in the main, entirely reluctant witnesses who are busy watching their own backs.

The last week has been a week of extremes. It began with the pleasant and clear minded evidence of Mrs Cowie, a solicitor who worked for what was at the time the Legal Aid Board (LAB). Richard Barr, the solicitor who by 1994 had been approached by a number of parents of potentially vaccine damaged children, had applied to the LAB for money to fund research which might, or equally might not, turn out to be of use to these claimants.

That this money had apparently been used by Dr Wakefield for his research and then not declared in his Lancet paper was a main plank of the prosecution evidence. Cowie was a generous witness who seemed completely in control of her independent position. Under cross examination she was happy to tell the panel that the money which had

originally been sent to Dawbarns Solicitors, had later been paid to the Royal Free Hospital's School of Medicine.

Instead of insisting, as the prosecution might have wanted her to, that the money was ring-fenced for an exact and explicit purpose, she informed Mr Koonan, counsel for Dr Wakefield, that the money was intended for generic work in the area. The money and the research were, she said, *'like a melting pot'*, it was to cover *'what was going on'*, and could happily be moved from one head, or research project, to another.

The Last Two GPs

During the week, two more GPs of the anonymous children written up in the Lancet paper, were called. Although admittedly, calling the GP's was better for the prosecution than calling the parents, on the whole the prosecution gained next to nothing from bringing them to court.

Both GPs gave evidence and were cross examined on the matter of their having let the patients out of their grasp and, as it were, allowing them to be self-referred by their mothers to the Royal Free. Both GPs were of a similar mind; that the cases were complex and their symptoms presented a condition with which they were by no means familiar. This inadvertent lack of knowledge had led to a series of referrals in both cases, which might be considered in hindsight to have been 'casting around' for a solution.

Both GPs refused to fall in line behind the prosecution supposition that in referring the children to the Royal Free the doctors had given up their patients to the devil. Both declared with ringing common sense that they had done what was best for their patients and their parents. What is more, both felt that their actions had been thoroughly vindicated when they received the discharge summary from the Royal Free and when later it became apparent that the two patients had been offered a believable diagnosis and treatment which had in differing degrees helped their condition.

The second of the GPs was an ebullient man who despite being called for the prosecution, determinedly spoke for the defence. His evidence was packed with common sense and a humble acceptance that there were people in the profession who might know more than he did.

At one point during his cross examination this doctor put succinctly into words the thoughts that had been on the minds of most of the other doctors. Explaining that he had reached a stage where he was not concerned about the child attending the Royal Free or being subjected to investigations he said; *'I was pleased that the child was being dealt with and was glad that the mother was behind the referrals. Anything was worth a try'.*

By the time that this GP appeared at the end of the week, it was apparent that the prosecution had slightly changed direction. Whereas the previous group of GPs had all been tarred with the brush of sending child patients on an illegitimate caravan to be experimented upon by Dr Wakefield, the two later doctors were charged with having helped Wakefield with his obviously nonsensical research. Research which claimed that MMR caused autism.

In fact it didn't matter, because all the GPs appeared worthy, conscientious and sensible in the face of the rather haphazard prosecution. Apart from one unfortunate remark by a doctor who suggested a patient's mother was searching too hard for a cause and a viable treatment, when she should perhaps learn to live with her son's condition, most of the GPs gave credence to the parent's feelings.

The fact that these worthy doctors had been brought to London in order to give evidence against three other doctors and, in a sense, against their patients and their parents made one wonder at the GMC's political turpitude.

In an odd way, the presentation of evidence by all the GPs gave one new faith in the average doctor. All seemed unaffected by the ideological blandishments of the Department of Health and unwilling to carelessly throw in their lot with their own regulatory body. They were independent and happy to admit that they had acted in the interests of the patient and the patient's family. All of them expressed their empathy for the terrible circumstances which had befallen the parents and in comparison with the apparently unfeeling approaches of Miss Smith and Owain Thomas, they came across as intellectually engaging and sympathetic to both the parents and the children.

The end of facts

It might almost be true to suggest that the facts of the case against Wakefield, Walker-Smith and Murch have, with the general practitioners and the expert on ethics, almost been exhausted and what we might expect from this point onwards are ideologically versed witnesses.

On Thursday August 2nd, a Dr Kirrage gave evidence and one was forced to wonder yet again about the sense of the prosecutors bringing forward lower tier apparatchik's to make their case. Kirrage came to the GMC hearing from that very heart of darkness, perfidy and spin which is the contemporary Health Protection Agency. In 1997 he had been a consultant working for Worcestershire Health Authority, it was his job to assess Extra Contractual Referrals (ECR) from Worcestershire Health Authority to others which provide specialised services.

A mother had approached her Consultant Paediatrician, with her son's case. The consultant appears to have taken a jaundiced view of both the mother and the child. Despite having no real idea himself of how a diagnosis might be reached, he had bridled at the suggestion that the child be referred to the Royal Free, saying that he could not see how the child might benefit.

To get support for this decision, based upon ignorance, he communicated the details of the case to Dr Kirrage. Kirrage in turn had immediately sought advice from a friend in high places, Dr Elizabeth Miller. Miller had told him that Andrew Wakefield's theories and research were now discredited and that there was no link between MMR and autism. In her opinion it was best not to refer the child to the Royal Free.

Using a pro-vaccine propaganda leaflet sent him by Miller, that he copied into an apparently personal letter, Kirrage wrote back to his consultant friend. He suggested that the consultant send a copy of this letter to the parents, at the same time informing the child's mother he could not see that either the child or the family would gain anything from travelling to the Royal Free in London.

What made this apparently ideologically motivated decision even more hurtful was the fact that neither the consultant nor Kirrage appeared to have the faintest notion of how they might get a proper diagnosis or specialised treatment for the child in their own Health Authority area. They were, as the mother wrote in a heart wringing letter to the consultant, dooming her son to incarceration in an institution where he would be drugged to keep him manageable.

By the end of the hearing's third week, most of those parents, and others associated with the Wakefield camp, had a more or less clear picture of the pressure which had been brought to bear on Dr Wakefield as he began treatment of the cases which were to be reported in the Lancet paper published in February 1998.

If anyone wanted confirmation of the very personal feud which had begun against Dr Wakefield inside the Royal Free medical school, they need have looked no further than the evidence of Professor Zuckerman, who had at that time been the Dean of the school. The strategy in bringing forth Professor Zuckerman was resoundingly clear from the start of his evidence.

Professor Zuckerman was a wholehearted supporter of vaccination and immunisations. He was an advisor to the World Health Organisation, he had been an adviser over many years to the Department of Health and was a contributor to over 1,000 journal papers and articles. He had experience in epidemiology and in the safety and development of vaccines.

Professor Zuckerman did not stop, throughout his evidence, making the point that while the whole world agreed with his views about the safety of MMR, only one person in the world, Dr Wakefield, offered the contrary view. Opinion is divided, one might say.

Professor Zuckerman's evidence was threaded through with campaigning strategies aimed solely at Dr Wakefield. The first matter at issue was that Dr Wakefield had received money from the Legal Aid Board to carry out research. As far as Zuckerman was concerned this was funding from the devil given to further the argument that Hell was a pleasant place. It was funding which led straight into a conflict of interest, possible legal confrontation with the government and a public health debacle waiting to happen.

Professor Zuckerman made the point on a number of occasions that in 45 years, he had never come across funding for research which entailed *'lawyers directing the research'*. He didn't have to explain this in any depth and defence council never put to him the endless evidence that in much research into workplace illness, in for example, the chemical industry, not only is the funding supplied by associate industrial interests but the work is carried out in industry funded establishments with data provided entirely by the industry in question.

Professor Zuckerman was only getting warmed up with these arguments. Later as he got deeper into defence counsel's cross examination his evidence seemed to have less and less to do with real academic issues and more to do with an implacable abhorrence that gripped him in relation to Dr Wakefield.

Professor Zuckerman returned again and again to what appeared to be his most central concern, that unproven research results of this kind could only damage public health and on these grounds entirely they must not be allowed publication. Anyone paying attention to Zuckerman's arguments couldn't fail to conclude that he would rail against any and all research which postulated adverse reactions to vaccination on the same grounds.

At the end of the first day when Zuckerman was still being led through his evidence-in-chief, a serious matter occurred which threw into contrast the different approaches of the defence and the prosecution.

Miss Smith was almost finished taking Professor Zuckerman through his evidence, when Dr Wakefield's counsel rose. He told the panel that Miss Smith had allowed Professor Zuckerman to give evidence which was not in the statement which had been served on the defence. Sometimes, a witness might do this on a matter which is non-contentious and which the defence does not need warning of in order to conduct their cross examination. This particular matter, however, was particularly value laden – whether or not Dr Wakefield had refused to send his research to another independent laboratory to seek replication.

Clearly, if Dr Wakefield's counsel was to cross examine on these new allegations, he would have to go through the matter in detail with his client. In the circumstances he asked simply that the days hearing be brought to an end (it was, anyway, almost over) and be resumed again tomorrow after he had taken the opportunity of talking the new evidence through with Dr Wakefield.

It is as if such professional and real demands push buttons for Miss Smith, for she responded as she had done previously; acerbically. She pantomimed the suggestion that Mr Koonan was *always* doing this, suggested that it wasn't an *important* piece of evidence and accused him of time-wasting. If we were to keep going over the planned time, she said, we would *never* get the case finished. Mr Koonan argued that we were talking about a matter of justice and not a matter of administration.

Both the legal advisor to the Panel and the Panel Chairman came to Mr Koonan's aid and told the hearing that Professor Zuckerman's evidence would be continued in the morning. On his dismissal for the day, Zuckerman could not help but make a special plea on his own behalf, to the Panel. They had to realise he said, just how difficult and *painful* this situation was for him.

Professor Zuckerman finished his evidence the following day, during which time it became clear beyond any doubt at all that he was *The First True Prosecution Witness*. As Mr Koonan was later to suggest, he argued a case throughout his evidence, and the foundations of that case stood out like burning charcoal thrown into the snow.

Zuckerman clearly detested Wakefield. He poured sugary flattery on both Professor Murch and Professor Walker-Smith. Answering cross examination from Dr Wakefield's counsel, he was completely defensive. Obviously feeling trapped and threatened, he was always on the brink of leaving his chair and the hearing.

However, much of what Zuckerman said made little sense. While he claimed to have been at odds with Wakefield from the start, he thought the Lancet paper was a very good piece of work. While he sought evidence from sources outside the University about Wakefield's work he failed to discuss his doubts with Dr Wakefield himself. He continually quoted all the august bodies of which he was a part, yet failed to answer the simple question of what you might do if research did point out a serious public health problem with adverse reactions to vaccination. Zuckerman seemed to take it for granted that any reports of adverse reactions to vaccines could not be based on good science.

But the most intriguing question of all related to the press briefing shortly before the publication of the Lancet paper. Zuckerman had helped organise the 'conference' and he seemed happy to chair it. He had a preview of its structure and the questions it would address. However, when a journalist at the end of the briefing, asked what approach parents should now have to the MMR combination vaccine, Zuckerman directed the question to Dr Wakefield. This was despite the fact that he knew Wakefield to have had concerns about the polyvalent vaccine for many years. Despite the fact Zuckerman was *at that time* in receipt of a letter from Dr Wakefield in which it was explicitly stated that, if asked at the press briefing, Wakefield would *make clear those concerns.*

As soon as Dr Wakefield had made the statement which apparently ended his career at the Royal Free, suggesting that it might be better to suspend use of MMR until research had proved its safety or otherwise, Zuckerman re-directed the question to Professor Murch. Murch quickly expressed his complete support for the vaccine. Why, one might ask, had Zuckerman directed the question to Wakefield?

Although Zuckerman had begun the morning at 9.35 in a seemingly reconciliatory mood, by 10.00am he was showing all the truculence of the previous day. Instead of answering simply 'no' to questions with which he disagreed, his returns to Mr Koonan were always qualified; '*certainly* not' and '*absolutely* not' he kept repeating. This showed defensiveness beyond any provocation offered by the defence.

As time slipped by, Professor Zuckerman quickly found himself distractedly hissing and booing his answers. It soon got to the point where Mr Koonan had to put it to Zuckerman that far from giving objective evidence, he was 'arguing a case'; not that the case he was arguing was rational.

Eventually, the two protagonists, as they had gradually become, drifted rudderless into a head on confrontation. Zuckerman began to rise to every question as if it were a personal insult. Mr Koonan closed in, forcing Zuckerman into a corner. By 10.15, Koonan had arrived again at the extra evidence about replication of research results which had been offered by Zuckerman on the previous Friday.

Slowly with steady articulation, Mr Koonan put it to Professor Zuckerman that he had alleged Dr Wakefield was implacably opposed to any attempts at replication of his work, although, in fact, replication did take place. '*It's as simple as that*', Mr Koonan blandly ended the statement. There were signs, then, that Zuckerman was about to lose it.

Koonan's next set of questions dealt with the press briefing. He suggested to Professor Zuckerman that Zuckerman was not displeased to have the paper published by Dr Wakefield and other researchers from the Royal Free. That he thought the work reflected well on the medical school. He was even, Mr Koonan suggested, pleased to chair the briefing.

At this, Professor Zuckerman lost his footing and began to slide down the cliff face, his terse venomous responses coming almost automatically. *'I*

absolutely reject this. I absolutely reject this. I absolutely reject this' he said in triplicate at one point.

And then, as if caught up in a shouting match with a mortal enemy he began to interrupt Mr Koonan's well phrased questions.

The Chairman asked Professor Zuckerman to let Mr Koonan finish his questions.

Zuckerman all but left his seat, saying that he would have to get his own legal adviser to sit with him, if this kind of questioning did not stop.

Miss Smith intervened to draw upon some secret set of rules, about cross examination. *'Mr Koonan is not entitled to phrase his questions as statements'*. This was news to the Panel Chairman who said that he had heard both the prosecution and the defence ask questions in this way; using the words *'I put it to you that ...'*

The panel broke-up at that time, perhaps in the hope that Professor Zuckerman would regain control of himself. Oddly, in all the following exchanges, the last questions from Mr Koonan and some very polite exchanges with counsel for Professor Walker-Smith and Professor Murch Zuckerman kept himself under perfect, even polite control.

At the end of Zuckerman's evidence one was left with the impression that he had performed cleverly, expressing his personal detestation of Dr Wakefield, defending his professional interests and managing to avoid answering the most damaging exchanges with Mr Koonan by utilising a display of histrionics.

I have been interested to hear the Chairman of the panel refer to the proceedings on a number of occasions as an 'enquiry'. By no stretch of the legal imagination could this be the case. The proceedings are adversarial and at their heart is a hard brought and fought prosecution.

The prosecuting authority is the General Medical Council, which is acting in concert with government public health policy and pharmaceutical company marketing strategies. The ultimate point of the prosecution is, from the prosecutor's perspective, to defend the regulatory tenets of industrial scientific and medical research, isolate Dr Andrew Wakefield, and cast him out beyond the pale of informed medical opinion.

Were this an ‘enquiry’, an independent GMC would, from the beginning, have produced evidence of process, which would cast light on the motives of the sole complainant in the case, Brian Deer. Had it been an enquiry, many hours would have been spent recording the evidence of all the parents who had cajoled, fought and pushed their way to the Royal Free in order to get their children the best medical attention available in Britain.

This hearing is to all intents and purposes, a ‘trial’. As such, it is remarkable in contemporary society for not questioning, in any degree whatsoever, issues arising from the power of the pharmaceutical companies, their vested interests and their marketing strategies. The word ‘kangaroo’ became associated with the word ‘court’ presumably on account of that animal’s capacity to jump over great swathes of ground.

A Massive Abuse of Process

Monday August 6th – Wednesday August 15th

The last week of the GMC hearing leading up to Wednesday August 15th saw the virtual collapse of the badly presented GMC prosecution against Dr Andrew Wakefield, Professor Simon Murch and Professor Walker-Smith. On Wednesday 15th after long administrative discussions between counsel, which was followed up on Thursday August 23rd, the following appears to have been agreed: that the prosecution will continue the present leg of the hearings until 6th of September. There will then be a break for three weeks until September 26th when the hearing will recommence and continue until the prosecution has presented its case in full – estimated at some time in late October. The hearing would then shut down and the defence case will not be presented until the end of January 2008. No, that's not a typo, January 2008.

The prosecution appear to be claiming that, as the first half of their prosecution over-ran, few of the expert witnesses were able to attend at their original pencilled-in dates. On the basis of this they have asked for the 3 week break between September 6th to 26th. To anyone who has been watching the case wend its tawdry way through the last month, this excuse will be easily recognised as the grown up legal equivalent of 'the dog chewed my homework', and it must be clear to almost everyone, including Brian Deer, that the prosecution has waded from the shallow end of the pool to the deep end, where it now realises that it is drowning.

At best the case has been mismanaged. At worst the prosecution has been involved in a considerable abuse of process. To my mind the prosecuting counsel, the GMC and Brian Deer should be given no quarter. However, I can see that the defence would not be happy gaining a stay of the prosecution on the grounds of delay, it would mean in effect that Dr Wakefield won on a technicality and didn't actually clear his name.

The kind of delay which the GMC prosecution has subjected the three defendants to is clearly an 'abuse of process' and I discuss this legal concept at the end of this account of the ten days of the hearing August 6th – August 15th.

A Prosecution in Decline

Unfortunately I had to miss the 8th, 9th and 10th of the hearing. I have made a note in the text of the witnesses therefore missing from my account. Someone else did take notes which I had intended to write up, but when I came to read the notes they made little sense to me and confirmed my feeling that, unless you are there in the hearing, listening to the evidence with all its nuances, it is actually very difficult to understand what is happening.

This led me to consider the media and the way in which they have represented this case. On the whole Dr Wakefield has been badly served by the press and their coverage of the hearing has been pitiful. A crusading press has all but disappeared in Britain, and in the mud at the bottom of the gradually draining pond we are left with only the Brian Deers of the world who, instead of challenging powerful interests, not only speak for them but appear to campaign on their behalf.

Perhaps even more upsetting is the fact that in the name of public health, New Labour has been determinedly in the driving seat, defending the collective vaccine policy against the individuals claiming damaged from adverse reactions. That New Labour has been able to control and muzzle the media, lends a lie to the idea that British society is democratic. With such powerful media outlets, acting entirely on behalf of the government, it would not be too absurd to call the GMC hearing a ‘show trial’.

* * *

I suppose I should have known as soon as I saw Dr Richard Horton on the list of prosecution witnesses, that he was a good guy who supported the defence case; the timing of Dr Horton’s appearance might also have confirmed this, after all, Miss Smith was just beginning to call her best witnesses for the defence.

It isn’t always easy to understand why we take a dislike to people, never having met them or spoken to them. If I didn’t actually dislike Horton, I suppose my feelings towards him were luke-warm. I had an idea that he had actually been persuaded by Brian Deer or at least was on good terms with him, or perhaps even frightened by him. This impression, and the sneaky suspicion that he was some kind of science nerd who verged on being a Quackbuster, persisted in my mind right up until I watched him giving evidence for the prosecution at the GMC. After his evidence, the

only thing which I might have held against him, had I been inclined, was his very Englishness in appearing to want to please people.

Horton turned out to be tall and athletic looking. Wearing a casual but well-cut black suit, his whole demeanour exuded pleasantness and the kind of collegiate personability that the English are good at. He took the seat at the hearing recently vacated by Professor Zuckerman, and no one would have blamed him if he had repeated President Chavez's words as he stood at the UN podium the day after Bush had addressed the gathering; putting his hand to his nose Chavez claimed 'I can still smell burning'.

But Horton was, from the beginning, utterly cool. He exuded the kind of confident presence that only well educated Brits can. Of course it probably helped that Miss Smith was not in the slightest bit hostile to him; her questions flirting with him as if with a new lover. She slid through his evidence-in-chief as if she couldn't have agreed more with everything he said in favour of the three defendants.

Miss Smith is, in some odd, camp way, turning into the heroine of the tableaux being unveiled at the GMC. Every witness she calls aids the defence; either they are so stricken with bile that they must make a bad impression on the Panel, or they are so much in favour of the defence that the Panel must go into camera scratching its collective head.

A glimmer of why she behaves in this manner was nicely revealed in Horton's evidence which added to the very strong impression that Ms Smith has been briefed to believe wholeheartedly in the tall tales of Brian Deer. Consequently, before she had actually heard anyone attempt to present evidence, everything must have made a perverse sort of sense. Conversely, for those who fail to succumb to Deer logic, for those who are free from the rotting hand of pharmaceutical and government propaganda, Deer's tales have always appeared threadbare. One can only conclude that Ms Smith now finds herself in something of a dilemma.

The point at which my ignorant dislike of Horton unravelled was when he described, how, on addressing Deer's complaints against Wakefield, presented at the Lancet, he immediate said, 'this has to be investigated', and began to plan evidence gathering trips to the Royal Free to question Wakefield and his colleagues. According to Horton, Deer collapsed in the face of proper investigation and pleaded with him not to pursue this

approach. Not long after this, Horton told the hearing, ‘I fell out with Mr Deer’.

According to Horton, his enquiry into Deer’s allegations left him sure that at least one of the most serious was completely fictitious. From that point onwards, in real life and in the hearing, Horton gave impeccable evidence for the defence. In fact he rose to a level of praise for Dr Wakefield the like of which I have only previously heard from parents.

When Horton moved to talking about the paper published in the Lancet, it became clear that he had the highest regard for the method which the ‘case series’ used and the way in which it was presented. If the prosecution was expecting him to say that the paper was full of poor science, they must have been surprised when he said the absolute opposite.

Horton said that the Lancet paper was an excellent example of a ‘case series’. That this was a standard and entirely reputable way of reporting on a possible new syndrome. He likened it to how the first cases of HIV/AIDS were reported in the early 80s and how the new variant CJD issue broke more recently. He said unequivocally that the science reported in the 1998 Lancet paper ‘still stands’ and that he 'wished, wished, wished' that the clock could be turned back and the paper be considered in the light it was first presented, without everything that followed.

Defence council spent a considerable time cross examining Horton about the declaration of ‘conflict of interest’ issue. Over the years this has become one of the most important issues associated with the Lancet paper. At the end of a long session, the worst that Horton could adduce was that Dr Wakefield was genuinely surprised that there was the need for him to reveal funding from the Legal Aid Board, which anyway hadn’t been used in this case-series, or at all at that point.

Horton was happy to say that Dr Wakefield had been honest throughout his dealings with the Lancet and that he had not declared any conflict of interest because he genuinely believed (and believes still) that there was no conflict to be declared. While Horton personally disagreed with Dr Wakefield’s interpretation of this, as did Professor Simon Murch and Professor Walker-Smith, he acknowledged clearly that it could be seen as a matter of opinion and not a reflection on Dr Wakefield’s honesty.

The Bogey Man

From the beginning of the hearing, Sir David Hull's name cropped up frequently; principally in relation to a letter which he sent to Professor Zuckerman, stating his concerns about Dr Wakefield's work. Hull who was Chair of the JCVI between 1995 and 1999 and President of the British Paediatric Association between 1991 and 1994, was portrayed by the prosecution as the 'wise man' who had intervened.

Hull's letter of concern, in turn, appeared to have concerned Zuckerman so much, that he immediately sent off a missive to the BMA, asking for their independent position on Dr Wakefield's research, possible conflict of interest and invasive investigative procedures used for research purposes. The BMA replied with a well considered appraisal of the questions, saying nothing critical of the clinical methods which Dr Wakefield's team had been employing. Nor did they appear concerned about the conflict of interest issue.

Despite his 'concern' in 1998, regarding issues important to the prosecution in 2007, Hull, like so many other witnesses before him, refused to be drawn into the case entirely as a creature of the prosecution.

Hull's areas of critical interest in the case seemed to be in the same areas as Zuckerman's, although he expressed his view with less vehemence. He was, he said, concerned that the record of MMR had been damaged. This he compared to the 'inaccurate' reports of damage resulting from use of the pertussis (whooping cough) vaccine in the 1970's. In referring to this he reduced the real adverse reaction damage caused by petrussis to a chimorous 'scare'.

Hull was also worried about the involvement of the Legal Aid Board in the funding of research. He was troubled by the use of invasive procedures in the examination and diagnosis of children with autism, although he admitted that he himself had no experience of autistic children or the clinical and diagnostic work which was necessary; he thought that these matters should be left to clinicians.

It became clear half way through Hull's evidence-in-chief that although he would have made a plausible prosecution witness he seemed disinclined to give Miss Smith what she wanted. His evidence was measured, discursive, sometimes humorous and clearly he felt far less determined

than he might have been ten years ago when the engineered ‘scandal’ was at its height.

Missed witnesses

On August 9th the prosecution called Martin Else, Chief Executive of the Royal Free Hospital and a special trustee. The special trustees managed funds and endowments which came to the hospital, separate from the day to day running of the NHS Trust. It was to this group that the cheque from the Legal Aid Board was sent pending a decision being made about its use. The cheque had originally been forwarded to the Royal Free by Richard Barr, solicitor for the MMR claimants.

Else’s evidence was followed by that of Dr Mills, a community paediatrician, who volunteered himself to the GMC hearing in order to give evidence that referral of children to the Royal Free from outside the London area was not in the best interests of the children themselves. It did not become clear during this witnesses evidence, who had advised him to volunteer his evidence to the prosecution, although it is suspected that he is another witness who might have discussed his situation with Professor Salisbury.

(Anyone wanting to read about the reality of the damage caused by Pertussis vaccine should read Harrison Coulter’s brilliant book, written with Barbara Loe Fisher, A Shot in the Dark, and Helen’s Story by Rosemary Fox, the woman who, on the basis of her own vaccine damaged daughter, campaigned to bring the Vaccine Damage Payment Unit into being.)

The Amnesiac Witness

I came back to the hearing just in time to see the prosecution reach new heights of absurdity on Monday August 13th, when they called Dr Lloyd Evans, a consultant in paediatric neuro disability, as a witness.

The witness did manage to remember his name and address, but little else about anything much, and almost nothing about his contact with Dr Wakefield at the Royal Free. Dr Evans happily chatted with Miss Smith about the generality of his work at the Royal Free and what he did in the London Borough of Camden. Had he been asked, no doubt he would have talked happily about his tastes in music and the sexual mores of his

neighbours but asked specifically about any contact he had with Andrew Wakefield, he suffered acute amnesia.

Dr Lloyd Evans repeated the words ‘I can’t remember’, so many times, that half way through his evidence I got the feeling that I had strayed into a 1950s B Movie, entitled something like ‘The Man Who Forgot Who He Was’. Then it occurred to me that perhaps Miss Smith had called him to the wrong hearing and that he was actually some kind of exhibition witness in a University lecture she was giving on amnesia; thoughts of Miss Smith in a professorial gown, mortar board and pointer stick floated through my mind. On the other hand, observers with more vivid imaginations who had seen the Manchurian Candidate might have conjured up a scenario where Lloyd Evans had been hypnotised on the phone by one of the defence council, to respond with the words ‘I can’t remember’ whenever he heard the words ‘Dr Wakefield’.

Miss Smith spent her time between Dr Lloyd Evan’s repetitions, desperately thinking of how she might phrase a question which would gain a positive response. However she phrased her questions though, the witness remained memoryless. Miss Smith persisted asking him in detail, even with the help of contemporary records, how he had found the three children, nos. 8, 6 and 7, each of whom he had apparently been asked by Dr Wakefield to asses. ‘Do you remember the children’ Miss Smith asked earnestly, ‘No, not at all’, responded Dr Lloyd Evans. ‘Did you assess them?’ she persisted, ‘I can’t remember’ he responded.

Having steered him through the rocks on matters of fact relating to the defendants work, and having elucidated nothing from him by way of fact about the case before her, Miss Smith decided to have a chat with him about his work and other things of interest. In this, Dr Lloyd Evans, acquitted himself well. Did he know what ‘regressive autism’ was, asked Miss Smith. ‘Yes’, replied Lloyd Evans, who went on to describe regressive autism and despite putting his own interpretation on it’s diagnosis and it’s prognosis, made real the very syndrome which Dr Wakefield had reported; although of course adding nothing about its gastroenterological aspects.

Suddenly Dr Lloyd Evans was speaking for himself, as if freed from hypnosis. In cases of regressive autism you would need to carry out many tests and investigations. Definitely you would need lumber puncture to test for biochemical and viral elements in fluids. Miss Smith balked at this revelation, and it took her a good quarter of an hour to discipline Dr Lloyd

Evans and to get him, as they say, ‘singing from the same hymn sheet’. At the end of the day, however, all he would say in recompense for this further gift to the defence was, that in cases of more straightforward autism you didn’t need all those investigations.

Dr Lloyd Evan’s evidenceless and memory free evidence, left little fertile ground for defence cross examination and when the defence rested at 11.45, Miss Smith had to admit that she did not have another witness in waiting. At her most imperious, she joked that, as it was impossible to tell how long the defence would take in cross examination, she had been unable to bring her next witness. It is difficult to imagine what kind of cross-examination of the amnesiac witness Miss Smith thought was possible. As Dr Lloyd Evans was a specialist in neuro-disability, perhaps a question such as; ‘Could you tell me why you can’t remember anything?’ might have been appropriate.

Guantanamo Law

In Britain and America the law is radically changing. The older pattern of set and dependable rules is being quietly eroded by a prosecution based legal system that is increasingly said to face greater and greater threats from law breakers, mainly ‘terrorists’, embedded but unseen in the community.

The area of law which is changing most is that of the ‘process’ by which law is enacted. The body of law related to process has grown up over hundreds of years, usually by virtue of common law. Until fairly recently, most of this law was quite specific. The contemporary anti-democratic changes have been so many that it is impossible to address them in this text but they include things like the diminishing of pre-emptory challenges to jurors and the right of judges to give non specific sentences, left to be determined by the prison authorities.

A simple idea of changing process can be seen in relation to the police and suspects. Prior to the 1930’s, police (representatives of the State) were not allowed to talk to suspects they had arrested before they were brought before an ‘independent’ magistrate or judge. Today the police organise the whole case against the suspect talking to them and interrogating them for long periods before they appear in court to be belatedly ‘examined’ by the magistrate.

In America, it is now common practice for suspects to be ‘detained’ i.e. held in custody without being arrested or charged with a specific offence. While politicians would like us to believe that this Guantanamo law is only reserved for serious terrorist suspects, this is far from the truth. The main body of law relating today to ‘abuse of process’, is meant to defend the ‘rights’ of the accused from arbitrary powers and oppression by his or her accusers.

A major part of the ‘abuse of process’ relates to temporal matters; how long a person is held without charge, how long a defendant must wait for the trial while being held in custody and how long trials themselves take. In turn these temporal or ‘delaying’ matters can be judged as more or less serious when publicity about cases, which might affect defendants, is also taken into account. Although ‘abuse of process’ mainly relates to criminal cases and courts, I have no doubt that it could be brought to bear on a professional regulatory process such as the GMC fitness to practice panel hearing.

Looking at Dr Wakefield as a defendant, rather than a research doctor, I would draw attention to a number of matters.

First Abuse of Process

The GMC has taken over the complaint made against Dr Wakefield by a single lay complainant - Brian Deer. It is one of the most basic tenets of the British, and other juridical systems, that the accused should be able to face his or her accuser and question them about their motives, vested interests and of course whether they have worked with, been instructed by or aided in making the complaint by any other party. It is essential that the defendant has the right to divine the motive of the complainant and so make this motive known to the body which will decide on his or her guilt or innocence.

In not citing Brian Deer as the sole complainant and not bringing him forward as their principle prosecution witness, the GMC has deprived the defence of the opportunity to cross examine him on a large number of matters which reflect upon his motive for bringing the complaint.

Another matter which runs parallel to this is the fact that our judicial system makes clear the separation between the complainant, the body which is prosecuting and the ‘jury’ that body which determines guilt or

innocence, whilst the process as a whole is meant to be separate from government and any political parties.

In this hearing, there is a continuous vein of sympathy between all the bodies involved in the process of the prosecution. Brian Deer in fact wrote up almost the whole of the prosecution in the Sunday Times and then, at the behest of the then Minister of Health who was quoted in that article, he became the chief and sole complainant to the GMC, and the GMC is now shielding him from being questioned by those he has complained against. We do not know whether he worked with any other organisation or received any funding from any interested organisations in formulating this complaint to the GMC. We do know that the GMC took the complaint from him and proceeded with it without calling him as a witness. We also know that this complaint is being heard by a Panel chosen by the GMC. In other words, the complaint, the prosecution and any judgement that is made, are all being pursued by bodies which appear to have a common identity of interest.

Second Abuse of Process

It is another basic tenet of British and other Europe juridical systems that any accused person should be brought to trial as quickly as possible, while obviously taking into account the organisation and administration of the prosecution case.

From the time of Brian Deer's Sunday Times article in February 2004 and the instruction quoted in that article by the Minister of Health, that a complaint should be made to the GMC, almost three and a half years passed before the charges were ready to be put to the defendant in the present hearing, which began in July 2007.

During the time the accused doctors waited to answer the charges, a massive quantity of information appeared in newspapers, on Brian Deer's website and in other media, most of which was insistent that Dr Wakefield, in particular, was guilty.

Having begun the hearing in July, the prosecution now intends to suspend the hearing until February 2008. It could be argued that having presented the prosecution case, this six month period is likely to consolidate the case in the minds of the Panel. Because there is no sub judicae rules which affect the publication of general and specific information about the charges brought against the doctors, it could be argued that the medical

establishment, the government and the pharmaceutical companies, have now six months during which time they might publicly build on the prosecution case.

A clear example of this biased influence being voiced beyond the hearing, could be seen on Monday 20th August, when Channel 4 aired the second episode of Richard Dawkins programme, The Enemies of Reason. In this episode which should have been titled Friends of Ignorance, Dawkin's pointed to the MMR controversy, in which he claimed an inoculation against disease has been suggested as a cause of autism, 'without the slightest shred of proof'.

While it might just be possible to depend upon the panel not to be influenced by this free flow of information, it could, obviously have a considerable effect on the climate in which the hearings resume in January/February of 2008.

ABUSE OF PROCESS

In this box, I have brought together a number of simple unreferenced statements about 'abuse of process'. I am not presenting this as legal research but as a simple aid to understanding how far away from proper legal and juridical conventions the GMC has moved.

* * *

Abuse of process is a wrong committed during the course of litigation. It is a perversion of lawfully issued process and is different from malicious prosecution, which is a lawsuit started without any reasonable cause

* * *

Abuse of process has been defined as 'something so unfair and wrong that the court should not allow a prosecutor to proceed with what is in all other respect a regular proceeding'.

* * *

* * *

Where there has been a serious abuse or misuse of power by the investigators, the court may decide that there has been an abuse of process. This is to protect the integrity of the criminal justice system. The judge/magistrates must decide whether the abuse of power is so serious that it amounts to an affront to public conscience.

To establish abuse of process based on delay, the defendant will need to prove that, because of the delay, s/he will suffer such serious prejudice that a fair trial cannot be held

* * *

It may be an abuse of process if either: the prosecution have manipulated or misused the process of the court so as to deprive the defendant of a protection provided by law or to take unfair advantage of a technicality; or the defendant has been, or will be, prejudiced in the preparation or conduct of his defence by delay on the part of the prosecution.

* * *

The European Court of Human Rights (ECHR) gives the defendant the right to be tried ‘within a reasonable time’. This right flows from the time that a person is formally charged or served with a summons. In HSE prosecutions, this will usually be the time when the summons is served. When a court considers whether there has been a breach of the right to a trial within a reasonable time, they will consider:

- the length of the delay; the reason for the delay; whether the right was asserted (i.e. whether there were complaints about the delay);
- whether there has been any prejudice to the defendant.

* * *

The House of Lords has confirmed that the court has a general and inherent power to prevent abuse of process. This power includes a power to safeguard an accused person from oppression or prejudice.

* * *

Both the Crown Courts and magistrates' courts have discretion to protect the process of the court from abuse. This includes protecting the accused person from oppression or prejudice.

* * *

There are broadly 2 sets of circumstances in which a court has discretion to stay proceedings as an abuse of process.

The first set of circumstances are where it would be impossible to hold a fair trial. Where it would amount to a misuse of process to start or continue a prosecution because it offends the court's sense of justice and propriety to be asked to try a defendant in the circumstances of the particular case

Examples of the first set of circumstances will include non- disclosure, delay, inability to examine evidence, inability to call evidence, inability to question prosecution witnesses and adverse media publicity.

Examples of the second set of circumstances will include dereliction of duty by the prosecutor, improper substitution of a charge, disregard of extradition procedures, improper motive, oppressive investigative techniques, avoidance/manipulation of statutory time limits, prosecutorial misconduct and proceedings commenced or continued in breach of a promise not to prosecute.

* * *

Article 6 (1) of the European Convention on Human Rights confers on any defendant the right to trial within a reasonable time. The House of Lords concluded in the 2001 reference that time ran for the purpose of this right from the earliest time when the defendant was officially alerted to the likelihood of criminal proceedings being taken against him, which would normally be when he was charged or served with a summons.

* * *

The principles directly applicable to cases of delay pre charge/official notification are governed by the common law. In practical terms they mirror the tests set out by the House of Lords in the 2001 reference and can be summarised as follows;

In cases of delay there should be no stay unless the defendant shows on the balance of probability that, owing to the delay, he will suffer prejudice to the extent that no fair trial can be held.

The Utter Irrelevance of Professor Salisbury

Monday 13 August – Thursday 24 August

The inability of prosecution witnesses to attend the hearing through illness or some other cause can be a difficult matter for the defence. This is partly because witnesses who have anything contentious to say should be required to make their accusation directly to the defendants and should be available in person for cross examination.

In the case of the witness whose statement was read on the afternoon of Monday August 13, Mr Koonan, while not objecting to the statement being read, had to say that it was not accepted by the defence and the details of it would be disputed when the defence presented its case.

Miss Smith then proceeded to read the statement of Russ Phips into the record. Phips was an Assistant Director of Finance from 1991 – 2006 and the financial administrator of the Special Trustees at the Royal Free. The statement bore witness to the fact that the money which had arrived at the Royal Free from Dawbarns solicitors had been initially lodged with the Special Trustees and then paid out to Dr Wakefield, so creating the conflict of interest which they are so keen on proving.

This of course seems to be a good point for the prosecution and they have pursued it throughout the hearing. However, like much of the prosecution case, the point has now proved to be wrong. The money sent on from the Legal Aid Board and deposited with the Special Trustees was, in fact, paid out immediately to Ros Sim a Medical Laboratory Scientific Officer concerned with viral detection at the Royal Free.

It was difficult to understand exactly what Mr Phips was saying about the money which originated from the Legal Aid Board. To put it in common parlance it seemed, very much, as if he was suggesting that there was an attempt to ‘launder’ the money through the Special Trustees before paying it into Dr Wakefield’s general research funds.

The next morning Professor Ravel gave evidence. To a great extent, Professor Ravel was a typical prosecution witness; short on facts which might incriminate the three defendants and obviously unsure of what was expected of him. This circumstance was illustrated by the Professor when he was being led through his evidence by Miss Smith. At one point, his

flow on an important matter was interrupted, he thought for a moment and then said:

'I've forgotten what I was going to say'

To which Miss Smith blithely responded, ‘Don’t worry’ and passed on to the next issue.

Miss Smith’s continued in her attempt to assert, this time through Ravel, that Dr Wakefield was somehow experimenting, without permission and unethically, on children. This previously ill-fated line of attack took another turn when she tried to insinuate into the evidence the idea that Dr Wakefield’s unit might be illegally and unethically taking biopsy samples from children and then using these for research.

Professor Ravel, however, had nothing bad to say about the clinical methods of the gastroenterology team. He gave evidence about the histology group, which came together to scrutinise clinical cases, and to look at biopsies and samples taken during internal examination. This evidence succeeded simply in shedding further light on how a dedicated group of doctors worked with considerable commitment in a collegiate atmosphere to come to the best conclusions on behalf of their patients.

Having spent many wasted Saturday evenings watching programmes like *Casualty*, the evidence which began to blossom about the histology meetings ran completely contrary to my received opinion of how doctors in large hospitals work. It would never have occurred to me that, in a profession which is always portrayed as being full of egotists, collective discussions about diagnosis and the outcome of various procedures might be profitably held.

One of Professor Ravel’s tasks as Joint Head of the Department of Histopathology, was to police the taking of biopsy and other samples which might be snipped from patients bodies during this or that procedure. My mind was filled with cartoons of hospital administrators, acting as the docks’ police did before and just after the second world-war. Every worker was searched for stolen goods as he left for home through the dock gates. ‘So what ‘ave we ‘ere chummy, a little bit of bowel. OK, over ‘ere, empty your pockets, drop your pants and lets have a look in your orifices.’

Oddly enough although Ravel's task had led him to ask questions about the biopsy material taken from the children, these samples had all turned out to be ethically accounted for. Further than this, he made the point that often when doctors do try to slip human material out of the operating theatre, it turns out usually to be at the behest of pharmaceutical company trials for which patients permission has not been sought.

It turned out that Professor Ravel had been the person who was asked to asses at least two of Dr Wakefield's project proposals. In both cases he was happy to give approval to these studies. About one of them he said, as if taking it for granted, It was 'a well prepared document; a good example of that kind of study'.

A Second Lancet Paper

The unlikely named Professor Candy is a consultant paediatric gastroenterologist and a highly qualified peer reviewer of 20 years standing for the Lancet. Whilst Richard Horton had already alluded to it in passing, it was only when the professor gave his evidence that a 'partner paper' came into focus. This paper, explaining the science behind claims of a link between Inflammatory Bowel Disease (IBD), persistent measles virus and regressive autism/CDD, had been handed to the Lancet at the same time as the now infamous 12 child 'case-series' paper.

For the uninitiated, a frightening picture now emerged of the prosecution presenting for the first time robust evidence that Dr Wakefield's science left a lot to be desired. Professor Candy, however, turned out to be a real sweetie and yet again a great patron of the defence.

Apparently, Dr Wakefield and other signatories had expected both papers to be published in the same issue of the Lancet. In the event, the scientific model underpinning the 'case series' paper was turned down by two peer reviewers but supported by Professor Candy; not just supported, we heard, but supported in glowing terms.

Candy's evidence was an eye opener for those who had often wondered about how peer reviewers work. He told an interesting story of a field which had become gradually more open over the last twenty years.

Professor Candy's first comment about the 'partner' paper was that it was well written. This was stated as a throw-away line, and he followed with a barely surprised comment that this was only to be expected. 'Professor

Walker-Smith' Candy said, 'has written text books which are very lucid'. This was not the first, not would it be the last praise for Professor Walker-Smith's reputation and his considerable body of work, which included a number of text books.

On Professor Walker-Smith, when I see him at the hearing, my thoughts are thrown back to the pompous, angry and defensive Professor Zuckerman, who insisted on saying that giving evidence against his colleagues was *painful*. Although I have no reason to assume Professor Walker-Smith, now retired for 5 years, is not holding up as stoically as the other defendants, his general demeanour exudes a world weariness which is sad to observe.

Although the emphasis throughout this whole affair has been on the injustice done to Dr Wakefield, we should always be mindful of what Brian Deer's complaints to the GMC are doing to Professor Walker Smith. To end an entirely meritorious career in medicine with this smear of a trial is a calamity almost unbearable for a person of such obvious integrity.

The position of Professor Walker-Smith is testimony to the lengths that politicians and the medical establishment will go to keep faith with the pharmaceutical industry; to break an exceptional physician on the rack of cynicism and profitability. In all such matters I am guided almost entirely by the parents with whom I have spoken. To witness the warmth and respect that they show to Professor Walker-Smith gladdens the heart. I hope that he is aware of the affection in which he is held and that in turn this provides strength and solace.

Professor Candy's remarks about Professor Walker-Smith were immediately followed by very flattering statements about Professor Simon Murch and Dr Thompson, whom Professor Candy informed the Panel were the two best endoscopists in the country.

Professor Candy, a learned looking man with white hair and glasses had begun giving his evidence at 12.15 and by 12.40 any fears that the prosecution had called a good witness for their case had evaporated. In fact Professor Candy got quite carried away, falling into the vernacular, with his enthusiasm for the second unpublished paper.

The second paper demonstrated measles virus protein in the gut of some of the children whose cases were reviewed in the published paper. 'It was

like a double-whammy', he said 'clinical observation backed up by good science.'

Professor Candy said that he was upset and surprised when the Lancet published the first paper without the second, and even more surprised when the publication of the first paper was accompanied by an editorial which suggested that there was no evidence presented for the strength of the measles virus in the gut of the children cited. This information was in the second paper, he said, and it was his opinion that both papers should have been published together; that the first paper was supported by the second. In Candy's opinion the two papers were 'indivisible'.

When Mr Koonan began his cross examination of Professor Candy he had little difficulty in consolidating the points which had already been brought out in his evidence-in-chief. Both papers, he said, 'were well written and needed no significant criticism from him.' He said that 'the findings of measles antigen in the bowel of the treated children, some years after exposure, seemed to me to be revolutionary'.

The whole peculiar incident of this paediatrician's evidence reminded me of the rule, doggedly adhered to by quackbusters and sceptics across the globe. While such people moan and keen over the subject of junk science, when faced with the genuine article they simply refuse to discuss it. While claiming that only science matters, in the majority these people show themselves to be ignorant of human motivation, honest purpose and most of all science in the public interest.

In fact both Mr Koonan and Mr Miller were able to make major consolidation over the work of the team who authored both Lancet papers. Almost at the end of his cross examination at 2.25, Professor Candy made the statement which all three defendants will be able to look back upon with pride.

'The findings of the papers' he said, in his opinion 'were watertight'.

A Spratt to Catch a Mackerel

As the evidence continued to pile up for the defence and after an awful morning of waiting and false starts while the inner circle sat round negotiating agendas and doing what they like to call 'housekeeping', we were forced to listen to another statement of another absent witness, read into the hearing record by Miss Smith.

This witness, Dr Clifford Spratt, whose name bore an uncanny similarity to that of Lancelot Spratt the pompous and egotistic consultant played by James Robertson Justice in the 'Doctor' films, was a resident of Jersey, where he had treated child 9. However, Spratt, the victim of a heart condition and therefore not robust enough to travel through central London, let alone be taken through his paces by Koonan & co., was far from a shrinking violet when it came to criticising the clinical or research views of Dr Wakefield.

When he found that the mother of child 9 was insistent that the damage done to her son had been caused by MMR, Dr Spratt swam straight to the phone and called his friend Dr (now *Professor*) Salisbury. Asked to make additions to his statement, at a date near to the hearing, Dr Spratt told the GMC; that he didn't think that child 9 had any kind of bowel disorder; that he didn't think that there was any link between MMR and this child's autism; and that in his opinion the child's autism was of unknown cause.

Mr Koonan, was quick to point out to Miss Smith that while Spratt's evidence was admissible, if read to the panel, the defence did not agree with it and the panel should be advised upon its lack of weight while it stood uncontested.

Two Days of Excruciating Boredom

When I was 15 and at secondary school, President Kennedy suggested that his US marines could easily route-march 50 miles. I can't imagine how, but this inanity became a bye-word throughout Britain for fitness amongst teenage school children. All kids of my age, at schools like mine got shoed into a similar walk. I can remember thinking when I was thirty miles out of Manchester, with my feet blistering and my brain deadened in the half-light of night, that this is what Hell must be like.

The next two days of the hearing were just like that, as pure boredom dragged my feet and my hands alternatively between sleep and jerky autonomous movements. Fortunately, it was during the evidence of Dr David Howard Casson, now of the Royal Liverpool Children's Hospital that the most exciting, and hilarious incident of the hearings occurred, when Miss Smith showed a previously un-revealed talent for clowning in the best tradition of Chaplin and Keaton.

Dr Casson was giving evidence for the prosecution because he had been responsible as a Registrar, for ‘clerking in’, to the Royal Free the majority of children who made up the ‘case-series’ reviewed in the Lancet.

Dr Casson was in the main a reluctant witness, perhaps because, just like other witnesses, had he agreed with Miss Smith that Dr Wakefield was involved in hole-in-the-wall research conspiracies, he would inevitably have implicated himself in the prosecution case. Because Dr Casson appeared to know next to nothing about the case-series or about any other research which went on in his department, Miss Smith concentrated on the endoscopies. In between the silent responses of much unrecalled information, Miss Smith managed to prise out the details of each endoscopy and the details of any other procedure to which each child had been subjected.

Miss Smith tried her hardest to present the clinical work with the children as a kind of conspiracy of satanic abuse. Because of this, she inevitably appeared lost in a maze, not tall enough to see over the hedges to know where her questions were taking her. Her questions yet again seemed only to endorse the fact that with each child the tests were necessary for a correct diagnosis and thereafter for proper treatment.

Dr Casson was mainly responsible for seeing each case through the hospital, from referral, during a week’s in-patient treatment, through investigative procedures usually on Mondays and then into histology discussion, usually on Fridays, before finally writing the discharge notes to the child’s GPs.

Had it been the case that Dr Casson’s evidence had revealed a dark conspiracy at the heart of the Royal Free Hospital; doctors abusing the trust of patients and failing to get parental or ethical consent for invasive investigations; discernable trauma and physical damage to the health of children; if the doctors had clearly been working for profit and personal aggrandisement, at war with parents; had any of this been the case Dr Casson’s report would have been anything but boring. However the doctors were simply doing what doctors do. Until, that is, Brian Deer and associates decided that they should be struck off for it.

It was not just the fact that each child’s case was discussed in detail which made the exchanges between Miss Smith and Dr Casson exceptionally boring. In fact one real joy of the hearing to a lay person has been that the description of the workings of a department within a

large hospital has been a revelation. No, it was how Miss Smith disassembled the evidence of work. It was as if Miss Smith took some printed stanza's from Shakespeare, cut them up with scissors, reassembled them and then began a literary analysis of their meaning. Miss Smith seemed to be examining the arms and legs of a cadaver without understanding they were joined to a body.

Stoic as always, she tried to glean as much from the evidence as possible, Ms Smith dragged Dr Casson through a detailed clinical and administrative review of the 12 children associated with the Lancet paper. None of the cases provided a single dramatic moment, not once did Casson respond to Miss Smith's fishing expeditions, which attempted to show that the clinical investigations were unnecessary and that some of the children had no bowel problems at all. Casson, despite remaining a reluctant witness, despite tinting his evidence with a few distancing remarks which ensured that he was not seen as a 'friend' of Dr Wakefield, gave nothing to the prosecution.

Yet again one was left to wonder why, despite her best efforts, Miss Smith was actually consolidating the case for the defence. For the public gallery, however, the stultifying boredom of the continuously repeated questions wiped away all thought of motive or continuity in the case, numbing the mind to sleep.

When Mr Miller, counsel for Professor Walker-Smith, stood to begin his cross examination after a break at 3.15, it was difficult to see how this could be any less boring than the evidence already elicited by Miss Smith.

While Miller took Casson through the details of his CV and his work at the Royal Free, I found myself studying Miss Smith. I wrote in my notes that she always carries her largish handbag with her, grasping her arm in front of her. This pose, I realised suddenly, was reminiscent of Mrs Thatcher. I began to wonder whether this was a class thing. For the next hour and a half Mr Miller sketched in some of the more general salient points about Casson's evidence, without discussing the detailed circumstances of the 12 children. He made it clear that he needed a day's continuous time to address these circumstances.

When Mr Miller began his cross examination at 9.30 on the morning of Tuesday 22nd he went straight into a review of medical process, beginning with the general parameters such as consent forms for invasive procedures and then focusing on the specifics in the case of child 2.

Mr Miller's detailed portrait of 2's medical and administrative treatment during his week at the Royal Free hospital was masterly. To compare it to any of Miss Smith's process narratives of yesterday would be like comparing Michelangelo's work in the Sistine Chapel with a Jackson Pollock. For the first time since the hearings began, we saw the hospital and the department of paediatric gastroenterology within it, as a living organism. Mr Miller, like a good sociologist, articulated a structure of diagnosis and care which has been built up and perfected by physicians over a long period.

When he had finished with child 2, Mr Miller had convinced me at least, that custom and practice together with the skills of the specialists involved, made the Royal Free at the time in question the safest place to send ones child. If, that is, your child is suffering from an undiagnosed condition following vaccination. With that first patient presentation, the already chimerical prosecution case suffers yet another serious blow.

Mr Miller's review of the other 11 children consolidated this impression. It added to the general picture of an efficient department, working in an orderly and well regulated manner and it took us a jet journey away from the portrayal of Dr Wakefield as a lone maverick. The hospital described by Mr Miller, with the help of Dr Casson, was one where a large number of doctors worked co operatively and professionally.

By 4pm Mr Miller had finished the section of his cross examination of Dr Casson where it related to the 12 children in the Lancet paper. He moved on, then, to address some broader questions before he ended for the day.

Dr Casson had a hard time, in the 'witness box' over two days. His reluctance made more determined by the fact that he must have had only a blurred idea of where the questions were going and whose case his answers were helping or hindering.

Miss Smith acquaints herself with the Carpet

It was at this time, just as Mr Miller was beginning to wind up his cross examination that Miss Smith moved to add immense levity and some concern to the proceedings.

Just to remind readers of the lay out of the hearing. The prosecution all sit at one table which stretches across the width of the room. Miss Smith sits in the centre of the table in relatively cramped conditions, with files

stacked high behind her and books, papers and files littering the table around a box which doubles as a lectern in front of her. At the table with her, to her left as she looks down the long room, are her two male junior counsel. Facing her about 50 feet away is the witness. Down the left wing of the room, the panel and GMC administrators. Down the right wing the defendants, their counsel and solicitors. The circumstances of the hearing are relatively formal and the black clothes common to legal proceedings make for a quiet reverential process.

Miss Smith cuts a very singular figure partly because all the other leading counsel are men and partly because her appearance is distinctive; she has presence. Her silvery blond hair is cut short around the nape of her neck and while she dresses in black her white face has the sharp angularity of a Walt Disney cartoon character.

At four o'clock, while Mr Miller was still cross examining Dr Casson, Miss Smith, always working, always digging out papers to help her cause, rose from the table and turned to face the bank of 'evidence' files which ran behind her across the room. She took a couple of steps along the wall of files, then without falter fell, pole axed, to the floor. This appeared to be no untidy trip, no stumble or faint, but a full-blooded head-first dive into the carpet. Miss Smith lay still but definitely conscious. In fact, listening carefully one might have heard the constant question circulating in her mind as she tried to decide how to deal with her new, incredibly embarrassing position on the carpet.

As she partially disappeared from view and hit the floor, a Mexican wave swept round the hearing room tables and almost everyone was on their feet. Some moved quicker than others to go to the aid of Miss Smith, her junior counsel moved not a muscle, nor did Dr Wakefield, the nearest doctor to her (Could be grounds for a professional misconduct hearing some time in the future?). Only the witness, Dr Casson, the furthest person from Miss Smith, actually moved paces closer to her as he started off like a sprinter out of the starting blocks, round the tables.

Having come to a lonely decision about how she might stand and face her audience, Miss Smith rose from the floor and with her back to the hearing stared at the wall of file boxes before her. Watching her trying to recover herself, I was reminded of an occasion, when looking down from the window of my high rise East London flat, I saw a young guy kick a lamp post after he had run his car into the back of another parked car. I wondered if Miss Smith was contemplating a swift kick or head-butt to the

boxed files, instead she turned with considerable composure, a wry self-deprecating smile on her face, and sat back in her seat.

The Panel chairman at his most ministerial, suggested it might be time for a break, but his usually strong voice trailed off as Miss Smith shooed the idea away with her hand and aggressively told him to carry on. Within minutes of Mr Miller's cross examination beginning again, it was as if Miss Smith had never been prostrate on the GMC's utility carpeting. As if everything was as it should be.

The afternoon session finished at 4.30 and the Chairman announced that the hearing would convene earlier the next morning, so that Miss Smith might carry out her re-examination and finish with time enough to call the next witness *Professor* Salisbury.

Professor Salisbury Gives a Lecture

Professor David Maxwell Salisbury, director of immunisation at the Department of Health barrelled into the GMC hearing like a man about to retrieve his car from a garage but wanting to haggle over the cost of the work. Miss Smith took him too slowly through his career awards, so he grabbed the declaration from her and set off at a brisk trot evidencing every WHO committee, virtual and real, upon which he had ever sat.

This was, in fact to be his style throughout his 'evidence'. He took each question as an opportunity to give a short lecture on the history, effect and efficacy of vaccination policy. But then in Mandy Rice Davies's oft quoted words, 'He would say that wouldn't he'. Those people who later expressed shock, or at least surprise that Salisbury had maintained that the MMR vaccine worked efficiently, clearly misunderstood the whole point of the prosecution calling him in the first place.

Professor Salisbury should never have been a witness in this hearing and his presence there only confirmed the surreal nature of the charges against the defendants. Salisbury had nothing to say which was relevant to the charges. He was brought by the prosecution to muddy the waters, to make the panel believe that Wakefield *et al* were charged with spreading alarum and despondency about the government vaccine programme. Although the GMC would no doubt have liked to have brought charges which echoed this Orwellian idea, unless it was framed as a charge of conspiracy this was never possible under British law.

They brought him, thinking that arriving late and with ground prepared, he could administer the coup de grace. Sadly, this was not to be. Salisbury could say nothing of evidential value about the specific charges and while he was not an expert witness of any kind, he ended up giving evidence on the theoretical and conceptual implausibility of the ideas which Dr Wakefield and others had put forward linking MMR to regressive autism.

Counsel for the defence were determined not to give Salisbury any more space than he himself grabbed from the hearing, and chose not ask him any questions in cross examination. The embarrassed silence which followed this collective denial of opportunity was amusing; there can be no doubt that Salisbury had settled into his chair anticipating a limitless opportunity to sound off about his own and the government's greatness. In the event he quickly metamorphosed from a preening cock to a deflated balloon.

The refusal to cross examine might appear risky, in that it seemed to let Salisbury off the hook with respect to important and simple questions such as: 'Why did it take you two years to respond to Dr Wakefield's first communication with you, which warned the DoH of a public health crisis over MMR?' and 'Why did it take six years for you to organise a meeting with Dr Wakefield to discuss his ground breaking research?' and finally, 'Did you intend to suggest in your evidence that Dr Wakefield was trying to blackmail the Department, by suggesting he would precipitate a public health crisis unless you gave him money for research?'

All the facts relevant to the charges against Dr Wakefield, Professor Murch and Professor Walker Smith will of course be given in evidence by the defendants themselves. If they remain accused. Dr Wakefield, in particular, will be able to inform the panel about the considerable evasion indulged in by Professor Salisbury and the Department of Health from the time that they were first informed of the epidemic of adverse reaction to MMR.

A few issues raised by Salisbury's evidence are worth commenting on here. Without eliciting a tsunami of self congratulation it might have been worth asking Salisbury how, exactly, he came by the Professorship bestowed on him only weeks, it seems, before the GMC hearing.

More important is the matter of how much Salisbury actually knew about the press briefing given before the publication of the Lancet paper. In

cross examination, the defence had previously put it to Professor Zuckerman that he had co-operated with the media committee, and with Dr Wakefield, in their plan to make clear their view of MMR and regressive autism. Professor Zuckerman, who had chaired the media committee which organised the press briefing had, it turned out, been appraised of the intention to propose a return to the single vaccine.

In evidence, Zuckerman had denied this. A letter from him to Dr Wakefield produced in evidence, however, twice stated that in the event of a question being asked, he hoped that Wakefield would push the use of monovalent (single) vaccine. When asked about this letter in cross examination, Zuckerman had said that the twice used word 'monovalent' was on both occasions a typing error, and it should, of course, have read that they should push the 'polyvalent' (triple) vaccine. This was *almost* plausible, but if it was not true it hinted at a much deeper conspiracy on the part of the establishment than even I had imagined.

As Miss Smith, heroine of the defence, led Salisbury through his evidence, she presented him with a letter written by Roy Pounder head of Wakefield's department, to the Department of Health. A letter which Salisbury had seen. The letter, according to the twisted narrative of the prosecution, was supposed to be an example of how the Royal Free research team had constantly tried to blackmail the DoH. In the letter, Pounder had notified the Department of their intention to recommend at the press conference that parents ask for the 'monovalent' vaccine. He wrote, Pounder said, making this clear because he did not want the NHS to be caught short when requests for the single vaccine were made. 'Did they have sufficient stocks?' he asked. Now, unless monovalent was also a typing error in this letter, a nightmare picture of conspiracy and deceit is beginning to unravel in the GMC hearing.

The other considerable matter which Salisbury onanistically droned on about was his department's determination to understand public perception of the various vaccinations. He introduced this matter by suggesting that no one else (no other government) in the world was able to track the take-up and public perception of vaccines in the way that the British government could. The data on public perception of vaccine was massive, he said. The survey methods were infinitely sensitive, the government even knew what newspapers respondents read. In all, Salisbury and his colleagues had carried out 30 surveys into the public outlook on vaccination, costing millions of pounds.

Listening only lethargically to this ‘evidence’, one might be moved by it. ‘The government really is interested in the public *experience* of vaccination’, an observer might think. Of course nothing could be further from the truth. All this data, all these surveys, all these millions of pounds have been spent in order to advance the marketing of vaccines and to plan public relations strategies which will ensure that the public accept the vaccine programme without question. This is nothing to do with science, this is jury rigging.

At this point in Salisbury’s evidence I came near to shouting out - ‘How much has the department spent and how many surveys have they carried out on the study of adverse reactions?’ Actually, this would have been a stupid question because, despite the fact that Salisbury would have responded by describing the yellow card system, I actually know that millions of pounds worth of research is carried out into adverse reactions, not by the government but by large private research companies.

These multinational companies work directly for the pharmaceutical cartels, which, after all, have very good reason to monitor adverse reactions. These companies conduct the most detailed research, by contacting general practitioners and getting lists of those prescribed drugs or given vaccines. The doctors, nurses and patients are all intensively interviewed about the effects of prescribed medications. It is on the basis of this information that pharmaceutical companies change drugs or withdraw them from the market, with as little publicity as possible.

Does the DoH conduct similar research or fund these research companies to carry it out? No, of course not. Is there an obligation on pharmaceutical companies to provide such data to the Department of Health? No, of course not. In all the much vaunted PR research conducted by Salisbury’s department, it is not public health which is leading the research, but public perception of government and the defence of pharmaceutical profitability.

Unfortunately, however, the present hearing will furnish us with no answers to important questions about the working of government and pharmaceutical companies. The defence has a specific objective to realise in the hearing and that is to prove beyond doubt that the defendants are not guilty of the charges. This limited objective can best be achieved without giving people like Salisbury the chance to ‘run off at the mouth’.

* * *

Since the virtual collapse of the prosecution case two weeks ago, we have seen Miss Smith increasingly making objections to cross examination questions put to witnesses by Mr Koonan and Mr Miller. I'm sorry that Miss Smith doesn't seem to understand how demeaning and petty these objections appear. One can only assume, as she has been overruled by either the Chair or legal assessor of the panel on almost all occasions, that she is making them in order to break the flow of the defence argument implicit in the questioning.

When I think how the defence sat quietly while Miss Smith asked the General Practitioners fruitless questions which fell a million yards from the tree of evidence-rules, I find it hard to stomach. Because it didn't suit the prosecution to bring parents to give evidence at the hearing, Miss Smith tried to prise parent information from the practitioners. This resulted in questions of this kind: 'What do you think the mother was thinking when she suggested you referred child x to the Royal Free?' and 'Where did the mother get the information from about the work of Dr Wakefield?' and 'How had the mother decided that MMR caused the damage to her child?'

I was also concerned last week, by a reference Miss Smith made to the fact that the hearing 'does have an enquiry aspect'. Is Miss Smith reading our site?

Dealers in Second Hand Words

Monday September 3rd - Thursday September 6th

"Reading the accounts (of the GMC hearing) whilst in my private prison keeps me riveted, and in part wishing I only had to suffer a year's tedium and it would all be over - my son would be fine."

A parent

A couple of weeks ago I commented on 'abuse of process' and pointed out how the prosecution could manipulate both the information of the case and its outcome by delaying or dragging out the hearing. I don't usually quote my own writing but I have done it here because I have seen my words recently become reality. In my fourth piece on the hearings I wrote:

"Having begun the hearing in July 2007, the prosecution now intends to suspend the hearing until March 2008. It could be argued that having presented the prosecution case, this six month period is likely to consolidate this case in the minds of the Panel. Because there is no sub judicae rules which affect the publication of general and specific information about the charges brought against Dr Wakefield, it could be argued that the medical establishment, the government and the pharmaceutical companies, have now six months during which time they might publicly build on the prosecution case and even move forward with the programme of multiple vaccines."

On Tuesday 28th of August, the prosecution and the defence organised another schedule which entails ending the hearings on August 29th 2008. On the 30th August, those ranged behind the prosecution, by which I mean those linked to the government, the medical establishment, the GMC and the pharmaceutical companies, began a massive out-of-hearing campaign specifically in support of the measles component of MMR. This flurry of amplified campaign material reached the media at exactly the time that Dr Wakefield's defence was supposed to have begun in the first time-table of the hearing.

One can almost see the cerebrally bloated Professor Salisbury, hunching back into his office, his pride fatally wounded by the defence

unwillingness to ask him a single question, picking up the phone, calling the Health Protection Agency and barking out an order for them to produce propaganda. The Health Protection agency organises all the scare stories about vaccination and such things as bird flu as well as all the un-scare stories about other public health matters from mobile phone masts to toxic chemicals in the water supply.

The statement issued by the HPA on August 30th went to all the media and was massively reported by Sky and The Times, both outlets belonging to Rupert Murdoch who over the last decade has worked hand in glove with Tony Blair and New Labour.

On the front page of The Times, a story headed 'Vaccine warning as measles cases triple', which included a scientifically educative five and a half inch square picture of a child with a measles rash over his face and shoulders, had a tucked away paragraph about Dr Wakefield.

*"The triple vaccine has proved highly controversial in recent years over **unfounded concerns** that it may be linked to autism. The study that first sparked fears about its (MMR's) safety is **currently being scrutinised** in a hearing by the General Medical Council, the medical watchdog. Andrew Wakefield and two co-authors of his research are currently appearing before the GMC on charges of serious professional misconduct."*

Apart from the obvious issues raised by this paragraph, especially 'over unfounded concerns', and 'the study … being scrutinised', when the reality is that three doctors are on trial, it is interesting to note the semantic twist when David Rose talks about the GMC hearing. Andrew Wakefield ceases to be a doctor and the treatment of 12 children, carried out by a whole team at the Royal Free becomes 'his' (i.e. Wakefield's) research.

Dr Michael Fitzpartrick took up the story and ran with it in the Guardian, a paper which is becoming well known as a major outlet for pharmaceutical company propaganda.

*"While discussions **with privileged parents** about the **utterly discredited** claims of a link between MMR and autism continue in our baby clinics ……."*

*"Now that **the anti-MMR campaign** is history …"*

Having dedicated a large part of his life to the maniacal Revolutionary Communist Party (RCP) it is inevitable that Fitzpatrick can't help but draw attention to what he considers class issues; even if in a very superficial manner. His writing is always rhetorical and so founded on personal assumptions that it rarely makes sense when closely examined.

At the end of the 1990's some 2,000 parents had spoken to lawyers over serious illnesses which had occurred in their children coincident with their receiving MMR or MR. It goes without saying that all of these parents initially believed in vaccination (can you grasp that Fitzpatrick?), they all had their children vaccinated! Obviously they came from across class boundaries. That they believed that their children were damaged by a vaccine and that they then protested but were ignored, says nothing whatsoever about class. To suggest that it is only 'privileged' parents who are involved in the arguments about MMR and that working class parents have not fought their corner shows exactly the same contempt for the working class that the RCP showed during its short life as a 'political party'; amongst 'privileged' university students and lecturers.

(The Revolutionary Communist Party, were the only left grouping, to side with the State at the start of the miner's strike, when pressure was put on the NUM to hold a ballot of members so as to get a 'democratic mandate' from the workforce to go ahead with a strike. Although there is nothing wrong with this view from a communist perspective – over the last century, communists have always suggested working within democratic frameworks until they reach a point where they are able to seize power – when the NUM failed to do what the RCP thought correct, the RCP withdrew from any comment, analysis or involvement in the strike. This was not of course a proper political strategy, more like a child taking his ball from a football match after a disputed gaol. What it made me think was that the RCP leadership were inevitably more concerned with ideology than the day to day lives of the working class from whom they contemptuously withdrew their support.)

The situation of the parents whose children may have been adversely affected by MMR, while it has nothing to do with class, has a great deal to do with the power of the State, and what has often been termed the medical-industrial complex. If we approach the situation of vaccination and adverse reactions from a political perspective, it has everything to do with the power of the state to override the wishes of the individual. Such discourses might well leave a nasty taste of libertarianism in Fitzpatrick's mouth. But surely he knows that his oppressive ideas about state power

place him, in the eyes of many, within a collectivist tyranny. A tyranny whereby state power - in congregation with multinational commercial cartels, inimical to individual liberty, demonstrate a complete lack of care for the citizens whose safety it compromises.

The real poverty of Fitzpatrick's politics and that of his crowd, is shown by the fact that this whole matter could have been resolved along the lines of good ethical and moral principles. Had the government instructed doctors much more carefully on the application of the vaccine and avoided giving it to children who showed the slightest signs of vulnerability. Had they accepted, as they have in the past, that some children are inevitably damaged by vaccination and pledged itself to care for those who were damaged. Had they at the same time kept a high level of pharmaco-vigilance and consistently updated research that might have had a bearing on these adverse reactions, then the whole political complex of the problem could have been quite different. Anyone who thinks that the policy outlined above is subversive of democracy obviously doesn't deserve to be working with vulnerable people in the public sector.

In his Guardian article, Fitzpatrick makes a point of saying that a measles epidemic has recently been underway in Hackney in East London, and that there have so far been 150 cases in the borough in the last three months. The Times, using emotive statistic-scattered prose, suggests that *'hundreds of thousands of children returning to school as early as next week may cause the highly infectious disease to spread'*. In fact the tripling surge which the Times is referring to seems to have taken place only in Hackney, one of the poorest and most disadvantaged of London boroughs.

Nevertheless, the Health Protection Agency (HPA), Fitzpatrick and The Times, all suggest that the 480 cases so far this year are 'well on the way' to being greater than the total annual 736 measles cases reported in 2006. This assertion, however, doesn't really stand up. An estimate based on figures already disclosed for the first 8 months of 2007, would bring the years cases to around 732, actually less than the total cases in 2006.

While we're on the subject of statistics, perhaps someone could explain the meaning of the figures in the table for *Measles Notification: England and Wales, By Age Groups, 1989-2006*, that appears on the Health Protection Agency web-site. This table shows the number of measles cases notified (excluding ones at Port Authorities, to exclude the bias of people bringing measles into the country from abroad) for 2006 as 3,739.

Why is this figure almost 3,000 more than the figure quoted by the HPA and repeated in the articles of Fitzpartick and others?

* * *

Given that the battle over the attempts of parents to gain acknowledgement, treatment and care, for children who they believe to have been damaged by MMR, is still insistently proliferated outside the hearing room of the GMC, it is worth looking at the effect such recent propaganda might have on justice for the three defendants. What does accepting the elasticity of the new GMC time-table for the hearing really mean in terms of justice?

Perhaps more important than the fact that the Panel could well be swayed by the constant reference in the media to the guilt and criminality of Dr Wakefield, it now occurs to me that this prolonged delay could actually 'bury' both the importance of the initial conflict, the subsequent hearings, and the final verdict - whatever that may be.

There can be absolutely no doubt that while the three defendants are easily winning the ineptly prosecuted legal case, the scientific and public health high-ground will always appear to be held by the government, the NHS and the spinners at the HPA. Even if the three doctors are found not guilty on all counts, a slothful press, bent scientists, pharmaceutical company executives, New Labour aparachiks and a rag bag of Liberals, sceptics and ex-communists will have had plenty of time to convince the general public that the doctors were always guilty.

The possibility of the three defendants being found not guilty, does, however, raises a multitude of questions that the GMC would need to answer about their faux legal processes. It would seem absurd, for instance, were the defendants to be found not guilty, that there was no process available by which the defendants could obtain compensation for the suspension of their lives and their public criminalisation over a period of four and a half years. It would also appear quite wrong that the GMC could get away with this immense charade, involving biased evidence and witnesses who don't tell the whole story without their being some form of public enquiry into the conduct of this case.

The Death Throws of a Prosecution

As Miss Smith marches the prosecution, lemming-like, to the edge of the cliff, it is becoming more apparent that their case has always been in confusion. When the prosecution began, especially as it was under the auspices of the General Medical Council it was taken for granted that the three doctors on trial were being accused of being bad doctors.

As the trial has dragged on, however, and more especially with the general reluctance of the GMC to bring children or parents to give evidence, it has become more than apparent that none of these doctors have, in any way whatsoever, adversely affected the welfare of their patients. Even the most prejudicial witnesses have been unable to claim this under oath and early suggestions that the doctors put their patients at risk by administering dangerous investigative procedures has been frequently discounted by experienced witnesses called by the prosecution.

Now, after almost two months of the hearing, the 'butterfly' case brought by the GMC has alighted on the idea that, actually, science has been the subject of the prosecution all along. The three doctors - and particularly Dr Wakefield - are clearly being accused of bad scientific method. If we look at this situation carefully, we can see that it is as utterly untenable as the prosecution's first hypothesis.

The pharmaceutical companies and the organisations of corporate science have been looking for ways of disciplining medical scientists who either carry out research in ways that they don't like or who are 'alternative' in their approach to subjects of study. The easiest point of entry for corporate science into the patchy regulatory framework for medical science in Britain, is a politically compromised GMC. The fact that the GMC has eagerly taken up this role on behalf of the government and the pharmaceutical companies, has nothing to do with the suitability or the correctness of it. The regulation of science and scientific enquiry should be conducted by scientists and such regulation should be planned and co-ordinated by a body which is utterly free of vested interests.

With the hearing at the GMC, we face the same question that has always been asked about science and the law; is the court of law a proper venue for deciding scientific matters? Let's face it, no one on the prosecution side or even those in their train, know anything about science, nor would you expect them to, their number is made up of doctors, lawyers and a journalist.

Still, Miss Smith, whom sometimes you have to feel for, has had the same lack of good fortune in getting her witnesses to say bad things about the scientific abilities of the defendants as she did when she was accusing them of harming their patients. As the case spluttered out last week, and before the next sitting in late September and October, when the re-briefed expert witnesses for the prosecution appear, the Ms Smith called a couple of witnesses who were meant to decry the underlying scientific method of the Lancet paper.

I was away from London on Monday 27, Tuesday 28, Wednesday 29 and Thursday 30 August. There was no hearing on Friday 31 August. Two of the days that I missed were covered by Susan and Olivia Hamlyn and I have included edited versions of their reports below. I have added any of my own comments in *italics* and labelled them *MW*. In the first report from Susan Hamlyn, written originally for the campaign internal email list, the mother of 'child 12' was named. I cannot do this in my more public account. Doing so would invite criticism from the GMC on the grounds that revealing the name of the child would make him or her vulnerable to prejudicial or damaging enquiries. Of course, as those presently campaigning against the Family Courts will tell you, this secrecy, with threat, immensely aids the prosecution. However, this account is not the place to challenge such usurpation of parental authority by the state and legal profession. I have continued the rule of the GMC hearing in referring to the child as 'child 12' and therefore the child's parent as mother 12.

Mother 12 : August 28

Susan Hamlyn writes

Mother 12 and I last met when our sons were in adjoining beds in the Royal Free way back in Jan 1997 - a crucial time and the one to which most attention was paid today.

I was, of course, surprised that Mother 12 was being called as a prosecution witness. She made it clear to me afterwards that when she was first contacted by the GMC, and even when they visited her to take away documentary material, it was never made clear that she was to be called for the prosecution. She was anxious not to damage the three doctors in any way. She made it clear in her evidence that she had no complaint about any of them and that she and her son were always well-treated at the Royal Free.

MW: Actually bringing a defence witness in the hope that they will give prosecution evidence is even more audacious than Miss Smith's previous corruption of the prosecution process whereby prosecution inclined witnesses have been allowed to give evidence-in-chief which simply helped the defence.

The day was, in fact, another extraordinarily damp squib. I spent it sitting with Dr Wakefield's mother who had not been before and who was amazed at how dry, tedious and seemingly pointless it all was.

Miss Smith, began by asking Mother 12 a series of questions to elicit details of her child's medical history. She established that Mother 12 first heard about AW's work at the Royal Free from another mother at a parent-toddler group. This mother recognized the symptoms - behavioural and gastroenterological - that Child 12 was displaying. About the assumption she made regarding the role of MMR in her son's case, she had the following to say:

- 'I had a perfectly normal child who suddenly wasn't normal any more'.

- 'it (MMR vaccination) was the one thing that had happened to him that could have caused such a change.'

Miss Smith established that Mother 12 had contacted Dr Wakefield directly and not via her GP. She seemed to be hinting at a conspiracy of money-hungry mums who had banded together to get money out of the NHS. She wanted to know how Mother 12 had made contact with Dawbarns and was asked what she had understood the solicitors were doing. Mother 12 answered - 'to stop the MMR - to stop children being damaged by it.'.

Miss Smith then dragged through endless letters between Mother 12, and the Royal Free and between Mother 12 and Richard Barr. Together with these she read out extracts from the Dawbarns newsletters.

It looked throughout as if Miss Smith would have liked to prove skulduggerous links between Dr Wakefield and Dawbarns, in relation to the Lancet paper cases, but everything she read out seemed to demonstrate exactly the opposite - meticulous and scrupulous dealings with everyone from both the Royal Free and Dawbarns.

Miss Smith moved vaguely, as she is always tempted to do, in the direction of suggesting that Mother 12 submitted her son for tests to help

with research when they weren't strictly indicated by his conditions. However, Mother 12 defused that insinuation. She said that although she was clearly wanting to support research which might help other children, she hoped that something therapeutic would come out of it for her son.

One potential hiccup was when, apparently, during a ward round a note was made by one of the doctors that child 12 should not have an MRI or a Lumbar Puncture, however, for some reason, both procedures were carried out although no consent form was found for these procedures. Mother 12 did, though, sit with her son throughout both procedures.

Two mildly farcical moments came when, first, Miss Smith noted darkly that one of Mother 12's letters to AW began "Dear Andy". 'When', Miss Smith wanted to know, with all the zeal of a jealous lover, 'had that mode of address been agreed on?'

The second farcical moment was when Miss Smith quoted an umpteenth newsletter from Dawbarns referring to the fact that they were still waiting for Dr Wakefield to 'deliver the goods' – i.e. come up with a full scientific report. Miss Smith made *'the goods'* sound like something in a plain brown packet slipped from one hand to another at midnight on Clapham Common.

Much time was spent on a press release which coincided with the Lancet paper and which came from Dawbarns. If Miss Smith was attaching real significance to this, it was yet another point that was never actually brought to fruition.

When Miss Smith suddenly stopped asking questions of this reluctant witness, she had not pushed home any of the points that she had seemingly been moving in on. Superficially at least to the untrained eye, it appeared that absolutely nothing had been achieved by the prosecution.

Mr Miller, for Professor Walker-Smith made a few points in cross examination. He went over the fact that Child 12 was developing normally until his MMR and that, after that, he actually regressed.

He re-established that child 12's first diagnosis of Autism Spectrum Disorder was made before any contact with the Royal Free and that Mother 12 had taken her child to the hospital in the hope of helping him get better and not to assist with research.

Questions from the panel mainly went back over the same ground covered in cross examination, although one panel member wanted to know whether Mother 12 had applied for legal aid before she had taken her son to the Royal Free for his first appointment. Mother 12 answered that it was 'about the same time'.

The tenor of all the panel's questions was, again, to establish the research/clinical treatment balance and ultimately, none of them seemed to find it hard to grasp that a parent could desperately want her son to be helped while also being keen to aid research for children in general.

We were told that the witness the following day would be child 8's GP. Unfortunately neither Olivia nor I can attend.

The Funding of Law: August 30th

Olivia Hamlyn writes

This brief and boring day began with the prosecution reading out the witness statement of Deborah Davis, PA to the chief executive of the Royal Free. It had been decided that there was no need to call her to give oral evidence.

The statement dealt with Dr Wakefield's appointment as honorary consultant in experimental gastroenterology and the terms and conditions on which he was first appointed. However, the exact terms and conditions which were applicable in 1994 had actually been destroyed so the prosecution had to rely on the current terms which, we were told, were very similar. 'Very similar' has always been good enough for Miss Smith.

The terms and conditions established that Dr Wakefield would mainly be involved with research and not as a consultant gastroenterologist, he would not see patients in or out of the hospital and he would be exclusively involved in lab-based research.

This evidence having been tendered, Miss Smith asked the panel to rise, so that the counsel could argue over the terms of the next witness's evidence. An hour later, at 11.30am when we re entered the room, we saw Sarah Alwyn sworn in. Alwyn had been a legal advisor to the Legal Services Commission, which she had joined in 1998 when it was still the Legal Aid Board (LAB).

Miss Smith went over the background and procedure for dealing with an application for legal aid and discussed the meaning of a multi-party action, the term used for the MMR case. They went over the criteria for awarding legal aid which included that the cause must have good prospects of success. They then discussed the authorization of use of the money and the things it could be used for, e.g., to facilitate the setting up of Dr Wakefield's study and to fund a preliminary report from Dr Wakefield.

It was established that the solicitors in the LAB offices had no medical qualifications and relied on the experts found by the law firm when considering whether to award money in this area. Alwyn told the panel that it wasn't the responsibility of the regional LAB offices to look behind the information given by these experts.

The prosecution then went through several letters, which inevitably had been shuffled and placed out of sequence, between Dr Wakefield, Richard Barr and a Miss Cowie of LAB. This sequence of letters ended in 1996, when the first installment of legal aid money was arranged. Miss Smith went on to deal with the second installment.

The prosecution then moved on to 2003 when the legal aid funding was withdrawn. The reason given was that the criteria for payments to the defence case no longer met legal aid requirements, i.e. that the case was no longer considered to have a good prospect of success. Then, the unsuccessful appeal to the High Court Judge. This had been the first time that medical research had been funded by the LAB and it was decided that the Medical Research Council would have been the more appropriate funding body.

MW: This of course is pure nonsense for while it might appear odd for the LAB to fund medical research, it is at least independent of government and not prone to take sides in legal conflicts; they facilitate independent searches for the truth. Moreover they do fund all kinds of independent investigations, from private detectives who search for 'unknown' but suspected evidence, to vehicle mechanic experts who research the causes of accidents. The Medical Research Council, on the other hand, has nothing to do with legal cases. It stands four square behind the pharmaceutical companies and the government on vaccination and is incapable of conducting an ***independent*** *investigation, or grant aiding anyone who might.*

There followed some discussion of the names of the children involved and what appeared on their legal aid certificates. It was clear that much data in relation to this matter had been destroyed or lost.

Little interest was shown in the witness either by defence counsel or by the Panel.

Two steady and reliable witnesses

Martin Walker Writes

There was no hearing on Friday 31st of August and it resumed on Monday 3rd of September, by which time I had returned.

On Monday, and then on Tuesday, the prosecution brought what might have been in any other prosecution some heavy-duty witnesses However, as has become the norm in this case, both witnesses turned out to be more Airsoft guns than heavy artillery.

Mr Tarhan was the Finance officer at the Royal Free Medical School during the relevant period in the 1990's and Dr Susan Davies the Consultant Histopathologist at the Royal Free during the 1990s.

Mr Tarhan's name had cropped up on occasions during the hearing, in relation to the cheque from the legal aid board. He turned out to be a very solid and professional witness, although this was not to the credit of the prosecution.

As the Deputy finance officer and then the finance officer at the Royal Free throughout the 1990s, Mr Tarhan had ended up as the Managing Director of the business arm of University College London. In the 1990s, many universities, charities and patient organizations which were involved in research, tried to enter the market and capitalize on the findings of their researchers.

In his capacity as MD of the new business set up by UCL, at that time called Medical Marketing International, Mr Tarhan was able to speak about the patent which was taken out by Dr Wakefield on measles transfer factor. The prosecution line on this was, as always, cloudy; perhaps because they failed to look independently at the matter and as in much else, went down the deer-track.

The deer-track on this matter was simple; Dr Wakefield was accused of being a capitalist. As a research doctor, hell bent on making private profit, he had developed ‘a vaccine’ apparently for measles, in forceful competition to the major multinational drug companies. Had this fiction stopped there, it might just have appeared plausible – if a little comical. However, Deer’s contention was that Wakefield’s vested interest and the development of his own vaccine was one of the main reasons for his so called ‘anti-vaccine’ stance. Of course at the end of the day, Deer’s narrative involved more plot turns than the Bourne conspiracy and though, like the films it was initially exciting it turned out to be utterly implausible; not too bad for a film but pretty defeating for a legal case.

In both the matter of transfer factor and the LAB cheque, Tarhan gave evidence which reflected entirely on his professionalism rather than on Dr Wakefield’s supposed criminality. Tarhan came across as a steady, wide shouldered and responsible accountant, he cast Dr Wakefield, from what he had heard, as a good doctor and research worker with a youthfully impatient and slightly anarchic approach to financial systems and accounting. Although Tarhan seemed to look quite fondly on his working relationship with Dr Wakefield, he was obviously disturbed by what he saw as his gung-ho approach to finance.

As for the assertion that Dr Wakefield tried to make a personal profit from manufacturing a vaccine in competition to the multinational drug companies, it became clear during Mr Tahan’s evidence - and that of previous witnesses - that firstly, this was not a vaccine against measles, but a therapy that might ameliorate the adverse effects caused by measles vaccine; that Dr Wakefield had actually sought partnership with pharmaceutical companies to develop the therapy and finally that all profits from the patent, had it become a viable product, would actually have gone to the Royal Free Medical School.

In the event, Mr Tarhan told the panel that the business arm of the Royal Free was not happy with the product, because it had not been proven to work and was too risky to back until it had been. It also appeared to be contentious and therefore a poor business risk.

In relation to the cheque from the legal aid board, the worst that Mr Tarhan seemed to say about Dr Wakefield was that he had failed to send to the finance department any pro forma or note which detailed the nature of the project that the money was intended to cover. This might have appeared lax, though not criminal, had it not been for the fact that

Mr Coonan (counsel for the defence) produced a letter from Dr Wakefield to Dave Wilson, Mr Tarhan's senior. The letter informed Mr Wilson of the account that the cheque was to be paid into, provided other details, and ended by asking him to get in touch if he needed any further information about the cheque and the use to which it should be put.

Apart from this, Tarhan also suggested that it had irked him when he discovered that Dr Wakefield had failed to fill out a receipt for the money, using the receipt book held in the finance department. Well, you know what they say about accountants…? When I put this point to Dr Wakefield in a conversation, he said with the evident bemusement of a research scientist, 'How was I to know there was a receipt book in the finance department? I did send Richard Barr a receipt but it was just a straightforward written one on headed note paper.'

When Miss Smith took Tarhan through his evidence-in-chief, she clearly wanted to make it appear that Wakefield had taken out the patents on transfer factor, in order to make profit for himself. With the most reliable air, Tarhan disputed this. In fact although Dr Wakefield, exasperated with the time it might take, had moved to take out two patents himself, Tarhan was quick to point out that they were taken out either in the name of Free Medic as the UCL business venture was then known, or the Royal Free Medical School.

At his most vehement, Mr Tahan insisted that while this was not illegal or illegitimate in any way, he did wish, like all administrators, that Dr Wakefield had kept him in the loop. He knew that Dr Wakefield and Professor Roy Pounder had both incurred personal expenses in employing lawyers to lodge the patents; that neither of them stood to gain from the patents and that any revenue that they generated would go to a charity.

Ghengis Tarhan acquitted himself well as a witness, the way that he distanced himself from the prosecution while remaining slightly critical in his own lights of Dr Wakefield, gave his evidence considerable integrity.

Dr Susan Davies and the Syntax of Honest Evasion

Dr Susan Davies, was, from the beginning, a difficult witness for the prosecution to handle. She had been the Consultant Histopathologist at the Royal Free between 1992 and 2002 and was now working at Addenbrookes Hospital, Cambridge.

Unlike so many of the male witnesses who seemed to be wearing work-a-day suits, and slightly down-at-heel shoes, Dr Davies verged on glamorous. I was particularly struck by her three-quarter length frock-coat made out of a shiny metallic material which gave her the look of an eighteenth century man-about-town. On the two days that she gave evidence, she wore this coat over a very large- print full skirt decorated with a bold pattern in red and black.

In the event, Dr Davies was to need all the security and reassurance she could get from the ‘performance’ clothes that she seemed to have picked after some consideration. She appeared as a witness for two days and some of her exchanges with Miss Smith, showed the rather brittle nature of Miss Smith’s ritualistic courteous legal manner. It wasn’t that Dr Davies was obviously unhelpful in answering Miss Smith’s questions, but apparently frightened of giving the wrong response to Miss Smith’s sometimes confusing questions, she often replied with multiple choice answers, ensuring that she covered all the bases; and more.

It was easy to see why Miss Smith came close to losing it on a number of occasions, though difficult to have much sympathy for her as she tried to drag the very professional Dr Davies into a mire of incriminating allegations, which would have had Dr Wakefield ‘fixing’ his research results.

As the consultant histopathologist in the paediatric gastrointestinal department, Dr Davies was responsible for preparing and presenting all the samples which were taken from the ‘Lancet paper children’ (and many other children treated at the Royal Free in the gastroenterology unit) during the clinical investigations that determined their diagnosis and treatment.

In one of those incredibly boring reviews of all 11 Lancet children, Miss Smith dragged Dr Davies through each case in some detail. This time however, we were no longer concerned with where the children came from or from whom they were referred, instead we followed each one through their histology reports presented by Dr Davies in the Friday meetings.

For a whole day we remained utterly oblivious, as it appeared did Miss Smith, to where Miss Smith was taking the witness. Apart from the occasional emphasis on cases which did not appear to fully fit the criteria

for the Lancet paper, each case passed by embedded in the most baroque detail but without any apparent fault attached to it.

On the second day of Dr Davies's evidence-in-chief, everything became as clear as Miss Smith is able to get, which is, on reflection still pretty opaque. Despite the fact that there were showers of sparks that briefly illuminated unnecessary investigative procedures etc., the prosecution had two planks to its case. First, it was suggested that between first provisional diagnosis and later writing up in the Lancet, some of the diagnostic pictures had been changed to fit more exactly the conclusions of the paper. Reflecting upon this, one can see it as the closest the prosecution gets to the charge of 'research fraud'; a charge which the GMC would no doubt have loved to bring against Dr Wakefield.

Second, the prosecution suggested that Professor Murch and Dr Davies had been so concerned about the recorded diagnostic outcome of the Lancet cases they had instigated a review of the cases (of Dr Wakefields work) which was carried out by Dr Davies.

As always appears to be the case with Miss Smith's assertions, both these propositions came to naught as they were disassembled during Mr Miller's cross examination. The explanation of the first matter of the 'shifting' diagnosis, gave us a rare insight not just into the mechanics of clinical research but into the way in which imagination and intellectual problem-solving lie at the heart of this creative process.

When Dr Davies and the defense council explored this area, one began to see clearly why it is important not just for the defendants, but for the future of medicine, creativity and culture that we understand what separates the constipated word-crunchers such as Deer and the mercenary legal pedants like Miss Smith, from a medical researcher of Andrew Wakefield's caliber.

An erudite and intellectual explanation for the metamorphosing diagnosis which changed between the initial base line crude report and the more detailed consensual diagnostic picture which emerged at the end of the histology process was explained by Dr Davies. When the children arrived at the Royal Free they carried with them the diagnostic notes from a local GP or consultant, this was a base line diagnosis from someone who was not necessarily a specialist in the child's condition, and who had little comparative material by which to contextualize them.

Following the child's stay at the Royal Free, a number of more complex investigations and case history explorations, the diagnosis became more complex and specific. In the last analysis, the complex diagnosis written up in the 'case review' was produced after all the cases had been reviewed together looking for common themes and 'brainstorming' or leaping between cases and seizing on common threads and connected factors that might join one to another.

There are of course many 'scientists' with petrified brains who might feel that this process is quite criminal and amounts to sorcery rather than science. However, it is in this imaginative area, that real developments tend to be made in science.

The Murch-Davies review was conducted, according to Miss Smith (and initially Dr Davies!) because both doctors felt concerned about the results of the Lancet cases. The matter was resolved relatively speedily in cross examination. Explained correctly, it exposed yet another howler that Miss Smith had presented, having trustingly been led up the deer-track.

After some perceptive cross examination by Mr Miller, who in another life must have been adept at prising stones from horses shoes, it was agreed by the witness and council that the review which Dr Davies had carried out, was not of the Lancet cases at all, but of another group of cases for a quite different paper!

Once again, we did not have to await the evidence of the defendants before the paucity and nakedness of the prosecution case was revealed. I think that the only real worry of all the defendants, should now be that when it comes to the presentation of the defence case, council for the defence dizzy at hearing defence evidence consistently given by prosecution, forget themselves and present the prosecution.

Bringing Medicine into Disrepute or the 'I Should Coco' charge

The last day of the prosecution case, before the three week break organized by the GMC so that the prosecution can re-tutor its expert witnesses, was Wednesday September 6. The prosecution used the morning of the 6th to show an incredibly poor quality video of Dr Wakefield brightening up a lecture on IBD by telling a few jokes about how he gained control-group blood samples from children at his son's birthday party.

What strikes me about this final charge on the prosecution calendar, is that it strikes at the very heart of professional, medical and legal culture. Both lawyers and doctors have always told interesting and funny stories about their experiences and their patients. There is of course a reason for this, the everyday experience of both doctors and lawyers, brings them into contact with death and disease, murder and mayhem, these abscesses on the human soul have to be balmed and soothed, this is done with humour, strange tales and surreal stories.

What of course does bring medicine into disrepute is the marketing and prescription of drugs like Vioxx which kill 30,000 people or the shameful and continuous prescription of HRT which results in breast cancer and heart disease. Even more so than these examples, is this present GMC hearing which is blatantly trying to censor original scientific research at the behest of the government and pharmaceutical corporations. This hearing isn't bringing only medicine into disrepute but democracy and government … yes I know it's difficult to imagine that anyone could do the latter.

But then perhaps this particular charge says more about the GMC and the politics of medicine than all the other charges put together. The GMC obviously intends that we live in a world not just free of choice over vaccination but where it is a crime to make fun of doctors, scientists and medical apparachiks. Just like the industrial bourgeois of the nineteenth century the humour-challenged plutocrats of science hate anyone reminding them of their unregulated history in quackery and illegal experimentation; and god forbid you joke about medicine.

Fundamental Attacks on the Independence of Science

The case brought against Jayne Donegan by the GMC was a calculated attack on the right of defendants to bring independent expert evidence to court. Like the Wakefield, Murch and Walker-Smith case, the case illustrates the GMC acting well beyond it's remit in attempting to stifle independent scientific thinking. Where the GMC picked up this prevailing idea that as the regulatory body for doctors, they have the expertise and authority to arbitrate on matters of science, God - or Dawkins - only knows.

One thing is certain however. These contemporary cases show that the GMC, in the face of very serious criticism over the years, is now hell-bent on taking the lead in the regulation of scientific and medical method. This

bid for power and authority well beyond their competence will not be stopped until the scientific community intervenes and takes these bourgeoning powers out of their hands.

Apart from anything else, the legal form which the GMC has hijacked is utterly unsuitable for resolving arguments about scientific method. But as with all other interventions in this field, the interests behind the GMC are the multinational pharmaceutical companies and other corporate interests that have been trying over the last twenty years to bend the regulation of science away from qualitative approaches and towards quantitative methodology. Towards the laboratory and away from the person.

* * *

A journalist I was speaking to the other day, suggested that the Sunday Times was about to send Brian on a social skills course. I must say that he does have a funny way about him. On the last day of this part of the hearing, we were shown the video of Dr Wakefield speaking at a conference. Predictably the large screen suspended from the ceiling over the heads of the public and press was not working. Being appraised of this I settled myself down next to a tiny monitor in the corner of the press section of the public gallery, meant I think for GMC staff to keep an eye on the hearing.

Brian, who on many days is my constant and only companion in the hearing room, came in a little later while Miss Smith was introducing the video. I must say I find this closeness can be quite disturbing it's as if we were participants on a Big Brother set. I am always fearful that, banged up in such a small space together, I might develop some variety of Stockholm syndrome and feel a desire to engage in serious conversation with him.

When Brian came in and saw that I was in the press section where he had thought of sitting, he seemed to snort and veer off, sitting instead below the large suspended defunct video screen. I thought that he was probably anticipating that it would come to life when the video began. Not wanting him to miss his big moment, I tried to attract his attention by quietly calling his name. On the third call, he turned his lugubrious but stony face slowly in my direction without actually looking at me. It was as if his attention had been drawn to something on his shoe which smelt. I whispered, to the inattentive side of his face, 'That screen isn't working', at which he turned his face slowly back to Miss Smith as if I was invisible

and unheard. When Miss Smith began running the video and it dawned on Brian that it wasn't showing on the screen above him, he jumped out of his seat and ran headlong out of the hearing room for the Press Room.

I was surprised at Brian's reaction to me. Why is he so distrustful? Not at all the 'hail fellow well met' approach that has been common amongst most journalists and writers in past times.

The Case of Dr Jayne Donegan; Abused by the GMC

Supporters of Dr Wakefield, Professor Walker-Smith and Professor Murch, were happy to hear of the result of another case brought by the GMC against Dr Jayne Donegan in mid-August. Dr Donegan had found herself dragged into the vaccine debate and then attacked by the government and the medical establishment when she gave expert evidence in a court case. The problem was that she gave expert evidence which was independent of government dictate and in contemporary England you are likely to be put on trial, or in a ducking stool, for doing this. Aubrey Blumsohn has posted a very clear piece about Dr Donegan's case on his web site (www. scientific-misconduct.blogspot.com Aubrey Blumsohn 8/31/2007 12:50:00 AM). I have summarized the main content of it below.

Dr Donegan MBBS DRCOG DCH DFFP MRCGP is a medical doctor and family practitioner. She also has some interest in homeopathy. She graduated as a medical doctor at St Mary's Hospital Medical School (London) in 1983. It is reported that she is an excellent doctor. Donegan is however one of several medical doctors in the United Kingdom who holds views about science that have led to selective disciplinary/"fitness to practice" procedures (FTP) by the General Medical Council.

Dr Donegan's 'sin' was precisely to do with the science of conventional medicine. She testified in an important court case in which mothers and fathers differed in their views over whether their children should be vaccinated. Two witnesses for the fathers provided a view that would have pleased the Department of Health. Donegan provided testimony for the mothers. She provided a detailed scientific report which concluded that a perfectly rational parent making a decision about vaccination for their own child might well have some valid fears about the integrity and strength of the underlying science. For her sins, Jayne was subjected to a lengthy Fitness to Practice Procedure.

The stated charge was that she had written a medical report about the underlying science for the court that:

- Gave false and/or misleading impressions of the research which you relied upon.
- Quoted selectively from research, reports and publications and omitted relevant information.
- Allowed your deeply held views on the subject of immunisation to overrule your duty to the court
- Failed to present an objective, independent and unbiased view.

... and having done so, Dr Jayne Donegan was charged with serious professional misconduct, and with bringing the profession into disrepute.

Unfortunately for the GMC Donegan presented overwhelming evidence to back up the science she had presented to the court, leaving the distinct impression that all three opposing experts should actually have been placed in her position. The GMC had no choice but to clear her of all charges. 24 August 2007).

The case appeared to have been brought by the GMC itself, and as far as I am aware there was no complainant. Her report was challenged by "GMC expert, Dr Elliman" who produced a supposedly objective evidence-based report on Donegan's report. Donegan's report had in turn challenged expert reports produced for the fathers.

Expert in What?
The First Expert Witness for the Prosecution

September 27th to October 3rd

The social network beyond the hearing - the medical establishment, the government and the pharmaceutical corporation - used the two week suspension to good effect, taking the opportunity to make a number of statements about the guilt of Dr Wakefield. It sometimes crossed my mind to wonder why the medical establishment and the government don't simply announce the guilt of the three doctors, without all this legal palaver; after all, everyone in the country knows that Dr Wakefield is guilty, even if they can't quite remember what of.

During the recess, the JCVI took the opportunity to announce their decision to look at the possibility of adding chickenpox vaccine to MMR. This announcement was not only a great opportunity to enforce the obvious point that multiple vaccines were perfectly safe but also to rubbish Dr Wakefield and his 'discredited' idea that MMR is solely responsible for every case of autism in the known world (authors sarcasm).

The idea of the inclusion of chickenpox vaccine was floated on the usual raft of the numbers of deaths caused by this viral illness. No illness is too insubstantial to be called into the service of the vaccination programme. One hopes that when, some time in the near future, Big Pharma introduces its vaccination for male pattern baldness, with the argument that this disfiguring illness kills thousands of men and women annually, the British public might wake from its somnambulist trance. As one of the papers remarked:

"Chickenpox is a highly contagious virus. It is effects are usually mild in children. However, it is more serious for adults and can sometimes be fatal. It causes about 20 adult deaths in England and Wales each year."

One of the major concerns, according to the media, was that the vaccine could cause shingles later in life when the body's naturally immunity weakens. It was also suggested that certain groups have already argued that children are at risk of being 'over-vaccinated' and that their immune

system can be overwhelmed. Anonymous ‘doctors’, however, speaking through the media ‘reassured patients that this is *almost impossible’*; which is a bit like almost being a safe pedestrian but being knocked down and killed by a car.

Even the most ardent critic of conspiracy theory might have been set thinking by the comments offered on the Radio 4 ‘Today’ programme by Sir David King, the Chief Scientific Adviser to the government. After talking about the vaccination programme and the possibility of joining a fourth viral strain to MMR, King injudiciously made the point that Dr Wakefield’s ideas have been discredited and that he was guilty of research misconduct.

Inevitably there was no mention of King’s conflicts of interest, or of his various connections. King is a member of the Science Advisory Group of the Science and Media Centre, the organisation set up by the rabid rationalists Dr. Michael Fitzpatrick (ex-revolutionary communist) and Lord Dick Tavern (the pharmaceutical company lobbyist, insurance sales-man and ‘political’ buddy of millionaire Lord Sainsbury (New Labour benefactor and ex-science Tzar). The Science Advisory Group is directly funded by, amongst other sources, the Association of British Pharmaceutical Industries (ABPI). King is also closely linked to the Royal Society, which despite its fabulous historical reputation has been completely overtaken by mercenary commercial interests which have made science in contemporary British society resemble a flea market run by the Russian Mafia.

These are the same people who destroyed the professional life of Dr Arpad Pusztai the Rowett Institute researcher, whose research concluded that genetically modified potatoes damaged the health of mice fed on them. A full scale campaign of lies distortion and planted stories was run by Royal Society members, guided by staff under the instruction of Lord Sainsbury at that time head of science policy and a major figure in the bio-genetic industry who had tried to introduce Monsanto’s genetically engineered crops into Britain without any public discussion.

*(**http://www.gmwatch.org/archive2.asp?arcid=1132**)*

During his interview on the ‘Today’ programme, King suggested not only that Dr Wakefield was guilty, but that the Royal Society had long had a code of ethics for scientists which covered the declaration of conflicting or vested interests.

What King did not make clear, was that this code of ethics had only been launched in 2007, a good ten years after the events presently being mulled over by the GMC. Nor did he explain the aetiology of this code, which was actually helped on its way by those with commercial and ideological interests at the Royal Society.

The Royal Society has, over the last decade, been keen to adopt new regulatory codes in relation to science, such as the code of practice drawn up to stop non-scientists commenting on science in the media. This little gem attempts to ban personal stories about illnesses, therapies or medicines and rules that medicine and health might only be discussed in terms of double-blind, placebo-controlled trials and written up by scientists, or science journalists. If you have ever wondered why, in 1996, 1997 and 1998, British newspapers were full of the personal stories of adverse reactions to MMR while now, ten years on, it is almost impossible to draw attention to the condition of the MMR children, you need think no further than this regulatory code (See *Brave New World of Zero Risk*).

The idea for developing such a universal ethical code of conduct for scientists came out of a 2004 Carnegie meeting - a regular informal meeting of science ministers and advisers from G8 countries - and was moved forward in Britain by Sir David King and the Council for Science and Technology (CST), the UK Government's advisory body on science and technology policy issues. Discussion at the Royal Society resulted in their report '*Rigour, respect and responsibility: a universal ethical code for scientists'*, and in January 2006, the CST published the findings of its consultation. The Code was officially unveiled at National Science Week in March in 2006.

The idea that this code of conduct is universal and will apply to pharmaceutical companies, should be used as one of the main jokes in the next red nose day. Especially as this charity raises money for Africa, a continent very close to the hearts of many pharmaceutical companies.

Headlines announcing the code trumpeted, 'Code Sets Out to Regulate Science'. It called, news reports said, for rigour, honesty and integrity among scientists, who should take steps to prevent corrupt practices and professional misconduct and declare conflicts of interest. Scientists should ensure that their work is lawful and justified, and they should 'minimise and justify any adverse effect' their work may have on people, animals and the natural environment. Which, when you think about it, is a load of bunkum.

Not only do pharmaceutical and chemical companies kill, maim and torture millions of animals in toxicity trials, but it is generally recognised that pharmaceutical drugs are still going through extended experimentation when they are prescribed to the public. On top of this, pharmaceutical companies are entitled to keep secret their trial documentation in order to safeguard the competitive profitability of their products. And what does the code say about giving legal protection and financial rewards to whistle blowers in industry?

On 13 March 2007, ‘following a successful pilot among Government scientists’, Sir David King issued a challenge to the rest of Government and the wider scientific community to adopt the Code.

* * *

Approaching the GMC building on Thursday 27th September, the day the hearing began again, Anthony Gormley’s nude male statue which stares into the GMC building and is mirrored by the same figure on the inside looking out, reminded me of my age and the fact that human beings get rusty as time passes.

Returning from the recess was a little like returning to school after the holidays. The fact that everyone is in the same place as they were before we went home, that the same faces are apparent, lent the proceedings an air of surreal intractability. I got the sense that perhaps these people had been here while we were away, in a frozen tableau.

Arguing against this idea was the fact that Miss Smith seemed to have had her hair done - although I couldn’t put my finger on exactly what she had had done - and Dr Wakefield was not present. Dr Wakefield had decided that the fourteen month-long trial was interfering with his work in America, where he is still working with other doctors helping children with serious IBD and autistic conditions.

Arriving just on time on the Thursday morning, an apparently new and insistently officious young man behind the GMC reception refused to open the doors to the hearing for me until I signed in. Not wanting to miss any of the proceedings, I said that I would do it at lunch time, but he still refused. This increased the feeling that I was returning to school after the holidays.

Inside the hearing room, a cold sun streamed through the glass walls. The first submission of Thursday morning was an apology for the absence of Dr Wakefield. Following this, like a music box gradually turning to the right speed, everything returned to normal, the first witness was introduced and Miss Smith began again her indefatigable and relentless repetition of the prosecution case. This time she was getting Professor Sir Michael Rutter to agree with her various concerns about the way that the children had been treated, or the way in which the three doctors had lapsed into research when they were supposed to have been dealing with the children clinically.

Professor Rutter is a tall, thin man with broad shoulders and white hair which surrounds his balding pate, like the gaseous circle round Mars, but curling up at the back. As time goes by - for Rutter is to be in the witness chair for almost a week - he begins to drape himself over the witness chair, his sharp knees almost touching the underside of the table and his arms on occasion dangling down the side. Also, as time goes by, he proves to be an affable man, not at all officious as might befit his place in the academic and clinical hierarchy. He is also seemingly fit and full of energy. He presents himself as likeable and fair minded.

Professor Sir Michael Rutter, qualified in medicine ultimately specialising in autism, with a particular focus on the nature of the psychological aspects characterising children with autism. He is a psychiatrist who has spent some 20 years on the ethics committee at the Maudsley Hospital. Miss Smith makes a point of revealing that he was primed as an expert witness for Merck in the claim for compensation taken by the parents against the MMR manufacturers. Rutter in turn makes the point, quite strongly, that the case never actually got to court. Why he feels this makes his conflict of interest in this case any less potent he doesn't tell us.

At the end of his evidence, when it is suggested by the Chairman of the Panel that he 'acted for' the pharmaceutical company in the compensation case, he bridles at the term, telling the Panel that he was an independent expert. One presumes that experts for the claimants might equally lay claim to such independence?

With the possible exception of Professor Zuckerman, Rutter will turn out to be the first real witness for the prosecution. He is an ideological witness, one who is not giving evidence to fact, but rather, agreeing with

the prosecution critique of the behaviour, the methods, the language and the professionalism of the three doctors being tried.

In fact the use of Professor Sir Michael Rutter as an expert witness in this case does lead one to speculate about the nature of expert witnesses. While it cannot be denied that Professor Rutter is an expert on the psychological aspects of autism, this is not the subject of his evidence. He was to end up giving expert evidence, with a broad brush, on the work of the whole gastrointestinal department at the Royal Free. This, despite admitting at least three times during his evidence, that he knows nothing about gastrointestinal medicine. Perhaps even more oddly, at the end of his evidence, he assures the Panel of one thing; he cannot criticise the gastrointestinal work carried out in the department and his view in sum, is simply that the neuro-psychiatric aspect of the 'work up' on the children was lacking.

This is not something that the defence would wish to argue about. In the main, the majority of the children had already been diagnosed with a disorder on the autistic spectrum before they arrived at the Royal Free. The authors of the Lancet paper, despite title changes, were quite definite about what they were writing about; a *new* syndrome which linked inflammatory bowel disease (IBD) to various behavioural disorders, the onset of which appeared, anecdotally to coincide with their children's MMR or MR vaccination.

Any hope that Miss Smith has spent the two week break practising her courtroom manner in front of the mirror, or her husband, are dashed when she begins taking Professor Rutter through his evidence-in-chief. Unlike those expensive automobiles advertised as going from 0 to 60 mph in 10 seconds, Miss Smith does the opposite; slowing almost to a stop after her first few words have reached the back of the room.

Through Thursday, Friday and the whole of Monday, Miss Smith presented, for the third time, the whole of the prosecution case; turning from her reading every ten minutes or so to let the Professor reassuringly nod his acquiescence. Rutter was equally uncreative in the presentation of his evidence. It was as if Miss Smith and he were in a three-legged race, both completely of one mind. Rather than elaborate on the various pillars of the case, Professor Rutter simply agreed wholeheartedly, and sometimes enthusiastically, with the propositions put by Miss Smith.

‘It was odd’, he agreed, to this and that. ‘It certainly wasn’t the way *he* would have done it’, he shook his head, to that or this. Miss Smith segued into a repeat trawl through the cases reported in the Lancet paper, and those who had been present throughout the whole hearing looked fearful of the boredom which was about to descend. After discussing ethics committee approval, Miss Smith picked up each case one at a time and travelled through referral, hospital induction, invasive procedures - particularly in respect of lumbar puncture - lack of consent for, and lack of notes with respect to, involvement in research.

Miss Smith bore witness to the howlers, sins, crimes and simple gaffes of Dr Wakefield, in the measured voice of a teacher explaining advanced calculus. I don’t know how Brian felt but I have to admit that by Friday mid-day I was tinkering with the idea of becoming an alcoholic. It was on Friday, while I was being mesmerised by the boredom of Miss Smith’s presentation, that the *Kama Sutra* came into my mind. As my thoughts languidly turned over, I tried to envisage Miss Smith presenting this text and others. I concluded quite quickly that any text would suffer the same fate, its juicy, sensual resonance sucked out of it and replaced by dry spiritless air.

I should not perhaps be so critical of Miss Smith, her brief is hopelessly lacking in substance and she must be hard pressed to turn her instructions into poetry or to exhibit her so far well-hidden legal skills. Even on some of the more purple charges, such as the illegitimate use of lumbar puncture as a diagnostic aid, Miss Smith found it difficult to make her point with a flourish. This was mainly because on the whole, even those witnesses most ardent to please, like Professor Rutter, could not agree that it was entirely wrong to use lumbar puncture as an aid to diagnosis on some children whose illnesses fell within the autistic spectrum.

In some senses, I also felt sorry for Professor Rutter as he was frog-marched through the prosecution case. This expert witness was not really being used as an ‘expert’. Rather he was being asked simply to add his weight to the prosecution. Perhaps the panel and others might have gained considerably from hearing Professor Rutter talk about autism, rather than see him perform like a nodding dog in the back of Miss Smith’s almost empty charabanc.

Miss Smith's overview of the prosecution case which Professor Rutter gave his affirmation to, consisted of a wide range of issues, which I will list here as well as I am able:

- Was the consideration given by the local research ethical committee thorough enough when it passed 'the protocol' for 'the study'? *(I have put 'the study' and 'the protocol' in inverted commas because as we shall see later there is a conflict over whether 'the study' that is given ethical approval, is actually the Lancet case series review.)*
- Did the children fit the pattern determined by 'the protocol' passed by the ethical committee?
    - How many of these children actually had regressive autism or childhood disintegrative disorder?
    - Had the Royal Free correctly determined regressive autism or childhood disintegrative disorder?
    - Did all the children actually have autism?
    - How many of these children have bowel problems?
    - How many were in or out of time for the study?
- Were the children seen in order to follow a research protocol or were they seen for clinical treatment on the basis of clinical need?
- Were the invasive investigations justified? Or more simply, because Rutter was unable to talk about endoscopy, were lumbar punctures justified?
- If the children were being clinically investigated, why were some conditions, such as the high lead levels in three of them, not followed up; or not followed up as far as Rutter was able to determine, with the select papers he had been given?
- Most specifically, should lumbar puncture be used in clinical or research investigations on children with autism?
- Were the children properly referred from GPs to the Royal Free, or had Dr Wakefield intervened in this process and 'cherry picked' the subjects? Why had Dr Wakefield been involved in obtaining referrals anyway?
- Why was it repeatedly mentioned by parents and then, even though unproven, repeated later, that many of the children had apparently become ill coincidently with their MMR? Nothing, in Rutter's view, disclosed the unscientific nature of Wakefield's work more than this constant anecdotal reference to MMR.
- Was there ethical approval for biopsies and samples taken from the children during the investigations?

- Was Dr Wakefield guilty of making clinical decisions, which his contract with the RF specifically forbade?
- Why was there such a substantial lack of psychological investigation?
- Did Dr Wakefield have a conflict of interest, which should have been disclosed in the Lancet paper when acting as an expert for the claim against the MMR manufacturers?
- Was it right to give one child a treatment which was at that time untried and not tested (This refers to the use of Transfer Factor)?
- Finally, was it unethical to give children £5 for blood samples and was it unethical to take these samples at a children's birthday party?

Rather than comment in any depth on each aspect of the prosecution case above, I would like to address a number of more general points which were important in Rutter's evidence.

Certain matters are not deemed worthy of comment by the prosecution. One such matter is the real, rather than prosecution-sanitised, condition of the children and the crisis of coping and caring which the parents were, and still are, faced with daily. An understanding of the severity of the children's condition is absolutely essential to a realistic understanding of the work of Dr Wakefield in the mid 1990s. We have not however, been given any indication of the real condition of the children by the prosecution.

Equally, at every turn, any mention of MMR or adverse reactions to vaccination is reduced to anecdote and the correctness of scientific scrutiny is juxtaposed with parents' apparently hysterical stories about the agony of their children after vaccination.

In fact, the corporate scientific establishment has been working hard for a decade, to expunge from the public culture the experiential narrative of people who suffer either environmental illness or adverse reactions to medical procedures or pharmaceutical drugs. The replacement of personal observation, human experience and subjective narrative, with the collective, rational narrative of scientific study is a complex phenomenon. One which I am not equipped to even begin discussing here. It is a subject that has, however, begun to dominate descriptions of illness in post-industrial society.

What it means for the subject is that the personal voice is no longer recorded or listened to. Taking this to its logical extreme, it might appear that, in the future, it will not be just the subjective discussion of illness which will be censured, but all matters of personal feeling. While the conflict taking place, between the feelings about our bodies and the rationale of science, has been rolling along since the end of the eighteenth century, its contemporary manifestations can be disturbing. This is why anyone who has experience of an autistic or regressively autistic child, who they believe to have been affected by vaccination, must make the most of presenting their subjective and experiential view of that child and their dealings with him or her.

The denial of subjective experience in environmental illness, or adverse drug reaction, began in the mid-eighties when individuals suffering from environmental illnesses were made the butt of jokes and ridiculed when they described how their bodies were responding to modern toxins. The early ‘quackbuster’ organisations consistently disputed the reality of such things as food allergy, saying that it was a mental aberration. Now twenty years on, we find that British society has some of the highest recorded rates of food allergy in the world. The same can be said of chemical sensitivity, now recognised by some of the leading medical authorities. Corporate medicine has consistently denied the environmental aetiologies of illnesses caused by chemicals for the last twenty years.

Perhaps the most central case, which is raised consistently in my mind during the GMC hearing, is that of Myalgic Encephalomyelitis (ME) or chronic fatigue syndrome (CFS). Quackbusting groups have singled this illness out for the last two decades, denying any organic aetiology and arguing that subjective recognition of it is due to mental disorder rather than an organic or biological condition.

In order to prize ME from the hands of the psychiatrists and psychologists, activists have argued for years that each patient needs a thorough bio-medical work-up which will throw light on the medical nature of the illness. Perhaps the most interesting matter brought to light by Rutter’s evidence, which reflects on this social, medical and political conundrum, is the fact that we see at the end of his evidence that he is really opposed to the idea of biomedical work-ups for children with autism - an idea woven into Wakefield’s approach. When Rutter disputes the biomedical basis of regressive autism he is defending a neuro-psychiatric position which some would say has stymied progress in medical research for the last half-century.

The third point I would like to make about Rutter's evidence relates to the fact that it has become clear to me during the hearing, that the prosecution is utterly unwilling to take into account the weaknesses and difficulties that beset NHS general practitioners (GPs). Rutter made the point consistently, that referral letters from GPs to the Royal Free Hospital were often inadequate in their descriptions of the presenting child's symptoms and conditions. There are clear reasons for this, the first being that GPs are *general*practitioners and most of them found themselves overwhelmed by reports of specific gastrointestinal symptoms about which they had absolutely no expertise.

Perhaps more pertinent, it must be said that Dr Wakefield and the gastrointestinal team at the RF cannot realistically be held responsible for the general inefficiencies of the NHS. GPs rarely have sufficient time to analyse complex medical conditions. If this manifest lack of time is conjoined with a lack of knowledge of the problem under review and a lack of consultants in the immediate geographic area, it is more than understandable that, under pressure from parents, they quickly passed the children to those who were deeply involved in this particular problem at the Royal Free.

My final comment is intimately linked to all those above. Miss Smith has persistently presented this case against the three doctors as if it were an academic exercise in which all parties had the money, the time and the knowledge to progress steadily with an examination of the cases. Underlying the assumptions of the whole hearing is a devastating critique of the three doctors on trial. The prosecution is saying that had it not been for personal and mercenary motives of the three, this public health blip would never have occurred; that it wasn't real but generated by a small group of people who knew nothing about autism, its causes or its origins.

It is as if the prosecution is accusing the doctors of being soldiers involved in a small incident during a major battle. While the majority of the military were concentrating on trying to gain ground and push forward against considerable opposition, these three combatants had turned on their own troops, killing a number of them with friendly fire. The truth of course is massively different. To use the same analogy, the whole of the forward moving army was actually at rest, apparently happy with the job that they were doing, while one unit, at an advanced post, was fighting a desperate battle with the enemy that threatened to over-run it.

While the whole of the prosecution case has settled on the children reported in the Lancet paper, no one has made mention of the fact that in the five years between 1993 and 1998 hundreds of parents made their way to the gastrointestinal unit at the Royal Free. They went there often with their own determination, because this was the only collection of doctors in the whole of the UK who were dealing with the public health crisis which had occurred following the introduction of the various MMR or MR products after 1988.

All these points, I am sure, will come out during the presentation of the defence case. I feel a need to introduce them now because they were seriously omitted from the prosecution case and the evidence of Professor Sir Michael Rutter. The central matter of the denial of the experience of both parents and children, is perhaps the most upsetting aspect of this case and I feel that there will never be enough space or time to bring this tragedy to the surface.

The Deconstruction of Professor Rutter

The repetition of the whole of the prosecution case, together with Rutter's pleasant, discursive and sometimes jokey presentation made me feel profoundly despondent during Thursday, Friday and the following Monday of the resumed hearing. It wasn't that the prosecution case appeared any stronger than it had previously; it was just that, like a Chinese water torture, the constant drip, drip, drip, of repeated allegations made the defence look vulnerable. And of course, there was the matter of feeling isolated and vulnerable myself, when for those three days the only other person in the public 'enclosure' was Brian.

Never, however, has the saying, 'every cloud has a silver lining' been more apt. By the end of Tuesday October 2nd, I was feeling privileged to have observed one of the best cross- examinations it has been my fortune to see. During the 1970s when I was attending court cases regularly in different capacities, I had the honour of working on a number of occasions with Michael Mansfield now a QC. Some of his cross examinations of Robbery Squad detectives linger still in my mind, as no doubt will Mr Hopkins' cross examination of Professor Sir Michael Rutter.

There is a sense of utter finality, even at the beginning of good cross-examination. The cross-examination itself is not just a hunt, but more dramatically, the *denouement* represents the last spring of the chase which fixes the opposition to the ground. The art of cross examination is

not just apparent in the measured contesting of the damaging points made by the witness, but in the ability of counsel to ‘shut the witness down’; to hold the witness in an immobile position.

Mr Hopkins, acting on behalf of Professor Simon Murch, did just this, and with sublime competence. Whenever Professor Rutter tried to wander off into muck-spreading arguments, Hopkins descended on him with an ‘I think you have misunderstood the intention of my question’ or a quietly spoken but forceful ‘That’s not the point I was making’. From 9.45am, when Hopkins rose to begin his cross-examination, until 1.00pm when he finished, he completely controlled the witness. Quietly but with a focused intent, he tied Rutter up and de-experted him.

In terms of argument, what Hopkins was able to do was to make it clear to the panel that much of what Professor Rutter claimed during his evidence-in-chief was little more than personal opinion. Perhaps even more exactly, it was personal opinion heavily biased towards the neuro-psychiatric axis of the arguments around autism.

He began his cross examination by rescuing Dr Wakefield from the isolated corner into which Professor Rutter and Miss Smith had painted him. Hopkins made it clear that there were actually four hospital departments involved in the clinical work of caring for the children who attended the Royal Free. That there were a number of ‘responsible consultants’ making decisions from day to day about treatment and investigations.

In effect, Hopkins re-introduced the earlier evidence given by prosecution witnesses which had aided the defence. For almost two months we had listened to evidence which constructed the collective work of general practitioners, consultants and finally whole hospital departments. Listening to the description of this construct, and understanding the work in its social and professional context, it became increasingly difficult to imagine that Dr Wakefield, Professor Murch or Professor Walker Smith could have been acting at all improperly, let alone as a small isolated immoral conspiracy.

Although Hopkins laid siege to each strand of Rutter’s evidence, his strategy was most pronounced when dealing with the matter of lumbar punctures. From the beginning the prosecution has made the case that the use of lumbar puncture, as a diagnostic aid on children, especially children with any kind of autistic disorder, is an abomination akin to

torture. Rutter, however, when speaking on lumbar punctures, was at best a reluctant witness. At his most transparent, he was happy to admit that in cases of disintegrative disorder or regressive autism lumbar puncture was necessary in order that encephalopathy could be confirmed or disregarded.

It was apparent that Rutter was concerned at having made this admission and he tried to lessen its force and its use to the defence by claiming that next to none of the cases in the Lancet paper could be shown to have a disintegrative disorder and in other cases lumbar punctures should not be used as a general investigation.

Very gradually, Hopkins introduced papers to the tribunal from Professor Chris Gilberg who has carried out clinical research in Sweden. Hopkins described him as having been an expert in autism for 33 years and pointed out that in the mid 1990s Gilberg was considered a leading authority. But unlike Rutter, Gilberg was in favour of using lumbar puncture.

Hopkins took Rutter through a series of Gilberg's papers all of which advocated the use of investigations including lumbar puncture. Rutter began contesting Gilberg's work, suggesting that he had made a number of mistakes in his career, having evinced arguments which had proved to be wrong or fallacious. This defence came across as the expression of professional jealousy and not as scientific evidence.

Hopkins turned the ratchet up a notch with each paper which he put to Rutter. As the papers mounted, so did their authority and so did the number of authors who favoured the use of lumbar puncture as a primary biomedical investigation. Besieged, Rutter was thrown back on the odd argument that while this might be the case in the rest of the world, in Britain it was not considered an acceptable practice.

Gradually, Hopkins began to develop a more important argument relating to the legitimising of bio-medical investigations. By introducing the idea of the medical work-up in cases of autism, he made it apparent that there was, is and historically always had been a serious conflict between two schools of thought on the diagnosis and description of autism. These two schools are on the one hand those who believe in an almost entirely psychiatric approach and those who believe that a whole battery of biomedical investigation should be carried out in an attempt to find a *medical* explanation of autism. While neither of these schools of thought

was exclusive, the psychiatric partisans had held sway almost without argument for the last thirty years. This school was, in fact, only now beginning to accept that there might be environmental factors involved in autism. But while Gilberg cited the supposition that one in three cases were based upon a 'medical' condition, Rutter would agree only to a possible one in ten ratio.

Some individuals who support the non-medical paradigm for autism, however, still argue vehemently that there are no environmental factors involved, first amongst these people are those who support the pharmaceutical and vaccine industry, such as those in Sense About Science, like Michael Fitzpatrick.

One of the biggest problems for the biomedical school, is that, because pharmaceutical drugs and vaccines count as environmental factors, the school faces an apparently unlinked but powerful opposition. There are similarities here again with ME. The biomedical school, which advocates a wide range of biomedical tests for those presenting with ME, face major opposition, not just from the psychiatric school, but also from the chemical companies whose toxic environmental products and processes might be a contributory factor in some cases.

While presenting Gilberg's papers, Hopkins drew attention to one of Gilberg's primary suggestions, that there was a serious lack of comprehensive biomedical work-up in autistic cases. The gap between Gilberg and Rutter, and therefore between the Royal Free team and an entrenched psychiatric view of autism, was obviously considerable.

Following the Gilberg papers, Hopkins moved on to deal with a few more of Professor Rutter's expert views, such as his half-hearted support for the inclusion of bowel pathology in diagnosing cases, and more simple things, such as his views on the patient consent form used by the Royal Free team.

At the end of Mr Hopkins' cross examination, it was difficult to imagine that the panel had not received the message that Professor Rutter was far from independent in his view of Dr Wakefield's research. I personally felt like clapping. It seemed then that whatever matters Miss Smith brought up, it would be extremely difficult for her to resuscitate her expert witness. It was also difficult to envisage what further damage Mr Miller, acting for Professor Walker-Smith, might do to Rutter when he cross-examined him.

At 2.00 pm on the same day, Mr Miller got to his feet. Of the three barristers, Mr Miller appears on the surface to be the most chatty and sympathetic. However, having seen him in action it is easy to understand that his introductory bonhomie is simply a distraction. It was never more so than in his dealing with Professor Rutter. After the exchange of a few pleasantries, Mr Miller plunges straight into the heart of his cross examination. This plunge was like the descent of a cage taking miners down the pit. His voice took on an edge which the tribunal has not previously heard.

Mr Miller puts it to Professor Rutter that the case-series reported in the Lancet is not the study '172/96', which he and Miss Smith have made the core of the prosecution case. As the argument developed, with Mr Miller putting it to Professor Rutter that the children in the Lancet paper had clearly been treated on the basis of clinical need and not as research subjects, for the first time Rutter's response became uncertain. He said, 'My impression is that this is research'.

Mr Miller was positively cruel in his repost, 'This is the danger of poring over the documents!' This comment struck at the very heart of the shaky prosecution case and revealed what appeared to be a massive schism in both the prosecution reasoning and the paper work. Miss Smith, who has been placidly reviewing notes, and Mr Owen, her junior, suddenly re-engage with the hearing, both looking slightly stunned.

Mr Miller drove his point home. In answer to Rutter's assertion that the children do not represent a homogeneous group, like good research subjects, Mr Miller replies, 'No one ever went out to look for these specific types of children'.

And on the matter of the research consent forms which Professor Rutter and the prosecution have been adamant are missing from the patient notes, Mr Miller was again scathing. 'You also say that there are no research forms in the children's notes; was this because there was no research?'

When Professor Rutter realised what had happened, I would not have been surprised if he had addressed Miss Smith with the words, 'This is another fine mess you've got me into'. To his credit, however, Professor Rutter seemed to suffer the cross-examination in good heart, he continued to protect the prosecution case while sounding almost as if he recognised that, for the moment at least, he was on the losing side.

Keiran Coonan did not cross examine Professor Rutter and it seemed at the end of the day almost as if Dr Wakefield's work was not at issue. By Professor Murch and Professor Walker-Smith sharing responsibility for the whole department, the defence had reinforced their point that the programme for the treatment of children at the Royal Free had been undertaken by a wide variety of individuals and specialists.

So there we had it. Research project 172/96 was actually a quite different project from the clinical work that had generated a review of 12 consecutively referred initial cases. Cases seen at the Royal Free on the basis of clinical need. Once this had been exposed, one could not help wondering how Miss Smith could continue with a large part of her prosecution. One also had to wonder what the defence had left to throw at Professor Rutter on the next day's cross-examination. Professor Rutter now appeared to be an expertless expert. He had been softened up by Mr Hopkins and then knocked out by Mr Miller. All the counsel on the defence table seemed to finish their day with eyes averted from prosecution counsel and the expert witness as if embarrassed by the enormity of the prosecution's mistake.

The Day After the Debacle

If anyone thought that Tuesday's revelations would radically affect the prosecution case, they were seriously disappointed on the Wednesday. The hearing continued as if what had been said yesterday was just another point to argue.

During Wednesday morning Mr Miller effectively mopped up those issues which had been left open after Mr Hopkins' cross-examination on the previous day. He spent some time going over each of the cases, disproving the prosecution case that the majority of the children reported in the Lancet paper had been referred to the Royal Free without mention having been made of them having any kind of bowel disorder. It turned out that only in two cases was there what I referred to in my notes as a 'slightly lacking reference' to bowel disorder. Like many of the other prosecution points, under scrutiny, this conflict turned to steam and hot air, once placed.

At the end of cross-examination by the defence, Rutter's entire case lay in tatters on the floor, and he was left repeating an earlier criticism that 'the investigations were done without consulting with the other specialists (the psychiatrists and neurological specialists)'. Making the point even

more specifically, he said, nearing the end of his cross examination, ‘follow-up is lacking on the neurological, psychiatric side. My criticisms are on the brain side and not on the gut side’.

With this final criticism it appeared, to me at least, that the whole case for bringing Professor Rutter as an expert witness was brought into question. To hear Rutter say that he had no criticisms of the gastrointestinal side of the work, but only the lack of psychiatric and neurological aspects of research or patient care, was to invoke the words of Mandy Rice Davies in the trial of Stephen Ward, ‘Well, he would say that wouldn’t he’. There can be little doubt, however, that this personal and professional bias is very far away from anything even vaguely resembling damning, or even ‘expert’ evidence.

For almost the first time during the hearing, I felt privileged to be present and grateful for seeing the legal art practised as completely and as exquisitely as one always hopes is possible.

During her re-examination, Miss Smith did her best to put the deconstructed Professor Rutter back together again, but one sensed an almost tired reluctance on Rutter’s part to be paraded round the stadium a second time. Even Miss Smith was unwilling to go through every argument which was necessary to push the case back into project 172/96 and so reserved her re-examination on this matter to a couple of perfunctory questions. This conveyed the impression of someone carrying on a rearguard action to defend a bridge that had already been blown up and fallen into the ravine, leaving the defender with no escape route.

Within a quarter of an hour of Miss Smith beginning her re-examination I was falling asleep again. Her voice came to me from a considerable distance, out of my hearing, like white noise in the background. In fact, I had heard what she was saying so many times before that, like a hypnotic auto-suggestion, as soon as she repeated the words, my eyelids began to fall and my head dropped to one side.

Next week, beginning slightly later than usual, the prosecution’s second expert witness, Professor Booth gives evidence. It appears that he might be more robust than Professor Rutter because he is an expert in gastroenterology. Following Booth, there will be a quick appearance of another expert - an immunologist - before the prosecution finishes its case. The hearing will resume again in the New Year.

* * *

On Monday October 1st, a cockroach was observed strutting around the base of the tea and coffee dispenser at the GMC. I wasn't there for the aftermath of the discovery, but I have been told that after it was found, a cluster of lawyers and doctors from the hearing went into a huddle. After a long and sometimes heated discussion it was decided by all concerned not to report this public health threat. The doctors were concerned about being struck off following a four year wait for a fitness to practice hearing. The lawyers feared being taken before the bar council on the grounds that they had brought the GMC into disrepute by spreading alarum and despondency.

Grub Street Medicine

Monday October 8th to Friday October 19th

I pointed out in the last section of this account, how Professor Rutter had found himself ‘de-experted’ by virtue of the fact that he was only able to discuss the psychiatric or psychological aspects of the cases reported in the Lancet. With Professor Westerby Booth, the second expert witness appearing for the prosecution, this problem was just as obviously manifest. Not only was Professor Booth not capable of commenting upon the psychological or autistic dimension of the cases but his gastrointestinal appraisal of the cases, although expert, could not have been more conservative. By leaving out a whole series of aspects that concerned the doctors working at the Royal Free, his expertise in gastroenterology failed completely to match the more complex cross disciplinary approach that imbued the work of the Royal Free team.

Although manifestly a consummate professional, with his patients at heart, Professor Booth showed himself to be the very kind of highly qualified clinical practitioner, whose safe conservatism probably led to parents seeking out more positive and investigative clinical attention from other practitioners. His diagnostic vision never seemed to stretch further than the most prominent and primary gastrointestinal symptom presented by the children in the Lancet study. He frequently commented on the fact that this or that child had constipation, or a typical type of diarrhoea, and one got the feeling that this could have been the beginning and end of the diagnostic work undertaken by him in such cases.

Professor Booth’s mental frame of reference appeared to be almost exactly opposite to that of Dr Wakefield and the gastrointestinal team at the Royal Free. Whereas the latter was expansive, interdisciplinary and creative, Professor Booth’s approach appeared to be single-symptom orientated, mono-disciplinary and conservative in its references.

For this reason alone, Professor Booth was a witness who contributed next to nothing to the overall picture. Nor did he further our understanding of the medical practice, or, from the prosecution’s point of view, the supposed criminality, of the doctor’s at the Royal Free. His answer to almost everything was the most conventional answer. What one does **not** do, he emphasised constantly, is anything unconventional.

His evidence steered well clear of any mention of MMR, or vaccine strain measles virus, and he said almost nothing about autism.

Despite the fact that autism did not come within the scope of either his evidence-in chief or his cross examination, at the end of his evidence, he gave a stunningly forceful answer to a panel member who asked him whether disintegrative disorder - so far accepted by everyone during the hearing as being a type of autism – was a product of inflammatory bowel disorder or was it a neuro-psychiatric disorder. The question was awkwardly put, but even so, the answer to it lies at the very heart of the hearing. The asking of the question, by this panel member, seemed to suggest that they had not yet grasped that the struggle between these two paradigms was essential to the evidence of both expert witnesses. Ensuring that the panel member stayed in the dark, Booth answered her with an utterly dogmatic response, saying: 'It is a neuro-psychiatric disorder. I have never seen a case'. Gladly straying beyond the remit for his expert evidence, Booth answered without faltering as if he had been eagerly awaiting the question.

So while even Professor Michael Rutter, the internationally renowned, but conservative expert on the psychological and genetic causes of autism was willing to allow a growing percentage of medically caused cases of autism due to environmental factors. Professor Booth, a relatively well known expert on paediatric gastroenterology, was dogmatically of the opinion that disintegrative disorder as a form of autism has no 'medical' causation, certainly in relation to the gastroenterological system. Had we known that this was Booth's view at the beginning of his evidence, it might have explained a great deal.

As he entered the hearing, Professor Ian Westerby Booth looked like a traditional hospital consultant or surgeon, his face flushed with nervousness and a dash of arrogance. A large, tall, broad shouldered man, with dark hair and silver highlights, wearing a charcoal black suit and black socks, with a blue and white checked shirt, he rarely smiled throughout his evidence.

Booth was 'Rutter with attitude' and listening to him, I began to reappraise my view of Professor Rutter. I suddenly began to miss the discursive and often pleasantly humorous style employed by Rutter throughout his evidence. In contrast to Booth, and consistent with what one requires from a scientist, Rutter, rarely appeared entirely secure in his views. He was even willing, on occasions, to laugh at himself. Rutter

often put a humorous gloss on his evidence, so it was that he suggested, in answer to one question contrasting research to clinical work, ‘Well it smells like research’.

Looking back on Rutter’s evidence, it seems almost as if he was willing to live and let live, all the time conscious of the fact that he was an expert in a particular and very specific field and nothing could change that. Booth on the other hand, appeared insecure, his answers heavily laden with entrenched moral positions.

Professor Booth was the perfect fall-guy for Miss Smith and because of this, his journey through his evidence-in-chief, turned out to be even more boring than the evidence that had preceded it. Booth not only agreed with anything that Miss Smith put to him, but did so in a heavy and ponderous manner, adding a varnish of wrongdoing to simple and often quite uncertain matters.

On Monday 8th October, the day that Booth began giving his evidence, Miss Smith, sporting a black cardigan and two strings of pearls appeared at her softest and most beguiling. After an hour of introducing Booth’s evidence-in-chief, I wrote in my notes that her presentation seemed slightly more upbeat than it had been previously. Not just that, but evidently the accumulation of information and experience over the last three months seemed finally to be sharpening up her presentation of the prosecution case.

However, Miss Smith was unable to sustain this cool style, which appeared and disappeared like poor radio reception, over the next few days. On Monday it lasted up until the incident of the exploding water bottle, in which Professor - now in charge of a medical school – Booth manages to flood the witness table while opening a bottle of fizzy water. Around that time, Miss Smith’s voice began to take on the same doleful timbre as had been evident in her previous presentations.

Perhaps more alarmingly, she took to speaking away from the microphone, and for the last hour of the morning I could hear little of what she said. This ‘loss’ was not so serious for participants as it was for observers., The participants had texts to follow, while Deer Brian and I had, in the main, to guess, or lip-read, what she was saying. Inevitably I began to nod off.

Late in the morning, Booth introduced a radical new note into the evidence, which although it had always slept uncomfortably beneath the surface of the prosecution, had found no one brave, or ill-informed enough, to adopt it. It had frequently been suggested that parents were the motivating force in the referral of patients from GPs to the Royal Free. In Booth's evidence, this idea was embroidered and built upon. What he termed 'parent objectivity' – as if the very matter of being a parent was now one of scientific learning – might, he suggested, be skewed, with parents forcefully pushing the need for invasive investigations against the beleaguered clinician's better medical judgement. In Booth's rather bizarre world-view, the desperate parents of children with (psychologically induced) autism, had been willing to offer up their children for all kinds of damaging procedures.

Booth labelled the parents as just short of hysterical for searching unstintingly for a diagnosis and treatment of their children's condition. Unlike the other witnesses, who had vaguely floated this notion, Booth made it an ideological tenet and he was to repeat it on a number of occasions. Although these remarks were introduced with the caveat 'this is not to blame anyone', according to him, parents were 'vulnerable' individuals willing to go to any lengths to find out what was causing their children's (non-medical) pain and (non-medical) ill health. Although this concept might appear quite healthy to the lay population Professor Booth made it sound only a hairs breath away from the psychiatric condition Munchausen's Syndrome by Proxy (*A psychiatric term for a mental illness in which a person seeks attention by inducing or feigning illness in another person, typically a child*)

This concept introduced a new and considerably different perception of the three doctors on trial. Parallel with the idea of vulnerable patients, or parents, runs the idea of exploitative doctors. This, then, is the prosecution getting the 'parents complaints', non-existent in reality, into the hearing via the back door. It could be deduced from Booth that the GMC was bringing the case on behalf of parents and children who had been led up the garden path by – and the motivation was never entirely clear – 'non evidence based' practitioners at the Royal Free. The very practitioners, who, in a somewhat circular argument, had themselves been led up the garden path by the parents. How much one would have preferred to hear the sane and humane parents of the Lancet paper children, telling the court how they felt, and what *really* happened.

It didn't surprise me to find, when I dug a little, that Professor Booth was the co-author of a paper published in the *Journal of Psychosomatic Research*, entitled 'Psychological Characteristics of People with Perceived Food Intolerance in a Community Sample'. In the paper, the first quoted reference is from a 'study' by Dr David Pearson, a stalwart of the HealthWatch anti-quackery movement who always professed the view common to this lobby, now re-organised by Sense About Science, that food allergy and intolerance, were, along with ME, multiple chemical sensitivity and suspicion of adverse drug reaction, mainly in the mind of sufferers. Booth's paper makes bold and authoritative statements on the basis of Pearson's 'conclusions' such as; 'It has been suggested that the misperception of food intolerance largely arises from psychiatric illness or personality disorder'. While this is true, Booth et al fail to make clear that almost the only advocate of this view, apart from a scattering of lobbyists on the fringes of the sane world, is Pearson.

Pearson suggested that people create pseudo-allergic reactions, 'after reading books on the subject' or 'consulting people such as clinical ecologists' (See this author's books: *Dirty Medicine* and*SKEWED*). Of course, such paper weight subjective deductions, carried out from an ideologically skewed perspective, has no place in the annals of serious medical research. This paper, to which Booth has put his name, appeared in 1999, only four years before the Royal College of Physicians produced their first major report on food allergy, which disclosed that despite Dr Pearson's pseudo-academic onanism Britain had one of the world's highest levels of food allergy and the greatest number of deaths from anaphylactic shock amongst children (Allergy, the Unmet Need: A blue print for better patient care. Royal College of Physicians, 2003).

The science lobby has always argued vociferously that there is no environmental component to any illnesses. Of course, this argument aids not only the pharmaceutical and chemical companies but manufacturing corporations which do damage to workers. That people like Professor Simon Wessley can retain their exulted academic positions after having argued that Gulf War Syndrome, ME and more recently, mobile phone and mast sensitivities, exist only in the mind, says a great deal about the power of commerce and industry in Britain. Arguments about environmental factors in autism – with respect to the measles virus, mercury and other toxins - are presently at their height.

While individuals like Professor Rutter, might slowly be coming round to giving environmental factors a place in illness description and diagnosis,

the die-in-the-wool, tree-swinging ideologues like Dr Michael Fitzpatrick can't allow the slightest environmental faction into the equation in case this admission opens the flood gates. Professor Richard Lathe found this out when he published *Autism, Brain, and Environment* in 2006 (*Jessica Kingsley, Hardback, ISBN: 9781843104384, 288pp, 2006*). Lathe is a well known and previously conservative molecular biologist, a former professor at Strasbourg and Edinburgh Universities and the author of over a hundred peer reviewed journal articles.

His book, which suggested that various environmental toxins might play a part, together with genetic susceptibilities, in the causation of autism was unforgivingly reviewed in the BMJ by Fitzpatrick (*BMJ 2006;333:205 (22 July), doi:10.1136/bmj.333.7560.205-a*) the last paragraph bayed:

Though Lathe's account has an aura of scientificity (and 1400 references) his central thesis is speculative and his approved treatments are unsupported by scientific evidence. This plausible book risks leading parents—and their children—into the hands of quacks and charlatans.

Could this be the same book of which 'Nature', no less, said:

His book is a clearly and accessibly written account of his proposal that environmental poisons, including heavy metals, interact with genetic vulnerability to cause damage to the limbic brain system...resulting in autism...This is, overall, a scholarly book providing a possible explanation of autism. It will be of interest to parents as well as professionals (Nature 442, 632 - 633 (09 Aug 2006) Books and Arts).

How much of Booth's evidence was tainted by the ideology of anti-environmentalism we do not know, but just off the top of my head, I think we can assume that the view that environmental factors are not responsible in any way for states of mind or patterns of behaviour, probably rates quite highly in his reasoning.

Miss Smith spent almost three days again going through the case of each Lancet child with Professor Booth. This was the fourth time that she had performed this act and she was rightly confident in her presentation. We can bullet point the other areas in which Booth agreed with Miss Smith in her criticisms of Dr Wakefield and sometimes of Professor Walker-Smith and Professor Murch, which arose mainly during the prosecution review of the children's cases.

- Blood-screening tests should always be done before planning colonoscopies.
- The Royal Free team definitely appeared to be involved in research rather then clinical work.
- Dr Wakefield frequently appeared to overstep the boundaries of his research employment.
- Dr Wakefield frequently overstepped his job description.
- Dr Wakefield should have had no part in admitting or helping get patients referred from GPs to the Royal Free.
- Many of the children were not suffering from disintegrative disorder as suggested by the protocol for project 172/96
- Many of the children reported in the Lancet study did not fulfil inclusion criteria for project 172/96.
- On occasions it appears that Dr Wakefield actually ordered an investigation.
- The team went further than initial/past diagnoses of diarrhoea or constipation to carry out more invasive tests which were rarely indicated.
- It is unusual to send a child patient to a tertiary clinical centre hundreds of miles away from their home.
- Should Dr Wakefield have been 'working with children' when he had no paediatric qualifications.
- In a number of cases Professor Booth saw no reason for follow up investigations.
- Professor Booth did not consider it 'normal' for a consultant to personally contact a GP, neither he nor any of his colleagues ever did this
- Dr Wakefield should have sought extra Research Ethical Committee approval for the prescription of a novel treatment. (This referred to some of the invasive procedures and prescriptions, but most particularly to 'transfer factor'.)
- Dr Wakefield's taking of blood samples for controls at his son's birthday party Professor Booth considers 'deeply disturbing' and 'utterly repellant'.

Even on the last day of Booth's evidence-in-chief, there were still periods of added strength in Miss Smith's presentation as if she has finally got the measure of her case. Her most boring tone has been sloughed off and replaced by a louder and more determined voice.

However, it was evident now, at the end of her case, that the prosecution case was weaker than the one she set out with. It has been whittled

down, shorn of the filigree; its most baroque arguments pruned. The case which she now puts with some sureness was quite insubstantial and missing all the detail necessary to carry the traffic of heavy argument. If the prosecution case was a raincoat, one would have ended up soaked after the slightest shower.

Miss Smith is living proof of the old legal adage, ‘never ask a question to which you don’t know the answer’. So certain is she after asking a question that she often doesn’t bother to listen to the answer before she says an affirming ‘absolutely’ and moves on. During this final presentation Miss Smith displays some of her more charming traits of character. On a couple of occasions, she said determinedly to the whole hearing, ‘I’m sorry, I’ve interrupted myself again’. This is a really novel and charming idea, one that surely only Miss Smith could admit to.

The Cross Examination of Mr Booth

The cross examination of Professor Booth, like so many Manchester United games I have watched over the last thirty years, began full of hope on a clear cloudless day and ended with two players up to their waist in mud, struggling with the ball on the goal line. This isn’t of course to suggest that Mr Miller or Mr Hopkins for that matter, lacked skill, just that they were utterly unable to get the ball in the net because Professor Booth defended like a threshing machine, spouting endless off-the-point soliloquies.

I don’t know how good a gastro-enterologist Professor Booth is but one could say with absolute confidence that he would have made a better politician. In fact it filled me with melancholia seeing such massive and loquacious abilities wasted on someone whose main interest lies in the intestines.

Booth argued every question or statement that was put to him by Mr Miller and later Mr Hopkins. Although he managed to argue the defence to a stale-mate it is difficult to know whether his strategy actually won him friends. Getting into such personal arguments with counsel is like dancing naked at a psychiatric convention to prove your sanity. It is unlikely that you will gain much advantage from it, except by virtue of respect for your audacity.

It is hard to tell whether Booth embarked upon this strategy of argument because he opposed the medical practices at the Royal Free, or because

he is naturally an argumentative person. As time went by it became evident that Booth had come to the GMC to argue, to the point of irrationality, against the work of the Royal Free gastrointestinal team. He made this view clear, not just with reasoned quiet disputation but with free ranging argument that, to paraphrase Professor Rutter, 'smelt like' pure bloody mindedness. On the lighter side, his evidence resembled nothing so much as a medical version of The Office.

Both Mr Miller and Mr Hopkins cross examination focused on a small and contained number of specific points.

- Was Dr Wakefield carrying out research or was he involved in clinical work?
- Were the children reported in the Lancet paper treated in accordance to a research protocol or on the basis of clinical need?
- What were the usual procedures used to diagnose IBD in children?
- Did the children in the Lancet paper present problems of sufficient seriousness to merit investigation by colonoscopy?
- Were screening tests carried out to determine whether the children had signs of IBD prior to colonoscopy?
  Did the literature endorse the use of colonoscopy?
- Is it useful for a doctor to have a check-list of symptoms in mind when examining children who might be suspected of having IBD?

These seminal questions of the prosecution were restricted to the proper parameters of Professor Booth's evidence, however, the tides of his evidence lapped on shores miles away from these more focused matters. Before going in detail through his approach to the cross examination, I would make reference to just one matter. Seemingly of a new generation of orthodox physicians, Professor Booth repeated whenever he could the expression 'evidence-based medicine'; not once did anyone ask him what he meant by this.

I would make two points in relation to this absurd assumption that either Professor Booth or the GMC prosecution has been supporting 'evidence based medicine'. First, it is palpably obvious that neither of the expert witnesses know anything at all about the real condition of any of the twelve children upon whose diagnosis and treatment they are commenting. At a distance of over ten years, with restricted notes and the absence of any record of conversations between doctors at the Royal Free and parents, Professor Booth, gave guestimates, over three days, as

to what he would have done in ‘this situation’. It is difficult to imagine anything further away from the reality of ‘evidence-based medicine’.

Although Booth’s strategy of arguing about everything carried him through his evidence, and clearly disrupted the defence, he came unstuck on two occasions and was led into ridiculous overcompensation. Both these seminal arguments had to do with the place of colonoscopy in the diagnosis of IBD, a clearly essential component to a formulation of treatment. Nearing the end of a long day on Wednesday 17th. Mr Miller cross examined Professor Booth on a position paper, *The Porto Criteria,* which had been formulated by the IBD Working Group of the European Society for Paediatric Gastroenterology, Hepatology and Nutrition and was termed a ‘Medical Position Paper’ and described as representing ‘recommendations for diagnosis’.

(Medical Position Paper Inflammatory Bowel Disease in Children and Adolescents:
Recommendations for Diagnosis—The Porto Criteria. IBD Working Group of the European Society for Paediatric Gastroenterology, Hepatology and Nutrition (ESPGHAN). Journal of Pediatric Gastroenterology and Nutrition 41:1–7 Ó July 2005 Lippincott Williams & Wilkins, Philadelphia.)

Many academic societies, especially those concerned with medicine, publish position papers. These can vary from slavish adherence to the policy recommendations of drug company funders, to general common-sense consensual views of the society. Such medical ‘position papers’ should not be confused with either literature reviews or meta analysis of medical practice surveys. At best they are simply a rough guide for physicians practicing in the specific field.

When Mr Miller put ‘…the criteria for inclusion of colonoscopy in investigations of children suspected of having IBD…’, to Professor Booth the professor was unable to think quickly enough and deny their validity. The paper was very strong is suggesting that colonoscopy was ‘essential’ as a diagnostic aid in cases of children who might have IBD. In agreeing to sentences of the criteria as they were read to him by Mr Miller, Booth almost scuttled the prosecution boat.

In the night, someone must have whispered in his ear, for the next morning, when again confronted with the Porto Criteria, Booth denied them all plausibility. It was clear that someone had helped him find an argument. Now, while still agreeing with the separate criteria and their

importance in diagnosis, he claimed that the document in which they were embedded had no validity at all. According to Booth such amateur papers, in this case written-up by 25 or so specialists, were clearly biased in favour of the authors opinions and had no authority. They had, said Professor Booth been overtaken by objective systematic reviews that scrutinized many papers and articles, coming to a completely independent view of what was considered best practice.

This view was clearly claptrap. However, unfortunately for the defence lawyers, a GMC fitness to practice hearing, is not the place to argue sociology, methodology or science. I will briefly make a couple of points which could have been used by the defence in other circumstances. Firstly, the position paper was simply that. The consensual *position* of 25 practicing clinicians. It existed as a guide for anyone in the society who thought that it made sense. Secondly, it is not possible to arrive at an objective consensual view by systematic review in circumstances where there is major conflict. What does emerge from such work is the dominant and orthodox view that is usually the most conservative reduction; not necessarily the right conclusion or the most creative view. Finally, you only have to consider the conflict between the views of Professor Booth and Dr Wakefield on this matter to see that a consensus cannot be arrived at without manipulation, and the best that can be done when views are this divergent is to allow practices to continue until it can be shown, with the help of patients and proper recording, which of the two views is the better.

The second of Booth's pratfalls also grew from his attempt to extricate himself from his previous days agreement with the Porto criteria. Now, under cross examination from Mr Hopkins, Booth developed a theme that he had been warming to throughout his evidence and which suited most completely his bizarre argumentative disposition. In order to deny the symptomatic criteria for the use of colonoscopy in the investigation of suspected cases of IBD, Booth denied that what he called 'tick lists' were of any use. If he had left this view as a general remark, in the way that Professor Rutter might, there can be no doubt that it might have held some meaning. Unfortunately for all those who had to listen, Booth became involved in a repetitive incantation that claimed not only were all these listed symptomatic criteria in the Porto document known to every practicing gastroenterologist, but checklists were useless without the experiential skill of the physician who could asses and balance the various items on the list. When Booth made deep incursions into this argument, he began to sound quite barmy because of course no one had ever

suggested that these lists should be used by first time amateur practitioners, say the next door neighbour, who had decided to carry out a helpful colonoscopy. Everyone, of course, had taken it for granted that it was experienced doctors who diagnosed IBD and decided whether or not colonoscopies were a necessary investigation.

It was mainly as a consequence of the interminable argument around the Porto criteria that at one point during the day, I found myself noting this entirely personal contribution:

I desperately want to leave, because listening to Booth is doing my head in. It occurred to me that Mr Hopkins might ask Booth, 'Is it Thursday today?', to which Booth would have answered, 'It depends what you mean by Thursday', 'I'm not sure what you're asking me? Do you mean that with the pre-Christian calendar, Thursday would have fallen on a day other than today?'

If it wasn't so serious this hearing could be classified as an elaborate joke. It was clear from the beginning of Professor Booth's evidence that he and the doctors practising at the Royal Free had completely different approaches and were looking for quite different things in their patients.

While those at the Royal Free were of the opinion that an extensive and cross disciplinary 'work-up' was of the essence in attempting to diagnose and therefore treat the basic illnesses of the children concerned, Professor Booth, no less professionally, believed that a gastroenterologist should be mainly concerned with first symptomatic manifestations, best diagnosed and treated without invasive investigations; an approach, as Mr Miller put to Professor Booth in cross examination, that might be described as 'wooden'. This was particularly the case, with those children whom Professor Booth understood from notes, were presenting primarily with constipation. According to Booth, when this condition was presented the diagnosing doctor need look no further.

There is of course an absurdity, especially in terms of 'evidence -based medicine' in a doctor reviewing decade old cases from partial notes provided by the prosecution. But when this review takes place while also ignoring fundamental questions implicit in the approach of the initial clinicians and the children's parents, then the whole matter becomes a completely irrational exercise.

What came across as outstanding in Professor Booth's evidence was the fact that orthodox medicine had very few diagnostic or treatment alternatives in relation to childhood gastrointestinal conditions. This in part explains the reliance of doctors like Booth on primary but not necessarily causal symptoms. This model of diagnosis and treatment raises a most important question which was never really tackled during Booth's evidence. Are the diagnostic tools used in cases of undiagnosed illness by necessity different from those used in the diagnosis of simple primary and apparently well understood causal symptoms?

To this might be added another question which is vitally important in this circus of a hearing. In the case of undiagnosed illnesses, or illnesses of which the cause is unknown, can diagnostic testing be extended without it entering into the forbidden area of 'research'. This is in essence what Booth was arguing about. In retreat from the big bad scary world where post industrial science is unravelling and possibly causing illness rather than curing it, some doctors go for the 'easy option' of primary symptoms while others try to 'work-up' their cases taking a large number of factors into account. In fact, in a passing remark, Booth actually alluded to this predicament when he said that the main function of the diagnostic process was to gather as much information as possible.

In this case, there is another massive consideration which makes inevitable the divergent approach of the two sides when it comes to evaluating whether or not the Royal Free team were involved in clinical diagnosis and treatment or research. For obvious reasons, the prosecution have censured the initials MMR from the Panel hearing, except, that is, to be scathing and cynical when discussing parental hysteria and irrationality. Of course if we chose not to believe the group of parents who found their way to the Royal Free Hospital about the connection between their child's MMR, MR or other vaccination and their adverse reaction, or if we chose to believe that measles virus plays no part in Crohns disease or IBD, then we might consider some of the investigative procedures used at the Royal Free to be irrational and unrelated to the diagnostic process. Unfortunately, it is not until the defence case, that the panel and others are going to be able to understand the diagnostic procedures at the Royal Free within some kind of context.

There was a last witness. The prosecution brought a world-ranking immunologist, Professor Sir Peter Lachmann. Lachmann was there to comment on 'transfer factor', the use of which Dr Wakefield had

supported and advocated. The prosecution case in respect of transfer factor was that it was a quack therapy, used by Dr Wakefield without Research Ethical Committee approval.

Sir Peter, got in under the wire, so to speak on the last day of the prosecution case. It is perhaps a shame that he didn't appear earlier and the defence had taken the opportunity to ask him a few questions about his interests.

(For further information on Sir Peter Lachmann, see Martin Walker's Brave New World of Zero Risk and go to the GM Watch web site for a full appraisal of his previous involvement with industrial interests on the question of genetically modified food; especially his role in the Arpad Pusztai affair.
http://www.gmwatch.org/profile1.asp?PrId=74&page=L *)*

Sir Peter Lachmann is professor of immunology at the University of Cambridge, and a former vice president and biological secretary of the Royal Society, as well as a former president of the UK's Academy of Medical Sciences. Lachmann chaired the Royal Society expert group which produced the Royal Society's first report on GM crops in 1998. Entitled 'Genetically Modified Plants for Food Use', that drew entirely beneficial conclusion about the use of GM plants for food.

Lachmann is also a member of the Sense About Science working party on peer review, and is also on the Advisory Council of Sense About Science. Sense about Science is partially funded by drug companies. He is also an advisor to the Genetic Interest Group, to which SmithKline Beecham have been controversially linked. He has also been a scientific advisor to SmithKline Beecham and a former non-executive director and current chair of the Scientific Advisory Board of Adprotech plc, a biotech company which he helped spin out from SmithKline Beecham.

Sir Peter, was an excellent witness for the vaccine companies. Whoops! sorry, the GMC. His part in any future film of the hearing has to be played by Woody Allen. I had noticed Sir Peter, earlier in the morning, sitting around in the GMC. He was a little disorganised man, whose papers were always appearing to get the better of him. He gave evidence much like the archetypal absent minded professor.

The essence of the evidence which Miss Smith drew from him, was that Dr Wakefield's variety of transfer factor was decidedly shaky and of little

if any clinical value. Perhaps because everyone wanted the hearing to finish on its allotted day, no one had any questions on cross examination for Sir Peter and his evidence, seemed to pass into a prosecution black hole that awaited exploration by the defence in four months time.

The End of a Tawdry Affair

On Friday October 19th the prosecution finished presenting its tawdry case. It was a case strung together with only the weakest of threads. How much it has cost to stage this show-trial we will probably never know, although when it ends, it might be worth asking your MP to write to the GMC enquiring about just this.

The panel are paid £350 a day plus expenses (for those who travel from other parts of Britain and stay in hotels), when they are sitting. Although this seems reasonable, a comparison is bound to be raised when comparing the payment of this panel for an intermittent hearing of a year, and the financial difficulties with which some parents of some vaccine damaged children have to cope with or alternatively, the willingness of the State to provide funding research for the research work begun at the Royal Free.

However strenuously the prosecution have fought their corner, the case, even in the most befuddled mind, could not be said to have been cohesive, unified or even clear. The majority of allegations made by the prosecution have, in the main, been simply one side of an academic discourse from which no real blame or responsibility might be deduced. Take the matter of Dr Wakefield's phone calls to GPs ensuring that they went ahead with referrals to the Royal Free. Unusual perhaps, but hardly a criminal matter or one for which a doctor could be struck off. Or the matter of giving advice as a researcher to clinicians; hardly problematic when those at the Royal Free were working as a close interdisciplinary team. Take, in fact, the rock-bed of the prosecution case that the 11 children whose cases were reviewed in the Lancet article were research subjects and not diagnosed or treated on the basis of clinical need. The prosecution have failed convincingly to link any of the cases to project 172/96 or proven to even a minor degree that the Lancet paper was in fact the result of work carried out under 172/96.

And so we might go on through an endless litany of mealy- mouthed complaints and minor irritations, brought before the hearing, to ensure that Dr Wakefield in particular is never able to give expert evidence or

write again, in Britain with any authority about the MMR vaccination. Nothing, however, could possibly draw attention to the chicanery of this GMC prosecution as clearly as two matters which lie at the heart of the case.

First, there were no complaints from the hundreds of parents who went to the Royal Free Hospital for diagnosis and treatment of their children. However hypocritically the prosecution mouths-off about vulnerable and therefore exploited parents and children, or however many times witnesses suggest that the parents were neurotic in searching for a fitting diagnosis and treatment for their children, anyone could see that the three doctors on trial have never offended against *public* morality or ethics.

By failing to bring any parents forward and by claiming *sotto voce*, that the parents don't understand such high medical matters, the GMC has done the most terrible damage to paediatric medicine in Britain while showing itself to be a pawn in the hands of both the government and the Association of British Pharmaceutical Industries.

The second matter is the chilling fact that the complaint that was prosecuted was made by a single hack, Brian Deer, who has a history of writing in sympathy with vaccine manufacturers and unsympathetically of doctors who research vaccine adverse reactions and vaccine damage claimants. Despite all the moral and ethical kafuffle about conflict of interests gravely indulged in by Miss Smith and prosecution witnesses, they did not see fit to bring Deer forward as a witness so that he could be cross examined about his investigation, his motives or any vested interests he might have. This hiding of the major prosecution witness exhibits a kind of legal primitivism, the worst aspects of McCarthyism and the Stalinist Show trials.

It was clearly not in the interests of the prosecution to give us the full story of the children, their illnesses and how their parents have struggled to cope. Instead of bringing the parents as witnesses, we have struggled through every Lancet child's case history, piecing together the case from fragments of notes. Exempting the parents from giving evidence and in fact discreetly putting them on trial along with the doctors who helped them is nothing short of an abuse of professional power by the GMC.

Anyone even vaguely interested in the morality of this case should ask how it could be that parents who have suffered one of the most painful

experiences likely to be encountered in life, of having to watch their children, in the words of one mother ‘disappear’ while recognising that they will have to be cared for throughout a lifetime, should be labelled as money grubbing neurotic conspirators. Running like a thread through the evidence is the feeling that these parents either exaggerated or made-up the severity of the illnesses of their children.

This is what the pharmaceutical industry and in this case, the state, now does to people who suffer adverse reactions to drugs or vaccines.

The findings of Professor Munir Pirmohamed’s study in Liverpool suggested that the equivalent of up to seven 800-bed hospitals may be occupied at any one time by patients with adverse drug reactions (ADR), and that ADRs upon admission may be responsible for up to 5,700 hospital deaths a year.
See also Lazarou J, Pomeranz BH, Corey PN. ‘Incidence of adverse drug reactions in hospitalized patients: a meta-analysis of prospective studies’. JAMA. 1998 Apr 15; 279(15):1200-5.

Earlier on in the proceedings, the prosecution mentioned thalidomide. The context was something like, ‘Of course, this was not a situation like thalidomide where the adverse reactions were recognised and everyone knew about it’. The lies that they tell! It took years before the terrible damage that Thalidomide had done reached the surface of public society and the pharmaceutical companies tried every trick in the book to make the problem invisible. In the end, not one pharmaceutical executive or corporation was found liable. In the German court cases the manufacturers employed private detectives to seek out information about claimants that might be used by the defence to damage their characters. In fact there has never been a case of adverse drug reaction where the pharmaceutical industry has acted in good faith towards those damaged or destroyed by their products; pharmaceutical-company responsibility is an oxymoron.

If the prosecution’s characterisation of the parents is of a disparate group of vulnerable but neurotic individuals, who, encouraged by a mercenary solicitor and venal doctors sought someone to blame for their children’s condition, what is the defence view of them? As is usually the case with those suffering from adverse reactions to medical drugs or procedures, it is in fact, completely opposite. The parents of vaccine damaged children have to be understood in the context of the adverse reactions that their children have suffered. In British society, those who suffer adverse

reactions to drugs become part of the ‘unbelieved’ a diaspora of the undiagnosed ill, who, if they persist with their complaint can easily be labelled with a psychiatric condition.

Parents contacted Dr Andrew Wakefield and the Royal Free Hospital between 1992 and 1997. Only a small minority of them came via the firm of solicitors which was making the claim for vaccine damage. The children had a number of common problems which the parents identified following their MMR or MR vaccinations. These parents were not involved in any conspiracy or collective delusion in identifying the onset of their children’s illnesses with their vaccination, in many cases, the association was clear and obvious, at least to the child’s parents who had no vested interests, except the love of their child.

In the main the children had serious bowel problems, linked in varying degrees to regressive autistic and behavioural disorders. The children were often in considerable pain and many of those that had, as babies and infants, made clear progress and met all their early behavioural markers, lost their language, mobility and the beginning of previously learnt social skills. Hundreds of parents contacted the Royal Free in particular because in the great majority of cases, their GPs and even local consultants had not the slightest idea of a possible diagnosis.

The doctors at the Royal Free gastrointestinal department acted as any good doctor would. Realising the advent of a medical and public health crisis they used every possible technique, strategy and even novel practice, to arrive at a new diagnosis and possible remedial treatments for the condition that they were witnessing. Of course, they paid intimate attention to the stories the parents had to tell and of course they believed the parents when they pin-pointed the onset of their child’s illnesses with their vaccination. These were good doctors. What the prosecution seems unable to grasp, is that in acting as conscientious doctors, all three men on trial at the GMC, spent long periods talking to parents and discussing their children. This patient care, this support, these conversations, this interest in the patient was not always reported in full or extensive notes by the doctors. It does not always become part of the public narrative which describes the medical journey of the child.

There can be no doubt that the approach of the medical team at the Royal Free was innovative, that it was multidisciplinary, that it went way beyond either simply diagnostic review or an attempt to fit on-the-surface symptoms to previously recognised conditions. The authors of the Lancet

case series paper pointed to ‘a new syndrome’ and in these three words we can identify all the major failings, both in the GMC prosecution and the wider conspiracy to criminalise the Royal Free team. Had any epidemiological studies previously identified this syndrome? No. It is therefore not surprising that none of these studies show evidence of it. Did any of the professors or consultants called by the prosecution find this syndrome? No. It is therefore unlikely that they could comment upon it with any authority.

When we reflect on Andrew Wakefield, we have to acknowledge that we are seeing a rare phenomenon. Not only is Wakefield a patient empathc physician and research worker but he is clearly an original thinker and necessarily, in today’s world, a brave and principled man. It is when one considers these virtues that the straight, conventional and inevitably restricted witnesses who have been chosen to give evidence against him, appear to be so lack-lustre.

Creativity and collectivity count for nothing in Britain today. Following the managerial revolution of the nineteen-eighties and nineties and the great tide of political correctness which has swept across Britain, rules, regulations and an obsequious dedication to jobsworthian job preservation, are all that matters. In fact one could go as far as to suggest that the new century ushered in a post-industrial style of ‘I’m all Right Jack’. Nowhere is this new and hypocritical conservatism more obvious than in the higher echelons of medical administration and research.

* * *

After Booth’s evidence, perhaps accosted by a sudden sense of relief, I drifted, not for the first time during the hearing, into a deep sleep. During this relapse, I had a peculiarly real dream. I was standing outside the hearing room, in the foyer, as Professor Booth came out and went to leave.

Booth appeared flustered and disorientated. At first he strode towards the exit’s glass doors, then turned and walked back to the front desk, turned again and walked back towards the glass doors.

The young Australian lad on the desk stood up, eager to help him:

‘Do you want a way out mate?’

Booth looked at him distractedly,

‘I did all right yesterday, coming and going, I just did it empirically. But then when I got home last night, I got a call from Miss Smith. She was very annoyed, apparently I had “let the side down” in telling the hearing that I agreed with simply walking in and walking out of the building. “Don’t you know” she said, “there has been a review of 326 peer reviewed papers which discuss the question of how to get in and out of the GMC building? Would you please” she asked, “get yourself up to scratch with the science and read the review before you decide which route you take into the building tomorrow morning?”’

'I was up most of the night, learning everything there was to learn about the route into and out of the GMC. But after the last cross-examination I’ve got all confused again.'

‘Sorry I just thought you might want to go home’. The Australian said, going to sit back down at his computer terminal.

Professor Booth turned on the young man, frowned, and gathered his thoughts before speaking.

‘Definitely not. Professors used to do that, but not anymore. The most recent evidence-based literature review of going-home-time for professors, puts it at about 17.15 and it’s now only 15.00 hours. I should therefore go home in about 2 hours and 15 minutes. So no, I’m not going home, I wouldn’t go home and you can’t make me say that I’m going home now’.

‘Gee mate, I wish I’d never asked. Look do you want to go home or not?’

‘Well it depends what you mean by home? Just because the great and the good get together in a place like Portugal, even if between themselves they have maybe 250 years experience, and they say ‘home is where the heart is’, doesn’t mean to say that this is right. Even I’ve been in a place that I have called home and thought it was home, only to be told that there had just been a study review published in the New England Journal of Medicine, and I’m obviously wrong.’

‘Look at it this way, just because this building is where your wife and a couple of children with the same surname as you live, and there’s a big notice in the hall saying ‘Home Sweet Home’, it doesn’t mean this is your home. In fact doctors, especially those living in the Midlands have a much

higher threshold for calling any building with a kitchen and a bathroom and a resident wife in it, a home. Personally I think screening tests should be carried out by the person's neighbours to see if the place really is your home, certainly before you embark upon any risky procedures such as cooking or fire lighting. And it would probably be wise to return to the hospital at least twice and retrace your steps, just to make sure you didn't take any wrong turnings.'

When I woke to see Professor Lachmann introduced to the hearing, I thought for a time that the dream had turned to a nightmare. In fact I was fully awake and the last dreamy image I had of Professor Booth saw him walking round in ever decreasing circles.

The Defence Opens to a Prosecution Continuing Downhill

For some reason that I don't quite understand, the presence outside the GMC appeared more substantial than at the start of the hearing. It was as if the thought that had gone into the preparation showed through in the attitude of the participants; there appeared to be a greater sense of purpose.

There was also a manifest hardening of attitude to Dear Brian. With the prosecution having been revealed in it's full glory, many more people were now wondering, with increasing annoyance, just how he could have got away with such a thin litany of complaints and how it was that the General Medical Council had jollied along with him.

Personally, I think that Dear Brian should be commended for his bravery and stoicism. He arrived at the GMC on Thursday morning, very upset about my essay *The Complainant* . The first person he found himself in conversation with was Allison Edwards, despite her feelings expressed in a frozen smile as sharp as a sickle Allison managed to keep a reasonable tone. This wasn't so true of the parents who surrounded Dear and David Thrower during the lunch hour in the theatrical equivalent of a fish-wives row just outside the doors of the GMC. This event had the interesting feel of a Brecht production; all it missed was the scratchy strains of violin and piano music. While David Thrower was able to make his points without interruption, Brian's every stupidity was echoed with a chorus of whistles, ‘ ahhhhs ' and ‘ Yeahsssses ' from the surrounding chorus of parents. Personally I can't wait for the musical to come to the Dominion Theatre on Tottenham Court Road and hope that they have the creativity to do it on roller-skates.

We all have our favourite moments of great works and my favourite moment in this *al fresco*production was when Brian referred to me as a ‘dribbling idiot'. For someone like me, forever conscious of their age, this hit home. However, in librettists terms it comes nowhere near his various descriptions of others. Carol Stott, for instance sharply sketched first as a ‘quack,' then ‘a shabby psychologist,' could have been a perfect foil for McHeath . But even these vignettes pale into insignificance when cast beside his description of Private Eye's Heather Mill's, who after alluding to

Dear's ‘hatchet job' C4 documentary, became the subject of some very eighteenth century speculation about her and Dr Wakefield.

During the day, inside the building, Brian was subjected to another confrontation with a parent from the less hospitable northern part of the Union. There, the indigenous people express themselves with less of the culture and manners of their southern kin. It was, in fact a wonder that neither participant in this confrontation was hurt.

All in all, the day beyond the GMC was full of incident and high emotions. Like the return to school after the holidays that I described in one of last year's reports, there was a sense of familiarity and camaraderie as all the campaigners met up. On this level, as well, one has to feel some sympathy for Dear Brian. He appears to have no-one with whom to share his cultural and intellectual vacuum and spends most of his time talking to ‘hearing novices' trying to impress them with his inside knowledge. For the second time in the last year, I heard him explaining the case, and that of Hannah Poling as ‘just the rumour mill'. This, he obviously felt, was an adequate explanation of the science that is beginning to emerge as accepted in the United States around the issues of vaccines and autism. I have to say that on occasions I fear for Dear Brian's health, after he returned from the confrontation with David Thrower I noticed that he was muttering to himself.

The parents know, not only that they have right on their side, but that they are there for each other as well as the doctors. And while they continue to forge something of a community, in which to share their experiences and their coping, Brian remains isolated, a social pariah, who will undoubtedly be cast aside like a used condom when his benefit to the Department of Health and ABPI comes to an end.

* * *

The First Week of the Defence: 27 March – 3 April

Inside the hearing Miss Smith began by complaining that the room appeared to have got longer and she now found herself further away than ever from the witness giving evidence. I first wondered whether she was ‘on' something, but that seemed unlikely and I finally settled for a version of the ‘Alice in Wonderland Syndrome' (AWS), common amongst women who like to think that they are growing younger rather than older. In this syndrome, the environment appears, to the subject, to be getting bigger.

Anyway, when Dr Wakefield at the other end of the room, failed to support this application to have the seating arrangement of the hearing truncated, Miss Smith sat down.

Neither Miss Smith nor the chairman of the panel appear to see the overt, and sometimes hilarious, humour in their position and their remarks. As the defence opened, the Chairman of the panel addressed Dr Wakefield with the words, ‘Thank you for coming to give us the benefit of your evidence this morning'. If I hadn't been the very reserved person, I am, I would have rolled on the floor laughing like a hyena.

After preliminaries, the re-drafting of a couple of the charges and some other bits of housekeeping Keiran Coonan opened the case for the defence and Dr Andrew Wakefield began telling his story. If there isn't a legal maxim that states ‘It's more difficult to defend an innocent man than one who is guilty', there should be. While a guilty man knows exactly what actually happened and can therefore present a completely plausible defence, the man who is wrongly accused, often doesn't have the faintest idea how or why everyone is making up stories about him.

* * *

Before he got seriously underway Mr Coonan told the hearing that he had prepared a route-map. I was suddenly worried, hoping that this route map would be better than President Bush's last ‘road map' to peace in the Middle East. Mr Coonan's route-map trod an explanatory path through a chronology that ran from 1988 to 2004. By organising the defence in this way, Dr Wakefield and his lawyers would be able to talk through the sorry prosecution case, addressing charges from the period when they arose.

It was immediately obvious as many of us had suspected that as the ‘real' story unfolded, the prosecution case, like the modern ice cream that Mrs Thatcher used to scientifically design, or the bread that came from the Aerated Bread Company (ABC) was in large part made up of air. In fact it might be better from this point onwards to refer to the ‘absent' or ‘late' case for the prosecution.

Wakefield's tone from the beginning, while being led through his evidence-in-chief, was patient, absent of malice and without any hint of righteous anger. He was clearly in for the long haul with the first opportunity, in over four years, to address a group of people who were bound to listen to him without interruption. From the beginning as well,

he seemed conscious of the panel's lack of experience in his specialised field; he stopped occasionally to address them on specific points.

From the back, one was constantly reminded of Wakefield's broad shoulders that had now, for some time, carried a heavy burden. He was dressed funereally, in a black suit, black socks and black shoes, white shirt and dark tie. Dr Wakefield is a presence in the long white room, and you could sense his cerebral concentration as if all his physical energy was now in his head as he focused earnestly on every word he uttered, intent on not making a mistake.

While Dr Wakefield is evidently able to withstand the gales of a public prosecution, Professor Walker-Smith's health waned throughout this first week. As the case opened again, he was suffering from bad bronchitis. Observers were reminded that resisting prosecutions of this kind are ostensibly a young man's sport.

Much of the first day was taken up with re-embedding Dr Wakefield in his profession. Mr Coonan took him slowly through his previous achievements and then his work at the Royal Free. As Coonan coaxed Wakefield through his work two things occurred to me. First, the defence was now repeating what the prosecution had already, inadvertently, given evidence to by describing in detail how the department at the Royal Free worked co-operatively and collectively. Second, one saw with increasing clarity how unbelievably narcissistic it was of Dear Brian to try to destroy the reputation and downgrade the career of a doctor whose heart was committed to his patients and who at a relatively young age had 137 peer reviewed publications to his name.

Mr Coonan's ‘route-map' was actually altogether different from President Bush's ‘Road Map'. It guided us intelligently through all the charges against Dr Wakefield, in the chronological order in which the offences had ‘apparently' been committed. Following an introduction and a ‘discussion' about each group of charges, Mr Coonan would put the charges to Dr Wakefield asking if he had done those things with which the charges condemned him. It soon became apparent that every charge was no more than a puff of smoke that could easily be dispelled by alluding to the copious paper-work, some of which was new to the prosecution, but most of which should have been on file and might have been easily cited by them.

To give an example. There was no evidence at all that Dr Wakefield, as a research worker, had anything to do with the clinical operations and procedures carried out on the Lancet children. In order, however, to involve him in an illegitimate area beyond his terms of employment, the prosecution had claimed that, in the case of the children , Dr Wakefield had ‘caused' these procedures to occur. This ludicrous wording makes it appear that one day Wakefield had been charging through the hospital, scalpel and colonoscopy equipment at the ready, when he had tripped and fallen crashing into and a member of the clinical team who had caught the equipment and been jettisoned into the procedure. The truth of the matter was that far from ‘causing' the procedures to occur, Dr Wakefield had had nothing whatsoever to do with them and could, literally, have been miles away from that particular operating theatre at the time any procedure was carried out.

Once Mr Coonan had talked through a procedure and Dr Wakefield's non-involvement in it, he would then ask; ‘Did you in fact have anything to do with ‘causing' the colonoscopy to take place?' To which Dr Wakefield would state in a clear and measured manner ‘No'.

The defence was, from the beginning, beset with semantic problems, mainly involving what parents have told their GP's about Dr Wakefield and ‘his' department at the Royal Free. At the end of the first week on Thursday April 3 rd , these problems were alluded to by Mr Coonan, who asked Dr Wakefield to comment on the semantic contortions involved in the case.

This recurrent theme, reminded me that I had returned to a London, where the Metropolitan police force are happy to make the most awful grammatical error. As I travelled on the bus past New Scotland Yard, I found myself re-reading the continuous band of blue electric text that crawls along the side of the building thousands of times a day. The message reads: ‘Extraordinary people wanted to be a special constable'. During the first part of the hearing in 2007, I felt forced to complain about this public blunder to a machine gun-carrying officer on duty at the porta -cabin that now passes for an entrance to Scotland Yard. The officer nodded sagely while he fingered his machine gun, ‘Yes Sir, I'll pass it on', he said, looking round in case he needed support.

I bring this up simply to raise the fact that we really can't wonder that so many ordinary people make semantic, grammatical or syntactical mistakes; mistakes in letters involving issues of hospitals, illness and the

administration of their own or their children's treatment. In fact in terms of trying to avoid responsibility, most of the world's powerful speak in a different language. The parent who says ‘I managed to get my son referred to Dr Wakefield' – who unbeknown to them is a research worker – ‘at the Royal Free Hospital', is doing nothing more than trying to make a clear statement about their right to involvement in their child's treatment, in a powerless situation.

Hazarding guesses about why prosecution witnesses, other than parents, have not told the whole truth has to strike just the right note if it is to appear plausible to a jury. It was clearly evident as we got into the rehabilitation of Dr Wakefield, that his lawyers had suggested the most appropriate phrase to use was that this or that letter-writer or witness must have been ‘confused', when suggesting for instance that Dr Wakefield had been paid thousands of pounds by the legal aid board to assault sick children. There are dangers with this formulation, if you say it too often you are in danger of suggesting that everyone except yourself has left the rails. Personally, if one can do it without being too abusive, I'm all for calling a spade a spade. The tone might be varied, from ‘Clearly the witness lied through his teeth', to the slightly more reconciliatory, ‘I fear the witness, who is evidently a drinker, has been let down by his memory, on this matter'. In times of real stress, where sarcasm is inevitable it might be best to fall back on Mandy Rice-Davis's, very adequate, ‘He would say that wouldn't he'.

Unfortunately for the prosecution, after a week, there has so far been not one question of involvement put to Dr Wakefield with which he has not answered with a resounding ‘No'. In fact, in the charges traversed so far, there has not been one which entertains an iota of doubt, not one charge in which Dr Wakefield has had to deal, in the words of Sugar, in Some Like it Hot, with ‘the fuzzy end of the lollipop'.

After laying the initial basis for Wakefield's life and work at the Royal Free, Coonan moved on through all the areas of conflict that the prosecution had suggested crowded Dr Wakefield's working life. One of the first areas of conflict was Wakefield's work itself. In relation to this, Coonan introduced a number of other medical researchers and other published papers that had been concerned with the same area of research. This was clearly to establish the fact that Wakefield was not a lone ‘cowboy' as has been suggested by the prosecution, but was following a research trail laid down by some of the most established academics, including one who had given evidence for the prosecution.

It is worth looking at the past week in term of areas of conflict, and I hope that I will be forgiven for not recording these with the complex detail of their dates and surrounding issues. Most of the charges, brought by the prosecution, relate in one way or another to what happened around the writing, submitting and aftermath of the *Lancet* paper; how the 12 children who became the subjects of this paper had arrived at the Royal Free and how and by whom they had been treated and researched.

At the centre of the charges and crucial to them was the idea that Wakefield had constantly overstepped the boundaries of his research work; for reasons of ego, one presumes, and of course the desire to rake in the money. Although no clear motivation for any of Wakefield's apparent wrongdoing has ever been offered by the prosecution.

The first stage in this megalomania, the prosecution suggests, involved Wakefield reaching out to general practitioners (GPs) around the country and pressing them into referring their child patients, who Wakefield had heard about via their parents, to him, so that he could subject them to ‘the knife' or ‘the needle' and his mad theories. In this Fantasy Medicine scenario, Wakefield was working hand in glove with both JABS a subversive anti-vaccine organisation and the renegade lawyer Richard Barr. Barr was principally concerned with making a lot of money, followed by a long held desire to single-handedly bring about the economic collapse of the pharmaceutical industry.

In and around 1996, the first parents who suggested that their children had been damaged by MMR or MR began to contact Dr Wakefield. According to the prosecution, Wakefield had done his best to seduce these parents and ensure that they brought their children by whatever unethical route, to be treated by him personally at the Royal Free Hospital. Again according to the prosecution, once the children were at the Royal Free, Wakefield, after carrying out his own diagnostic assessment of them ordered a battery of tests. Many of these tests, it was alleged, were dangerous and against the interests of the children concerned. What had not been entirely clear from the prosecution case was whether or not Wakefield had personally carried out the operations and procedures, perhaps even for the febrile prosecutors such a charge might have sounded too loopy, so they settled with the magical formulation, ‘had caused to happen'.

The grandest and most glaring hole in the prosecution case, had to do with Ethical Committee approval for a research project that hadn't

actually taken place. Because the prosecution had acted on Deer's ‘bad brain-day' narrative, they were insistent from the beginning to the end of their case that Wakefield had not gained research ethics committee (REC) approval for any of the things that he was supposed to have done. In fact the protocol (No.172/96) that the prosecution founded the majority of their case upon, was the protocol for a research project which had not, at that time, begun. It was not, as the prosecution had been led to believe, in any way related to the data reported in the Lancet paper.

All of the ethical approval that was necessary for the work on the Lancet paper case-series had been granted under protocol No. 162/95. This protocol had even been renewed and modified in January 1997, so as to include a more extensive research agenda. Because the prosecution had inflated Dr Wakefield's role, having him do everything from clerking-in hospital patients, to personally carrying out procedures on those patients, they had maintained that a great swath of ethics committee assent had been needed. In fact all Dr Wakefield had ever needed was REC approval for lab tests on biopsy tissue taken during clinically directed diagnostic procedures; this he had.

The other major offence argued by the prosecution related to the money they said had been given to Wakefield from Legal Aid, that he had not only accepted – apparently a sin in itself - but also never declared in the Lancet paper. All of this was utter baloney, one of the charges even suggesting that Wakefield had himself personally received the money and used it to finance clinical experiments on the Lancet children. It was explained clearly that all the legal aid money that was claimed by the Royal Free, went towards the salary of a research worker working on a quite different area of research. Not only did this money not go towards any research or clinical work on any of the Lancet children, but Dr Wakefield didn't see a penny of the money. These facts, however, don't completely resolve the other argument about the money - that of conflict of interest - that now, in the contemporary research environment, might be declared even if it has no actual link to the project written up in a paper. What was happening and what did happen in the late nineteen nineties, however, we are still to see from the defence perspective.

Being led through your evidence in chief by Kieran Coonan, is not so different from being cross examined by him. Even during his most hospitable moments he appears slightly bad tempered and dour enough to signal apoplexy if the defendant responds mistakenly. However, he moved through the various areas on his route-map like a panther stalking

an easy prey and Wakefield simply told the truth. Neither of them so much as stopped the coach for coffee, or dawdled to gossip. Very occasionally Dr Wakefield provided the panel with a short talk on a specialised professional area, but on the whole the evidence shot by.

Only when it came to dealing with the 12 Lancet paper children in detail, did Dr Wakefield's evidence-in-chief seem to grind to a halt and this was no doubt because everyone in the room had sat through this recitation from different perspectives on about five separate occasions. All the prosecution evidence in relation to the children was denied by Dr Wakefield. ‘No' he had not himself referred this child to himself at the Royal Free. ‘No' he had not examined this child at an out-patients surgery. ‘No' he had not prescribed treatment for this child. ‘No' he had not carried out this or that procedure on the child. ‘Yes' he would have expected to have Research Ethics Committee approval for his biopsy samples to be removed. ‘Yes' he would have expected to have REC approval to research these samples in the laboratory. ‘Yes' he did have research ethics approval for these things. ‘Yes' this was under protocol 162/95.

Along with research ethics committee approval, came the thorny subject of parental consent, both for the clinical work on children that didn't actually have anything to do with Dr Wakefield and the research work on biopsy samples that he was involved in. In every case the defence produced the parental consent form that the prosecution claimed had been missing.

On all these matters, the record appeared straightforward. The prosecution had in fact relied almost completely on guess-work, innuendo and, dare we say, malice. It is true of course that the correspondence in most of these cases is studded with minor errors, misplaced names and addresses of departments and doctors. It is, apart from being ‘confusing', absolutely inevitable that GPs for instance approached by parents who had seen Dr Wakefield in the media, would write to the Royal Free asking that Wakefield look at the child whom they were referring; and equally inevitable that Professor Walker-Smith the renowned paediatric gastroenterologist would send a note to Dr Wakefield, a part of the same team, informing him of what treatment he advised for any case.

One of the most serious and bizarre avenues down which Dear Brian had taken the prosecution case, was that of transfer factor. According to Dear, this was a vaccine in major competition with MMR, and it was this

competition that motivated Dr Wakefield. The only real problem with this story was that it was completely wrong. There was no proposal to use transfer factor as a vaccine prophylactic against mumps, measles or rubella or for that matter any other virus. Wakefield had rather, proposed its use experimentally as a kind of ‘morning after' vaccine for those children who, having been adversely affected by MMR, were unable to eliminate measles virus.

* * *

However you look at the story of the defence case that has emerged over the last week, there has not been one rumple or minor schism in the logic and simplicity of the tale of everyday working folk at the Royal Free Hospital. The defence case does, however, raise in bright lights and large letters, the question of whether the prosecution has failed to do their job properly, through either malign intent or simple incompetence.

One was left wondering, firstly how the prosecution could have built such a baroque edifice from such mundane facts and second, how much money and embarrassment the GMC might have saved had they overthrown convention and presented the defence first. By the end of Monday 31 st of March, it was evident, at least from the defence perspective that almost nothing on the prosecution Bill held up to scrutiny.

There is one slightly more complex worry about how the GMC came to fall into line behind Dear Brian. Like the Crown Prosecution Service and the police themselves, the GMC does not have an absolute duty to prosecute. However, with the decision *to* prosecute does come the responsibility to thoroughly investigate the charges involved in any complaint. One is bound to wonder how seriously the GMC took this responsibility in the case of Dr Wakefield.

After a week of listening to Dr Wakefield describe all the charges against him in simple and everyday terms, two things might occur to the intelligent observer. First, how is Miss Smith, left holding such a tattered banner, going to proceed when it must be evident, even to her, that she was only ever briefed with a marginal percentage of the truth. Having winged-it through the prosecution case, with no opposition, Miss Smith is now faced with the most difficult task of cross-examining an innocent man in an attempt to get him to speak untruthful words.

One of my colleagues suggested that perhaps she will lay down her weapons and back out of the case gracefully. Personally, I'm not going to hold my breath on this option. Instead I'm putting my money on Miss Smith coming out of her corner fighting. Only recently, I had the misfortune of being entertained by an unscrupulous prosecutor whose style of berating the defendant took me back to the Robbery squad trials of the seventies. During these trials, the court room reverberated with the loud claims of both prosecution and defence council as they intoned; 'I put it to you that you are lying now and that you have been lying throughout the whole of your testimony. I put it to you that you are in fact, a liar, a congenital and practiced, complete and utter, liar, Sir'. Clearly this is the only line Miss Smith has up her sleeve that might convince the Panel that the prosecution story can hold even the thimble full of the water that has been poured over the three doctors.

* * *

There are few moments of true poignancy in the GMC hearing as most everything is so heavily engineered and false. However, as one of the mothers involved in CryShame believes and keeps reiterating, it would be as well to keep in mind what the campaign and the hearing is really about. It is exactly this that Alan Rees of Sweden and his son Marcus have highlighted now on two occasions (to read about Alan's campaign on behalf of Marcus, go to www.vaproject.org/vaccinetrials/sweden.htm.

Both Alan, who has fought an unstinting legal battle over Marcus's vaccination damage, and Marcus, wear plastic yellow, illuminated, work waistcoats with a message about Marcus's autism on the back. On Thursday April 3 rd , Alan brought Marcus to the hearing. They entered quietly, mainly because Alan had his hand over Marcus's mouth. However it was not long before Marcus became himself, making loud repetitious humming noises. After some time, the hearing stopped and the usually officious GMC secretary who has control of the hearing, approached Alan and Marcus. Thankfully she had obviously practiced her bouncer skills, for instead of the rather alienated and rude manner in which she asked them to leave last year, her manner this year was utterly polite and apologetic.

Alan, I am sure had no intention of disrupting the hearing or in any way embarrassing Dr Wakefield, he wanted only to make the point that at the base of this extravagant hearing is not, as Dear Brian suggests, a fake doctor and a handful of children with constipation, but a life-numbing

grief which hangs in the claustrophobic air over the landscape like the darkening moments before a terrible storm.

Last Day of Reckoning

Dr Wakefield's defence was finished on Monday April 7. The day, however, became a day of reckoning. Kieran Coonan had come right up to the GMC fitness to practice hearing with his route map and parked the car in front of professor Zuckerman's address before driving up to honk his horn outside Richard Horton's vacated and collapsing premises

The public gallery and the press room were full. The ending of the Wakefield defence and the evidence of rebuttal presented by Wakefield against the prosecution's two most vulnerable witnesses, evidently worried the prosecution, and the mid morning break saw Dear Brian giving media colleagues a lecture on the *real* case, which only he knows. A crowded press room heard the story that I have overheard twice now about the rumour mill. According to Brian, the whole case is a fantasy dreamed up by parents desperate to find a cause for their children's autism and led by a charismatic but remorseless quack concerned only with image and reputation.

Brian, however, faced real opposition after his short lecture, in the person of Jane Bryant of the One Click Campaign. Used to dealing with the heavyweights of the ME underworld, Jane didn't blanch before Dear, harrying him with constant questioning about who paid him and who he was working for. He was, he said only a journalist doing his job, researching Dr Wakefield and his colleagues at the Royal Free Hospital, he didn't know anything about autism or the causes of autism, he had just been investigating Wakefield. However, people like ‘the dribbling idiot' - I noticed that his colleagues looked bemused as he gestured towards me - have said that there is a definite link between MMR and autism without any proof. Of course I have never said any such thing and Brian had to be saved from Jane Bryant by the GMC Press officer.

Inside the hearing where charges and evidence really matter, Wakefield was able, for the first time, to give his rebuttal evidence against Professor Zuckerman and Dr Richard Horton. It had always been clear that Zuckerman was protecting his back when he gave evidence and Dr Wakefield was able to present evidence that showed not only that Professor Zuckerman had *arranged* the press briefing for the *Lancet* paper about which he so bitterly complained, but that he also supported Wakefield in his position that the government should revert to

monovalent, that is single vaccines, until research at the Royal Free was concluded.

Kieran Coonan introduced a part of a DVD made by the University during the press briefing; the sound was so bad that only a practiced lip-reader could gain anything from it. (I have to say that this was actually indicative of a downhill pattern in relation to sound in the hearing. I am slightly sceptical about a public hearing that the public cannot hear because the participants speak in an exactly opposite direction to their microphones). Fortunately the panel were provided with a partial transcript of the press briefing. Watching the reportage, we saw Dr Wakefield suggesting in the most reasonable manner that to avoid a possible continuing public health crisis, it might be better to return to the single vaccines for a period. Professor Zuckerman seemed to support this position.

The defence introduced a series of letters which showed that though the whole team at the Royal Free were not completely in agreement over the role of MMR, or any public discussion over it, there was at least knowledge of the fact that Dr Wakefield would pursue his position on the single vaccines at the press briefing and on this matter he had the solid support, at least of Professor Roy Pounder his line manager.

What one could hear from Professor Pounder's contribution to the press briefing was particularly moving because he spoke from a principled position, laying considerable emphasis on the fact that whatever happened on a macro level, adverse reactions were of enormous consequence to individual children and their parents. Pounder had written to the DoH telling them of the course the press briefing would take and suggesting that they should be well stocked with single vaccines in case their press briefing and the publication of their paper turned parents towards single vaccines.

It was clear from the evidence presented in the lead up to the press briefing and the briefing itself, that Dr Wakefield had voiced major concerns about the safety and testing record of MMR. This is not something that has come out during the GMC hearing, so far, perhaps because the defence didn't want to put to much weight on it.

Dr Horton's Grave Error

Mr Coonan had actually started the morning with Dr Richard Horton filling in the gaps in the evidential picture in the period prior to the publication of the *Lancet* paper.

It had been clear from Dr Richard Horton's evidence for the prosecution earlier in the hearing that he wanted to appear to be pleasing everyone. He was flirtatious with Miss Smith - and she with him - while at the same time finding it hard to agree with her. And when it came to the defence, Horton did everything but roll on his back and offer his tummy for tickling while giving evidence to exonerate Dr Wakefield.

There was, however, one point upon which Dr Horton did not behave distractedly; a point on to which he hung despite a stormy cross examination from Mr Coonan at his most amiable. This was the matter of Dr Wakefield's conflict of interest; whether the fact that Dr Wakefield's receipt of £55,000 from the legal aid board should have been declared in his 12 child case review paper published in the*Lancet* .

On this matter, although his position was whittled down by Coonan, Horton remained as solid as it appeared possible for such a polite boy from the academic ‘hood. Despite everything that was thrown at him, relating to the date of the publication and the relative moral and ethical value of conflict of interest declarations at that or any other time, Horton stood firm.

Whether or not this was because he had previously declared that he never would have published Wakefield's paper had he known about his receipt of money from the Legal Aid Board, or whether having voiced his disagreement with the majority of Brian Deer's criticisms of Wakefield's paper, this was the only sticking point that remained with him, we do not know. On this issue, however, he was dogged. Mr Coonan found it easy enough to nudge him off balance on the very edges of the matter, such as the ‘early' date of the paper and the matter of whether expert witnesses had to make declarations in their academic work at that time, but on the core of the matter, the conflict of interests represented by Wakefield's apparent receipt of the legal aid money, Horton was cement.

For those of you who are unfamiliar with the process of a GMC fitness-to-practice hearing, they are to all intents and purposes like a hearing in any British law court. They assume almost the same shape even if acted out within a different, less oppressive architecture and thank god, without all the theatrical costumery. Each witness is sworn in, either stating a

religious conformity or making a civil declaration. The importance of this is obvious and the same rules relating to perjury – the making of a false oath - apply as do in the court of law.

* * *

Dr Andrew Wakefield first began negotiating the publication of 'the Lancet' paper that was to appear in early 1998, in June 1997. At this time he sent two papers in to the Lancet, one entirely on the science of any link between measles virus and Inflammatory Bowel Disease (IBD) and the other a more narrative review of twelve cases referred to the Royal Free Hospital in sequence. The science paper was not published because 2 out of 3 peer reviewers turned it down.

Wakefield knew about the Lancet's rules governing conflict of interests, in October 1997, however, he received a new 'guidelines' document from Richard Horton the Lancet's editor. The test governing conflict of interests was stated very simply and involved disclosing anything that might cause embarrassment if it became public at a later date

There were two issues that might have appeared superficially to provoke embarrassment, if they were not declared in the published 'Lancet paper'. These were, so it was said, the fact that Dr Wakefield had received £55,000 from the Legal Aid Board in order to undertake research that might result in proving the biological link between IBDBowel, regressive autism and the MMR vaccine. Second that Dr Wakefield had agreed to be an expert witness in legal claims by parents against manufacturers of the MMR vaccine.

In relation to the £55,000, the prosecution had always maintained, wrongly, that this money was paid directly to Dr Wakefield so that he might carry out research. In fact, the £55,000 was paid in two parts, to another research worker at the Royal Free Hospital. The money was banked with and dispensed by, the Special Trustees of the Hospital and was never actually touched by Dr Wakefield.

There *was* a study planned for the instructing solicitor of parents claiming on behalf of their vaccine damaged children, for which Dr Wakefield and his team would have been funded by the Legal Aid Board. However, at the time of the 'Lancet paper', this study was not underway. Because the prosecution failed to properly research the different projects that were

being planned or carried out, their evidence wandered round in the dark for a good percentage of their case.

With respect to Dr Wakefield declaring his putative appearance as an expert witness at some future date; it was actually never to happen. There has been a great deal of divisive debate about this matter in science circles although unfortunately those who have approached the subject appear to have little knowledge of the law

There is a legal rubric that I have always liked although it has evident faults, ‘There is' it goes, ‘no property in witnesses'. The rubric is most true in relation to ‘expert' witnesses, for such witnesses are guided by their knowledge, their science and their intellect and are answerable to the court and not to the solicitors who present them. Although it is easy to spot a committed ‘professional' witness whether they appear for the defence or the prosecution, most experts have to prove their science before the jury and the opposing council just as they have to proved it in peer reviewed journals.

Appearing as an expert witness in a case is not something which should have to be declared. However, it would always be most correct to declare any appearance as an expert if one had received money directly from either the defendants or the prosecution at any time. In the past the Legal Aid Board has not represented private interests and it bankrolled research of many different kinds on behalf of both defence and prosecution - for private investigators, all kinds of forensic experts, psychiatrists, crash reconstruction experts and weapons experts as well as many other ‘experts'.

Finally, we have to see the accusation that there was no disclosure of either of these factors, in the light of two other factors; the time in which the paper was written and published and the approach of the journal's editor. Clearly, journal editors should play a considerable part in policing and regulating their own journals and thereby adequately forewarning contributors of their house style.

A notable case that arose relatively recently, illustrating a number of these points is that of the late Sir Richard Doll. In 1988, Doll published an important paper on Vinyl Chloride and brain cancer in production workers. His path to the completion of this paper was dogged by vested interests. The paper had been suggested to him by Brian Bennett, the Medical Advisor to ICI UK, the major British producer of vinyl chloride. Bennett

had originally sought the advice of the US Chemical Manufacturers Association about whether or not Doll should be involved. When they agreed on his involvement, they provided Doll, not only with payment for the research but also all the industry data upon which to base his research. The paper produced by Doll concluded, in line with industry thinking that there was no relationship between vinyl chloride production and brain cancer amongst workers. Bennett had advised Doll on the journal that would publish the paper, the Scandinavian Journal of Work, Environment and Health, before Doll submitted the paper, he wrote to Bennett asking if he should disclose payment from the major vinyl chloride companies for research funding. Bennett wrote back to him saying that this was unnecessary. Doll's lucrative involvement with the Chemical Manufacturers Association and its major member Monsanto, remained a secret until 2003. (Walker, Martin J. Sir Richard Doll: Death, Dioxin and PVC. 2003. http://www.whale.to/v/walker_doll.html)

When this story emerged two years later on the front page of the Guardian, those who supported Doll, continued to defend him absolutely. In this case of course, there were no ifs or buts about the matter; Doll had, for whatever reason, determinedly kept secret a series of funding and methodological links with the very industry that he had researched. Nevertheless Doll's paper on vinyl chloride is still today used by industry as the standard assessment of any link between the production of vinyl chloride and brain cancer.

* * *

When Richard Horton appeared before the GMC hearing in 2007 to give evidence, the defence relied upon his answers in cross examination to put together a picture of when he first knew of Dr Wakefield's involvement with Richard Barr of Dawbarns the lawyer who handled the case for the MMR claimants. Since Horton's cross examination, however, papers have come to light which identify more exactly the time Horton first knew of Dr Wakefield's involvement with Dawbarnes and the Legal Aid Board. This new information castes doubt on the veracity of Richard Horton's evidence to the GMC.

In 1995 Dawbarns solicitors were appointed by the Legal Aid Board to manage the claims arising from immunisation with the MMR combined live vaccine. As part of their efforts to learn and inform their clients about the vaccine, Dawbarns through Richard Barr and Kirsten Limb prepared a factsheet about the vaccine which they distributed primarily to their

clients. Over time this factsheet grew in size as more information and research came to light.

Whilst it was intended primarily for clients, requests for copies came from medical practitioners, from the pharmaceutical industry and even from the government departments charged with looking at vaccine safety. The factsheet attempted to present the situation fairly, but it was not uncritical of the lack of information and what appeared to be misinformation provided by the government in vaccine issues.

In the first quarter of 1997 a Dr B.D. Edwards, a member of the Medicines Control Agency (MCA) wrote to Dr Richard Horton, bringing to his attention the fact that text and tables from various Lancet papers were being reproduced in the Dawbarns Fact Sheet. Consequently Ms Limb received a phone call from Sarah Quick of the Lancet on 19 th March 1997. In that telephone conversation Miss Quick said that Dawbarns should apply for retrospective permission to reproduce the Lancet material. She indicated that there should be no problem about granting permission.

Richard Barr wrote to the *Lancet* explaining Dawbarns' position in a letter on 3 rd April 1997 . The letter makes it clear that Barr worked for Dawbarns solicitors and that he was involved in litigation related to potential damage to children following exposure to MMR and MR vaccines. In the letter, Barr references Wakefield's work on MMR and autism and draws Horton's attention to this work. Barr took Horton directly to the text that describes his working relationship with Dawbarns.

Also in this letter Barr refers specifically to exchanges he had with Wakefield and the latter's granting of permission to Barr to quote, in his Fact Sheet, papers published previously by Wakefield in the Lancet.

When Horton responded to Barr denying him permission to use material from the Lancet in the Fact Sheet, Barr sought the intercession of the Lancet's Ombudsman . Correspondence then ensued between Barr and Horton and Barr and the Lancet about Barr's access to the Lancet ombudsman. Eventually the Lancet Ombudsman ruled that given the not-for-profit nature of the Dawbarns newsletter publication the tables and other references in the Factsheet could remain.

This relatively protracted exchange between Horton and Dawbarns that included reference to Dr Wakefield and a number of statements about

Wakefield's interests in the legal cases, ended while the Lancet paper was being discussed and sent out to peer reviewers. It would appear highly unlikely that being involved in a contentious exchange with Richard Barr and Dawbarns, Horton could possibly have forgotten that Dr Wakefield was involved with the solicitors pursuing research on MMR and autism.

In March 1998 a month after the publication of the Lancet paper, the *Lancet* published a letter from a Mr Rouse, the letter suggested that the ‘Lancet paper' might have introduced ‘litigation bias'. Rouse made a couple of completely wrong statements in his letter to the Lancet and it was clear that the major point of it was to open the attack on Dr Wakefield that hinted at all kinds of secret associations with lawyers and campaigning organisations.

Wakefield answered this letter from Mr Rouse and made clear his interests in the legal cases. So, even if Horton and others claim not to have known of any apparent conflict of interests prior to the *Lancet*paper's publication, it was stated within a month of this publication.

The reason why no one had thought to bring up the matter of conflict of interest at the time of the paper, was that everyone involved knew about Dr Wakefield's contact with the Legal Aid Board. The first public disclosure of his acting as an expert witness had occurred in November 1996 and it was known at that time by all the senior staff of the university.

The major critics of the *Lancet* paper did not make a developed view of their criticism of the paper known until some six years after its publication when Brian Deer attacked Dr Wakefield in the Sunday Times in 2004. Following Deer's Sunday Times report, Horton publicized a tectonic shift in his opinion of Dr Wakefield, the *Lancet* paper and conflict of interest. After apparently, superficially at least, defending the paper for six years, Horton claimed to now regret publishing it, suggesting that it was ‘fatally flawed', in February 2004 Horton told the BBC:

In my view, if we had known the conflict of interest Dr Wakefield had in this work I think that would have strongly affected the peer reviewers about the credibility of this work and in my judgment it would have been rejected.

From this time also, Horton was to claim that a much more complex rule was actually in force with respect to conflict of interest declarations in any

published papers in the *Lancet* . The position was not now one in which embarrassment might occur, but where readers might have the ‘perception' that there were undeclared conflicts of interest. This of course was a whole new ball-game and Dr Wakefield found it almost impossible to argue this oddly existential idea; how could one gauge anothers perception.

* * *

When Dr Horton attended the GMC fitness-to-practice hearing in 2007. He came to it as an independent witness whose conscience had been troubled by what appeared to be a grave ethical blunder on the part of Dr Wakefield who had failed to disclose serious conflict of interests.

However, Horton appears to have been playing a very deep game, for it transpired that not only had he known about Dr Wakefield's interests in the legal cases a year before the publication of the Lancet paper, but perhaps more worryingly, although he appeared to find in favour of Wakefield when he ‘investigated' Deer's Sunday Times accusations, he seems to have been more or less happy to discuss Wakefield's downfall behind the scenes. In his book, *MMR Science and Fiction* , he reveals how in 2004 he was asked to help a confused GMC in the prosecution of Wakefield .

The GMC seemed nonplussed by the Health Secretary's urging the GMC to investigate Wakefield as a matter of urgency. In truth they had not a clue where to begin. At a dinner I attended on 23 February 2004, one medical regulator and I discussed the Wakefield case. He seemed unsure of how the Council could play a useful part in resolving any confusion. As we talked over coffee while the other dinner guests were departing, he scribbled down some possible lines of investigation and passed me his card, suggesting that I contact him directly if anything else came to mind. He seemed keen to pursue Wakefield, especially given ministerial interest. Here was professionally led regulation of doctors in action - notes exchanged over liqueurs in a beautifully wood-panelled room of one of medicine's most venerable institutions."

‘New evidence', discovered recently in filing cabinets ‘lost' when the Wakefield's moved to North America, which form the basis for the account above about Horton's early knowledge of Wakefield's involvement with Dawbarns and the legal cases, throws quite a different light on Horton's

testimony at the GMC hearing in 2007. Leading Horton through his evidence in chief, Ms Smith put it to him:

‘Looking at the wording of the sentence you referred to “only one author has agreed to evaluate a small number of these children on behalf of the legal aid board” you say you took that to mean since publication of the paper and we are now some three or four months on from publication of the paper'.

Horton answers ‘Yes'.

Horton confirmed to the Panel that he believed Wakefield's agreement with Richard Barr, to evaluate a small number of these children happened after the publication of the Lancet.

I was not aware of any other relationship between Dr Wakefield and Dawbarns and Richard Barr. When I read those statements I saw this as something that was triggered by the paper rather than the paper being in some senses a culmination of events up to February 1998.

Can Horton simply have forgotten the discussion and exchange of letters that had occurred in 1997? He does in fact go to extreme lengths to deny any knowledge that he knew Wakefield was involved with the solicitors for the complainants in the vaccine damage case. While he was being led through his evidence in chief by Miss Smith he made a number of bald statements which are hard to reconcile with our knowledge now of what happened prior to the publication of the Lancet paper.

In February 1998 and during the peer review process going back into 1997, I was completely unaware of any potential litigation surrounding the MMR vaccine.

I was not aware of the involvement of a firm of solicitors Dawbarns.

I was not aware of any other relationship between Dr Wakefield and Dawbarns and Richard Barr.”

Brining these matters up on this last day of the defence case, one could see clearly that the defence believed that the evidence of Dr Richard Horton before the GMC panel, left something to be desired. The truth, maybe?

While this bombshell evidence could well be front page news in any major criminal or civil trial, in a fitness-to-practice case organised by the Government against an important British research doctor, the ‘news' is not ‘news' but some kind of esoteric information, too complex for journalists to reconstruct for the public consumption. What could easily be expressed in any other circumstance as ‘Defence questions the memory of Journal editor's evidence in vaccine case' is passed over as some baroque curlicue in a lengthy conundrum of a case.

* * *

Dr Wakefield's defence case and Kieran Coonan's route map, ended with a brief glance at the prosecution charge that Dr Wakefield brought medicine and the medical profession into disrepute by telling a funny story about blood being taken from children at a birthday party. This particular charge doesn't really bear commenting upon in an age when pharmaceutical company executives are not brought personally to account for the thousands of deaths caused by their products. Bringing medicine into disrepute – I should coco.

The Cross-examination Begins, Begins, Begins, Begins

You have to hand it to Miss Smith, she has at least two abilities that shine like bright torches in an otherwise dark cave. She does both ‘procrastination' and ‘arguing the toss' with distinction. In this last week her gifts have been displayed to singular effect.

On Thursday Miss Smith called off the prosecution cross-examination just as everyone thought it was about to start. When procrastinating her stories are reasonably plausible. Miss Smith used the grown up legal equivalent of ‘the dog ate my homework', in order to begin the cross examination on the following morning. ‘The defence has taken us completely by surprise', she said in all seriousness, but just as the teacher suspects the school- kid who doesn't have a dog, every observer of the hearing knew that the defence had claimed nothing that had not already been argued *and* it had wound up five days before.

‘Arguing the toss' is Miss Smith's form of cross-examination. It's a very simple technique, the witness says ‘I didn't' and Miss Smith says, ‘You did'. A real expert like Miss Smith can maintain this ersatz cross-examination for an afternoon without drawing breath.

Before we look more closely at the beginning of the prosecution cross-examination of Dr Wakefield, by Miss Smith, I have to recount what happened on the morning of Friday 11 April. Simply put, someone organised an ambush of Dr Wakefield to coincide with the first day of the prosecution cross-examination.

This ambush was organised by professionals and was unusual in the sense that the media normally only rise to attending court cases, inquiries or tribunals on a limited number of occasions; the opening of the prosecution, perhaps the presentation of the defence and the appearance of ‘important' witnesses. In all my days hanging around the courts, I have never known the prosecution to organise a media ambush on the opening of the prosecution cross examination of a defendant.

Before we look at who might have organised the ambush, lets see what it entailed. When Dr Wakefield and Carmel arrived at the GMC, they were

filmed going in. Inside the GMC on the third floor, the press room was packed with journalists and as is increasingly the case, Dear Brian was holding forth giving a press briefing, while next door GMC media personnel were interviewed by the BBC. By 11.00 am, Carol Stott was receiving emails about the BBC 24 Hour News report that contained the utterly untruthful claim that parents had paid Wakefield to discredit the MMR vaccination.

Fortunately Carol was able to confront the journalist who had put out the untruthful BBC report, telling her that the accusation she made against Dr Wakefield had never been a part of any charges against him. It would, replied the journalist, be taken out of the news report but there was no possibility of a retraction. The journalist went on to explain that she didn't really know the story and that BBC journalists were sent out to cover the event at random times because they couldn't afford to have someone in there the whole time. Random times which coincided, presumably by sheer chance, with the first day of the prosecution and the first day of cross-examination.

As misrepresentations continued to go out ‘over the wires' a call was made to Max Clifford's office. The fact that this happened at all was one thing – causing a couple of journalists to smirk behind their hands that anyone should imagine he'd actually turn up. Having him walk in an hour or so later was quite another thing – and had the same journalists introducing themselves, in a fluster and asking ‘ er …whether…. er , there were any problems with the coverage so far, sir….' Mr Clifford arrived about 20 minutes before Miss Smith closed early for the day and in my opinion, played a master card when he told journalists that he was there to support CryShame and that as the organisation had no money, he was offering his services free of charge. To be honest, I thought that this fact was more likely to strike the fear of God into journalists than the actual sight of him at the GMC. Quite what he is tasked with is intriguing….no doubt we shall see.

It struck me first thing in the morning that there might have been a connection between Miss Smith 's calling off her cross-examination and the media ambush of Friday morning. However, sucker that I am for Miss Smith's steely charms, I couldn't quite bring myself to see her conspiring with the media. This leaves only two usual suspects, the GMC itself and Dear Brian and while I have the utmost respect for Dear's capabilities, I doubt whether he could call the media to the GMC, so this leaves us with the GMC itself.

What a mockery of justice and legal process. According to the GMC, they brought the complaint, they brought the prosecution, they chose the jury (panel), they are holding the hearing and they enact the sentence; thank god we don't live in a totalitarian society and thank god, we don't live in the kind of society like Russia for example where the government can reach out to bogus professional organisations and get kangaroo courts to do their dirty work.

* * *

This last week has been disintegrated. On the days the panel did sit and hear evidence, it closed early, and on two days Tuesday and Wednesday the panel didn't sit. On Thursday the GMC needed time to organise the media in support of Miss Smith's cross examination and so the panel again broke at mid-day.

Following the evidence in chief of Dr Wakefield, counsel for Professor Murch and Professor Walker Smith both took the opportunity to cross-examine him. Counsel works in mysterious ways and it was not possible to understand the real purpose of many of the cross examination questions. It appeared more a matter of house keeping than anything else, the two counsel , needing to clarify points that will rise again during the evidence in chief of their two clients.

By Friday morning the hearing was ready to hear Miss Smith's cross examination of Dr Wakefield. The central point that Miss Smith sought to develop during this first day, was that all the Lancet paper children were involved in a research project that did nothing to help them clinically. In fact she seemed to be arguing that the whole department was involved solely in a research project. It was as if Miss Smith had been asleep during the whole of the presentation of the defence and now came roaring back into court to voice the prosecution case for a second time. Miss Smith is anything but organic in her presentation; she assembles her case like a blade-runner-replicant with memory loss.

Central to her argument was that Dr Wakefield was a research worker and all the energies of the Royal Free Experimental Gastrointestinal Unit were focused upon research. Clearly there was, argued Miss Smith, no intention of doing the individual children any good.

She alighted on one of the protocols drafted by Dr Wakefield and handed in to the Research Ethics Committee. ‘Look here', she said, ‘This is

entirely in the language of research' it didn't she said, ‘offer any medical treatment for individual patients'.

Dr Wakefield eventually replied with the simple truth that ‘this was a research protocol made out for the purposes of gaining ethical committee approval. The clinical work is not mentioned in this protocol because this does not have to obtain ethical committee approval'. But it was as if Miss Smith was speaking another language, or her batteries had been primed for only one response. ‘Yes', she said, but this protocol is entirely in the language of research and suggests nothing of what might be done to the advantage of individual children'.

To his credit, Dr Wakefield tried differently constructed answers to the same question asked over again. I'm afraid, however, that a sense of claustrophobia and an unsettling feeling of Groundhog Day, began to catch up with me. Miss Smith's cross examination technique was all I had suspected it might be and like a Brit in a foreign country, when she couldn't win her point by closely following the argument, she not only repeated herself but also raised her voice.

Dr Wakefield is certainly not alone in being concerned about next week's continued cross-examination. Like birds trapped in a greenhouse, I fear we will all find ourselves in the wake of Miss Smith dashing ourselves senseless against its glass panes.

The Patients of Job

Monday 14th to Friday 18th of April.

While Kieran Coonan had a route map with which he led Dr Wakefield through his evidence in chief, Miss Smith, in her cross examination seems to cover vast areas of desert in a vehicle with a disconnected Sat. Nav. Although she moved from one set of questions to another in a more or less linear manner, she bogged herself down frequently, and laboured so many points that one quickly forgot not only where one was in the evidence, but who and where one was in life itself.

As everyone who reads crime fiction will know, motive plays a considerable part in the detection process. In fact it is one of the corner-stones of classic detection, the others being forensic and witness evidence followed by evidence of alibi. It is interesting to look at Miss Smith's case in light of these factors. When it comes to alibi evidence, Dr Wakefield always appears to be somewhere other than the place where Miss Smith's faux crimes are committed. The important witnesses are either on his side or charged alongside of him and if we consider the mountain of paper work that insulates the hearing room as forensic evidence, quite unlike other kinds of forensic evidence, it is all vulnerable to textual misinterpretation. However, it is in the area of motive that Ms Smith's case falls down so absolutely.

As Miss Smith increasingly adopted a moral-high-ground whine throughout the week, manically repeating charges, and as a superhuman effort was needed on behalf of observers to stop the slide into coma, a question rose to the surface of one's mind. After so far honourable careers in medicine and medical research why would Dr Wakefield and his co-accused suddenly begin to experiment on children, without research ethics committee approval or parental consent? Why would a research worker of Dr Wakefield's calibre, with a grant funding history involving some of the biggest pharmaceutical companies in the country, suddenly wantonly disguise a conflict of interest?

There is, inevitably, room for sympathy for Miss Smith. Like an East End market trader she has been sold a Dear Brian pup by the GMC and in order to stay alive she has to sell it on. This process involves what might rightly be called a confidence trick. Miss Smith has to turn a well run-down car into a limousine in front of a sceptical audience. Consequently,

big issues like motive have from the beginning of the hearing, like the children themselves, and their parents, been ignored.

In some circumstances, the question of motive cannot even be framed because Miss Smith only hints at what Dr Wakefield might have been guilty of. Take the case of the £55,000 funding that the legal aid board paid to the Royal Free Hospital so that work might continue into possible links between measles virus and inflammatory bowel disease. It has always been implied by the prosecution that somehow even the idea of this is completely unacceptable and there has been not a murmur from Miss Smith about the comparable situation that occupies the time and the intelligence of the whole herd of academics who have dedicated their lives to being expert witnesses for the pharmaceutical industry.

In relation to this money, Miss Smith claims that Dr Wakefield didn't spend the second £25,000 tranche of it on his research. However, she failed to tell the panel what he did spend it on, so leaving a great yawning criminal chasm for the panel to ponder. The mind's eye sees Dr Wakefield dressed like a spiv, fanning out notes in his hand at the dog track, leering like a young George Cole in a St Trinian's film.

Prior to this accusation that Dr Wakefield had spent the money on himself, she had ranted on for hours about him trying to defraud the legal aid board, by billing bogus claims for clinical procedures which were not actually carried out. In this scenario, he was a simple fraudster; profit, apparently, his sole motive. This later example is perhaps a good one to expand in order to explain the difference in the two stories narrated by Dr Wakefield and Miss Smith. Which story would you believe?

Dr Wakefield's Tale

Having accepted the offer of research funding from the legal aid board (via Dawbarns solicitors) to continue work on the relationship between measles virus and regressive autism/disintegrative disorder, Dr Wakefield is guided in making out the application for funding by Richard Barr, the solicitor handling parent's claims for MMR vaccine damage. Barr asks him if there are any areas, adjunct to the straightforward microscope research, which he might usefully ask to be funded. Dr Wakefield puts to the lawyer, the rare but possible situation of a child who might reach the Royal Free but is not covered by the NHS because their GP does not agree with the child's transfer to a London hospital. So the lawyer enters a section in the LAB funding claim for funds to cover this contingency. In

the final analysis, no such children end up undergoing diagnostic and treatment tests at the Royal Free, the LAB is not billed for any such coverage and neither Dr Wakefield nor Richard Barr receive any money in respect of such a claim.

The Prosecutors Tale

Having pocketed the offer of research funding from the legal aid board, via bent solicitor Richard Barr, a man who has pledged his life to the destruction of all pharmaceutical companies, Dr Wakefield prepares to continue work on the relationship between measles virus and some disease or other that he doesn't really understand. Off in a corner, on his own he formulates a master plan. Between them, Barr and Wakefield, should conspire to claim money to cover a contingency that they know will never occur, so perpetrating a fraud on the LAB.

The prosecutor offers no motive for this, other than insipient criminality; she refuses to recognise and utterly ignores the fact that no money was ever claimed by either the solicitor or the doctor under this head.

Of course, Miss Smith's fantastic plots are labyrinthine and there is much more to Dr Wakefield's criminality than just this one instance. Being an experienced solicitor and realising that it will be difficult to ask the LAB retrospectively for money, Richard Barr discusses with Wakefield the possibility of him needing other members of the Royal Free ‘team', to write reports on specific children and give separate evidence. Dr Wakefield is led by Barr's experience and agrees that this circumstance may occur, so they apply for legal aid under this head as well. Richard Barr of course knows that if the reports are not needed no claim will be made on the LAB. What Miss Smith avoids throughout the whole of her cross-examination, is to agree with the defendant that this is a perfectly legitimate practice.

In fact, having spent years in the Kafkaesque lawyers warren in which she practices, Miss Smith knows this. She also knows that because legal aid can, in some cases, be ephemeral it is best to apply under as many heads as possible. She deliberately confuses the practice, again claiming that Wakefield is a criminal and his sole motive is the illegitimate or fraudulent obtaining of money from the legal aid board.

And then there is the matter of the declaration of conflict of interest. Dr Wakefield filled in two forms prior to the publication of the Lancet paper.

One was created for the purpose of recording, for the Lancet editorial board, instances of conflict of interest. The second was for ethics committee approval, for a different study as it happens, but stay with it. No conflict of interest was declared on either. Primarily because acting as an expert witness and receiving money for research from uninvolved parties did not, at that time, or more recently, anywhere in Europe or America, constitute a conflict of interest.

Miss Smith embarks upon a cross examination on this subject. Almost immediately, Dr Wakefield acknowledges that he made an error in not reading the ethical approval form with sufficient care (i.e. the one for the different study, not the Lancet study). One line, tucked away amongst several unrelated issues, asks for declaration of source of funding. However, he does note that receipt of money from the legal aid board is not cited, amongst the list of examples, as a conflict that must be declared. Miss Smith gets very angry and school ma'am- ish . ‘I'm not asking you about the form', she says, as she stamps her feet, ‘forget about the form, if the matter was not on the form, should you not have contacted Dr Clegg and asked whether this was a conflict of interest'. Wakefield describes the nature of the form and how it was created, making clear that if a matter is not on the form then the best ethical minds have decided that it doesn't need to be declared.

Miss Smith becomes irate, ‘Stop talking about the form' she says, echoing John Cleese as Basil Fawlty insisting that no one should mention the war in front of the German guests. ‘Just forget the form', she says, now almost shouting. And then descends into name calling. You don't take this seriously do you? This is a reflection of your absolute arrogance. Couldn't you act on your own initiative?

Miss Smith's aggressive and slightly demented accusations against Dr Wakefield in relation to the LAB money, do not stop there. Before one can draw breath she is accusing him of writing a letter, on receipt of the money, on Royal Free headed notepaper, to the legal aid board. At this point we have to bear in mind the evidence of Mr Tarhan , the accountant at the Royal Free, who gave his evidence for the prosecution with enormous integrity. According to Mr Tarhan , Dr Wakefield, who he believed to be a good doctor, also behaved with integrity and the only thing he might have done wrong was to fail to send a note with the funding, informing the accountants of its source. However if my memory serves me correctly Dr Wakefield did send a letter to one of the

accountants, suggesting that if anyone had any questions about the money, they had only to ask.

Miss Smith of course will have none of this. She appears to infer that when Dr Wakefield wrote to the legal aid board, after receiving the money, he was involved again in some furtive act. Who was he to use RFH headed notepaper? ‘Well', Dr Wakefield answers, ‘I was an employee of the Royal Free Hospital'. Miss Smith drives on into the darkness, her wheels getting bogged down in the desert sands. ‘I put it to you Dr Wakefield that this was an act of sheer arrogance'.

The idea that not only was Wakefield a criminal but the most arrogant of medical men has become a leit -motif of the prosecution, upon which Miss Smith is now relying heavily. Everything that Dr Wakefield does is now shaped by arrogance. In fact, Miss Smith was forced to adopt this style of personal insult following one of her previous own goals.

Endlessly questioning Dr Wakefield, to no purpose at all, over his administrative management of the incoming children to the hospital, Smith tried to show that Dr Wakefield was clinically involved. She displayed astonishment that a research doctor of his calibre would have volunteered to perform the low duties of a clerk in telling child patients when to go to other departments for procedures. After she had droned on and on asking about this, Dr Wakefield without a hint of sarcasm or any desire to ‘get back' at Miss Smith, answered; ‘There is a great deal of room for humility in the medical profession and I have no problem at all in carrying out lowly tasks'.

I wondered after this, how Miss Smith was going to recover from this spectacular own goal. In effect she had so goaded Wakefield with constantly repeated questions, that a well focused and articulate riposte was bound to come out eventually. Smith had to rub out this comment by portraying Wakefield as arrogant from that time forth.

This was the first of two own goals over the two weeks of Miss Smith's cross examination. The other came when she described Dr Wakefield as ‘anti-vaccine'. All he needed to do in order to rebuff this notion was point to the fact that his own children had been vaccinated.

When observing this charade of injustice, it is important to bear in mind that the major substance of the charges was originally created by Dear Brian and he, being neither a police officer, a lawyer nor a crown

prosecutor, was guided neither by training, regulatory discipline, nor any account of due process. However much the GMC claim that they have added to and rebuilt the superstructure of Brian's original case, the basic assertions of the case belong to Brian and those with whom he might be working. It is abundantly clear, as time goes on, that the GMC fell lock stock and smoking-barrel for Brian's narrative and while they did take some of the more ridiculous passages out of it, they added little of substance to it.

It is for this reason that Miss Smith's whole case and her cross-examination, is built on sand. If, in your mind's eye, you strip away all the irrelevant persona involved in this trial, you are left with Dear Brian standing ghost-like behind Miss Smith manipulating her presentation, egging her on and whispering directions to her, while at the other end of the room sit three reputable doctors who have had, all their working lives, only their patients interests at heart.

Another completely surreal critique of social and medical manners occurred this Friday, when Miss Smith offered a letter to Dr Wakefield. The letter had been written by him to a mother whose son had just seen Dr Berelovitz , Dr Wakefield signed off the letter with the words, ‘If you have any further questions please don't hesitate to contact me'.

The way that Miss Smith questioned Wakefield over this matter, you might have thought it was secret code to convey the message, ‘Tomorrow, brothers we blow up the Houses of Parliament'. Miss Smith questioned Dr Wakefield mercilessly about his method of signing off. ‘What did you mean by this?' ‘What advice could you offer this person?' ‘Why were you so keen that she communicated with you?' ‘Why should she contact you?' ‘Why would you want her to contact you?' Miss Smith ranted like a jealous lover. She finally intimated that she suspected Wakefield of, either, being covertly involved in clinically testing the child, or, the opposite, trying to siphon the patient off from the clinical side of the work and assuming control of him as a research subject.

In fact the picture of medical culture Miss Smith would like to see operating in Britain's health service and hospitals filled me with anxiety. In this world clinicians are barred from talking to researchers, everyone is barred from talking to GP's. Hospital doctors are barred from talking to parents or patients beyond the hospital. No one could communicate by telephone. No terms of endearment or salutation or casual reassuring remarks are allowed. It is a jobsworth world, where doctors do only what

is described in their job description and where no one volunteers for extra work - lowly or otherwise.

At more than one point over the last week, it has crossed my mind that Miss Smith was clearly confusing the profession of medicine with the legal profession. Most of you will know that barristers are not allowed to talk to defendants in private without the presence of a solicitor. This rule was brought in to legal practice to stop criminals suborning barristers who, throughout the late nineteenth and early twentieth century were amongst the most easily bribed professionals. While today they think of themselves as blue-chip practitioners carrying great weight and some power, in the nineteenth and twentieth centuries they were more likely to be down at heel, seedy characters. These characteristics are of course, still recognisable in legally trained members of the political caste such as the Blairs .

Between Fridays, Miss Smith moved through all the areas of contention, beginning with the apparent lack of Research Ethics Committee approval for the first children involved in the Lancet paper, until on Thursday she embarked upon her accusations relating to the children themselves. Below in bullet points I have charted the areas that Miss Smith cross examined Dr Wakefield upon.

- The different studies that had sought ethical approval. The LAB study that was to look at 5 children with Crohns disease and 5 children with autism. The Lancet case series and a bigger research study that would look at the same areas as reported in the Lancet case series on a larger group of children. Miss Smith hopelessly confuses the ethical approval for these studies, and, in one of those amazing coincidences that restore the will to live, she gets it wrong in exactly the same way as Dear Brian did four years earlier.

- The LAB money was paid to the Royal Free in two parts, Miss Smith claims that Dr Wakefield used the second part, some £25,000 on himself.

- Research work done on children without ethical approval. According to Miss Smith this applies mainly to the first few cases cited in the Lancet review. However, the defence claims that an earlier ethical approval held by Professor Walker-Smith was in place to cover work on the first children. Rather than approach this head on as she will have to do when Walker-Smith takes the stand, Miss

Smith has made considerable mileage out of this unfounded accusation against Dr Wakefield.

• Following Dear Brian's somewhat tardy and implosive ‘expose' in the Sunday Times, Richard Horton asked the three defendants to write up reports on different areas of controversy. Professor Murch was allotted a report on ethical approval. Like everyone else at the time Murch had only Dear Brian's partial information to work on. Consequently he submitted a report to the Lancet that in retrospect appears to have been inaccurate. Clearly this matter will be clarified when Professor Murch gives evidence. For the moment however, Miss Smith has made the most of his report that appears on the face of it to leave Dr Wakefield without ethical approval for some of his early research.

• On the children, broadly, Miss Smith claims that none of them had disintegrative disorder. In fact this is one step up from the original prosecution case that had denied the very existence of any disintegrative autistic disorder that occurred after the child had begun to develop well. This condition, along with IBD, were conditions that Dr Wakefield insisted on pinning on the children so that he could get them to the Royal Free in order to experiment on them.

• The prosecution claims that Dr Wakefield ran the whole gastrointestinal department himself, that he got the children referred to the Royal Free, that he clerked them in, that he gave them preliminary examinations, that he organised all their procedures and tests and that he then ‘caused these procedures to happen'. According to Miss Smith there was no one else at the Royal Free making any decisions at all about any of the patients there, just Dr Wakefield; he was a kind of Super-Doc, constantly changing costumes and giving diagnostic advice over his shoulder, while he performed invasive procedures and stalked the country looking for new subjects for his experiments.

• Finally Miss Smith claims that none of the children included in the Lancet paper were seen by anyone at the Royal Free for their clinical well being, they were all subjects of experimentation.

I am not going to address the cross-examination in relation to each of the children included in the Lancet case review. Because it has been accepted

by the GMC that sitting through this information for the fourth or fifth time might trigger serious mental collapse in observers, anyone wanting to observe this session had to hand in certification and proof of a recent lobotomy, which put them out of danger. Although I am willing to do many things in the search for Justice I can't do this. I did notice however that Dear Brian was there first and last thing on those days.

Hopefully, anyone who reads this account regularly will, by now, be familiar with the repeated position of the prosecution. Hopefully, anyone who reads this account regularly will, by now, be familiar with the repeated position of the prosecution. Hopefully, anyone who reads this account regularly will, by now, be familiar with the repeated position of the prosecution. Hopefully, anyone who reads this account regularly will, by now, be familiar with ... For those who are not, here is a very quick, one time summary.

- Children's parents contacted Dr Wakefield after hearing erroneous reports of his work, thinking he was a clinician. Dr Wakefield did nothing to abuse them of this notion.

- Dr Wakefield manipulated the referral of these children into the Royal Free.

- Dr Wakefield somehow took charge of their clinical appraisals and prescribed procedures.

- Dr Wakefield personally managed each case.

- Although Dr Wakefield maintained that some of the children had disintegrative disorder, countless GP's and Consultants, who were experts in autism spectrum disorders failed to diagnose such a condition.

- Although Dr Wakefield maintained that many of the children had inflammatory bowel disease, countless experts had prior to their admission to the Royal Free, failed to diagnose this.

Although this process of cross-examination is soul-destroying and very stressful for Dr Wakefield, he does appear to be learning all the time. Near to lunch time on Tuesday, harangued by Miss Smith to agree that Professor Murch's report of Ethics Committee approval was obviously the last word on the subject, Dr Wakefield lapsed into post-modern

philosophy; he had, he said, realised that ‘nothing can be resolved without documentation'.

Two interesting aspects of law have emerged during these days of cross examination. I, and others were surprised to see Miss Smith introduce new documents in evidence during her cross-examination, I didn't know that this was allowed at such a late stage in a ‘trial'.

Second, Miss Smith has made substantial ground for much of her cross-examination by putting to Dr Wakefield documents written by others. She has then embarked upon long interrogations, asking ‘Is this what you think', or ‘Do you think this person was correct in this statement'. Not too long ago I attended a trial during which the prosecution presented third party internet documents as evidence against the defendant. The defendants council argued, quite reasonably, that these documents were not the work of his client and his client actually had no control over their creation or dissemination.

Further, he suggested there was no knowing when these statements were first issued and how long they had been on the internet. Especially, it could be the case that the attention of his client had been drawn to them and he might have changed his practice in response to the statements, or even made an attempt to deny them or get them taken down. It might even have occurred to those with a conspiratorial turn of mind that the State or some other party might have placed these statements on the internet with the intention of damaging others.

I thought that the barrister presented a good case for the unreliability of unattributed statements on the internet. In fact it seemed to me to be ridiculous that the judge ruled that this information trawled from the internet had exactly the same value in law as a signed statement with a presented witness to speak to it. Any fair assessment of this ‘evidence', I would suggest, would determine it at best, as circumstantial.

Miss Smith has based a large part of her case on witness evidence from third parties; I remember her outrageous questions addressed to GP witnesses, such as, ‘Where do you think that this parent got the information about Dr Wakefield?' Of course this is all very interesting but it seems to me to have next to nothing to do with what previous generations of legal commentators have called ‘evidence'. It has struck me during the hearing that Miss Smith, is happily presiding over a hearing that is in large part adding to the corruption of legal ethics and due

process. This insidious deterioration is like the gradual deterioration of the English language. I don't know whether it should have been the responsibility of defence council or the legal assessor on the panel to rein in Miss Smith, when she rode rough shod over the rules of evidence, but I think someone might have done it, simply to maintain standards.

One wonders on occasions at Miss Smith's attention span. She must, I would imagine, rise from her bed and complete the journey into work with a clear mind. However, after a short time on her feet in the GMC, her attention seems to wander. On Tuesday, for instance Miss Smith began well and I wrote in my notes: ‘Miss Smith is a lot more articulate, the tone and audibility of her voice is much better and she seems to follow the direction of her case with greater ease'. By 10.30, however, she has gone into a tail spin, her arguments have become muddled and her tone recriminatory. I wondered then whether she has a Kamikaze gene or was perhaps affected by some environmental insult inside the GMC building.

While Miss Smith's cross examination has been pursued erratically, and apparently with no clear objective in mind, Dr Wakefield's response to her has been exemplary and although Miss Smith attempts to maintain the idea that he is failing to answer her questions, dodging the issues and generally acting in a shady way, he answers every question in the manner of an innocent man. He has taken the occasional personal insult incredibly well, refusing to rise to it or be drawn into an argument.

Dr Wakefield is also always willing to argue in defence of Professor Walker-Smith and Professor Simon Murch . At one point, in referring to Professor Walker-Smith, and as if ridiculing Miss Smith he said , ‘The idea that one of the world's greatest paediatric gastroenterologists would experiment on children is ….. I leave you to fill in the rest of this sentence.

At the end of the hearing last week, I found when I returned to the boarding house in which I have been staying, a letter had been delivered by hand. It waited for me on the highly polished hall table, next to the ridiculous brass bell with which the landlady summons everyone to meals. The envelope was of fine thin paper lined with a silk textured crimson tissue paper. Unusually, my name was written on the front in black ink with a broad- nibbed fountain pen. On the most superficial perusal the letter seemed to have come from another era.

Getting back to my room I sat in the arm chair by the window and slit open the envelope with my pen knife. A card fell to the carpet as I pulled out what appeared to be two sheets of seemingly heavily perfumed white stationary. I picked up the card and found that on the reverse, in a small but flowing looped hand was written the following.

Dear Mr Walker, I hope that I do not trespass upon your time too greatly when I ask if you might do me the favour of handing Miss Smith the enclosed letter when you next attend the GMC.

I rested back in the chair and opened the pages that the gentleman, for gentleman his card suggested he was, had sent to me to be passed on to Miss Smith. The pages were headed, Notes on Style and this heading was followed by the letter that I reproduce in full below.

My Dear Miss Smith,

I hope that you will not think the worst of me for sending you this missive. The truth is I could no longer contain myself. I have followed your appearances now for a number of years – no, it will do you no good to try and place me – and I have been present for the last weeks of your cross-examination of Dr Wakefield.

Despite the fact that I am considerably younger than you and of another though allied profession, I know deep in my heart that you will not be hurt were I to offer you my advice and my deeply held beliefs about your style of presentation, both constructive and ever so slightly critical.

When I was in my teens, I went through a period of reading modern European literature. I can now, only vaguely remember one book, I think by a Czech writer, about a man who boards a train that, out of control, goes faster and deeper into the heart of the earth.

I have been wondering recently whether you read this same book. I have pondered over the matter for hours, feeling that if you had, this would bring us closer; I contemplate our fingers turning the same pages. There is without a doubt a beautiful surreal and modernist feel about your cross examination, a relentless kind of alienation, such as might be found in the work of the German Expressionists. Your questions reach deep into the human psyche, where they descend into a kind of plastic negativity. I remember your questions in my dreams, such sweet incantations; the most profound poetry.

You have developed your craft to perfection, introducing novel and original elements that are too numerous to mention. If cross-examination were chess, then so many of these gambits would carry your name. I find your reversal of the traditional objective of cross-examination, exquisite and stimulating. One hangs on your every word, in the sequence of your questions, waiting for a dénouement; waiting for you to pull something from your sleeve with a flourish. Then the breath escapes audibly on finding that you have nothing up your sleeve at all, and your cross examination is anti- climactical . How stimulating I find this; how perfectly post-modern; to lull the defendant into believing that you are going somewhere and then to finish only with a slightest of enigmatic smiles; such economy of feeling.

During the late morning of Tuesday while I watched you, I spent my time trying to think of a suitable metaphor that expressed your style. I came up with the following, that I should perhaps apologise for before you read it. I hope that I do not offend with my search for a popular manner of expression. The crudity of my description probably owes much to the fact that English is not my first language. I wrote:

'Your cross-examination is like a person on all-fours looking for a sandwich dropped on a crowded ballroom floor after the lights have failed.'

I know that this does not express succinctly the whole of what I feel for your craft but it hints at the intellectual gravitas that comes into play when you probe so deeply in search of the truth.

I find it fascinating that you use that rare combination of the personal with the coded language of the law. It is arousing and beyond beauty, when on failing to get the answer you need, rather than slightly change tack to wrong-foot the defendant – a crude and well publicised strategy - you ask the question again and again and again more strongly and with a slightly raised voice.

I also admire the perfect and symmetrical construct by which you bring a set of questions to an end. On the frequent occasions that the defendant answers with a rebuttal and there appears to be nowhere for you to go, you turn gently and Houdini-like glide into the next set with the awesomely simple , 'Well lets move on to the next point'.

How few are the counsel who are able to use controlled personal rudeness and feigned exasperation. With none of your ten repeated questions having been answered adequately, you chose simply to mime sarcasm and rudeness. Again such a marvellous economy of sinewy strength, as you turn your profile to the defendant and speak with a powerful and imperious tone!

Yet well beyond these simple tricks of the trade, high above the level playing field of the trial, soaring like a bird, is your ability to paint an innocent man as guilty as a deep, cold and unforgiving sea. In your eyes, at your hands, the most innocent of men would, even in their own hearts, realise their guilt and throw themselves upon the ground before you. The very nature of your inspired strategy of the multiple repeated question, enforces upon the defendant, an anxious disbelief in himself; nay, not only himself but the very world in which he sits and walks, talks and breaths.

I have nothing but admiration for you and for the mind that brings to our profession this sharp, cutting edge of originality. I no longer hope, for now I know and am much relieved, that your name will go down in juridical history. When I think that I have had the honour of watching you, even from a distance my blood pounds and my mind is soothed with the balm of gratitude.

I forever wish to be your obedient servant,

After I had read the letter, I sat still in my chair, my mind in turmoil. There was an ability , a turn of phrase embedded in the letter, that reminded me of cheap erotic literature of the 19th century, a kind of stifling over flattering warmth. Yet however hard I considered the letter I could not place the mind, or the person behind it.

I decided to made the letter public, knowing that it must have been sent to me for a reason and that the writer, who seems to have delivered it himself, was, it occurs to me, hopeful that I would deliver it both privately and publically. To save any eventual embarrassment and blushes, having decided to make it public, I have declined to reveal the nome de plume of the writer.

Just When You Thought it was Safe to go Back in the Water

In the last 13 working days, the panel has sat only on 5 interrupted days (Wednesday 23rd April, Tuesday 29th April, Wednesday 30th April, Tuesday May 6th , and Wednesday 7th). This is hardly the agenda for a group that in the Health Minister's words, should consider the case of Dr Andrew Wakefield ‘as quickly as possible'. Still, never mind we know that the whole plan and objective of the GMC is to ensure that Dr Wakefield is ‘out of play' sitting in the sin-bin for as long as is possible, while the government and science lobby groups press their case for the safety of MMR and other combined vaccines, beyond the hearing.

Such extensive delays, however, make the reporting of the case difficult and I feel that I should remind you of the form which this hearing – the *hearing* that the Chairman last week returned to calling an*enquiry* - takes.

You will remember that last year after an interminable opening speech during which Miss Smith described in detail the prosecution case, she presented the prosecution witnesses. This process took from July until October, almost three months.

When we returned on March 27th 2008, Dr Wakefield began presenting his Evidence in Chief. This took the form of him being led through this evidence by Keiran Coonan. Coonan's approach to this was masterful, done with the ease of consummate summary. However, despite the logical and progressive narrative that Coonan and Wakefield provided, it was actually difficult to present a complete narrative until the prosecution had revealed all of their hand during the cross examination of the defendant. As I have said before, the GMC prosecution case is based fundamentally on Dear Brian's narrative and because this narrative is threadbare and lacking in proper proof, Miss Smith's prosecution is inevitably oddly anarchic, waving about like a wind-sock in a gale.

So it was the case that after the defence had been well and logically presented and it was Miss Smith's chance for cross-examination, she didn't so much as respond to the defence Evidence in Chief but embarked a second time upon the presentation of the prosecution. Dr Wakefield

must have wondered why he had just given his evidence because Miss Smith seemed not to have heard - or at least believed - any of it. Nor had she altered her case as a consequence of it. Instead of picking up on the vulnerable elements of Wakefield's Evidence in Chief, although these are hard to find, she began at the beginning, once again stating the prosecution case.

Miss Smith's cross-examination began on Friday April 11th and lasted until Tuesday April 29th, nine working days that must have seemed like nine years to Dr Wakefield. Inevitably it crossed my mind, as it would anyone's , that Miss Smith was a Time Lord and that the GMC had cleverly converted the room on the 3rd floor into a Tardis ; the nine days seemed to stretch interminably over eons. The cross-examination was made more mind-numbing because, inconsistent and inconsequential as it often was, Miss Smith never wavered from her original prosecution brief, so everyone listened to the same, by now, oft-repeated story.

The various mechanisms of the trial allow for the gradual unfolding of two stories. In theory, at least, a well conducted trial or a court case should be organic, in which matter should gradually adhere to one or more allegations creating a complete and believable picture. The jury that has listened attentively following the information as it comes in, considers at the end of the case which story or which aspects of the stories are most complete and believable.

In the case of Dr Wakefield's narrative, presented by the defence, Mr Coonan has moved expertly throughout the hearing to develop the story, so that by the end of the hearing it will be logical, continuous and simple. While the defence has moved like a sapling in the wind, Miss Smith herself and the prosecution narrative (which might more properly be called an un-narrative) has stayed ram-rod stiff, like a tall concrete post in the path of a hurricane. The Prosecution took their story in all it's main features from Dear Brian and the GMC guided by an unfathomable desire to destroy Dr Wakefield, appears to have made little attempt to properly investigate these claims. The prosecution entered the hearing with a half-baked story that was full of holes and written with venom. Of course they have only themselves to blame for the lack of proper narrative that they now find themselves clinging to, like a drowning sailor to a ship's wreckage.

Wednesday April 23rd

Everyone had expected Miss Smith to finish on, or by, Wednesday April 23 rd but when that day dawned she simply availed us of the same detailed, anarchic confusion of questions that she had inflicted on all present over the last two weeks. Clearly getting close to finishing, Miss Smith appeared to create delays with even more trivia than usual.

Other than that, Wednesday was fairly event free. Miss Smith covered Conflict of Interest, the Lancet paper and the Transfer Factor patent - to no great effect. For reasons unknown, Miss Smith did change her tack on that part of the prosecution that had from the beginning maintained that the Legal Aid Board money had paid for the work on the Lancet paper - a theme very dear to the heart of the prosecution - to the slightly more subtle idea that the children chosen for the Legal Aid Board study were in fact the children used for the Lancet paper or the rejected Lancet science paper.

Miss Smith was to return to this misaligned allegation over and again in the next week. She did this despite the fact that it had been established beyond question that no LAB money had been used for the Lancet paper and the agreed LAB study had definitely not been started by the time the Lancet paper was published.

This new proposition of Miss Smith's went some way to supporting the prosecution case based on Horton's suggestion, encapsulated in the Rouse letter to the Lancet, that there was litigation bias in the sample used by clinicians and researchers in the Lancet paper, while at the same time shakily supporting the idea that it was Richard Barr and Dawbarns that had recruited and passed on 'legal case' children to Dr Wakefield's research at the Royal Free.

This new variation on a distorted history of the Royal Free clinical and research work also gives a good motive for Dr Horton's apparent reluctance to put detailed information about the Legal Aid money and the 'LAB study' before the Panel; information that we now know had been in Horton's possession for some significant time before the publication of the Lancet paper.

There was no hearing on the Thursday or Friday of this week or the Monday of the next. I had a short break from London on the days that the hearing did not sit. Immediately I sat again in the hearing, I was struck

by how bad the sound was in the chamber. The poor quality sound that has dogged the defence case and Miss Smith's cross examination adds to the overall feeling that the GMC care very little for the public or the parents. Despite sending in observers on the days that complaints are made, even on the last day of the hearing - the stenographer was having to stop the proceedings to tell them she couldn't hear - nothing has substantially changed and on the morning of April 29th, it was a considerable strain for anyone in the public gallery to hear any submissions. The other thing that is indicative of the approach of the GMC, although this might be idiosyncratic to this case, is the lack of information about when the hearing will not be sitting. Many of the parents whose children have been deeply involved in Dr Wakefield's work, might have to spend anything up to £150 for a rail ticket that gets them in to London in time to attend the hearing. Having made this outlay, the sudden announcement that the prosecution or the panel want to go off and play bowls in their local park for the afternoon comes as upsetting news.

Tuesday 29th April saw the fag end of Miss Smith's cross examination. She jumped through the last few simple matters like a disturbed flea, from one issue to another. Miss Smith dealt briefly with one aspect of 'the blood at the birthday party', but as is her wont, like a drunken bob-slay driver, she can't help but introduce extraneous accusations into the cross examination to make her point appear more venous or substantial than it is in reality.

Miss Smith introduced the scientific study - the second paper submitted to the Lancet that was turned down at peer review – in order to discuss why control group bloods were needed. However, always happy to muddy the water she veered off to make the point that this study was ‘the LAB study', i.e. the one organised and carried out for the Legal Aid Board using LAB money. Of course, it wasn't, but Miss Smith's barmy brief demanded that she say it was, so she insistently made the point. She even managed, on this purely incidental point to get in a ‘The truth is …. '.

Dr Wakefield dealt with this spurious allegation as he dealt with others, explaining in a clear and level voice that this study had been funded by the Royal Free Trustees and was carried out before the LAB money was deposited with them.

Having made nothing of this point, Miss Smith moved on to ‘the retraction', but really there was little rhyme or reason in Miss Smith's

cross-examination at this point. In fact she was reeling around like a punch drunk boxer at Bethnal Green Baths, swinging a left here and a right there.

Perhaps the ‘retraction' is the most perfect metaphor for the whole of the case against Dr Wakefield. First, of course it is never properly explained that those who put their names to the retraction were not retracting the science of the paper nor the valuable scientific information that had been uncovered by the doctors at the Royal Free about the measles virus and IBD; that they only retracted the interpretation that the measles virus element of MMR was the possible cause of subsequent bowel disease and regressive autism. Miss Smith harangues Dr Wakefield about this retraction over and again, stating that he was left mainly with the support of Dr Harvey, everyone else having deserted him and signed up to Dr Richard ‘the weasel' Horton's retraction. Wakefield argues, logically that you can't retract a possibility. He says calmly that he read the paper over and over again but could find nothing that he thought should be retracted.

This infuriates Miss Smith who jumps heavily on his observation. 'Well', she says, if you didn't agree with Dr Horton's retraction, you could have agreed another one. Evidently to Miss Smith one retraction is as good as another.

When Dr Wakefield stares at her bemused, she trundles on like a runaway pantechnicon , ‘Not only did you not retract the paper, you defended your position'. By Jesus and Mary, Dr Wakefield, why didn't you just confess? Why didn't you just save yourself all this trouble and strife? Miss Smith echoes the guilt of torturers throughout history - all I asked was that you sign the confession.

Anyone with a whiff of sense can see that there is something going unmentioned here. What kind of pressure was put on the authors who did sign the retraction? Did they all willingly and autonomously sign the retraction and happily distance themselves from Dr. Wakefield. In fact, there are still authors lodged in other countries who will not speak to even their closest colleagues about those dark days of the Horton inquisition.

Miss Smith moved on to her Swan song, the blood at the birthday party. Because this last wilting issue is perhaps the strongest point in the whole prosecution case she used her reference to it as a final dénouement.

At around 11.45, we were treated to the video taken at the time of the Press Briefing organised by Professor Zuckerman, just prior to the publication of the Lancet paper. This video, with poor camera work and atrocious sound, was being shown for the second time. After the first showing an argument had ensued. The hearing had provided a partial transcript of the event, so that the panel could tell what was being said in specific instances, but after watching and listening to the utterly uncommunicative film they demanded a full transcript; this had now been produced and the hearing re-watched the dead images while reading the transcript.

It is indicative of the GMC's attitude to the parents and people in the public gallery, that none of this embellishment is provided for them. Although it is impossible that justice is seen and ‘heard' to be done, the GMC seems determined that the whole event maintains its status as a circus for barristers and not the public edification.

My attention was distracted during the video by the odd wig-like look of Dr Wakefield's hair - smoothed out by the poor quality of the recording - and the manner in which the now retired Professor Zuckerman had aged over the last decade. But what I suppose is stunning about the video is that while it represents a watershed in the narrative about Dr Wakefield and the attack upon him and his science, it is clearly the case that the Press Briefing was as normal an event as the non-arrival of a 24 bus in Charing Cross Road in the rush hour.

In fact, had the film been of better quality and had the defence counsel been more inclined towards the post-modern, it is my contention that this film, interpreted by specialists in semiotics, linguistics and body language, could have provided the whole of the defence case. Here is represented a group of clinicians and medical researchers, giving a very ordinary report on the results of their latest work. There is support all round for the precautionary principle and the monovalent (single) vaccine. The only evidence of a jarring note and the beginning of a skid that would lead to the crash that was to come, was in relation to the Government, to whom the research and the pleas about the precautionary principle were addressed.

At the end of the Tuesday April 29 th , the prosecution cross examination finished and Mr Coonan rose to tell the hearing that his re-examination of Dr Wakefield would take only ‘one-session' the next day. Mr Coonan's use of the expression 'one-session', showed yet again how the legal

profession is clearly inarticulate outside the use of legalese. Constant discussion amongst audience and participants got nowhere near Mr Coonan's meaning. It transpired that what Mr Coonan had meant by ‘one session' was simply ‘as long as it takes'.

Wednesday April 30th

I don't know how Dr Wakefield felt when Keiran Coonan rose to re-examine him at 9.25 on the morning of April 30th, but my whole body relaxed as he began to draw together the threads of the defence case. I wrote in my notes, ‘Suddenly you feel that Dr Wakefield is again in safe hands'.

As the re-examination went on, something else became blindingly evident. Despite the fact that Miss Smith had driven her rickety horse and cart backwards and forwards over the pot-holed landscape of the case in an attempt to confuse her pursuers, the full absence of her case was now exposed and in the simplest and most dignified of strategies, Coonan and Wakefield reclaimed the narrative.

Dealing with the re-examination under headings in sequential order, Coonan and Wakefield put back the information missing from, or distorted by, the GMC's case. When the case had been told through re-examination, there were few remaining unanswered questions.

Many of Miss Smith's founding accusations were vaporized by this beautifully clear re-examination. The fundamental question - that Miss Smith had chewed over like a mongrel dog - that of the Legal Aid Board (LAB) study, in fact being the Lancet case review or possibly the science paper sent to the Lancet at the same time, was settled simply and unequivocally; no LAB money was used to research any of the data presented in either of the papers submitted to the Lancet. LAB money was spent on nothing other than the studies agreed with the LAB to service the case of the vaccine damaged claimants handled by Richard Barr.

Of course, had it not been for the fact that Miss Smith had a predilection for accusing Dr Wakefield of not being truthful, had this been an ‘enquiry' of any kind, these matters could in fact have been answered during her cross-examination; many of them were, but Miss Smith chose not to hear or believe them.

The re-examination of Dr Wakefield by Mr Coonan became, as it flashed by, the best example I have witnessed of the defence resurrecting the whole defence case following cross examination. This was possible, principally because Miss Smith's cross examination rather than clarifying the prosecution case, touched, over and over again, on the points of misinformation upon which it was founded. These specific prosecution-created confusions were easily ‘filled-in' and re-narrated by Dr Wakefield in reply to Mr Coonans simple questions. Some of these matters were simple in the extreme but had been trodden like grapes beneath the feet of Miss Smith so they must now have been mush in the minds of the Panel:

Did you have contact with Dawbarns over any of the children in the Lancet paper?

No.

Did you have any knowledge of these children's legal aid status?

No.

Did you have any knowledge of any of these children's parent's desire for litigation at the time?

No.

How did the parents get to know about you?

They came to know of us through newspapers.

Why did they come to you?

Because we were willing to act on the children's problems.

These simple rebuttals of the confused prosecution case, were amplified with occasional flashes of brilliance from Dr Wakefield. e.g.

‘The suggested linkage (by parents) between MMR, bowel disease and autism had no effect on the clinical care of the children. It raised clinically useful questions but the first step was always to diagnose and treat the child for gastrointestinal problems.'

On being asked about why he had *spoken* to GP's, made enquiries about particular children and even written to some parents enclosing information about such things as Crohn's disease - which acts had been exalted by Miss Smith to the status of High Crimes - he answered.

'My training is a clinical one. My interest in research went outside the laboratory, to look at other people's clinical views'.

Inevitably, anyone not fitted with Miss Smith's software programmes would understand this intellectual promiscuity as being the very foundation of intelligent research.

In effect, this one day of re-examination told the whole story of, and for, the defence. While it could not have been articulated with such simplicity, had it not been for the churning weeks of misrepresenting cross-examination, I did suddenly find myself wondering why a case so patently based on misinformation that could be answered so simply, was taking so long and costing so much money. One can only hope that there comes a time in the future when the GMC is brought to account for this perversion of justice. There was a singular beauty to the whole simple process of putting the defence case, in rebuttal to Miss Smith's confusing cross-examination, as if one was suddenly presented with an Andy Warhol silk screen print of a complex picture such as the Mona Lisa.

It must have been galling for Miss Smith to watch the case rebutted in such a way and it was evident, that Mr Coonan used some new words and concepts with which she was not familiar. I noticed for instance that when Mr Coonan used the phrase, 'at the risk of repetition' a frown etched its way into Miss Smith's forehead as if she was wrestling with one of Wittgenstein's propositions. There was clearly no translation of this expression in her language programme.

Mr Coonan's re-examination was quite creative in allowing Dr Wakefield to explore some slightly more personal views on the case that had been brought against him. And for Coonan himself, in a very reserved way, the re-examination provided a slight margin for scorn, referring to the prosecution assertion that Barr and Wakefield had claimed unused money from the LAB, Coonan said, 'The second part of this accusation, *if I understand it* is that you spent the money on things other than laboratory work'. Coonan's *'if I understand it'* was a hardly veiled reference to the opacity of Miss Smith's reasoning.

At 14.15, Mr Coonan, made a mistake which one hopes had no deeper psychological meaning. Asking Dr Wakefield about safety standards and Transfer Factor, Mr Coonan inadvertently addressed him as Dr Southall, a doctor of ill-repute whom he had previously defended unsuccessfully before the GMC. This slip caused immense mirth at the prosecution table and Alli Edwards who was sitting next to me quipped that at least a £1,000 should have just been wiped off Mr Coonan's bill.

Tuesday May 6th

Modern popular cinema is replete with final sudden-shock last scenes, where the almost-dead move with speed and agility, the almost-vanquished assail the good guys and the all-but-wiped-out swim suddenly into the frame again. Perhaps one of the most effective of these scenes is the one at the end of Fatal Attraction. Alex (Glenn Close) has gone to the home of her one-night-stand weekend lover Dan, whom she is now stalking, to boil the family's pet rabbit, when Dan (Michael Douglas) returns to the house. The murderous fight they have is inter-cut with shots of Dan's wife and family - who have been away for the weekend - driving home. Finally Dan gets the better of Alex, drowning her in a full bath. As Dan breathes a sigh of relief and turns to leave the bathroom, Alex's hand rises from the bath water, clutching a carving knife.

I was reminded of all this hokum as I watched Miss Smith end her cross examination a couple of days before. Having asked her last question before closing her notebook, as lawyers do when they finish, she suddenly darted to her right, bending to ask her clerk an evidently serious question, as if a final onslaught had just occurred to her. In fact, Miss Smith was to rally on yet another couple of occasions following Mr Coonan's re -examination, which followed her cross. As I have mentioned before, Miss Smith is an expert at the 'groundhog day' strategy and I, amongst others, worried each time she rose to break Mr Coonan's flow that she was again about to embark upon the reiteration of the full and complete case for the prosecution.

As it happened, Miss Smith's re-examination that followed Mr Coonan's re- examination, was subdued. At this stage in the proceedings, one of Miss Smith's main concerns seemed to be that the Lancet science paper that had been turned down at peer review, had actually been the LAB paper.

Miss Smith's main contention in this ‘proof' was based on the peculiarly twisted logic that the name of Ms Sym, who had been doing the viral tracking work for a future LAB funded study, had had her name taken off the paper, despite having obviously made a contribution.

During this part of the re-examination, Miss Smith displayed a classic piece of body language. Miss Smith's junior, Owen, (‘ Todger One' as he has come to be affectionately known in the public gallery), reached across, as he did frequently during the case, to pass a suggestion to her. While she usually reacts with interest to his insistent notes, this time she was clearly flustered by either the suggestion or the manner in which her concentration had been disturbed. Without the slightest movement in the rest of her body and continuing to address the witness she executed an energetic and perfect flick of the wrist consigning her junior to high dudgeon. Even without high shiny leather boots and a whip, that flick was worthy of the highest addressing the lowest and it spoke volumes about Miss Smith.

Miss Smith was at her most bizarre during this re-examination, despite the fact that this paper, in the form in which it had developed over months of being submitted to journals, had actually stated an acknowledgement of the LAB funding and should therefore have gained Miss Smith's praise. She accused Dr Wakefield of somehow tacking this acknowledgement on to the paper at a latter date. All we might hope is that Miss Smith has not been corrupted by the observation of such practices amongst lawyers at her chambers.

By 12.15, on the Tuesday, the hearing was ready to hear questions from the Panel members. These questions lasted until around 15.45, with an hours break for lunch, and many observers were surprised at the perspicacity, focus, erudition and pertinence of them. What struck me, I think, was that none of the questions addressed the bigger issues of the hearing. It was almost as if any bigger issues had already been settled and what really needed examination were the more detailed aspects of the prosecution case. None of the panel appeared to be antagonistic to Dr Wakefield and if anything one could sense what might have been a thaw in the vague hostility with which some panel members had inflected earlier questions.

One of the Panel's medical representatives, Dr Webster had noticed that in the case of two of the children, no note had been made of biopsies having been taken. Whether or not this observation was indicative of Dr

Webster's general level of appreciation of the papers in the case, we do not know, but on this specific issue, he was the only person associated with the case who had noticed the omission.

Dr Kumar's questions stood out as being the most combative, although it was difficult to understand how the subject of his questions spoke in any way to the charges. Like Miss Smith, Kumar seemed excessively concerned that Dr Wakefield had got out of his box and addressed GP's. Like Miss Smith, Kumar seemed to be suggesting that the rigged barriers of medical professionalism that exist between nurses, GP's, hospital doctors and consultants, as well, of course, as those between patients and doctors, should be kept in place and attempts to bye-pass such barriers could only lead to professional and ethical anarchy. I couldn't myself believe that such an idea could play any real part in a finding of unfit to practice against any doctor practising in contemporary society.

Wednesday May 7th

The very last day of Dr Wakefield's defence was highlighted by a very good illustration of how Miss Smith is always eager to put a distance between the Panel and any evidence which might turn their heads in the direction of Dr Wakefield's innocence. Keiran Coonan asked the permission of the Panel to read into the evidence two statements, both of which had been agreed by the defence and the prosecution.

Mr Coonan obviously wanted to introduce these statements because both , supported the arguments of the defence. One statement made by Dr Rouse, indicated that a letter of his that had been published in the Lancet had been massaged on it's journey by Lancet Staff.

The whole matter appeared fairly straightforward until Miss Smith rose and put the prosecution's view. The statements were, she said, statements of rebuttal that argued against Dr Wakefield's defence. Given that they were statements of rebuttal, they should only be read into the evidence mid-way through 2009 when closing speeches were being made. Everyone looked at Miss Smith as if she had just stepped out of a spacecraft and walked on air through the glass walls of the GMC building.

After a little argie-bargie between Coonan and Smith the good offices of the legal assessor were called upon, who likened the exchange to analysing the meaning of angels on pin- heads. Mr Legal Assessor (who is always addressed as such by Mr Kumar) has an urbane turn of

reasoning which, though articulated in a rather high sounding manner, is always eminently sensible.

The legal assessor began by chiding Miss Smith, telling the panel and the hearing in general that the two statements were obviously not rebuttal statements but additions to the defence case and as such, they should be read into the evidence now rather than at some indeterminate time in the future. As to who should read them, this being a quandary of Miss Smith's who seemed in some odd way to be claiming ‘ownership' of the statements, the legal assessor himself was happy to seal their authority as part of the defence case. He duly read the statements into the evidence.

As if searching for trivia, the panel chairman Mr Kumar re-introduced the matter of whether Richard Barr should be called to give evidence. This matter had first arisen during Miss Smith's mammoth cross examination. Putting questions to Dr Wakefield, Miss Smith had suggested that Dr Wakefield had manipulated the request for Legal Aid Board funding, entering eagerly with Richard Barr into a conspiracy to defraud the LAB of more money than they needed for research at the Royal Free.

Having listened to the tennis match to- ing and fro- ing between Dr Wakefield and Miss Smith, that had at least on Miss Smith's part the tone of playground spite of the ‘Yes you did', ‘No I didn't' variety' the Panel were curious to know whether either side might want to call Mr Barr in order to further explain the argument. Both the prosecution, for obvious reasons, and the defence, for less obvious reasons, were reluctant. It was at this point that the legal assessor jumped in to announce, in a quite deliberate manner, that the panel itself could of course call Mr Barr, were they so minded; they would consider this matter, he said.

Rather oddly, when this matter re-emerged as an outstanding consideration on Wednesday, it was again introduced by the legal assessor, who called on both sets of counsel to educate the panel in their opinion as to whether or not they wanted Mr Barr to give evidence. Counsel were reluctant to do this and the matter languished with the legal assessor saying for the second time that the Panel would discuss it.

Up until the Tuesday of this last week, I had been of the opinion that the date of April 2009 represented the final date for the announcement of the Panel's verdict in the case. Stupidly optimistic I think are the words best used to describe this self- deception. As we went out of the hearing room

at lunch time on Tuesday, I turned to Professor Walker-Smith and said sympathetically, ‘ Your turn next', to which he forcefully enunciated like a Shakespearean character, ‘Yes, but when, when, when'. Of course it has not been only Dr Wakefield who has been ‘under the cosh' these last three weeks, Professor Walker-Smith has been waiting with the emptiness that accompanies a collective hanging and poor old Professor Murch doesn't even have the satisfaction of a rough date upon which his defence might commence. The rumour now is that his defence will not be heard until April 2009.

If Miss Smith can be proud of little else, she can congratulate herself on this weird prosecution by default, that has isolated, as intended, Dr Wakefield from his research colleagues, Professor Murch from his patients and Professor Walker-Smith from his long earned retirement.

* * *

Dr Wakefield ended his defence case on Wednesday 7 th of May, I saw him leave the GMC building, saying goodbye to all and sundry, with a wave and a sharp comment about never having to return to this building again. Unfortunately, no one paid much attention; courts and tribunals no longer present the opportunity for public spectacle they once did and Dr Wakefield is seen by many as just another grain in the mill of justice.

The last half century has seen massive changes in the attitude of the general public to those engaged in righteously wrestling with the judicial system. While in the last century and before, some battles against the power and authority of the law created popular adulatory following, more recently we have been left with the campaign to free George Davis and the contemporary campaign Father's-4-Justice. The days when the public considered the court and its hearings as a from of popular entertainment, in which they might participate, has long since gone and a powerful establishment has done all in it's power to sever the gaze of the population from both the subjects and the objectives of 'justice'.

It was a shame, I thought, that today so many people were so cowed by the authority of the law, that they would go to considerable lengths to separate themselves from anyone on trial or threatened with prosecution of any kind. I was pondering these thoughts as I did my shopping a couple of hours after leaving the GMC.

Around 6pm an Evening Standard Newspaper poster crashed into my consciousness as I wandered down Baker Street: ‘Top barrister shot in police siege' my heart jumped into my mouth. Had Dr Wakefield's re-examination been just too much to bear. What about Miss Smith, was she now lying in the morgue somewhere; tears rolled down my cheeks.

I was much relieved on buying a paper to find that Miss Smith – the ‘top' barrister who has become my constant obsession – was not the one in question.

* * *

Just as I finish this piece, news has reached me of the new slogan upon which the Labour Party manifesto for the next election will be based. After a swift discussion in cabinet, it was decided to replace B liar 's , 'education, education, education', with the more effective, 'vaccination, vaccination, vaccination'. Apparently, this had competed with 'compulsion, compulsion, compulsion', which some of the cabinet felt was more to the point.

After a slightly longer discussion, a new series of strategic imperatives were agreed to support the idea of compulsory vaccination .

- All first time parents were to be screened to determine whether or not they showed a propensity for independent thought or a genetic drift towards individualism. If either of these capabilities were found these parents would not be allowed to have children.
- What were called 'low-key' punitive measures would be taken against parents who refused to have their children vaccinated with combined vaccinations.
- Children whose parents denied them combined vaccination would immediately be put into foster care with families of trained lay vaccinators.
- All NHS health care facilities would be withdrawn from the parents themselves and their extended family.
- All dissenters would have their passports confiscated.
- Any parent who refused their child a combined vaccine would immediately loose their job.
- Any parent who refused their child a combined vaccine would not be allowed any State benefits and would have to pay what has already been labelled by the opposition as 'a stealth tax' of £100 a month in order to remain living in England.

- Finally all educational facilities would be closed to the immediate and extended family of those parents who refused to have their children vaccinated.

There was one final caveat that was quickly tagged on to the end of what is being called 'the new social contract', and although it's wording has not been officially released, those close to the cabinet believe that it is worded more or less in this way. 'All first time parents must sign an agreement that clearly states that they pledge the lives of their children to New Labour and President Bush. It is believed that a last minute addition to this codex was added that read 'Whether or not they are alive or dead or in power at the time'. Another idea discussed in cabinet was that Tony B liar and George Bush should formally be made legal 'Uncle' to every child born in Britain and the United States since 1997. This idea was apparently only narrowly defeated by Gordon Brown who claimed that he would make a better 'Uncle' than Tony.

A spokesman for New Labour said last night 'We are convinced that this new Manifesto commitment will bring to an end all infectious diseases in Britain, Europe, the world and the known universe and end all criminal opposition to the absolutely, utterly, totally and completely safe vaccines that it is envisaged will come of age over the next 50 years. These vaccines, as I have just said, will end all human suffering with the single exception of vaccine damage, but we expect to have a cure for this by the year 3008.

There can be no doubt that with this kind of manifesto pledge New Labour stands a good chance of winning the next General Election. Critics, however have pointed out that there would inevitably be problems for the government once it assumed power.

The clause for instance that denies education to children who have not been vaccinated, has already been fought over in the European Court of Human Rights, where it has been ruled more than once that it is a child's inalienable right to an education and that this cannot be withheld by threat or promise of any other regulatory compliance.

All of this goes a long way to proving what many of us have been afraid of as we have watched the rigmarole at the GMC become indefinitely stretched out. It has clearly been the intention of New Labour , the GMC and the pharmaceutical industry to contain and neutralise Dr Wakefield,

who was undoubtedly one of the most effective critics of MMR and combined vaccinations.

On the pronouncement of the new manifesto promises, a spokesman for the BMA called the new policies 'Stalinist'. Those of us who have been following the Wakefield affair know that Stalinism is in fact a major foundation of New Labour and one of its clearest manifestations has been the protracted trial of Dr Wakefield, Professor Walker-Smith and Professor Simon Murch.

A Lifetime's Defence in the Court of Dunces

GMC Hearing Tuesday 15th July - Thursday 17th July

On Tuesday July 15th, Professor John Walker-Smith, an internationally-renowned paediatric gastroenterologist with experience in child health going back over 30 years, and now an emeritus Professor of Paediatric Gastroenterology, began his defence in the fitness to practice hearing brought against him and two ex-colleagues by the General Medical Council (GMC) in London. Nothing emphasises the peculiar nature of these proceedings against Dr Andrew Wakefield and Professor Simon Murch , better than the case against Professor Walker-Smith.

Walker-Smith's career was shaped at the fuzzy end of the medical world dealing with fast developing gastrointestinal illnesses, Crohn's and coeliac disease. Often considered as products of modern living, these conditions, together with child allergy, have environmental triggers, and both have been starved of research funding, especially by the pharmaceutical companies.

Professor Walker-Smith, now 71, has led a completely blameless and modest professional life, building over the past 20 years, one of the most highly respected paediatric gastrointestinal departments, based at both St Bartholomew's and the former Queen Elizabeth Hospital, Hackney'. Most of his experience in the use of procedures such as colonoscopy was gained under the guidance of recognised world experts. Through his professional life he has been responsible for some of the standard texts on child gastrointestinal illness.

Parents of children seen by Professor Walker-Smith at the Royal Free Hospital have nothing but praise for him, as they have for Dr Wakefield and Professor Simon Murch . Parents speak of the three men with robust reverence, eternally thankful for the kindness and concern that they have shown to their children. As an uninvolved observer of the hearing, I have noticed how both Professor Murch and Professor Walker-Smith immediately make contact with any parents who are present, shaking hands, smiling and asking after their children.

So who is accusing and prosecuting Professor Walker-Smith? Who is standing in judgement over this eminent physician? His peers? Hell, no!

As we know, despite the GMC's reluctance to state clearly with whom the complaint originated, it was first prepared and lodged by the medically-ignorant, down-at-heel pro-MMR hack Brian Deer, with the help of the Association of the British Pharmaceutical Industry private inquiry company Medico-Legal Investigations. It was built upon and turned into a prosecution by a GMC with a yellow streak instead of a backbone, desperate to curry favour with the past New Labour, once communist, Minister of Health John Reid; pushed forward by Richard Horton, the editor of the*Lancet* whose immediate on-line manager, chairman of Reed-Elsevier, is a non-executive director of GlaxoSmithKline, the biggest drug company in the world and one of the defendants in the legal action brought by parents of vaccine-damaged children. The complaint is prosecuted by Miss Sally Smith, a lacklustre and evidently out-of-her-depth counsel, who, rather than admit that her case has collapsed, goes on and on and on scraping her knuckles on a wall that no longer contains a door. The case is supported by pharmaceutical lobby organisations, inhabited by ex-communist members of the now defunct Revolutionary Communist Party, Sense About Science and the Science and Media Centre. Behind these people rise like golems, the massive forms of corporate government with an industry-designed and profit-motivated public health programme, and the multinational pharmaceutical companies.

* * *

It was tempting to start this account with a football chant, something like 'here we go again', but not everything is the same. For some inexplicable reason, for example, the public gallery part of the hearing has been downsized. Of course, this could be a quite rational decision accounted for by the low levels of attendance at the last hearing. The decision would be even more understandable, I suppose, if the GMC had the knowledge beforehand that Dear Brian was not going to be bodily present, though his shade spreads well beyond the physical space of his chair, covering all the chairs in the press section. There again, the GMC is probably, just like us, well aware of the fact that the media have refused to turn up for most of the hearing, so why bother putting out chairs for them?

The whole hearing room has, in fact, been streamlined, lending it a more airy feeling. However, nothing of any real importance has changed, the defence and prosecuting counsel still refuse to speak into the microphones from time to time, rendering some important parts of the proceedings inaudible. Why they should be so incapacitated is beyond me.

The Chair of the Panel, Mr Kumar , is always clear as a bell, and despite continuous in-jokes about the accelerated Antipodean speed of his delivery, Professor Walker-Smith has been always audible.

Other things that have changed include Miss Smith, whose commitment to these sorry proceedings has obviously caused her endless tussles with her conscience and many nights without sleep. Or at least, I can only presume that these are the cause of her increasingly more tired appearance. I found myself alone in the lift with her on the first day back, and I was very conscious of the fact that every fibre of her being ignored me – although I must say this seems to be true of all the legal people at the hearing.

Of course, the biggest change in the form , if not the content , of the proceedings was to find oneself watching the back of the 71-year-old Professor John Walker-Smith, rather than the solid, more youthful rugby playing back of Dr Wakefield. I suppose that I had come to certain conclusions about Professor Walker-Smith and his evidence, its mode of presentation, long before last Tuesday. If you don't know the reality of the relationships between people, it is easy to create a false view of them. I suppose that I had it in mind that Professor Walker-Smith might be upset at having been dragged before a court, consequent upon the strong views of the much younger Dr Wakefield. Finally, I must admit to dark thoughts about both the other men appearing with Dr Wakefield, to the expectation that they would swim for the shore, saving themselves at all costs, leaving Dr Wakefield to drown.

After three days of listening to Professor Walker-Smith give evidence in chief, I feel very apologetic and completely humbled, ashamed at having even entertained such renegade views. Also, I have to seriously ponder how it is that I, who generally speaking know a great deal about the ongoing case and consider that I have a good analysis of its causes and purpose, should allow myself to be so easily led by what can only be considered to be the prosecution agenda that fogs this case.

Professor Walker-Smith began his evidence with a request to call Dr Wakefield 'Andy' throughout his evidence. This demonstrated a positive refusal to be drawn into distancing himself from his co-defendant by calling him Dr Wakefield as his counsel had to do. This was a very intelligent move by Professor Walker-Smith, because it made clear from the beginning that he considered himself in the same boat as Dr Wakefield and Professor Murch , and that however the prosecution tried

to separate and distance the defendants, they saw themselves as a team that had been involved in common work and now had a common defence .

Throughout Tuesday, Wednesday and Thursday afternoon – the Panel didn't sit on Monday, Thursday morning and Friday (we an only celebrate the fact that the GMC doesn't run a hospital!) – Mr Miller took Professor Walker-Smith through the salient points of the case against him. Professor Walker-Smith didn't once lose his footing in speaking to this defence . If the case against Dr Wakefield had seemed unbalanced and at times incoherent when it was presented to him, now as we watched Professor Walker-Smith go through his evidence-in-chief, we could see clearly that the case was simply without foundation, fabricated and totally implausible.

All of Tuesday afternoon, was taken up with glancing over Professor Walker-Smith's lifetime work, the first decades of which were spent between Britain and Australia. Walker-Smith was quickly revealed as a man whose life had been dedicated to becoming an honourable physician who came to specialise in childhood digestive illnesses. As some readers might know, this is a much maligned and ignored area of medicine, for a number of reasons but principally because nutrition and the effect of different foods on the human system has never been something in which doctors are interested, and which , like allergy and food intolerance, has been constantly ignored by the pharmaceutical and processed food industry research funding.

In the early Seventies, Walker-Smith left Australia and settled in London, where he was to stay at the St Bartholmew's over the next 22 years, gradually learning more about and defining his specialty as paediatric gastroenterology. While working at Barts and Queen Elizabeth hospitals he also worked in conjunction with doctors at Great Ormond Street Children's Hospital. This practice was, he described, a complex job, working as it were at the frontiers of medicine where there were few sensational or sudden advances, and where change came only after long periods of hard clinical and research work.

It was fascinating to hear him recount how he came to make the move from Barts to the Royal Free Hospital, offering in the process an analysis of hospital politics in an age of privatisation . The account showed a side of medicine that lay people rarely get to see, let alone have explained to them. In the end, it appeared that Professor Walker-Smith had managed

to move his whole department from its two locations in Queen Elizabeth and Barts to the Royal Free. Not for the first time hearing observers got a look at the surreal way in which our corporately-directed society forces the best doctors to act as administrators as they try to preserve the best of the system.

As the hearing has gone on, I have found myself intrigued by the detailed sociological insight into the lives of the doctors concerned. While the three doctors are presented as professional shysters, self-absorbed money grabbers involved in a wacky campaign to experiment on children, what we are actually watching are three men who have spent decades negotiating the administrative hospital maze, seeking out ways in which they might contribute to child health. From their evidence we gain a clear understanding of the fact that while chance, initiative, originality and experience play a role in the lives of able people, institutions and organisations such as hospitals and universities and their bureaucracies are often unable to change pace, ending up as 'enemies of promise'.

If we look back at a number of the prosecution witnesses, we can see clearly that they fit much more exactly into the prosecution-assigned characterisation of the defendants – professionals whose whole working lives have been guided not by intellectual curiosity or a desire to solve difficult public health problems, but by conservatism, intellectual insecurity and an eye for the main professional chance, often in co-operation with corporations or the international medical establishment.

It crossed my mind, at the beginning of Professor Walker-Smith's presentation that perhaps Miss Smith had some more weighty evidence that she would be bringing to court during cross-examination; but then I woke up. The prosecution, had of course presented its whole case. There would be no more evidence.

Mr Miller took Professor Walker-Smith through the cornerstone of the prosecution case, phantom project 172/96 . The prosecution insists that the three defendants worked recklessly on this research project, and in so doing committed a whole series of research misdemeanors. They carried out procedures on some children without ethics committee approval; they failed to gain parental consent for 'research' procedures carried out on some of the children. The prosecution claimed further that this 'research' was primarily aimed at proving the case in support of the parents of vaccine-damaged children in court cases against the manufacturing drug companies; that this 'research' was paid for by money from Legal Aid, and

that Wakefield specifically failed to reveal this conflict of interest in the final peer reviewed paper that appeared in the *Lancet* recording the results of the 'trial'.

Naturally, by now, just about everyone in the world, apart from Miss Smith and her prosecution team knows that study 172/96 never took place. Despite the fact that ethical approval was gained for most elements of such a study , the team at the Royal Free gradually drew back from it because a number of the elements in it no longer required evidence . The only paper that was published, the now infamous*Lancet* paper, was only a case review, which drew on 12 consecutive admissions of children with apparently similar gastrointestinal complaints. This review of cases did not need ethical committee approval, as all the children were seen on the basis of clinical need, and all the procedures were carried out in order to understand the children's condition, diagnosis and treatment.

Another foundation of the prosecution put to Professor Walker-Smith was that all the defendants, with others, were involved in researching children, using risky procedures, mainly colonoscopy. To prove this case against Dr Wakefield, the prosecution had to try to prove that he kept deserting his research post, breaking his research contract with the hospital while running round the hospital 'causing colonoscopies' to occur (I kid you not). Professor Walker-Smith's evidence, like Dr Wakefield's, was eminently sane on this point as on all others. He argued that Wakefield was anyway trained as a surgeon, and that although he never actually did any clinical work, his role had the added advantages for the clinical team of his being able to get involved in many different aspects of the work with patients.

On the afternoon of Thursday 17th July, Mr Miller put to Professor Walker-Smith, the evidence that Professor Booth had given for the prosecution (www.cryshame.com GMC hearing 2007, Grub Street Medicine, October 8th to October 19th). This is how I introduced Professor Booth. I now see that this description is very relevant to the evidence that Professor Walker-Smith is giving and will give in his cross examination.

Professor Booth's mental frame of reference appeared to be almost exactly opposite to that of Dr Wakefield and the gastrointestinal team at the Royal Free. Whereas the latter was expansive, interdisciplinary and creative, Professor Booth's approach appeared to be single-symptom orientated, mono-disciplinary and conservative in its references.

For this reason alone, Professor Booth was a witness who contributed next to nothing to the overall picture. Nor did he further our understanding of the medical practice, or, from the prosecution's point of view, the supposed criminality of the doctor's at the Royal Free. His answer to almost everything was the most conventional answer. What one does **not** do, he emphasised constantly, is anything unconventional. His evidence steered well clear of any mention of MMR, or vaccine strain measles virus, and he said almost nothing about autism.

When Booth gave his evidence, it appeared as if he was giving it against Dr Wakefield and, in this event, the two of them seemed relatively well matched in age and experience. Of course this is what the prosecution wanted one to think. If for a moment the realities of the situation sank in, that Booth had been called to speak against the use of colonoscopy and to confirm it as a dangerous and risky process, and that Dr Wakefield had not carried out any colonoscopies, that indeed he had nothing to do with their administration, then the witnesses could be seen not just as unevenly matched but not even in conflict, and Booth's evidence appeared extraneous and absurd.

In Professor Walker-Smith, we see the defendant against whom Booth's evidence might actually have been aimed, and although Miss Smith must be wishing that the panel had forgotten Booth – which is not unlikely given his grey demeanor – when we compare the experience and competence of these witnesses, we might consider that Miss Smith would be wise to seek counseling as to how she could in all conscience support a duel between a colossus and a pigmy.

Booth's evidence had stated a number of things clearly – that colonoscopy was a risky procedure; that it was a procedure of 'last resort', used only after many other preliminary tests had been carried out; that constipation was an illness in itself, and that when children reported with it, it could be simply treated; that the 'Porto criteria' for diagnosing IBD and the use of colonoscopy where a check list of little value, formulated by a random group of self-selecting 'experts'.

When Professor Walker-Smith was led through a rebuttal of Booth's evidence, the conclusion was staggering. As it happened, Professor Walker-Smith did not himself carry out colonoscopies because a childhood accident had affected the bone in his forearm and made it unreliable for such work. He had, however, been at Barts with a renowned surgeon who was an expert practitioner of colonoscopy. In his 22 years at Barts ,

during which time he had known personally 500 cases in which colonoscopy had been used on children, he was unaware of a single incident of complication.

But Professor Walker-Smith's idea of colonoscopy was anyway quite different from that held by Booth. Walker-Smith went so far as to say that the whole of his career had been based up tissue sample diagnosis, i.e. histology, and such tissue samples could not be obtained without colonoscopy. In Professor Walker-Smith's view, although there were some good indicators, all bets were off until tissue analysis had been carried out, and it was this evidence more than any other that determined whether a child actually had IBD or for instance Crohn's disease.

Booth suggested that a series of basic tests should always be carried out before colonoscopy was considered. While Walker-Smith was completely in agreement that less invasive tests should always be carried out, the problem was simply, he said, that these could never be conclusive, and that in all cases colonoscopy was necessary.

But it was in relation to the Porto criteria and the ESPGHAN (European Society for Paediatric Gastroenterology, Hepatology and Nutrition) that Booth's evidence most clearly fell apart in the face of Walker-Smith's knowledge and experience. Booth had tried to make out, although he didn't say as much, that ESPGHAN dabbled in junk science and not the evidence-based medicine that he favoured . He complained, almost churlishly, that ESPGHAN was just a random group of experts pursuing their own career enhancing opinions, and their work couldn't be considered evidence-based medicine (one got the feeling that Booth threw in that expression as some kind of secret password for the prosecution, if that's true Miss Smith missed the catch). Coming from someone who had next to no experience personally in the use of colonoscopy, this evidence fell flat at the time, but now, in the light of what Professor Walker-Smith said, it seemed contrived and peculiarly misleading.

Professor Walker-Smith suggested that ESPGHAN consisted of some of the world's leading practitioners of colonoscopy, including Professor Simon Murch , his co-defendant, and that its criteria and guidelines were exacting position papers that indicated the state of the art in relation to the diagnosis of IBD.

In going through his final evidence-in-chief on Thursday, Mr Miller asked Professor Walker-Smith to detail the procedures necessary in deciding upon the use of colonoscopy in cases of suspected IBD. The steps that he outlined represented Best Practice in these cases, and these steps differed from those outlined by Booth only in that there was a caveat in relation to taking blood samples and carrying out other examinations with children who were suffering from any autistic condition. It was, he said, sometimes very difficult to even physically examine a child with autism or similar behavioral disorders, let alone take blood samples, and it was sometimes preferable, for the sake of both the child and the parents, to carry out all the tests, including a colonoscopy, under a general anesthetic. Professor Booth failed to comment on this because, in his opinion, vaccination, IBD and autism were all unrelated factors, and although one did sometimes have to deal with children with behavioral disorders, there was no correlation between such disorders and IBD or vaccination.

In finally preparing Professor Walker-Smith for his cross examination and squaring-off the prosecution evidence, Mr Miller asked Professor Walker-Smith why it was that some general practitioners failed to allude to gastrointestinal symptoms in the children that they referred to the Royal Free Hospital. For the first time, with Walker-Smith's answer, one of the most often repeated accusations put by the prosecution was nailed. While Miss Smith has repeated time and again that Dr Wakefield manipulated the symptomatic pictures, and even the histological evidence presented in children that he had pressed into research at the Royal Free, Professor Walker-Smith stated emphatically that it was quite common for GPs to miss this type of information, usually because they had no way of testing for it.

When I had listened to Dr Wakefield's evidence, given in immense detail, I posed a question in my report of the hearing: how would Miss Smith approach her prosecution? I suggested that, because Wakefield's evidence was so honest and straightforward, and because she had no witnesses or testimony that could stand against his evidence, she could only really *accuse him of lying* .

The same question will arise at the end of next week in relation to the cross-examination of Professor Walker-Smith. We know that Miss Smith has absolutely no factual evidence that might even hint at wrong-doing by this esteemed physician. All Miss Smith has offered so far in her general prosecution is a ragbag of second-rate opinions on how paediatric

gastroenterologists should go about their work. It is nothing short of surreal when we understand that Miss Smith, with her limited knowledge of medicine, is going to try to prove one of Europe's most experienced, established and authoritative paediatric gastroenterologists guilty of some terrible but undefined malpractices, for which she has not the slightest shred of evidence.

So how *will* she approach her cross examination? Will she just repeat endlessly her opinion that Walker-Smith is wrong, as she did with Dr Wakefield? Will she try to hector him into submission, or will she develop some new and totally original strategy?

During my years working with robbers – criminals , that is, not politicians or pharmaceutical company executives – I came across a defendant who took a particularly original extra-legal approach to his feelings about the prosecuting counsel. For some weeks prior to his trial, the defendant had his relatives and legal representatives bring him in supplies of fresh bananas. Using what might be described as Zen discipline, every day the man taught himself how to vomit up a stomach full of bananas on demand. When the day came for counsels last speeches, our man managed, from the high dock, to drown the prosecuting counsel in projectile- vomited banana. Despite the fact that the defendant was charged with assault – just assault, note, not 'assault with banana vomit', which would sound silly – this always seemed, to me, like a kind of perfect justice.

Is Miss Smith, at this very moment in training for some similarly original tactic? Might she gain an enormous amount of weight over the next month, then, nearing the end of August, one day, when she is of Russ Abbott proportions, without preliminaries throw herself across the room on to the prostrate Professor, smothering him? Not only would this show originality, but it would also give Miss Smith a place among post-modern academic legal intellectuals, becoming renowned for a historic re-enactment of the ancient torture of pressing the prisoner under a heavy weight in order to extract a confession? In my gravest and darkest moods, I believe that she must be preparing some such radical strategy, because she has not one scintilla of legal, moral, ethical or honest pretence by which she might fairly prove Professor Walker-Smith guilty of even picking his nose in polite company.

These days my mind turns increasingly to how it might be possible at the end of this fiasco to bring to justice those responsible for it. For the whole

of next week, Mr Miller will be again picking over the case of each child reported in the *Lancet* paper. He has apologised to the hearing for this, which, when you think about it, is essentially a whole lot more than we ever get from Miss Smith.

The significance of ileocolonic lymphoid nodular hyperplasia in children with autistic spectrum disorder.

Correspondence European Journal of Gastroenterology & Hepatology . 18(5):569-571, May 2006. *MacDonald, Thomas T.*

Tell me, how many forks are in your tongue?

21st July - 25 July

"You think any of this makes sense when you stand back from it? You think God made an ordered universe? That's the laugh with the law. We like to pretend it makes life more reasonable. Hardly."

The central character,
a lawyer in Scott Turow's *Personal Injuries*

Counsel for Professor Walker-Smith, Mr Miller has spent the last week tracing the referral, condition and treatment procedures used in each case of the 12 children who came to be cited in the case-review paper published in the *Lancet* in 1998. Because we have heard this evidence in developing form on three previous occasions, I don't feel the need to repeat it again. Instead, after a very brief resume of it, I want to look at aspects of the case that have been much on my mind recently, including, the absence from the beginning of a proper prosecution process.

The Twelve Cases

Each time that one of the counsel goes through the cases of the twelve children cited in the *Lancet* case review paper, it raises the fundamental misinformation that is at the heart of the prosecution.

It is through a strategy to discredit this paper that we end up with a trial based upon it. In order to discredit three of the authors of the paper the prosecution chose to advance upon the basis of 'research misconduct' developing charges against the three doctors that grew directly from the way in which the prosecution say that the research for the paper was carried out. While actually, it is the content of the paper that the government and the drug companies would want to censure, they have approached this by attacking the ethics of the 'research' cited in the paper.

We all know why this trial is taking place, it's a win-win situation for the government and the pharmaceutical companies, a guilty verdict will discredit the three doctors and the premise that they made public,

however tenuously, that there was a link between MMR, Inflammatory Bowel Disease and regressive autism. Even if the defendants are found not guilty on every count, their names have now been so sullied that they will find professional life in Britain difficult. And anyway the two years of the hearing have given the government massive space in which to move forward with its vaccine policy.

The problem from the beginning, however, for those wanting to bring the prosecution, was that there was nothing substantially wrong with the paper, the information within it, or its construction or publication. That there is no factual evidence to discredit the case-review paper, has not of course stood in the way of the vaccine manufacturers, the New Labour government or the minions of these agencies. Either by design or ignorance, it has always been hard to tell which. Brian Deer, Medico Legal Investigations and then the General Medical Council constructed their prosecution upon the false premise that the case review paper published in the Lancet was not a 'case review' paper but one that recorded the results of a full blown study that had received considerable funding, that had needed and requested ethics committee approval, parental consent, and such things as a declaration of conflict of interests by its authors.

It was possible to see from the very beginning how the government, the NHS and the science lobby groups would try to metamorphose the 'case review', into a full blown study. One of the first criticisms raised in the media was that 'the sample was too small and there was no control group'. In a case review study, of course, you are not dealing with a 'sample', you are looking only at a number of cases referred to a doctor, a hospital or observed in public through some other institution. And this group does not need a 'control group', any study of this group describes what happens clinically to this small group or sub-set, not what doesn't happen to any larger or similar group under different circumstances.

Having decided that the case review was actually a full blown study and not just a review of 12 children that had been seen at the Royal Free Hospital on the basis of clinical need, the pharma -lobby began by finding fault with the way in which the illusory ‘study' had been organised, coming up with the following basic accusations:

- Andrew Wakefield cherry picked the cases which were not sequential attenders at the RFH.
- These cases did not pass through the Royal Free on the basis of 'clinical need'.

- In fact, the three defendants went ahead with procedures regardless of their clinical necessity.
- As a rationalisation for this the prosecution claimed that the doctors didn't carry out sufficient tests in order to discover what was actually afflicting the children but simply went ahead with 'research protocol' procedures.
- Andrew Wakefield who had corralled the cases into the ‘study', putting all kinds of pressure on some parents to ensure that they entered their children in the ‘study'.
- Parental consent was not sought for these research procedures and in many cases no research ethics committee approval was sought.
- The children were subjected to all kinds of procedures, including colonoscopy and lumber puncture, that were not clinically indicated. This was tantamount to experimenting on children.
- As Dr Wakefield had not actually carried out any of these procedures, he was accused by the prosecution of organising them or 'causing them to happen'. (This is a magical process, something that the GMC took from one of the Harry Potter book's).

Perhaps the most substantial factor missing from the 'reasoning' lying behind the prosecution case, is that of motive. The prosecution expects the panel and the public to believe that one doctor and two professors, with almost a hundred years collective experience, suddenly acted out of character breaking all the rules of their so far unblemished clinical careers. The matter of motive is crucial in this case because what the prosecution is proposing is so preposterous.

The prosecution seem to be suggesting that Dr Wakefield and others set out to destroy the government vaccine policy and line their pockets in the process. Not only this, but being characters similar to *The Joker* in Batman, having limitless criminal resources, they also set out to bankrupt the worlds leading pharmaceutical companies. Oh, and we shouldn't forget that at the same time, they wanted to exacerbate any public health crisis, provoking the deaths of an untold number of children and adults from measles, mumps and rubella.

Had it, in fact, been the case that the twelve children in the Lancet case-review paper were used at the whim of a group of doctors, experimented upon with the intention of glorifying the doctors concerned, many parents would have been thankful for the intervention of Brian Deer, the complainant and the GMC itself. If there had been such a case, the prosecution would have paraded these parents as symbols of the

accessibility of the prosecution process. Parents whose children had been seriously wronged, helped by the GMC, would have been clamouring to give evidence against the men who had damaged their children. This is patently not the case and in fact, all the parents support the three doctors, while finding incomprehensible the perverse actions of the GMC which in essence constitute yet another hidden attack on the parents. The parents of vaccine damaged children, will not, however, be moved and have stayed committed to the few doctors who have helped and supported their children.

And it is within this contradiction that another very serious and corrupted aspect to this prosecution raises it's head. The GMC has ignored the parents and refused them a venue to voice their complaint against the NHS or the pharmaceutical companies for damaging their children with MMR and has refused to recognise their vaccine damage. We are therefore forced to view the prosecution in the context of the State paternalism that is poisoning the contemporary legal protection of children in Britain. Nothing comes across more insidiously than the fact that the GMC considers that it knows better than the parents concerned, the nature and origins of their children's illnesses.

An Absence of Proper Prosecutors

It is surely not just coincidence that the Association of British Pharmaceutical Industry (ABPI) is resident in Whitehall within spitting distance of Downing Street. Nor is it possible to overestimate the power and influence of the pharmaceutical industry in Britain, especially under New Labour. In post industrial society, general doctors are more or less irrelevant, most of them acting simply as drugs industry 'runners'.

How is it possible to bring a legal prosecution against three well established and honourable doctors, on evidence that is lacking in continuity, is ill-founded, cannot be proven and is clearly carrying the considerable weight of vested interests? The State prosecutors in Britain are called the Crown Prosecution Service and they have a rule of thumb when deciding whether to proceed with cases; 'Does the case stand better than a 52% chance of ending in a conviction'. It is clearly necessary for any prosecutors to have such a rule of thumb, so that it doesn't invite cases of wrongful arrest, wrongful conviction or waste the time of prosecutors or defendants in drawn-out fruitless trials.

The pharmaceutical industry has ferreted it's way into the medical-legal system in a way that no other industry could have managed. The regulatory body for the drugs industry, the MHRA (previously known by the massive euphemism as the Medicines Control Agency), which is meant to be a department of government within the Department of Health and answerable to the Minister for Health, is actually a trading organisation wholly funded by the pharmaceutical industry. In common with the Atomic Energy Authority and the British railway network, it has it's own police force, and is able to bring charges of the most serious nature against individuals; it takes people to court and the court can send them to prison. However none of the charges prepared and brought by the MHRA pass through the offices of the Crown Prosecution Service (CPS). None of the charges are overseen by any kind of independent body that measures the quality or even the quantity of the evidence.

At the General Medical Council, we see exactly the same process. Let's put to the side those cases in which patients are complainants. In all probability, a case of assault against a female patient could actually be dealt with in a better way when dealt with by the GMC, than if the patient made a complaint to the police, in just the same way that wrongful dismissal will probably get a better hearing in an employment tribunal than it would in civil court. But if we look at other cases, not brought by patients, but brought apparently in the interests of research ethics , a completely different picture is revealed.

In these cases, Medico Legal Investigations (MLI), the private enquiry agency wholly funded by the pharmaceutical industry acts as a police investigations force for the GMC, and with the GMC this agency puts together prosecutions that involve infringements of research practice and medical ethics involving doctors. Here again employees of the pharmaceutical industry, in a huddle with barristers at the General Medical Council, formulate complex prosecutions and charges of the most serious nature, that are never assessed by an independent body such as the Crown Prosecution Service.

Perhaps this kind of prosecution is actually more insidious than those taken by the MHRA; at least in these latter cases, the prosecutors have to come into public view and perform in front of judges. Prosecutions assembled by the pharmaceutical industry and the GMC are heard inside the GMC building in front of a paid professional panel, itself chosen by the GMC. The absence of a judge in the final proceedings means that procedurally the prosecution can get away with murder. In the over-

ground system, judges are the last people able, if they wish, to review the prosecution case and even if they do nothing until the end of the trial, they can in their summing up analyse the prosecution evidence in such a way as to disrobe it of it's most obvious failings and contradictions.

Phantom Trials

It is this lack of judgement in relation to the prosecution case that most seriously concerns me about the GMC hearing. Almost everyone except the residents of Britain's cemeteries and Miss Smith and her juniors, now know that Dr Andrew Wakefield, Professors Walker-Smith and Murch , did not embark upon an experimental trial without parental or ethical committee approval. In as much as Miss Smith continues to state that this was the case, she is plainly accusing the three doctors of concocting a false defence and lying under oath to the hearing. In no uncertain terms she is accusing them of being organised criminals.

On the simplest level, however, the prosecution case doesn't hold together. Even if we were sympathetic to their perspective, the case itself is hopelessly mixed up and has no clear line of evidence. For instance, in order to make her case that Dr Wakefield had failed to make a statement of conflicting interests in the Lancet paper, during her cross examination of Wakefield, Miss Smith forcefully made the point that the ‘study' it was agreed should be funded by the Legal Aid Board (LAB), involving 5 children with Crohn's disease and 5 children with IBD, was actually the ‘study' written up in the Lancet. Yet anyone who wasn't unconscious could see that the case review paper did not include ten children categorised in this way.

While Miss Smith is allowed to run this argument if she wants, one wonders whether the panel will grasp the fact that for the whole of the rest of her presentation, she has claimed that the paper written up in the Lancet represents not the LAB study but a trial labelled 172/96. One gets the feeling that had there been a proper overview of the prosecution by a body similar to the Crown Prosecution Service, Miss Smith would not have been able to pull tricks of this kind.

Of course one is continually concerned about who in this hearing will pick up on Miss Smith's duplicities. It seems unlikely for instance that the legal assessor will make much noise because he seems only called upon when a legal question arises which relates to the ongoing hearing. It would not appear to be the role of the Chairman either. Whatever the outcome of

this case, it is unlikely that in the near future anyone with any authority will be able to right the most serious injustice; that the three doctors have been wrongfully and maliciously prosecuted by an institution that is, at least in this case, clearly under the influence of other interests.

Apart from a finding of 'not guilty' on all the charges brought against the defendants, the best and most important outcome in this case would be an enquiry into the GMC that had the power to take away from it, it's right to prosecute without the oversight of an independent body such as the CPS. Perhaps not in all cases, but certainly in those as important as this one and definitely in any case which is of even peripheral interest to the pharmaceutical industry.

Different Modalities

Sitting through the GMC hearing, one not only learns about the work of dedicated doctors in a large hospital and the legal machinations of prosecuting bodies, but equally about the swirl of undercurrents and arguments that have supported the attack on the three doctors.

While it cannot be suggested that Dr Wakefield, Professor Walker-Smith and Professor Murch have been involved in alternative medicine in any sense, and in fact, aspects of Dr Wakefield's work right up to 1995 were funded by companies such as GlaxoSmithKline, there is one aspect of their work that hasn't had much of an airing inside or outside the GMC. Because all three doctors were researching the digestive system, their ongoing research and some of their conclusions veered heavily towards considerations of nutritional medicine. Nothing brings out the tree-swinging medical reactionaries more readily than mention of nutrition.

The other element destined to stir up a terrible reaction from the drug companies, is research into adverse reactions. Mainstream medical research has languished over the last twenty years, in relation to adverse drug reactions. Although they have been admitted in an off-hand manner by pharmaceutical companies, there has been no attempt to train general doctors or physicians in their consequences. The new science lobby groups, such as the Science Media Centre and Sense About Science, and specifically the moribund cadre of the Revolutionary Communist Party, have since 1998, added a whole new perspective on adverse reactions.

In the face of the growing adverse effects of environmental toxins and triggers for human illness, the RCP began in the nineteen nineties - even

then toeing an industry line - to theorise about too much emphasis being placed upon risk in contemporary society. Growing out of this debate came a whole new generation of science based ' quackbusters ' who ridiculed the idea of environmental illness or environmental triggers to conditions while asking us to put our faith in developing technology and multinational corporations. This movement met up with the anti-environmental illness movement founded in Britain and America in the late 1980s.

Their message, however, was greatly expanded and while the earlier versions had suggested that environmental illness might exist in some forms and that adverse reactions to pharmaceutical products were sometimes possible, the new contemporary version of these campaigns, especially in Britain, claimed that there could be absolutely no adverse reactions from either modern drugs or environmental pollutants such as mobile phones, phone masts or such things as pesticides. Mike Fitzpatrick for instance has argued, like Professor Simon Wessley , an early Campaign Against Health Fraud member, not only that ME and Chronic Fatigue Syndrome do not exist but those who suggest that they do are suffering from mental health problems (see my books, SKEWED and Brave New World of Zero Risk, available from www.slingshot.com).

The fundamental intellectual problem with the new generation of quackbusters is that if the base of your theoretic position is that modern technology and modern medicine are incapable of producing adverse reactions, there is nowhere else for the argument to go. And in fact this is the purpose of such a dogmatic argument; admit to one adverse reaction to drugs and of course you have to admit to the possibility of others.

There is no possibility, of productively discussing science with people who insist that medicine or new technology has no adverse risks. In fact such arguments signal the end of science and the beginning of an authoritarian Orwellian world, in which dissent and opposition has to be continually censured by those in charge of the official dogma. This is yet another reason why the GMC hearings are an ongoing fiasco, the pharmaceutical companies, the science lobby groups and New Labour inhabit a world of total denial, in which from the very beginning they have decided that there are no adverse reactions to vaccination and they will use any argument to prove this, including the idea that the present three GMC defendants are criminals.

* * *

I am really pleased that people enjoyed my last report from the GMC and I am seriously encouraged by the number of readers who have told me that they have placed orders for ripe bananas to arrive some time at the end of April next year. I don't want to be crude about this, but if everyone does what they say they will do, we could, next year, have a kind of 'Vomitfest', perhaps in one of the GMC lifts taking the prosecution team up to the 3rd floor. All participants will be expected to wear sou'westers , high wellington boots and waterproof capes. This could be Alan Golding's chance to become the new medical Tarantino, with his film about the hearing opening with a scene of multiple projectile vomiting that leaves the prosecution team prostrate and strewn across the floor of the lift.

GMC Prosecution Exploits Vaccine Damaged Children with Autism

Monday 28th July - Thursday 31st July

GMC Prosecution Exploits Vaccine Damaged Children with Autism and Attacks Good Doctors While Covering up the Crimes of Politicians and Pharmaceutical Companies.

Brian is back, in and out of the hearing, sitting palely in the corner like a scab on the sore of these festering proceedings. Apparently he is not so interested in the fate of Professor Walker-Smith, he now chooses his time to be present, even the beginning of Miss Smith's cross examination didn't seduce him. Still the air is a lot clearer when he isn't there, the low smog of sulphur happily dispersed.

On Tuesday 29th of July, Mr Miller stopped taking Professor Walker-Smith through his evidence-in-chief relating to the Lancet paper's 12 children. I haven't covered this evidence in detail because I have reported on it previously, instead I reduced the evidence to bullet points in my last article.

It has occurred to me that some readers who have read my last two reports might think that in not relating the evidence about the 12 children more specifically, I was doing a disservice to these children and their parents. I want to stress that the evidence brought against the three defendants in relation to the Lancet children, has nothing whatsoever to do with the children themselves. This evidence only reflects upon the children in as much as Miss Smith and prosecution are saying that on the whole the children did not have serious bowel problems and they were manipulated into being subjects of research, while the defence is saying that in each case, there was sufficient evidence of serious illness for the children to be examined on the basis of clinical need. The prosecution do not really want to discuss the real children, except to infer that the three defendants performed unnecessary procedures on them.

The GMC has used the children in the most cruel manner by refusing a voice either to them or their parents. No doubt if one asked the GMC why they have not called the parents to give evidence, they would say, 'We

believe that the parents were duped, that they gave up their children to Wakefield and the Royal Free in the vain hope that their autism might be remedied but what actually happened was that the three defendants experimented on these children trying to prove that their autism was caused by MMR'. This of course is hogwash, they didn't want to bring the parents of the 12 children into the hearing because all of them would have sung the praises of Dr Wakefield, Professor Walker-Smith and Professor Simon Murch .

One might well ask , how would the testimony of the parents have affected the case? The answer is simple. The appearance of the parents would have reversed the thinking in the case and made it clear to the panel how sick the children were, how their regressive autism occurred after their MMR vaccination and finally, would have given considerable support to the way in which the doctors at the Royal Free had behaved; ethically and always with the children's interests at heart. Inevitably, the question that remains hardest to answer, is why the defence has not called any of the parents. Not being privy to their reasoning on this, it has occurred to me that it might be the case that the lawyers see the parents as loose cannons, who might at any time in their evidence, tip-over the defence case.

Any rational view of this case, would, I think see the evidence of the parents about the condition of their children and their search to get them properly examined and diagnosed, their contact with Doctor Wakefield and their treatment at the Royal Free, as a very good counterweight to the evidence of the General Practitioners who appeared ostensibly for the prosecution. I say ostensibly because a number of them, like other prosecution witnesses actually gave evidence for the defence, recognising their own limitations and lack of specialisation while expressing their gratitude for the work of the doctors at the Royal Free.

For those who would be happier with a detailed impression of the evidence relating to the 12 *Lancet*children, they could do no better than read Olivia Hamlyn's account, below, of the morning of Monday the 28th of July. Olivia who was only there for the morning on this day, managed to produce two pages of detailed record, which I reproduce below and which gives a full picture of how the defence is preparing to answer the onslaught of continuously repeated questions which is bound to come from Miss Smith when she begins her cross-examination of Professor Walker-Smith.

* * *

When I arrived it was 10.10am so the hearing had already been in session for about 40 minutes. I had thought that by this time Mr Miller would have finished going through the 12 children which he had begun last Monday. However, this morning was dedicated to child 9 and child 10, and I left half way through child 10, when the hearing adjourned for lunch. The previous few times I have been, not much of huge interest was said. This morning a few things of more interest came up and some charges were touched upon directly, so I'll give a brief account of those things.

The evidence regarding child 9 centred mainly on the correspondence between Dr Clifford Spratt and Professor Walker-Smith, but the main points being made, I think, were that the investigation and treatment of child 9 had nothing to do with research and that Dr Wakefield and Dr Dillon were not involved. Likewise, giving child 9 asacol was merely to see if it might help, not for research purposes. Regarding whether a lumber puncture was clinically indicated, Walker-Smith stated that it clearly was, given that a sibling of child 9 had had the neurological condition, Hoffmann's syndrome.

Mr Miller also touched on Professor Walker-Smith's monitoring of child 9's folate (folic acid) levels, simply for information should it be useful for later research. This, however, never got any further but he stated that it could have been useful for diagnostic or therapeutic reasons. The evidence also focused partly on the monitoring of child 9's lead levels which were unusually high and Walker-Smith expressed puzzlement as to why Dr Spratt continued to involve him in what he saw as the typical remit of a local, community paediatrician. Professor Walker-Smith speculated that it could have been because child 9's bowel pathology might be linked to these lead levels but he also noted that Dr Spratt was asking him questions outside his area of expertise.

Regarding the referral and investigation, Professor Walker-Smith made it quite clear that child 9 was not to be included in what was referred to as the 172/96 study - a study that didn't actually get off the ground but which the prosecution insist was the basis for the 1998 Lancet paper. He stressed that child 9 was not part of *any* research study. When asked by Mr Miller why he had continued to correspond, on the matter of the lead, with Dr Spratt, Professor Walker-Smith replied that the correspondence was purely for child 9's benefit and that it was appropriate to be involved

in this discussion. Walker-Smith made the point that he had general experience as a paediatrician and that he was not about to abandon a patient as soon as the issue at hand moved outside of his area of expertise.

In a letter from Professor Walker-Smith to Dr Spratt written in Sept 97, JWS recommended that child 9 stop receiving the drug he was on and mentioned that he had discussed this with Dr Wakefield. Walker-Smith had to explain why he discussed such a matter with Wakefield and said that it had been a matter discussed by a group of doctors on a trip to Freiburg. The question of how to get objective evidence of whether anti-inflammatory drugs worked, by repeating tests the children had had previously, for example, was a research issue and it therefore had been appropriate to discuss it with Dr Wakefield. He had written to Dr Wakefield on this subject because he didn't see him much. His discussion on the same subject with the other doctors had taken place face-to-face because he saw them more often; this was why there was no paper evidence of his discussions with them. Mr Miller went on to predict what the prosecution's question would be regarding this matter, ie . Why discuss clinical treatment with Dr Wakefield? Walker-Smith replied (and this is something he has mentioned before) that he wasn't aware of the limitation to Wakefield's clinical contract and had thought he was a full time clinical gastro researcher. He also noted that Dr Wakefield was an internationally recognised leader on IBD, its manifestation and treatment, therefore implying that it was perfectly reasonable and sensible to consult him.

That concluded the evidence regarding child 9 and Mr Miller then moved on to child 10. Child 10 was unique in that this was the only child who had significantly raised measles antibodies, and this was remarked upon by his GP. Professor Walker-Smith discussed the diagnostic skills he'd had to acquire where autistic children were concerned, as these children could not communicate with him. Out of this question rose the matter of whether colonoscopies were clinically indicated in these children, the prosecution line being that a number of other less invasive tests should have been investigated first and other causes of the pain should be considered, before opting to carry out a colonoscopy. Professor Walker-Smith simply informed the panel that other sources of abdominal pain, such as stones, would be rare and that these positive diagnostic features (e.g. the behaviour of the children in trying to alleviate their pain) and this type of pain were very familiar to him. He also stated that he could tell the difference between colic associated with stones and that

associated with this type of pain, and that various accompanying symptoms would also suggest a gastro diagnosis. Looking at Professor Walker-Smith's evidence all round in relation to colonoscopy the prosecution are going to have difficulty proving these procedures were not clinically indicated.

Professor Walker-Smith also made the point that the tests were certainly not carried out simply because child 10's parents were keen that they should be. He stated that the parents had been painted in a bad light in the hearing but he had understood their position at the time, i.e. there was no way a parent would want their child to undergo such investigations other than to help the child. He also commented that the lab evidence (from usual tests carried out by Dr Davis) of the raised measles antibodies was unique and of interest since the whole unit was interested in the link between MMR, autism and bowel problems.

Moving onto ethics committee approval, 172/96 was given ethical approval but child 10 didn't become a part of that study or any other study, though he would have been eligible.

Regarding the colonoscopy carried out by Professor Simon Murch , on child 10, Walker-Smith stated that the reason for this was the high measles antibody and various other matters. There was then some discussion of the nature of lymphoid hyperplasia and the respective merits of colonoscopy and histological investigations. Finally, before I left, they dealt with the fact that the lumber puncture had taken place after the colonoscopy under the same anaesthetic – the reason for this was that since no other tests were being done, this was the only opportunity. Professor Walker-Smith explained that the lumbar puncture had been clinically indicated because of the history of regression and especially here because of the high measles antibody. The result was normal and, clearly anticipating the prosecution line, it was explained that this result was not something which could have been predicted, thus indicated the necessity of the lumbar puncture.

In a case with more than one defendant, evidence of the co- accused becomes increasingly important. If none of the defendants have decided upon a 'cut-throat defence' - one that thoroughly places the blame on another or other defendants - the path through the defence evidence of each defendant has to be carefully trodden. Every moment of dissonance will be used by the prosecution to damage not only the present witness but the other defendants. In some instances, however, it might be almost

impossible, given the evidence against one defendant, not to damage another.

Professor Walker-Smith's counsel, Mr Miller, evidently struggled hard to minimise the damage his client might do to Dr Wakefield. As well, it has to be borne in mind that some of the charges have been structured and worded with such erudite stupidity, that it would be impossible for one defendant not to damage the case of another. Take for instance the substantive charge that Dr Wakefield in telling the press briefing that it might be best to return to single vaccines until research at the Royal free was finished, was acting unprofessionally in not telling his colleagues what he would say.

It might be easy for Miss Smith to make something of this point, especially if panel members have not completely grasped what happened at the Press briefing. Dr Wakefield with the complete agreement of Professor Zuckerman, the Dean of the Medical School, and in association with Roy Pounder, the head of the hospital department in which Dr Wakefield worked, had in fact been perfectly clear about what he would say about single vaccines, some time prior to the press briefing. And when a journalist had spontaneously asked the relevant question, Zuckerman, who also supported the idea of single vaccines, had dealt it to Wakefield who answered as had been arranged. It might well be that at a later date both Professor Walker-Smith and Professor Murch , would rue Wakefield's words and obviously go so far as to say that they didn't agree with them, but that doesn't either put Dr Wakefield in the wrong or suggest that he committed a cardinal offence in having a different perspective from two of his colleagues. Nevertheless, it is exactly this kind of transparent conflict that most prosecutors look forward to exploiting.

As I have said previously from the beginning of Professor Walker-Smith's evidence, he did everything possible to ensure that he treated Dr Wakefield with the respect and the affection that he evidently felt for him. However, there was no avoiding the fact that Dr Wakefield and Professor Walker-Smith were and are in some respects, quite different professionals who had been through quite different trials in the MMR years.

First and foremost, of course, there are their ages, and their approach to their profession. Professor Walker-Smith gives off an aura of the old school, one might even say *conservative* . The watchwords of the Professor's approach to medicine, would appear to be caution and

constraint. Which is not to say that Dr Wakefield is an aggressive promoter or a self publicist; but while he is not the kind of doctor who would to go out into the community armed with leaflets, he clearly has a populist approach to his work. In fact one of the most striking things about Dr Wakefield and about the accusations that have been levelled against him in this hearing, is that he is clearly a man of his patients. While one might wonder about many other doctors; who they are going in to bat for, themselves, the drug companies, an ideological NHS or even an intellectual or professional establishment, the signs are written all over Dr Wakefield that he is a man acting in concert with his patients.

This is not to say of course that Professor Walker-Smith or Professor Murch are any less acting for their patients, just that in Dr Wakefield's case, his populism appears to be a major aspect of his professional persona. But something else is different about these two doctors and that is their experience. Professor Walker-Smith has spent a life time building up a unit linked through two hospitals in a major urban centre. He is a man completely committed to the organised system of medicine, he has the patience of Job and the strategic foresight of a good politician. He seems to be a man who would avoid confrontation at all costs, a man who would far rather use diplomacy.

When Professor Walker-Smith arrived at the Royal Free Hospital in late 1995, ready to take on the heady responsibility for the clinical work in a large new department of experimental gastroenterology, Dr Wakefield had been spoiling for a fight for some time. It was already four years since he sent his first letter to Dr Salisbury asking for a meeting which even then hadn't been arranged. By 1996, Andrew Wakefield, was to some extent someone who had slipped his moorings. His work was producing exciting results, but at every turn these results that had thrown him into serious confrontation with the medical, paediatric and vaccine establishment. He was still vitally involved in his work, in patients, and in research but he no longer knew to whom he was reporting. Because a large number of parents came first to him, and he had to absorb the collective pain of the vaccine damaged children and now autistic children, he was slowly turning into an activist, still acting in the interests of his patients but now appearing on the public rather than professional stage.

And it is at this point, just before the *Lancet* paper, and the press briefing that accompanied it, that the trajectory of the careers of Dr Wakefield and Professor Walker-Smith begin to separate.

There could, of course, be no conflict between the defendants about the evidence of the examination, treatment and diagnosis of the children. This is because, on all counts relating to these issues the GMC inhabits a peculiar 'no-man's land' where there is no evidence, no motive and no logic in their accusations: all the doctors acted with the utmost approbrium during their dealings with these vaccine damaged children and their parents.

But as the doctors rudderless boat drifted towards the Niagra of the 1998 *Lancet* paper, their different styles and approaches began to come to the surface.

Professor Walker-Smith, giving his evidence – in - chief, is still very disturbed by this sudden public mauling of the work at the Royal Free. He comments that speaking to the press in this way was not at all his style. While Professor Walker-Smith did not even attend the Press briefing that followed the publication of the Lancet paper because he considered that medical science should pursue it's course through journals and scientific meetings and not press briefing, Wakefield used the briefing to express what was actually the departmental view that parents might be better using the single vaccine until the science about the triple vaccine was resolved.

In this respect, the last day and a half of the hearing last week were by far the most interesting. As soon as Mr Miller had dissected the cases of the 12 *Lancet* children, upon which evidence from Walker-Smith appeared as stable as granite, he moved on to look at the 'political' and 'personality' issues that clearly divided the opinions of Dr Wakefield, and Professor's Walker-Smith and Murch . From this short disclosure of Professor Walker-Smith's evidence, it was immediately apparent that Miss Smith - perhaps even without laying too much emphasis upon professor Walker-Smith's clinical work which she will have immense difficulty in calling into question - will be able to make considerable progress in analysing the differences in the personal approaches to the medical and political issues the *Lancet*paper and its press briefing raised. These differences, do not as they say, speak to the issues, they can not be considered 'signs of crime', although of course Miss Smith will do her utmost to make them such.

The issues that were raised after the review of the 12 *Lancet* children, ranged over a wide area of what might be termed the 'politics' of Dr Wakefield's work and the manner in which he represented himself and made things public.

Entering the maze around the referral, diagnosis and treatment of the *Lancet* children, their is little dispute between Dr Wakefield and Professor Walker-Smith. All three doctors know that having resolved a protocol for how they might examine, diagnose and then treat these children, they did the best they could do to care for these young and vulnerable patients. Despite the fact that the children have found themselves at the centre of one of the most furious medico-political battles of the last half century, all the doctors know that faced with a new syndrome and children who were in considerable pain, they tried their hardest to find and treat the cause. They did this, whatever the prosecution says, on the basis of clinical need.

Around the time that the ethical committee approval was sought for the clinical study 172/96 - a study that never actually took place - divisions begin to emerge between Dr Wakefield and Professor Walker-Smith. There is correspondence between Dr Pegg the chair of the ethics committee, Professor Zuckerman and at least one outsider, suggesting concern over Dr Wakefield's work, with it's implied criticism of MMR.

In the lead up to the publication of the *Lancet* paper, the opinions of Professor Walker-Smith and Dr Wakefield appeared to diverge even more. When Mr Miller introduced the matter of Legal Aid money for research, it was evident that this left a very bad taste in the mouth of Professor Walker-Smith and he stressed the fact that he had never played any part in legal aid actions or claims for damages. Although as with a number of other things, Professor Walker-Smith appears to be complaining mainly about the precipitous nature of Wakefield's actions; it is not that he disagrees with 'going public', but it should be done when the science has run it's course and can be relied upon as serious evidence.

Professor Walker-Smith expressed the surprise that he had felt when he did find out that legal aid money was being received by the department - this knowledge was speeded on by a phone call from Brian Deer informing him, wrongly as it turned out, that Dr Wakefield had been given £55,000 by the legal aid board (as discussed in previous reports, in fact this money did not go to Dr Wakefield).

In July 1997, Professor Walker-Smith had been very disturbed to read an article in *Pulse* a free medical industry newspaper. The article apparently drew upon an interview with Dr Wakefield. Oddly, the paper ran with the story making public Wakefield's first suspicion that there might be a link between MMR and autism. The resultant article seeped into other news

media and for the first time there came a suspicion that serious conflicts were lying just beneath the surface. Professor Walker-Smith said that his position had always been that there should be no contact with the media until the results of research were published in a peer reviewed journal. The fact that *Pulse* had reported that there were five as yet unpublished studies made him 'very very uneasy' and filled him with 'considerable foreboding'.

Walker-Smith was next concerned about a meeting that had been arranged with Tessa Jowell , he couldn't understand, he had said at the time, why Dr Wakefield should arrange such meetings and give such interviews to the media when they were so close to publishing the case review. But by now each person was seeking refuge in their own safest arguments, and professor Walker-Smith was little interested, for instance, in the fact that Dr Wakefield had asked for a meeting of this kind almost six years ago, nor was he aware of the setting up of JABS and the rising consciousness of the parents who were beginning to campaign in many different ways.

When it came to the press briefing, even though this had been organised by Professor Zuckerman, Professor Walker-Smith was clearly against it. He made it clear that they had never had any media attention at Bart's. He didn't go to the press briefing and in answering Mr Miller's questions about it, Professor Walker-Smith made his distaste very clear when he said, 'I don't think it was right to discuss such things at a public meeting'. And he re-iterated his view, which must be evident even to the blind prosecutors, that the *Lancet* paper had been quite clear about the fact that it did not state a proven link between MMR and autism. He shook his head, about this matter, evidently still troubled by it and said clearly like someone regretting an avalanche; '...everything that happened grew from the extraordinary press briefing'.

But this again points to the considerable difference in analysis and perspective between Walker-Smith and Wakefield. I'm sure that. were one to get Andrew Wakefield to comment on this statement he would most probably interpret it as: '...everything that happened had been happening for six years or so'. When Mr Miller eventually went through the specific charges against Walker-Smith, quite rightly he became quite agitated on re-hearing a number of them, in particular those which accused him of dishonesty. One angry exchange, ended with the Professor answering the charge that he had examined the children with

research rather than clinical need in mind, with the words: 'Why would I, what would be my motive?'

And of course this exchange brings one of the most important matters, that of motive, into sudden focus. Why would Professor Walker-Smith with a forty odd year blameless career behind him, risk it all to carry out experiments on sick children. Those who could show the absurdity of this allegation, the parents, of course have not been brought to the GMC or allowed to express their perception of the care that Walker-Smith had afforded those very ill and disturbed children.

* * *

At mid-day on Thursday 31st July, Professor Walker-Smith finished his evidence-in- chief, he had been at the witness table for just over two weeks. The barristers, as appears to be their collective wont when a new subject opens, awarded themselves a day and a half rest, agreed by the panel Chairman. The possibility of what might happen if these barristers and the panel Chairman were transplant surgeons, is intriguing.

'Well we've finished opening him up, we're done with that part', Mr Miller might say looking at the anaethetised patient on the operating table, the flesh of his abdomen wall, held back with clamps.

'I was just wondering, as we are moving to a completely new matter, the removal of the liver, and as it's approaching three thirty anyway, whether or not we might take a break and start again in the morning. Everyone looks dubiously at the opened body under the glare of theatre lights.

The Chairman looks to Mr Koonan on the other side of the Theatre, who, beneath his mask is vigorously stroking his beard.

'I'm not going to be long at all, just a bit of mopping up and a couple of stitches. I'm quite happy to leave this until after the weekend'.

'How does Professor Murch's representative feel about this?'

'Well, we have had the new organ for some time, although after seeing the work that Mr Miller has just completed we might find that we need to have a few more days to understand exactly what he did'.

'Oh, and of course', The Chairman languidly turns to the end of the operating table, 'We should not forget the anaesthetist Miss Smith'.

A razor sharp grin flits across Miss Smith's face.

'I did give the patient quite enough to keep him under for a couple of days and, yes, we would like the opportunity to examine Mr Miller's work more closely'.

'Well that's that then, thank you gentlemen and of course Miss Smith'.

The Panel Chairman casts his eyes round the operating theatre and sees that there is no dissent.

'I think we can safely say that we can adjourn until Monday morning'.

He looks intently into the closed eyes of the patient.

'I am sorry about this, I know that you have been in and out of the hospital over ten years now waiting to have this operation, but I do have to remind you, please, not to talk to anyone else about the treatment you have received on the NHS. It is important that you don't move and obviously you can not have anything to eat. If you happen to come round before Monday we will be leaving a bottle of sleeping tablets next to you on the gurney'.

Everyone begins to leave the theatre as a nurse tents a green cloth over the patient's open abdomen.

And your conscience Miss Smith?

Monday 4th August - Friday 8th August

There are none so deaf as those who do not want to hear.

An alibi, is a claim 'to be in another place'; it is often the centre piece of the defence in a criminal trial. Of course, criminals invent and produce alibis that dispute the charges brought against them. And not just alibis. Defendants who might be guilty concoct and manipulate whole stories, which not only place them at other locations but also create for them new identities and forge whole new universes in which they live their lives. This is in the nature of the defence, especially where the defendant is guilty. It is imperative for the rightly accused defendant to maintain the maximum distance between himself and the persona and culture of the person described by the prosecution.

This resort to the description of a dual world is, of course, less commonly used by the prosecution. In prosecuting on behalf of the victim, the prosecutor has rarely the need to invent personae to tell detailed but untruthful stories about the victim's habitat and culture. Such things are unnecessary because on the whole most prosecutions are founded on real and noteworthy events; the victims of crime and their relatives are really damaged and concerned to make public their circumstances in full.

The prosecution has need of false scenarios mainly in political trials or in those which by accident or sometimes intent, are brought against wrongly accused defendants. So it was that in 1916 the state produced diaries that incriminated Roger Casement, the British civil servant with strong Irish republican loyalties, containing homosexual fantasies that perhaps did more to get him convicted than the factual evidence brought against him. In cases of wrongful conviction, the defendant is portrayed in a fashion that best fits the prosecution case and which the defendant's closest friends would fail to recognise. In all such cases, the defendant in question is imbued with characteristics they simply do not posses; an ability with and recourse to the use of firearms, bomb making equipment, an amorality, a hardness of spirit or a streak of psychopathy that in reality are not part of their world.

The portrayal of Dr Wakefield as a dishonest, cruel and amoral chancer, began long before the GMC hearings. Since the publication of the Lancet paper, the pharmaceutical companies, with their hand-maidens in the science lobby groups, have presented a cartoon picture of Dr Wakefield as a lone maverick. Since the hearing began, the prosecution has manipulated evidence and constructed a scenario, which is a long way from describing the defendants or the good work they have done on behalf of sick children and their parents. In order to build a case against the doctors, the prosecution has had to fabricate not only a story, but new identities for the three defendants.

The prosecution has used facts like clay in order to mould a case. They first avoided bringing evidence from the parents about the children and then they painted a picture of work in a hospital that has more in common with the story board to Apocalypse Now than it does with a well run hospital department. Before we look at Miss Smith's cross examination of Professor Walker-Smith, it is worth looking more closely at the main pillars of the prosecution case to see what they establish.

The prosecution case is that the defendants experimented on children in order to construct a fantastic case that MMR caused adverse reactions in children, and so make claims against the drug companies. The three defendants, presumably together with others in the Royal Free Hospital, in pursuit of this experimentation, conducted very risky procedures upon children with behavioural difficulties. Last week Miss Smith revealed a so far unexplored part of this diabolical scenario when she accused Professor Walker-Smith of having treated the children he had seen prior to the ethics committee approval of 172/96, as 'guinea pigs'; people used as subjects of experimentation.

Another plank of the prosecution is that the children who ended up at the Royal Free Hospital were never seriously ill. Although some of them might have been 'naturally' autistic, none of them had anything wrong with them that could not have been dealt with by local medics. They were, Miss Smith says, cajoled, corralled, pressed and manipulated into the Royal Free Hospital by Dr Andrew Wakefield against the better advice of their general practitioners and consultants.

In order to construct this case, the prosecution has had to describe the children ultimately as victims of both their own parents and the defendants. This part of the prosecution scenario is perhaps the most corrupt and dishonest and the facts around it need the most massaging to

turn it into a courtroom reality. Last week, Miss Smith further embellished her case, by implying that the parents had psychologically unbalanced motives for sacrificing their children to the experiments conducted by the defendants. In a long and badly constructed question - as are many of Miss Smith's - taken straight from the Roy Meadow's Parenting Manual, Miss Smith suggested that in their eagerness to see their children made better - from what condition she didn't elucidate, but most probably 'natural' autism - the parents egged on the doctors to experiment upon their children.

To stand up their case, the prosecution has had to present the three doctors as some kind of cabal working in counter distinction to all the other hospital staff. Only in this way could the defendants be joined as a small Active Service Unit of Evil (ASUE). How their criminal intentions and their experiments were kept secret from the rest of the Department and even the rest of the Royal Free Hospital remains a mystery. To the frequently asked question, 'Why are not all the other authors of the *Lancet* paper in the dock?' the answer is simple. According to the prosecution case, most other people in the Royal Free Hospital, even those who authored the paper, were antagonistic to Wakefield and a number of them were brought as professional witnesses by the prosecution. Of course had all the authors and those who happily worked with Dr Wakefield, been prosecuted by the GMC, the hearing room might have looked like the Libyan courtroom during the trial of Bulgarian nurses charged with purposefully giving patients HIV - oddly enough following the many abuses of process by the prosecution, their is already a resemblance between the cases.

Miss Smith has remained determined throughout her cross examination of both Dr Wakefield and now Professor Walker-Smith, that the three defendants were not acting as doctors normally do within the regime of a hospital. Interestingly, of course, they weren't. Perhaps for the first time in British medical history, a whole department of an NHS hospital was given over to the examination of children suffering from a serious adverse reaction caused by the routine prescription of a childhood vaccination. One only has to contemplate this for a matter of seconds before the meaning of the GMC case becomes abundantly clear.

Apart from those occasions that hospitals and doctors make mistakes, the routine of allopathic medicine is straightforward. At the best of times, it goes like this; the patient feeling unwell attends their primary care giver, the general practitioner; the GP summons his native intelligence, runs

through contemporary government sponsored scare stories and other more sensible references and arrives at a general conclusion about the patient's condition. If curing the illness is apparently within the GP's gift, they prescribe a likely potion, but if the condition eludes them and seems to warrant investigation by a higher medical authority, the patient is given an appointment to be seen by a consultant at a local hospital. At the appointment, the consultant will read the patient's notes, agree, amend or disagree with the GP's assessment and on the basis of a definite diagnosis the patient will be given a hospital appointment for tests or an operation, or perhaps a prescription with a regime to follow.

This however, is the 'boring story of medicine', medicine stripped of culture and social relations. In the more dramatic post-modern version of the detection of illness, the complaint suffered by the patient is always an undiagnosed illness. And because of this, the imaginative doctor, equipped with glass panels to scribble on with a wax crayon, or a window in some cases, is intuitively led to a deep understanding of the whole nature of illness, society and the universe, entirely by argument and the reading of social, religious and sexual signs. Although such stories of medical detection are mainly fictional, this exciting style is inevitably based upon modern realities.

These realities occur, though rarely in the NHS, when there is a sudden outbreak of a novel disease, or when a number of people report a previously undiagnosed illness. This was how the children who found their way to the Royal Free were treated and their cases researched; with an urgent sense of crisis and without any diagnostic guidelines. The doctors working on these cases believed that they were up against a major crisis in public health involving the lives of innocent young children. The prosecution in this case, however, have been unable to give the doctors credit for uncovering the truth of the illness, because it would have meant conceding that MMR was implicated in bowel disease and regressive autism.

In the prosecution's presentation of the 12 Lancet children, a number of things stand out. First, none of the children have been presented to the hearing and only one of the parents was called to give evidence. This one parent, called by the prosecution, was convinced by GMC lawyers that they were appearing for the defence, and like a number of other prosecution witnesses tried her best to give evidence for the defence.

Second, Miss Smith has consistently presented these cases as if they could have been either adequately dealt with by general practitioners, or involving mothers in cahoots with Dr Wakefield, forcing GPs to refer their children to the Royal Free. However the children got to the hospital, the prosecution has portrayed them as healthy children with minimal if any gastrointestinal problems. Everything has been done to make the children invisible and to reduce the reality of their illness. It could be said that the children, together with their illnesses, have been painted out and the blame for the sidetracking of their cases placed upon neurotic mothers and amoral experimenting doctors.

The truth is that what got these 12 children to the Royal Free by different routes and what got them examined and treated when there, was the fact that they were all, initially, victims of undiagnosed illnesses. It was because of this that in a number of cases, the GPs involved were unhappy about, or unable to come to conclusions about any diagnosis and even some consultants were more than happy to refer the children to a hospital miles away from where they lived. The children arrived at the Royal Free not because Dr Wakefield inveigled them there or conspired with the parents to get them referred there, but because within a short time of being approached by the first parent, more referrals had arrived, more phone calls had been made, more parents had spoken to Dr Wakefield and more children had been seriously damaged by MMR.

When Miss Smith argues that the children admitted to the Royal Free, or seen by Professor Walker-Smith at his outpatient consultations, became the subjects of experimental research, she is distorting the creative medical work that began with the arrival of these clinically undiagnosed children. It has to be stressed that the path to determining a diagnosis in any outbreak of a 'new' and previously undiagnosed illness is utterly different from the process followed in previously diagnosed cases and illnesses with a recorded history.

During her cross examination last week, it finally seemed to filter through the barren wastes of Miss Smith's mind, that the 'clinical protocol' consistently referred to by Dr Wakefield and Professor Walker-Smith, was a diagnostic tool and not a research protocol tendered to the research ethics committee. Understanding how doctors who are good at their jobs go about finding links, and causal factors, in undiagnosed illnesses isn't rocket science, but Miss Smith even with enlightenment was having none of it, 'So this was an unwritten protocol' she mocked, 'An informal and unwritten protocol', she seemed on the verge of saying, 'I should coco'

but stopped herself. To Miss Smith's uncreative mind, 'a protocol' would always be a set of rules guiding a research project, and so every time the word 'protocol' was mentioned a neon light attached to Miss Smith's hair band spelled out G U I L T.

Miss Smith's inability to understand the clinical protocol was indicative of her apparent lack of understanding about what doctors or epidemiologists do when they try, often fighting against time, to describe a new illness. In these circumstances, lacking a diagnosis and sometimes, even the labels to describe the symptoms of the illness, individual doctors have to work under a common protocol. It is not written because it changes from day to day as elements are added to it or taken away from it. Miss Smith has made much of this fast moving discourse over a symptomatic picture. She has railed against the fact that some tests, such as the lumbar puncture have drifted in and then out of the frame of the clinical diagnostic work. She has objected to their use but then when they are withdrawn suspected subterfuge. As Walker-Smith has repeated to her over and again, as they saw more patients some tests were dropped because they were providing little or no information; aha! so these were research tests exclaims Miss Smith.

The truth is that had Miss Smith seen this keenly post-modern diagnostic investigation into a new syndrome in some television series, had it been about a mathematician or a portrayal of Sherlock Holmes by Jeremy Brett in full flight, she would no doubt have been carried away by the intuitive and spectacular workings of the human mind. It would appear however, certainly in Miss Smith's view, that there is no place for creative cutting edge medicine in the NHS.

As Miss Smith slugged away at Professor Walker-Smith last week, it would have become evident to new fight fans that these two must have weighed-in with considerable differences. They had both proved to be of similar weight, Miss Smith being the lighter of the two. But in other qualities they proved quite different. On charm for example; officials thought that the machine had broken as the needle swirled backwards when Miss Smith stood on the scales. And the machine actually did break when measuring the prosecutor's sincerity. Miss Smith had only one foot on the scale when the needle jettisoned backwards with such sudden force that its snap was accompanied by a series of metallic twanging noises as springs broke, shot out of the machine and rained down on observers.

It was these two qualities, in which Miss Smith showed a deficit, that began to tell on the two fighters as the bout entered it's second week. While Miss Smith refused to give an inch in her contention that Dr Andrew Wakefield had engineered a dark plot to experiment on children, Professor Walker-Smith adequately defended himself and his colleagues; even landed some sharp blows in his own defence which for moments winded Miss Smith.

Miss Smith began her cross examination of Professor Walker-Smith on Monday August 4th at 9.30. From the off, she tried to suggest that Walker-Smith was a research doctor rather than just a clinical physician. Walker-Smith used this opportunity to establish from the beginning that he thought the separation between clinical work and research was a false dichotomy; in his opinion the two areas, were closely linked.

After a relatively cosy introduction, Miss Smith concentrated on trying to get Professor Walker-Smith to blame Dr Wakefield for everything that the prosecution claims was wrong at the Royal Free and the resultant prosecution. Miss Smith was most perturbed about Dr Wakefield's lack of paediatric qualifications, while Professor Walker-Smith pointed out that he didn't need these qualifications, being an academic research worker. After all, evaluations of biopsies and histological work were basically the same for children and adults. Inevitably, Miss Smith was most perturbed because it was an integral part of the prosecution case that Dr Wakefield had caused invasive procedures to happen to children.

Professor Walker Smith did his best to defend Dr Wakefield and answer Miss Smith's double edged questions. While it was true, he said, that Dr Wakefield had no paediatric qualifications, there was, he suggested little difference between adult gastroenterology and that carried out on children. Anyway, he stressed that despite being solely concerned with research, and spending most of his time in a laboratory, having worked as a transplant surgeon Dr Wakefield was well informed about the clinical aspects of the work. Wakefield's knowledge of the literature, said the Professor, was also extensive.

But Miss Smith was never happy with any of these doctors being involved only in clinical work, or for that matter, only in research work. In taking Professor Walker-Smith through his background, she tried to get him to confess that he was really a research doctor. This was quite a bizarre complaint and one couldn't help but smile at her dishonest attempt to push the square peg of the clinical Walker-Smith into the round hold of a

research worker. Inevitably even the most disinterested of observers could see that this was the partner argument to the one that she had put to Dr Wakefield when she insisted that he spent all his time working as a clinician having deserted his research work.

Miss Smith was insistent that not only had Dr Wakefield 'ushered in' the patients to the Royal Free but he had spent a great deal of his time discussing clinical cases with all and sundry. From the beginning of the cross-examination, Miss Smith was certain that Wakefield had been acting alone, entreating parents to get their children referred to the Royal Free. Professor Walker-Smith never once stepped back from his contention that the parents were the most important people in the developing situation and it was their drive and commitment to their children's health that got the children to the Royal Free. In this respect perhaps more than any other, the similarities between Wakefield, Walker-Smith and Murch appear to be overwhelming; they are all patient centred doctors, a quite unusual collective phenomena in the contemporary NHS. Miss Smith, of course, portrays this identity as subversive.

Professor Walker-Smith, as had the best other witnesses before him, was insistent that a whole department and a number of senior people were absolutely in favour of the work being carried out at the Royal Free. When Miss Smith asked him a couple of questions about the 'Clinical Protocol' it was evident that she had yet again lost the plot. It should have been seen as a warning that she was later going to get seriously bogged down when she questioned again and again, that the 'clinical protocol' was not the protocol offered to the Research Ethics Committee for research project 172/96.

The clinical protocol was in fact a loose agreement between doctors who approached the so far undiagnosed children who were arriving at the Royal Free. Such a protocol was necessary so that all the doctors could begin to build up a common body of knowledge about these children and develop common diagnostic criteria. Miss Smith didn't understand this, 'surely' she pressed in her own slightly robotic way, 'a protocol is something written down and fixed'; a protocol was, she maintained time and again, her brow furrowed, what had been sent to the research ethics committee.

The creative and intuitive process of building a diagnosis amongst children who had a similar novel illness, appeared to infuriate Miss Smith. She put it to Walker-Smith, on a number of occasions that he had started

off suggesting that many of the children had disintegrative autism, but then changed his mind describing the condition as regressive autism. Throughout Miss Smith's questioning runs a deep vein of cynicism, which does not allow for re-treading ideas, or flashes of inspiration. Everything she suggests is imbued with a sense of the correct way to behave professionally. Such a style is deeply conservative.

There were constant problems during last week with the microphones in the hearing room. I and others in the public gallery were on occasions completely unable to hear Miss Smith. In answer to one of my complaints, I was told that the leads were not long enough to stretch to the front of Miss Smith's lectern. This led me to wonder why, if the microphone couldn't get to Miss Smith, Miss Smith didn't go to the microphone. After all, Miss Smith seemed to be speaking with an annoying commitment, away from her two microphones, rather than into them. She began at one point speaking into her hand and at another she waved her hand in front of her mouth as if her words were too hot. Of course, it is always a joy to hear Miss Smith speak, making these frequent patches of audio confusion more frustrating than they would have been if Miss Smith were a bore.

Throughout Monday, Tuesday, Wednesday and Thursday, Miss Smith dealt generally with a wide range of areas, all of which had been advanced before in the cross examination of Dr Wakefield. She tried very hard to ensure that Wakefield shouldered most of the blame for constructing this scenario, in which the children were 'ushered in' to the Royal Free and then used experimentally, at his behest. At one point, Professor Walker-Smith became quite angry at Miss Smith's constant assertion that it was Dr Wakefield's commitment to his new hypothesis that guided the referral of the children to the Royal Free despite the fact there was little wrong with them. 'You were using this hypothesis as an excuse for an invasive procedure', she suggested. Walker-Smith answered firmly 'What was I supposed to do, just leave the children?' Miss Smith, had she been free to, would probably have answered this positively, in fact one could constantly see on Miss Smith's face the wish that all the children had stayed with their GP's their cases languishing under the head of behavioural problems, diarrhoea, constipation and autism.

This idea, that the children were admitted to the Royal Free for experimental purposes also resulted in another sharp exchange when Miss Smith made the ludicrous statement that 'the children were admitted to hospital under the research protocol', and Walker-Smith in one of his

most telling answers snapped back, 'No, they were admitted because they were ill'.

It became increasingly difficult during the week for Professor Walker-Smith to keep track of Miss Smith's fantastic and almost incoherent theory about the plot the three doctors were involved in. This led to some sharp reproaches from Miss Smith, along the lines of: 'Would you just concentrate on the questions I'm asking you?' and 'Now perhaps you might answer the question I asked'.

But the most stultifying moments, by far, came when Miss Smith tried to prove that the *Lancet* case series, was actually an ethically bodged research study. According to her, a number of children had been experimented upon unethically before the Research Ethics Committee had given the go ahead for 172/96, which had been used to research the rest of the children. In order to evidence this assertion, Miss Smith had to keep repeating that the *Lancet* paper was actually a full blown research study and not the retrospective case series that it was - a review of 12 children seen consecutively at the Royal Free on the basis of clinical need.

Miss Smith's cross-examination technique, involving constant repetition and the continued assertion of prosecution fantasies, did begin to confuse Professor Walker-Smith and by Wednesday he was finding it hard not to make unfounded and sometimes ragged concessions about 172/96. Although he never came close to saying that the study 172/96 was the *Lancet* paper, he did say that when 172/96 was approved by the research ethics committee, it became fused in the minds of a number of doctors, including him, with the routine clinical work outside of any study being done with the children. However, he remained quite certain that study 172/96 had never actually been embarked upon and that ethical committee approval was never necessary for the research, writing and publication of the *Lancet* case series.

This bout of prolonged questioning over Wednesday and Thursday, about 172/96, gave me the distinct feeling that the whole hearing had got lost somewhere in the pages of Arthur Koestler's *Darkness at Noon.* So evident was it that Miss Smith was trying to get Walker-Smith to confess, that we might well have been in a small stone room, watching Miss Smith shinning bright lights in the professor's eyes.

At mid-day on Wednesday there was an unexpected humorous incident when a mobile phone rang in the hearing. This is an eventuality that the

panel Chairman frequently warns everyone against. Obviously all eyes settled on me and the couple of other observers in the public gallery. Gradually however, as listeners began to pin- point the signal, all eyes came to rest on Professor Walker-Smith as he fished the ringing phone from his jacket. I thought for a moment that Miss Smith might add this event to the charges.

By Wednesday it had become clear that at 71, Professor Walker-Smith was perhaps too old to be put through the same grinding cross-examination that Dr Wakefield had endured, Miss Smith seemed completely oblivious to this. In the end it was Walker-Smith himself who drew a line in the sand. On Wednesday afternoon following the break, he asked that the hearing end early because he felt tired and stressed. Had Miss Smith not been thinking that the hearing was her personal Star Chamber, this matter might have been considered long before it was. One gets the feeling that Miss Smith is out to win at all costs. She argues with the same utter commitment that she must have felt in her late teens when she was often heard arguing for an end to juries.

Some of Thursday was taken up with Miss Smith questioning Walker-Smith about the worries that she felt he should have had about the kind of procedures, such as lumbar puncture, that had been used in 'the research' and about other people's concerns about these invasive procedures. Walker-Smith didn't falter in his repeated assertion that he had examined all the children on the basis of clinical need and procedures like lumbar puncture had been carried out in order to get closer to a more exact diagnosis.

Friday morning was one of those days that limped along and then sputtered out. There was some argument between counsel about the presentation of a study in evidence. At 11.00 after much stopping and starting, it was decided that, to be on the safe side and ensure that a proper decision was reached, the hearing should adjourn and reconvene on Monday morning.

I have to say that I found much of the proceedings of the last week quite obscene. It seemed frequently unbelievable to me that a seventy one year old paediatrician, a doctor who has devoted his life to the care of children, should be dragged through this highly political show trial. I have gone home each day with a terrible sense of discomfort such as one has when one realises that you are living in a society where everything is slightly out of kilter and where the whole purpose and plan of people

living together in co-operative communities has been so far subverted as to make you fear that you are actually living on the film set of a science fiction movie such as Bradbury's Fahrenheit 451 or Orwell's 1984.

* * *

As I have tried to outline above, one of the main foundation to the prosecution case is that there was nothing much wrong with the 12 children that Dr Wakefield is accused of pressurising to attend the Royal Free Hospital. Miss Smith's suggestion that Dr Wakefield, Professor Walker-Smith and Professor Simon Murch, having picked on a group of well children, linked them all together with a spurious illness pattern and invented a new syndrome, would be more obviously fallacious were this a criminal trial.

How would Miss Smith's argument look if they were addressed to a police detective who was trying to link together the cases of a serial killer. Imagine for the moment, the case of Detective Inspector Simon Watson, on trial at the Old Bailey after he suggested that the murders of 12 New Labour MP's he had been ordered to investigate, proved to be linked to each other and had a common cause.

* * *

Miss Smith: I put it to you Detective Watson, that you simply harassed members of New Labour and that you doctored the records so that it looked as if those you accused had actually been involved. There was neither rhyme nor reason or even motivation behind your research into these people's lives. You were just looking for someone to blame. There was in fact no factual basis for your enquiries, which you pursued simply for your own vain glory and the money you received in bribes that you now pretend were your rightfully earned salary.

Detective Inspector Watson: Is that a question?

Miss Smith: Let me put it to you another way, why did you go on a fishing expedition amongst senior members of the New Labour government? After all if we look at the original reports from local officers, none of these cases were first reported as murders were they? Look at victim number 2; the sergeant at the scene clearly says, 'It was difficult for me to conclude whether or not the Secretary of State for Defence had drowned naturally in the one inch deep puddle where he was found, or whether he had been

murdered elsewhere and then once dead placed, head down in the puddle. I concluded that the former was most probably the case'. Then there is victim number 6 - I'm just picking these out at random - the early report of this death from the Detective Sergeant at the scene, states simply, 'I came quickly to the conclusion that the deputy leader of the party had stabbed himself fifteen times in the chest. It appeared to be what I can only call a ritual suicide'. You see don't you D.I. Watson, the early reports about these deaths describe them as anything but murders. So why did you press the relatives to have you involved in there investigations? Why were you so keen to work on this case, to bring them to Scotland Yard? Were you unduly influenced by the relatives of these 12 dead people, who though deranged were insistent that murder had been committed. Isn't it the truth that you wanted, for reasons of your own, to link these twelve deaths together in some way and so catapult yourself up the ranks, in the process destroying the British police service? Well?

Detective Inspector Watson: Well What?

Miss Smith: Please pay attention D.I.Watson and please answer the question I am asking you. Is it not the case that you suggested that these 12 MP's were murdered by the outgoing Prime Minister Tony Blair because they had all at some point, in your words, 'Got in his way'. And that following your announcement of this at the press briefing, successful detection rates for murder in Britain plummeted. Could it not be said that you were responsible for this rising number of murders, having presented such an improbable scenario at the press conference, thereby showing that country-wide detectives were dullards and dim-wits and that anyone could murder with impunity.

Detective Inspector Watson: The murder victims were the only 12 MPs who had publicly criticised Mr. Blair's policies in Iraq.

Miss Smith: Yes, we know this is what you would have us believe. You decided on the flimsiest of evidence that this was what linked the cases together? The fact is, is it not, that you were paid by anarchists with Chinese gold to bring down the present New Labour government?

D.I. Watson: No, I was investigating a series of murders.

Miss Smith: I know that's your story, you don't have to keep repeating it! The truth is there is absolutely no evidence that these people were murdered. Is there? Let's face it, you let your investigation run wild didn't

you? You invented murders where non-existed and you linked them to high flying party members where in fact no links existed.

D.I. Watson: Each person was killed the day after making a public speech critical of New Labour's war against Iraq and having been called to the whips office and threatened.

Miss Smith: Be that as it may, it certainly isn't any kind of proof. How many people did you take in for questioning? How many interrogations did you fail to record? How many complaints were there from prisoners who said they had been abused?

D.I. Watson: There were no complaints from any prisoners who said they had been abused.

Miss Smith: Yes, that's what you would like us to believe isn't it? And what are we to make of the fact that of the two people from whom you pressured confessions, both made retractions after they got out of the police station?

D.I. Watson: No, that is not right. Both of those MPs had a previous record of manslaughter and had actually signed confessions before I arrived that day at the police station. The only reason they were at the police station in the first place, was that they had come with their solicitors to hand themselves in!

Miss Smith: Yes, well, that's what you'd like us to believe isn't it? The truth is quite different, isn't it? You beat confessions out of them and they came into the police station with their lawyers to hand in retractions. How long have you been a police officer D.I.Watson?

D.I. Watson: Thirty years.

Miss Smith: You have had many complaints made against you in that time haven't you?

D.I. Watson: I have a completely unblemished record and three medals for gallantry.

Miss Smith: Tell me D.I. Watson does your conscience trouble you?

* * *

Reflections on Dear Brian's web site:

'... And it has seen them launch a website causing more unwarranted distress to parents by publishing a substantially false account of the proceedings. This account is expected to be compiled into a self-published book, skimming profit from those it misleads. The intended author has a history of latching onto vulnerable people, and was heard bragging outside a GMC session that he could pocket 80% on sales.'

I wasn't going to write anything about the above but then felt that an analysis of this paragraph tells us a great deal about how Miss Smith got to be wearing the losing shoes in which she now stands. Brian's problem is that he gets things wrong.

'.... launch a website causing more unwarranted distress to parents': I write my report of the hearings for the parents. In fact Dear Brian is one of the only people who has caused unwarranted distress to parents. First when he visited some of them and interviewed them; second when he attacked Dr Wakefield and the rest of the Royal Free team, so cutting off the most sympathetic medical support for the parents and vaccine damaged children; finally when he tendered his complaint to the GMC.

'.... a substantially false account of the proceedings' : A substantial account of the proceedings based on Brian's false complaint.

'.... This account is expected to be compiled into a self-published book': This is not true and yet again Brian is confused. He has obviously got my accounts of the GMC hearing mixed up with the chapters written for the 'parent's voice' book. This book, *Silenced Witnesses* , can be obtained from the Cry Shame site. Interestingly, this is exactly the same kind of confusion that he represented between the*Lancet* paper and ethical committee approval for project 172/96.

'.... skimming profit from those it misleads': The grammar in these few words is dire, and before it can be understood properly we really need to know what 'skimming profit' is. Is it simply 'making a profit', or has it got something to do with Marx's theory of surplus value? And does the phrase mean that I will only skim profit from those who are **misled** by the fictitious book or everyone who buys a copy?

'.... The intended author': Are we to select or choose an author to put their name to my account of the hearing?

'.... has a history of latching onto vulnerable people': I think this is Brian's way of flattering me for some of my previous books, perhaps those about ME, CFS and multiple chemical sensitivity, or perhaps those suffering from serious adverse reactions to HRT. Anyone who wants to read this work should go to my web site: **www.slingshotpublications.com**.

'.... was heard bragging outside a GMC session that he could pocket 80% on sales': I do feel sorry for Brian sometimes. It is probable that dementia has set in; so sad, so young, so entertaining and so seriously scary! Bri (nylon) Deer, the most shiny journalist in Britain.

The Plot Thins and Humbug Sets In

Monday 11 August - Friday 15 August

Humbug: deceptive misrepresentation, short of lying, especially by pretentious word or deed of somebody's own thoughts, feelings or attitudes.

Max Black, *The Prevalence of Humbug* ,

cited in *On Bullshit* by Harry G. Frankfurt,

Princeton University Press, 2005, Princeton.

Last week Miss Smith continued to go through each case of the children cited in the *Lancet* paper. Rather than reduce the cases to bullet points, this week I decided to write up one child in some detail to give readers a good idea of how the prosecution case is being presented. I then look at the prosecution case in greater detail in the next two sections.

Before beginning her analysis of each child's case, Miss Smith outlines the charges relating to the case. The case I have chosen to report is Child 5. Professor Walker Smith is charged on a number of counts in relation to this child, the two main charges relating first to the reasons for referral and admission and second to the use of procedures which the prosecution claim were not clinically indicated.

Child 5 had been referred to the Royal Free Hospital after his parents found out about the work of Dr Wakefield and asked their GP to refer him. Miss Smith went through the letter from the General Practitioner. It's main feature was that the child had been diagnosed as autistic and had serious behavioural problems. The GP had referred the child to three consultants. The parents were concerned about the link between their child's condition and the MMR vaccination.

Miss Smith's first point of attack, as it has been in a number of other cases, was the fact that the GP, in his letter of referral, appeared to make no mention of gastrointestinal symptoms. Miss Smith relies on this point as if the GP's letter to the Royal Free is meant to consist of a *complete*

and thorough account of all the child's symptoms, when it is actually a note giving the receiving doctor a very general account of the child's presentation.

When this is put to Professor Walker-Smith, he makes a number of quite clear points. He first says that Miss Smith is wrong and points to two places in the letter where the GP mentions gastrointestinal symptoms. He then makes the point that he did have children referred to him who had no evident gastrointestinal symptoms and that he considered it his job to decide on the relevance of the various symptoms the child had. But Walker-Smith's most serious point is that the GP who had written the letter had decided to focus on the child's autism and having done this had spent little time on any concomitant symptoms.

Miss Smith then made much of the fact that the GP had said that the parents were aware that a 'study' was going on and they wanted to be involved in that 'study'. The loose use of language has bedevilled this hearing from the beginning, allowing Miss Smith to make mountains out of molehills. Of course it is not practical for either the GP or Walker-Smith to remember or understand completely, after so many years, what was meant and understood by the word 'study'. Miss Smith is of course convinced that the GP and the parents are fully conversant with 172/96 and it is this to which they refer. Professor Walker-Smith is more catholic in his interpretation and puts forward the sensible view that 'the study' could mean anything to do with seeing this group of children.

Miss Smith cannot resist pursuing Walker-Smith on the matter of 'the study' she is insistent that Walker-Smith clearly agreed to see this child so that it could be part of 172/96.

Professor Walker-Smith's clinical notes make clearer the gastrointestinal problems that child 5 has. Aged two, he began holding his abdomen, rigid with pain, and had bouts of diarrhoea once a month, while producing one soft stool a day.

Miss Smith of course makes out that Professor Walker-Smith is enhancing his diagnosis so that he can whip the child into the Royal Free to have a colonoscopy performed. She queries Walker-Smith's decision to prescribe a colonoscopy and wants to know why inflammatory markers were not obtained from blood samples first.

Professor Walker Smith argues with Miss Smith, pointing out that this particular boy had very serious behavioural problems and it was not possible to take blood samples. Miss Smith counters with non-sequiturs which follow her own distorted internal logic but do not make the slightest sense in the context of Walker-Smith's cross examination. She says, 'You skipped the inflammatory markers because his symptoms were slight', implying that Walker-Smith knew full well that the child did not have gastrointestinal problems.

Walker-Smith comes back with a good piece of empirical observation. He tells the panel that the parents of child 5 were 'wonderful' and he got a very clear picture from them of the boy's pain and how difficult it must have been for the parents dealing with this pain.

He added information gained from the experience of studying this group of children at the Royal Free. He tells Miss Smith that it was necessary for the children with bowel problems to have a colonoscopy, that the team knew that most of these children had to have further investigation.

Miss Smith bludgeons on about the blood tests. Professor Walker-Smith simply corrects her, ' You haven't taken account of what I said, when he came to see me, he was extremely hyperactive'. Miss Smith refuses to listen, almost as if she puts her hands to her ears and screws up her face, then she returns to her pre-determined flight path. 'Isn't it the truth, that regardless of the child's actual behaviour you were determined that he was going to have a colonoscopy regardless?

Professor Walker-Smith bridles at this and raises his voice slightly. 'This is so unfair, why should I at this stage in my career embark upon a research study outside of the child's interest?'

Of course Miss Smith is the last person capable of giving even a vaguely sensible answer to such a heartfelt question and the truth is that she hasn't got an answer to this particular one.

Miss Smith, gives Professor Walker-Smith a few brief lessons in medicine, telling him that he wasn't justified in going straight to a colonoscopy without assessing inflammatory markers.

Walker-Smith comes back at her with a lifetime's experience in gastroenterology. 'As a doctor, you learn by experience and my

experience suggested that inflammatory markers were not essential in this case'.

Miss Smith apparently does a quick side step with a question which asks whether it is not the case that many autistic children have bowel problems. Professor Walker-Smith is not fooled by the side-step and forges ahead in a straight line, bringing Miss Smith up short with a powerful straight statement. 'We seem to be going round in circles Miss Smith'.

Miss Smith makes her final assertion about colonoscopy, which is more or less the same as that which she has made in other cases. 'I am suggesting that you suggested the colonoscopy because the child was entered in a research study'.

The cross-examination on child 5 ends with Miss Smith, summarising the histological conclusion of the various procedures carried out on the child. She makes it appear that these results are minimal and didn't necessitate the colonoscopy. Professor Walker-Smith gives a final answer saying that it is not up to the histopathologist to come to clinical conclusions. The independent observer must be left with the feeling that even the minimal information achieved from the colonoscopy, such as the inflammation in the large bowel, would inevitably have helped the doctors move forward with this case ... and of course, as always, that Miss Smith is some files short of a brief.

* * *

Everything became clearer during last week's hearing, the prosecution case was revealed in all its rusty and corrupt glory. Finally it became clear why only three out of the twelve authors of the Lancet paper are on trial at the GMC; something that I have previously been unable to fathom.

I have said on a number of occasions that with the intervention of Medico-Legal Investigations (MLI), the private enquiry agency that helped Dear Brian put his case together, this fitness to practice hearing changed into one about scientific misconduct aimed at aiding the pharmaceutical company vaccine campaign. The basic theme in all the pre-trial propaganda was that Dr Wakefield's research had been discredited. Of course it never has been. This, however, was the task that the prosecution set themselves when the hearing began; to show clearly not that Wakefield et al, had failed to prove any link between MMR, bowel

disease and regressive autism but to show that Dr Wakefield and those with whom he had worked, had experimented upon vulnerable children who suffered from genetically determined classic autism.

When one considers the ramifications of this central charge, both its formulation and its effect are frightening. In detail, the prosecution is saying that the three doctors in the dock inveigled young children, often with the help of their ‘neurotic' parents, to the Royal Free Hospital, where, without fully forewarning the parents or seeking research ethical committee approval, they carried out dangerous colonoscopies and other risky procedures upon them.

I say colonoscopies, not just 'procedures' because it is this particular diagnostic procedure upon which the prosecution has placed most emphasis. There has been talk about other procedures, such as lumbar puncture and barium meal; however, these other procedures have not ranked as high in the prosecution evidence as colonoscopy.

In discussing the danger and suitability of colonoscopy in these cases, the prosecution have depended up the evidence of Professor Booth. Despite his ability to prevaricate and obscure issues, despite his undoubted 'quackbuster' approach to environmental hazards and despite even his skilled and apparently practiced ability to filibuster any question that might have hinted at his ignorance, Booth was a remarkably good witness for the prosecution. The case he put forward went as follows; any child with suspected inflammatory bowel disease should first be given blood tests for inflammatory markers. Their case history notes should be scrutinised to find any reference to gastrointestinal symptoms and only as a very last resort should colonoscopy be used to look for abnormalities in the bowel.

Since Booth's evidence, the idea of blood tests and inflammatory markers has haunted the defendants, particularly Professor Walker-Smith, and despite the fact that their lack of use has been frequently and coherently explained, Miss Smith has come to use the event of colonoscopy, together with the lack of evidence of inflammatory markers, as the main foundation for the prosecution.

If we cast even the most superficial glance over the defence arguments for using colonoscopy without evidence of inflammatory markers, we can see they are solid and reliable. Professor Walker-Smith is not against the use of blood tests for inflammatory markers, actually describing himself

as one of the pioneers of such tests. However, he maintains that blood tests do not guarantee the disclosure of bowel inflammation. In fact, he argues, there are a number of conditions that do not respond at all to these tests. What is more, such tests give no real idea of the type or degree of inflammation suffered by the patient. But perhaps even stronger than this scientific argument, according to the defence, is the fact that many of the children who presented at the Royal Free Hospital had serious behavioural problems brought on by their regressive autism, that were so serious that the taking of blood was extremely difficult.

Professor 'obscurantist' Booth presented the prosecution with very unclear arguments with which Miss Smith might contradict the defence approach. He did not suggest that some conditions were not manifest with blood tests, and he refused to agree that many children suffering from autism were too difficult to handle while taking bloods. It might appear odd however, that the prosecution should rely so heavily on the one witness who was perhaps their weakest expert. They have had to do this however, because as is now apparent, the matter of colonoscopy, as the ‘risky' procedure described by Booth, is at the very centre of their prosecution.

We might have seen all this coming when Miss Smith intoned in all seriousness that Dr Wakefield was guilty of 'causing colonoscopies to happen'. While it is difficult to imagine a more ludicrous charge than this, the logic of it within the prosecution case is quite clear. If the colonoscopies were to be central to the prosecution case, if Professor Walker-Smith can be accused of 'ordering them' and if Professor Simon Murch can be accused of carrying them out, Dr Wakefield had to be accused of something in relation to them.

Of course, everything falls down, if not initially with the basic stupidity of the charge, then later when we come to look at the question of motivation. I have said before that the prosecution has not once even suggested a motive for these three doctors embarking upon illegal, illegitimate and sinister experiments on child subjects. This lack of one of the central features of any prosecution is now gathering increasing negative moss as the marble of Miss Smith's case rolls slowly downhill.

In the words of Professor Walker-Smith last week, 'Why would I?' carry out unsanctioned experiments on children. It is indeed a question that needs answering. Why would a long standing and professional paediatrician with 30 years experience in the field, a few years from

retirement, suddenly embark upon a series of 'dangerous' experiments on young children. Nothing is clear from Miss Smith's case. If we were to be flattering to her cause, we might say that it seemed initially to be her case that the whole point of this exercise was that Dr Wakefield and his colleagues were intent on gaining evidence helpful in disrupting government vaccine policy and aiding claimants in breaking three of the world's biggest pharmaceutical companies. However, although Miss Smith's cross examination of both Dr Wakefield and Professor Walker-Smith, have slid under the table basic questions of the law suit against these companies, the prosecution have yet to prove that the investigation into inflammatory bowel disease and regressive autism, or even the adverse reactions provoked my MMR, were in any way illegitimate or unworthy areas of clinical diagnostic investigation.

Because the prosecution, muddled from the beginning, is unable to point to cogent motive , , they have inevitably left a whole host of speculative thoughts in the minds of the Panel. If these ‘risky' investigations were not carried out on the basis of clinical need, it would take no great imagination for people to conclude that Miss Smith is accusing the defendants of acts relating to sadism or torture. If she is willing to accuse them of failure to seek 'rational' parental consent, of avoiding approval from a research ethics committee, of carrying out procedures for the very sake of it when other, non-dangerous, approaches are just as viable, what is there to stop her from going the whole hog and suggesting 'satanic abuse'.

The implicit level of Miss Smith's unreasoned approach, can be seen in the bizarre exchange that took place on Thursday August 14. Miss Smith had suggested that Professor Walker-Smith had not got research ethical committee approval, because he simply wanted to research the children without it. And after having suggested that the children were inducted into the Royal Free under a research protocol and not on the basis of clinical need, Miss Smith put the following to him:

'The truth is, isn't it, that you were looking for an excuse to do a colonoscopy'.

In fact, this one sentence could be used on the grave-stone of the prosecution case, the whole mad farrago of the evidence, comes down in the end only to this, that the three defendants have ruined their professional lives by committing the gravest immoral crimes against children for no reason other than the fact that they wanted to do them.

Professor Walker-Smith has dealt magnificently with 'Mad' Miss Smith, and although he wavered a little on Monday and Tuesday, by Wednesday and Thursday, he was repeatedly repelling her. His answers became forceful and sometimes provocative. He frequently forced Miss Smith back onto the ropes, and left her stumbling around using last years tactics when dealing with uncomfortable witnesses; the 'Yes well, lets pass on to the next subject' tactic which Miss Smith uses whenever the witness defeats her with clear and believable answers to inane questions.

But perhaps the signs that Professor Walker-Smith had really got Miss Smith's measure began to appear on Thursday and Friday. Whether by design or accident (the latter is not quite believable) the professor began frequently to answer Miss Smith's rickety, long winded and propagandist questions, before she had finished voicing them. This led time and again to Miss Smith expressing her real tetchy self ; 'You really have to let me finish the question' and 'Would you please let me finish'. During one particularly long diatribe that might or might not have been leading to a question, Professor Walker-Smith interrupted her, and she bit back at him in an extremely up-tight tone, 'I haven't asked the question yet, can you just wait'. The hilarious thing is that Miss Smith seriously thinks that she is occupying a moral high-ground from which she has the right to be rude to the defendant.

Of course, Miss Smith's attitude is that of prosecutors since time immemorial; an attitude that assumes the moral high ground long before the jury have voiced their verdict and treats defendants as if they are inevitably guilty simply by dint of appearing before them. In this case, if the truth be known, the moral polarity of the defence and prosecution is completely reversed, while the prosecution is perpetrating the greatest moral outrage, the defence is acting completely without guile and with obvious innocence.

It's difficult to know whether Professor Walker-Smith is being impish or just gauche, consistently interrupting Miss Smith, asking her questions ('I'm the one asking the questions!; she replied), pushing her back aggressively with his own strong statements of outrage. In my notes on Friday morning, I wrote:

Walker-Smith is sharp as a tack this morning, absolutely a match for Miss Smith. In fact running rings round her. Walker-Smith is absolutely brilliant, it's as if he's 'on something'. He's clear, strong, combative and arguing in a clear voice; really kicking ass.

Oddly, Walker-Smith has taken to apologising profusely when he is ticked-off for interrupting Miss Smith, but it is difficult to find a note of sincerity in these quite abject apologies as they come studded with irreverent chuckles. The rabid intelligence of Bertold Brecht's approach to answering questions before the House of Unamerican Activities Committee comes to mind when listening to Professor Walker Smith's insincere sounding apologies. Brecht answered nearly all the questions put to him using double negatives, in an attempt to confuse his interrogators.

In one of his answers to Miss Smith, Professor Walker-Smith, despite his age, stature and seemingly small 'c' conservatism, introduces the only note of politics so far broached by the defendants or their counsel. Answering Miss Smith's attempts to tell him what test he should and should not have carried out, he said ' This (your criticism) is really a challenge to my clinical freedom'.

The fact is , Miss Smith is quite insufferable when she acts as if she's a doctor rather than a lawyer. Personally, I am not at all interested in listening to her 'play doctors', especially when she is involved in exchanges with one of Europe's best recognised paediatric gastroenterologists or even more so when I know that she is parroting the words of her prevaricating mentor Professor Booth.

* * *

It is clearly the case that a good counsel needs the same breadth of education and information as a good interpreter. At any time they could be called-upon to present a case relating to a particular occupation or area of knowledge. Miss Smith comes from a chambers that specialise in medical cases. Throughout this case she has, however, shown scant understanding of the culture of medicine and the context of working doctors. This was brought home to me last week, when she cross-examined Professor Walker-Smith on why he had changed a decision that had first been recorded in a letter. Miss Smith has consistently argued that all that is written down is a record of the truth. In this case, Professor Walker-Smith maintained that the doctors talked amongst themselves very often and he could have changed his mind after a short conversation over the case notes anywhere.

There is a considerable difference between the craft of being a lawyer and that of a doctor working in a crisis situation, trying to find a diagnosis.

Only the very best lawyers can think on their feet. In the main, being a good barrister depends upon knowing and understanding the law, developing a style that will communicate that knowledge to a judge, a jury - or in this case a panel - and being familiar with all the facts and arguments to carry through well structured evidence-in-chief and cross examination. Perhaps an exceptional barrister is one who can force the form of the opposition into such a mould as can establish and articulate the barristers own agenda.

The practice of medicine, and particularly the art of diagnosis, is completely different from the rational tasks the barrister faces. Doctors in a crisis, trying to find a diagnostic solution, must behave in a creative way, trying to understand the hidden rules that have developed and guided an illness. A doctor in this situation needs creative perception and an ability to think on his feet.

There is however, another fundamental and basic difference between a lawyer and a doctor; the venue for the lawyer is the court, a completely formal situation, which now often bars anyone from laughing, even at jokes, during proceedings, a situation where, in the main, silence prevails and extraneous discussion or language in any form is frowned upon; passing and reading notes is the closest that the barrister in court gets to a collective working situation. For doctors, all this is different; it is almost impossible for doctors to act individually, answerable as they are on all sides to colleagues, patients and the hospital administration. The working environment of the doctor in a hospital is co-operative and collegiate. This point came home forcibly when Miss Smith insisted at one point last week, that in relation to one particular decision, Professor Walker-Smith was ‘the chief'. Walker Smith was insistent 'things don't work like that in the NHS', 'There are no chiefs, there is a collegiate approach to problems', he said

While lawyers work primarily alone, most doctors in the setting of an inner city hospital work collectively. The importance of this is that were you to ask a barrister why she changed her argument at a certain point, she would, if she remembered it, be able to tell you the specific thought processes behind it. If on the other hand you ask a doctor, twelve or thirteen years after a decision was made in the treatment of a patient, or the analysis of a diagnosis, it could be that the decision was made in the lift during a conversation with another doctor, or it might have been made an hour after a meeting of interested students and specialists who were going through histology slides and it might even have been made during

an argument with another four specialists that developed in the morning in the canteen and carried on during a meeting in the afternoon.

Both Dr Wakefield and Professor Walker-Smith have stressed that this medical culture, especially in cases where a diagnosis is being searched for, is germane to any outcome. Dr Wakefield, during his evidence, presented the ongoing search for a diagnosis of the 12 *Lancet* Children, as a creative process. This is especially true in cases of undiagnosed illnesses - those whose treatment has not been previously written down or formalised.

Professor Walker-Smith, during his cross examination, has told Miss Smith that she should remember that everyone talked to everyone else about these cases. Decisions were made all the time in telephone conversations, and, of course, not a word of these decisions was written down.

It is extremely worrying that Miss Smith pays no heed to the fact that this 'culture' exists in a large hospital and that doctors work in a collective manner. It took decades through the nineteen-seventies, eighties and nineties, for sociologists and journalists to realise that while many of the decisions made by police officers were recorded in a variety of ways, many of the underlying processes that led to people being questioned, charged or convicted, began in the canteen where 'canteen culture' guided many of the attitudinal responses of police officers.

Miss Smith, however, appears not to be up with her reading of sociology as far as doctors are concerned and she insists that an adequate description of reality can be deduced from general practitioners letters, and passing references to things in a variety of notes. The fact is these 'records' are often nothing more than the musings of the doctor concerned; an *aide memoire* .

As well as this, Miss Smith appears to have no ear for history, believing as she does that the most important decisions are faithfully recorded in some manner and that medicine is such an inorganic process that once things have been written down they cannot be changed or altered for the better.

It took historians, and teachers, decades to get away from the idea that history entails listing the names and dates of Kings and Queens. What we now understand as history includes that almost invisible and somewhat

ethereal culture that can be read between the lines in the official record. Miss Smith's case is failing in a number of ways, but in this lack of insight into the culture of a big hospital faced with a public health crisis it is failing spectacularly.

* * *

Miss Smith's performance last week made me realise for the first time in some years how keenly I miss Dennis Potter's (1906 - 1975) brilliant musical dramas (en.wikipedia.org/wiki/Dennis_Potter). For those of you who don't know Potter's work, he wrote a number of series for television, the most popular of which was *Pennies from Heaven* . All his dramas had musical interludes, during which the play's character sang and danced.

Miss Smith's performance last week brought back to me the immense joy that I got from Potters musical drama 'Cruising for a Colonoscopy.' (Well, I'm sure he would have written it had he not died). In this play three doctors driving to a nightclub on New Year's Eve, after a difficult years work, are pulled over by two pharmapolice . They are arrested for ‘going equipped to perform a colonoscopy' and then taken before the magistrate, who although she looks like Miss Smith, has a great yellow beak.

In the short time that I had to write this piece for the Cry Shame site, I couldn't find a copy of the play itself and only managed to get hold of bits of the libretto; however, I have typed out these bits below, with some notes from memory about how the characters appeared. I'm sorry that I can't offer you any music and you will all have to do the best you can. All the action takes place in the year 2025.

In one of the earliest scenes the two pharmapolice officers swagger over to the doctors' car and getting to the front of it, burst into song. They are both baritones and they nose around the car as they sing, their thumbs stuck in their belts:

The law works in mysterious ways,

Doesn't it just,

Yet a few years a-go,

We would have been-looking for men

breaking and entering,

Going equipped with jemmy's and masks.

But what have we here,

In these post modern times,

Medical men, so we've been told,

real Burke and Hare, just like of old.

Sinister men, looking for healthy young things.

The two pharmapolice officers then stand together to sing a duet.

We've caught you this time,

We can see from your medical garb

And the equipment you carry,

You were just looking

for any excuse

to carry out another colonoscopy

As the police officers finish this song, the three doctors step from the car and walk round it to link arms facing the two police officers. They are dressed in white surgeon's robes with face masks.

We don't understand

How can you say these things about us.

Where is your proof,

Of our 'going equipped'.

Why would we want to do such a thing?

Our careers are unblemished,

Our research is unfinished.

You pharmapolice are determined to stop

Our careers. The slightest thing, the smallest op,

And you force us to stop.

Well, we're going to a party,

And you can't stop us now.

We've finished work for today,

And we don't want a row.

We're not going to stay

And be insulted by you.

We've worked hard all year,

In the name of the people,

And we're going to a party now.

The next scene is in a magistrates court. The three doctors are in the dock, the two pharmapolice are standing at ease with their backs to the defendants facing the judge. The judge is Miss Smith (as she was known then as Sally 'Starlet' Smith) she is dressed in the black costume of a huge vulture. Her wings flap occasionally and she rises slightly over her

bench. When she first played this part, the theatre critic for the Evening Standard wrote 'Starlet Smith is very forceful, her voice, many screeches higher than that of Celine Dion, is unnerving and some people leaving the theatre complained of regressive deafness.

I put it to you,

And you must agree,

That it is the case,

I'm sure you can see,

You were caught bang to rights,

Cruising for a colonoscopy.

You must understand,

That we don't believe

A word that you say,

There was never any clinical need,

On young children you feed.

You will have to admit

That you were just looking

for any excuse,

To carry out a colonoscopy.

If you were honest,

You would be bound

To agree, that you have no defence,

That you have created offence,

While it's all very well,

For you to pretend that you were trying to find

A diagnosis for an unknown disease.

It's clearer than clear to me that you were,

Just cruising for a colonoscopy

Miss Smith and Her Junior Warlocks Stir the Brew.

August 19th - August 29th

'One useless man is a shame, two is a law firm, and three or more is a Congress'

John Adams (1735 - 1826)

In order to find a definition of what the prosecution scenario now amounts to, and loving Karl Marx's slightly paraphrased words, 'history repeats itself, first as tragedy, second as farce', I had a quick look through the dictionary for a description of a state of extreme farce. I didn't find those words but on looking up 'farce', I came upon exactly what I needed to describe the present state of the prosecution case; a crude characterisation , together with ludicrously improbable situations.

On Tuesday of last week, Miss Smith was well into her cross examination of Professor Walker-Smith, child 'J' being the focus of her attention. Child J's consultant and GP were doctors close to a prosecutors heart (yes, Sally, that's the organ that most people have in the upper left quarter of their thorax). In fact J's doctor appears to have been a right pain, someone opposed to alternative medicine - although where this fits in here one couldn't tell - and utterly unwilling to refer 'J' to the Royal Free, despite J's parents' forceful instructions for him to do just that.

Inevitably, Miss Smith agreed with the approach to alternative medicine - although, I say again, where this fits in here one couldn't tell - and quite certain that the doctor was, by being a doctor, *ipso facto* the natural guardian of 'J' and any other children these parents might have had. I have to say again here, that what Professor Walker-Smith evidently saw as paternalism, 'a patriarchal doctor who knows best, not letting the mother meet me, to discuss her son', looked from the sidelines again, like this peculiar situation common to both fascism and communism where the State itself assumes parental authority of all children.

Walker-Smith argued strongly that, as the Royal Free could offer a diagnostic service for this child, the GP and the consultant should have happily referred him to the Royal Free. Miss Smith argued just as

strongly, that as the child had, according to her, minimal gastrointestinal symptoms, the GP and consultant were quite within their rights to hamper any referral suggested by the parents.

Miss Smith was insistent that child 'J' had no gastrointestinal problems. On the contrary, said Professor Walker-Smith, the parents were determined that he should be examined for gastrointestinal matters and the parents had been very pleased with the advice that he was ultimately able to give them. Miss Smith was at her farcical best in the discussion of this case, absolutely determined that not only was there nothing wrong with the child - except his classic autism, which Walker-Smith knew nothing about - but that the apparently neurotic parents had wrestled medical control of the case from the GP and consultant, to conspire with Walker-Smith to force a colonoscopy and other invasive procedures upon him.

It occurred to me while I listened to Miss Smith's surreal interpretation of the case, just how confident she must be that she is not going to get found out, in the immense and ultimately unbelievable saga that she relates about the health of these children. She must, it seems, be absolutely confident that the media will be kept in check and no one will report the terrible ruse that she has perpetrated now for 100 days. She must be utterly convinced that there will be no proper enquiries into the matter and that she will never be found out in the role of *inquisitor manque* that she has adopted . She is probably, however, quite safe, after all she is protected by a New Labour government that killed in the region of 100,000 Iraqi civilians while grinning like hyenas and lying about weapons of mass destruction; these are, after all, masters of the political game.

In relation to 'J' Miss Smith repeated her usual rubbish about Professor Walker-Smith's failure to take blood samples and measure inflammatory markers. And she repeated her insistence that child 'J' was autistic and therefore could not be diagnosed with any other condition or treated for anything. By this point in the hearing, Miss Smith's arguments had become so monumentally tedious that it was very hard to stay awake and continue thinking. The only thing that kept *me* awake was the feeling that one was watching history of a kind being made. Whatever the outcome, I will be able to tell my children not only that as a young man I saw Cyril Washbrook hit a six straight through the glass face of the pavilion clock at Old Trafford, but that near to my dotage I witnessed Miss Smith orchestrating the most immaculate deception, since that perpetrated by

the actor, Norman Shelley, later of the Archers, who acted out Winston Churchill's speeches while pretending to be Churchill, on BBC radio.

Good strategist that Miss Smith sometimes appears to be, she ended her cross examination on Thursday with an all out attack on any apparent link in the Lancet paper between any illness and MMR. This was good strategy because she hoped to leave this apparent misjudgment, the one that she pretends to believe was behind the Lancet paper and all the crimes committed by the three defendants, in the minds of the jury at the end of her cross examination. Intelligent strategy as well because, as it was clear that Professor Walker-Smith, had a considerably different attitude to doctors and the law than did Dr Wakefield, she knew that she was digging in divisively fertile ground.

Unfortunately Professor Walker-Smith was quite helpful to Miss Smith as she continued to excoriate the departed Dr Wakefield, although he had the perspicacity to acknowledge at one point that he and Dr Wakefield had different agendas; 'Andy's agenda and that of the clinicians was completely different'. Once Miss Smith had moved through the Professor's abhorrence of medico-legal proceedings and of doctors receiving money from the legal aid board, she moved in for the kill.

The final and most chilling part of Miss Smith's cross examination scurried right to the heart of the prosecution case, there she squatted on her haunches and chewed at that tough muscle. Her case was this: The publication of the Lancet paper obviously had serious public health consequences and therefore it should neither have been written nor published. I must say it was at this point that my esteem for Miss Smith rose suddenly unbidden. Previously I had never thought of her as an apostle of censorship, a female version of Franco or Mussolini, now, of course awakened to her cause, I could see the familial and especially facial resemblance to the latter.

Whatever the science lobby groups or other of Dr Wakefield's detractors have said about his work lacking scientific rigour and about the Lancet paper being heavily faulted, was as nothing compared with Miss Smiths out-front anti-science diatribe with which she ended her cross examination. 'This paper ..' , she cried, '...is full of implications that the vaccine was responsible. There is a question mark raised over the role of MMR'. One was of course pleased that Miss Smith pointed this out, though surprised that she didn't immediately strip off and cackling in a high register, mount a broom stick and begin to circle a pyre of copies of the

Lancet and other documents in a smoke filled hearing room. I can almost hear her incantation.

Wakefield, Wakefield!

Your time is nigh.

Your good work is undone

As I cry fie.

On Friday, despite a slightly earlier start and finish, Mr Miller progressed well with his re-examination. In this, all our questions, so intricately confused by Miss Smith were asked and answered in the straightest language. The re-examination did have a slightly awkward start when Professor Walker Smith, obviously confused by the change in interrogator, began interrupting Mr Miller's questions as he had done Miss Smith's.

Miss Smith also found it difficult to throw off her old role and continued to be almost accidentally farcical. When Mr Miller introduced some new documents that Miss Smith had not seen, she objected. The legal assesor , Mr Nigel Seed a man of no mean stature, being both a QC and a Recorder, in answer to Miss Smith, issued one of those apparently off-hand condemnations at which Judges are so good. When the matter was put to him, he addressed Miss Smith in these terms: ' On day 98 of these proceedings this is (Miss Smith's objection) a monumental waste of time'. Miss Smith, evidently chastened, sat down, while the defence team smiled like the cats who had just had the proverbial cream.

Mr Miller went through a number of the Lancet paper children, pointing to the suspected symptoms of bowel disorder. He also addressed Dr Wakefield's purpose in writing and publishing the paper and looked at the MRC meeting that followed, giving Professor Walker-Smith an opportunity to reclaim some ground on Dr Wakefield's behalf. So it was that the matter of single vaccines and the now infamous typing errors - Zuckerman had given evidence as he tried to crawl backwards out of the hearing, that the use of the word ' monovalent ' used twice in a letter to Dr Wakefield, and to which he had apparently given his support, had actually been a double typo which should have read ‘polyvalent'. As well it was pointed out that although the MRC meeting was supposed to have been organised so that the Royal Free team could put their point of view,

the meeting was hijacked from the beginning by government and pharmaceutically loyal attendees.

Mr Miller's re examination, reminded me of the television as it used to be, thirty years ago. When the programme was suddenly interrupted by terrible static and chains of white blips wiped out the picture like a snow storm (Miss Smith) it took a deft hand at the back of the set, together with the occasional two handed shake to restore a more or less perfect black and white picture (Mr Miller). Mr Millers re-examination also makes one vaguely hopeful that the panel will receive this good picture and see what Miss Smith and the prosecution has tried to do.

Mr Miller's second day of re-examination took place on the morning of Tuesday 26th, after which the panel retired to go through their papers and look again at Professor Walker-Smith's evidence so that they might question him on Wednesday 27th.

In an unusual move this morning, the panel asked that the prosecution make contact with two of the parents (fathers) of children seen separate from the Lancet 12. It was not clear to anyone why they wanted to interview these parents, although one suspects that they want to find out any differences, or similarities in treatment between those children seen for clinical need and cited in the Lancet paper, and those seen after the Lancet 12.

The Panel did manage to ask all their questions between 9.30 and 13.00 on Wednesday 27th of August. As has been the case on other occasions it was very difficult to understand where the panel members were coming from or how their opinions were forming. Clearly the central assertion made by the prosecution that the Lancet case series review was actually the botched and ethically unapproved research study 172/96, remained uppermost in the minds of most panel members.

It is actually very difficult, from the panel's questions to understand how heavily they have invested in the prosecution case. Oddly, the questions from the two medical members of the panel, Drs Moodley and Webster seemed somehow more pragmatic and understanding of Walker-Smith's defense, than other panel members.

Dr Kumar the other medical member, who asks his questions last, appeared to spend his first batch of questions trying to isolate the role of Dr Wakefield from the evidence of Professor Walker-Smith. Before

changing tack completely to ask questions that were evidently within Professor Walker-Smith's experience. He asked initially about the Wakefield Clinic stamp that had appeared on some documents but which had nothing to do with Professor Walker-Smith, about Dr Wakefield's presence at Walker-Smith's clinics, and about whether or not Dr Wakefield took notes or contributed to clinical decisions.

It was, however, the conscientious Ms Golding, one of the lay panel members who pursued the most confusing line of questioning about Dr Wakefield's lack of pediatric experience. Professor Walker-Smith handled the initial question very well, as he had throughout his evidence, explaining that it was common practice around Britain, where there were no pediatric gastroenterologists, for adult gastroenterologists to work with children. Unfortunately Ms Golding pursued her question which somehow seemed to disintegrate into a statement that suggested Dr Wakefield had *no qualifications at all relevant to the work at the Royal Free* .

I left the hearing feeling very concerned that no one had corrected the impression that might have been reinforced in the minds of other panel members about an unqualified Dr Wakefield. It seemed to me important the point was made again, that not only had he been researching gastroentestinal disease since the late 1980s, with an emphasis on Crohn's disease but that he had prior to that been a bowel transplant surgeon in Canada. In effect Dr Wakefield was an ideal research medic to work alongside Professor Walker-Smith, the massively experienced pediatric gastoenterologist .

Obviously there were many and more varied questions than I have suggested here but without knowledge of their weight or value and without understanding their direction there seems little point in exploring them. At the end of the panel's examination of Professor Walker-Smith, it was decided that it was too late for his defense team to bring forward the first of the three witnesses they intend to bring on his behalf. And after the panel had voiced their decision not to call the two fathers, about whom they had asked on Tuesday, the hearing drew to a conclusion. The panel chairman announced that Professor Walker-Smith would bring his three witnesses between the 3rd and 19th of November. Everything being well I will return to report this next section of the hearing.

A Brief stopover in another reality

November 3rd - November 10th

The GMC hearing begins again and the Legal Assessor suggests criminal charges against me.

This report is in three parts, beginning with a cursory look at the evidence over the last week, then moving on to a thorough analysis of the conflict of interest issue, an analysis that I think probably ends discussion of the matter. Finally I have ended with a short satirical fragment that I hope will keep a rather jaded smile on all our faces.

The Hearing and its Evidence

As most of us now know, the hearing began on Monday 3rd November with the legal assessor attacking me for having dared to write about Dr Kumar's GlaxoSmithKline shares. To say that I felt as if I had been teleported back to the Soviet Union of the 1950s, would be an understatement. The statement and it's history is dealt with after this section on the week's evidence.

Professor Walker Smith's defence brought two expert witnesses to support both him and Professor Murch . The first witness was Dr Williams, a highly qualified gastroenterologist who had carried out hundreds of colonoscopies on adults and children.

You will remember, that because of an injury to his arm when he was a young man, Professor Walker-Smith had never been able to carry out colonoscopies. And so it was the case that although Dr Williams was called in defence of Professor Walker - Smith because he had instructed colonoscopies, he also gave evidence for Professor Murch .

Dr Williams only gave evidence for half an hour. He gave an account of thousands of colonoscopies being carried out without harm to children, he said that at St Marks where he practiced for 30 years, there were only 2 perforations in 20,000 cases and specifically in those he had carried out himself over 30 years there were no perforations at all.

Miss Smith had no cross examination for Dr Williams, and in this she exhibited one of the oddest aspects of this case. For the next witnesses, who would give evidence in the coming week and beyond, Dr Victor Miller, would also give evidence about the use of colonoscopy in the individual cases of the Lancet children. Of course, in referring to these cases in cross-examination, Miss Smith suggested that colonoscopy was a dangerous invasive procedure.

If an expert witness gives evidence of the safe use of colonoscopy over a 30 year period, it occurs to me that the prosecution should either cross-examine this witness rigorously or if they are unwilling to do this, they should forfeit their argument to other witnesses that colonoscopy is a dangerous procedure.

Throughout the rest of Monday, Tuesday and Wednesday, Mr Miller, for Professor Walker-Smith, led the second expert witness, Dr Miller through his evidence in chief, which principally covered each of the twelve Lancet children. Despite the seriousness of the subject, the hearing was happy to have a good laugh at the admission that the two Millers were not related. Of course by now, we know all the arguments about these children, what the prosecution says occurred and what the defence says occurred, so I will restrict myself to a most minimal summary of the evidence and then pass on to make some general points about the prosecution.

Mr Miller concentrated on getting Dr Miller to yet again reassure the Panel that nothing extraordinary had happened to the twelve children. That they had arrived at the Royal Free Hospital in need of clinical care, and because they suffered from a novel syndrome which clearly linked Inflammatory Bowel Disease (IBD) to regressive autism, the matter of diagnosis became central to any treatment that the children might receive.

Dr Miller's evidence, brought up and laid great stress upon the 'clinical protocol', that is the series of tests and diagnostic operations given to these children for whom *there was no previously known diagnosis* . This argument is central to that of the defence which says that while these children were not involved in a research study of any kind, investigative initiatives like colonoscopy were vital in trying to establish a complete and satisfactory diagnosis.

For the defence, both the 'novel illness' and the 'clinical protocol' are vital aspects of the treatment, on the basis of clinical need, afforded these

children. You cannot, say the defence, arrive at a diagnostic conclusion in the case of a novel syndrome without using investigative procedures that might appear slightly off the beaten track and perhaps even have a blind investigative purpose.

Miss Smith began her cross examination on Thursday November 6th. Dr Miller is a good witness, rarely straying off the subject of his evidence and speaking in a clear but soft voice that carries considerable authority. However, it is not easy for even the most sincere and rational person to keep up with Miss Smith's inordinately irrational and always repetitious cross examination.

The prosecution focused on comparing the evidence of Dr Booth with that of Dr Miller. In essence, this pitted a highly focused, workaday and unadventurous mind against the concerns of a group of doctors faced with children with a novel syndrome and serious problem of diagnosis. While the doctors at the Royal Free found themselves plunged into a serious diagnostic problem, Dr Booth had given evidence about children he had seen, whose gastrointestinal conditions, were, in his mind and probably in reality, unrelated to any environmental causation such as MMR and only very occasionally linked to autistic conditions. It was because of this major difference in the clinical and diagnostic condition, that Dr Booth made what seemed to observers to be utterly inane remarks about constipation being a condition in itself cured by well proven conventional methods.

So yet again, for the umpteenth time, Miss Smith and her loyal retinue advanced the argument in cross-examining Dr Miller, that there was nothing much wrong with the children cited in the *Lancet* paper that a good dose of castor oil (or it's modern paraffin equivalent) wouldn't cure. After all, a number of these children only had constipation.

This is now about the forth time that this argument has been advanced and we are all aware of the considerable violence that it does to the truth. It begins with the premise that the children were cherry-picked for research purposes, to support a 'mad professor's' obsession that MMR caused autism and it suggests that selected children were experimented upon using 'dangerous invasive techniques'.

Miss Smith began her cross examination in the most extraordinary manner asking Dr Miller, why his evidence did not mention Dr Wakefield or MMR. The answer that Dr Miller gave was simplicity itself, because he

said he was giving evidence for Professor Walker Smith who was a clinician, Dr Wakefield was not a clinician and MMR did not enter into the clinical picture; everyone knew something had affected the children but no one knew what and the real battle was to resolve a diagnosis and then move on, if at all possible, to a treatment.

Inevitably, this upset Miss Smith. Evidently, from the fact that she raised these issues and then accused Dr Miller of avoiding mentioning them, she felt she had already lost ground; now she could not cross examine Dr Miller about Dr Wakefield or MMR. That being the case, she was left only with the argument that Professor Walker-Smith had frequently used the wrong procedures for examining children for clinical need.

Dr Miller, who is still being cross-examined on the individual children, does his best, as others have, to combat the ludicrous assertions of the prosecution, but it is a wearing process, especially because Miss Smith pursues her subjects regardless of the evidence that has previously been given, or is even given now. In fact, the hearing, or the trial as it might be called, is completely ossified and of the like that I have never seen. Usually trials move forward towards some convincing conclusion, either on behalf of the defence or the prosecution. This movement is occasioned by irrefutable evidence being given by the defence or the prosecution which actually 'proves' an aspect of the defence or prosecution argument. But if there is any 'proof' in this trial, as fast as the defence delivers it, Miss Smith ignores it.

Some Random Remarks on the Hearing

I hope that finally when the truth is told about this case, the GMC is forced to pay heavily for not consulting the parents of vaccine damaged children about the condition of their child when they were referred to the Royal Free Hospital. There is nothing more frustrating than listening to people comment upon scattered and scratchy notes made by busy doctors almost fifteen years ago.

In fact, while fighting against the introduction of the parents into this case as witnesses, those involved are doing the most incredible violence to the truth. It is a shame that the defence didn't think to bring an academic historian or an anthropologist to the hearing to inform the Panel about the construction of historical truth. As it is, listening to the descriptions of the children's illnesses is now a little like watching a populist television programme about dinosaurs. When the voice over announces that 'the

colour of the animals was exactly the same as the green felt of a modern billiard table', the question hovers on your lips, 'How could you know that?' All this absurd conjecture could be ended, in fact never need have begun, had the parents been brought as witnesses. While we could never expect the prosecution to do this, why didn't the defence?

Thinking about these matters as I tend to do every time that I attend the hearing, and being staggered at the contemptible way that the parents are being treated by this little gaggle of lawyers and medico-legal administrators, it occurred to me that the Chambers and barristers involved in the defence could, at the beginning of the case, easily have selected and paid for a young barrister or a solicitor to hold a watching brief for the parents.

The complete obliteration of vaccine damage and the children's illnesses, the making invisible of the parents as witnesses to their children's illnesses, is the worst and biggest lie in this case and it is this that makes me angry and sometimes depressed while attending the hearings.

Listening to Professor Walker-Smith's expert witnesses support him, it crossed my mind to wonder why Dr Wakefield's case had not been aided in the same way. Surely an expert witness or two to advise the Panel on the ethics involved in doing a case review as against a full-blown research project or to witness the real lines between research and clinical practice and explain that Dr Wakefield had always been involved in one rather than the other, would have helped his case? I wondered as well why a number of matters that even an amateur like myself could see needed commenting upon, had not actually been thoroughly examined.

Another question that loomed large in my mind over the last week was, why is it that when the GMC can spend millions of pounds on this hearing, Miss Smith the senior prosecutor cannot be heard in the public gallery. I wrote in my notes on Thursday of last week ' …..this is not a public hearing because the public can't hear it'. In fact the answer to this little conundrum is simple, all Miss Smith has to do is move a little to her right along the table, so that the microphones stand immediately in front of her, rather than a foot to her side. However, I am not going to hold my breath while this happens because I believe that this misuse of the microphones is a deliberate ploy by Miss Smith to hold the public - the parents - in contempt.

Finally, I must make the point that there is nothing more disturbing than a judicial venue over which no one seems to exert any control. In the normal court, the Magistrate or the Judge often aided by a Rottweiler clerk, exert a passionate control over every sniff, sneeze and giggle of all participants, including the public gallery; this is not so at a GMC Fitness to Practice hearing. When the defence is sitting and the prosecution has taken its place at the head table, and all the GMC administrators and invigilators are in place, the Panel file into the room and take their seats. Each member of the Panel accomplishes this with a semblance of respect and a modicum of deference, all that is except the - £575 a day - legal assessor, whom I have noticed often strolls in to the hearing room with his hands in his pockets. I find this shows a certain disrespect for the hearing and I think that one of his employers should have a word with him. I know that, were he working for McDonalds, he would not be able to behave in this manner.

The Conflict of Interest Issue

I wrote my essay, ‘ *An Interest in Conflict'* in the last week of August and the first week of September. When I finished it, it was put up on the CryShame site. Under cover of a letter from the CryShame Chair, the essay was sent to the GMC.

For those who haven't read the essay, two things are important. First, what the essay points out; that Dr Kumar, the Chairman of the Panel in the Dr Wakefield fitness to practice hearing, has a number of interests which might be seen as conflicting with his role of juryman in this complex and contentious case. The second matter, and the more important, is that these conflicting interests include a personally declared record, made by Dr Kumar for other committees, of shareholdings in the vaccine manufacturers, GlaxoSmithKline. The declarations were made as part of his involvement in two committees which served originally the Medicines Control Agency (MCA) but are now a part of the Medicines and Healthcare products Regulation Agency (MHRA). At the time I wrote the essay these share holdings were recorded for 2003, 2004 and 2005; after the essay had been written the MHRA published Dr Kumar's similar declaration of shareholdings in it's 2006 committee reports, published in 2007 after the Wakefield fitness to practice hearing had begun.

Before we look at the response of the GMC to CryShame , it is worth noting what I say in the concluding paragraphs of the essay:

Clearly this matter should have been cleared-up with the requisite declarations before the beginning of the GMC hearing. It could, however, be the case that Dr Kumar has got rid of his shares in the last three years. Although this would not exempt Dr Kumar from a declaration about those shares, I am sure that a clear statement from him to this effect would go some way towards satisfying those critical of this GMC prosecution. Other matters will of course remain and perhaps an inquiry into the other matters raised in this essay might be settled by an independent investigation into how it was that both Professor McDevitt and Dr Kumar came to be selected as Chairmen for this particular fitness to practice hearing.

To my mind the tone of this conclusion was reconciliatory, and for the matter to be reasonably dispensed and for the hearing to continue, it only remained for Dr Kumar or the GMC to say that he had got rid of his shares.

It is also worth repeating the questions and the tone of the second letter from CryShame :

As you are aware the Cryshame organisation of which I am the Chair, acts on behalf of the parents of vaccine damaged children and in support of the three doctors that are before the GMC in the Fitness To Practice hearing. In our opinion it seems important that the GMC itself, carries out some investigation into Dr Kumar's shareholding with GlaxoSmithKline. In fact we see Dr Kumar's present situation as reflecting on the GMC even more strongly than on Dr Kumar himself and we would like to see the GMC make a real effort to get to the bottom of this quite unbelievable situation.

Clearly this was expecting too much of the GMC, an organisation which appears to be implacably opposed to fair play under any circumstances. Despite being sent two letters from CryShame , an organisation mainly comprising the parents of vaccine damaged children, the GMC refused point blank to answer either the letters or the questions asked in them.

* * *

Following a press statement squeezed out of the GMC by One Click which again fell completely short of answering any of the questions raised by this matter, CryShame sent the following letter to the GMC:

Firstly, we must remark that we do not consider this press release a proper answer to the two letters that we have sent you. In the hope that you will send us a fuller and more formal response to our letter, we ask you below, further questions that your press statement has provoked.

We have read the press release of Wednesday 29th October 2008, that refers to the conflict of interest matter, raised in our previous letters to you, it reads :

We are content that our normal process for panelists to declare any conflict of interest was followed in this case. None of the panelists have indicated that they have a conflict of interest.

Martin Walker's essay sent to you and we understand further circulated by you to Panel members, made it clear that he and members of the Cry Shame organisation found your apparent policy on conflict of interest to be inadequate and unhelpful in certain respects, in that it failed to mention as do most other policies of this kind, financial or share ownership ties to pharmaceutical companies.

It may therefore be the case as your press release states, that your 'normal process for panelists to declare any conflict of interest was followed in this case'. We would ask you to agree or disagree with the statement that this process is inadequate.

Second, our letters refer to no panel members other than Dr Kumar. Mr Walker points out in his essay, as do we in our letters, that Dr Kumar, in agreement with your press release, did not indicate that he had any conflicts of interests. However, you fail to make clear whether Dr Kumar actually did have a conflict of interest.

In light of this semantic confusion that you have introduced to this relatively straightforward matter, we would ask you a number of questions.

1. In the circumstances of the Wakefield, Murch and Walker-Smith fitness to practice hearing would the GMC consider that a panelist's shareholding in GlaxoSmithKline - that is, a direct financial interest in the outcome of this hearing - does or does not constitute a conflict of interest.

2. Did Dr Kumar declare any shareholding in GlaxoSmithKline, to the GMC?

3. If Dr Kumar did declare his shareholding, why was this shareholding not entered into the table on the GMC web site entitled Fitness to practise panellists and sub headed The list below shows, in alphabetical order, the details of the medical and lay members of panels who adjudicate on the GMC's fitness to practise cases . (**http://www.gmc-uk.org/about/register/panellists.asp**)

4. If Dr Kumar did not declare any shareholding in GSK prior to June 2007, now that it has been confirmed that up until late 2007 he claimed responsibility for such shares in other declarations, does the GMC consider this non-declaration for the GMC to be the fault of Dr Kumar personally or a failing in the GMC policy on COI.

5. If it proves to be the case that the Chairman of the Panel has at any time during the hearing held shares in GSK, this being a matter which clearly and evidently would seem to reflect upon the ability of the panel to render a fair verdict, would the GMC not consider this a matter to be adjudicated upon by the Legal Assessor and not dealt with by a one line press release.

We have to insist upon a proper response to this letter and our two previous ones. We feel we also have to make clear to you, that the Cry Shame organisation, which is mainly comprised of parents of vaccine damaged children - and therefore people who feel they have some locus in the present hearing - seeks an honest and fair resolution to this matter.

Cry Shame feels that it was unfailingly honest in it's requests to the GMC for straight answers to it's letter. Nevertheless, the organisation consistently avoided an honest reply.

* * *

On the morning of the first day of the most recent hearing period, the Legal Assessor made a statement about my essay and directly attacked me. This attack was cowardly on a number of levels; it was read into the hearing transcript which is considered a private document, not only have I no access to the transcript but it's very nature robs me of any right of reply. Here is the Legal Assessor's statement.

During the course of the recent prolonged adjournment the General Medical Council received correspondence enclosing what can best be described, I suppose, as an essay by a Martin J. Walker raising potential issues of conflict of interest involving the Chairman of this Panel.

The Chairman has at various stages in these proceedings declared those interests and nobody representing any of the parties, including the General Medical Council, has raised any objection to him and everyone has agreed there was no conflict of interest.

There are set procedures that the GMC have which should be followed for all Panel members in all cases of this nature to declare interests. Those procedures have been followed as far as Dr Kumar is concerned and there has been deemed to be no conflict of interest. I understand that every party agrees that there is no conflict of interest, notwithstanding this recent correspondence. Am I right in thinking that? (All parties agreed) Everybody agrees.

The best that can be said is that this was considerably unhelpful and entirely inappropriate at this stage in these proceedings. Unfortunately this is not a court of law and does not have the benefit of contempt jurisdiction, otherwise I might be giving a lot firmer advice to the Panel as to how to deal with interventions of this nature. If anybody was misguided enough to think that they were helping any of the parties, they were not because it has involved, of course, lawyers having to read this and consider it, which will have involved unnecessary expense, unnecessary work and possibly even unnecessary concern. The Panel members who were shown this of course were concerned about the propriety of their position. It is an entirely unhelpful intervention.

I hope if there are any more they will come straight to me and that they may not get any further than that.

* * *

I answered the Legal Assessors intemperate ruling with the following:

Not Enough Contempt to Go Round

A couple of weeks ago I was talking to an Argentinean friend of mine, as it happens he works for a small pharmaceutical company. I explained to

him in detail the predicament of Dr Kumar with his shares in Glaxo Smith Kline, the biggest pharmaceutical company in the world and producer of MMR. The Argentinean was outraged.

His jaw dropped, 'This must be illegal', he said.

'This man has a direct financial interest in the outcome of the hearing!'

Even with his limited English, he evidently understood the basics of the situation.

I wondered about what I could learn from his analysis. The first thing I thought was that there was evidently a considerable difference in the ethics of small pharmaceutical companies in Europe and those of the UK General Medical Council.

* * *

It's 10.05 on Monday 3rd of November, I'm sitting in my usual place at the GMC, the hearing began about ten minutes ago; but this is not a normal day. I have just been threatened with the charge of Contempt of Court by the QC paid by the GMC to issue impartial legal advice to the Panel, in the Fitness to Practice hearing of Dr Andrew Wakefield, Professor Simon Murch and Professor Walker-Smith.

I'm staggered, I sit wondering what expression I should have on my face, anger, contrition, sadness or even concern for the QC's mental health. I had actually managed a very method-acting laugh all the way through his short tirade. But finally when he asked all the other legal parties in the room if they had anything to say and they all agree with him, wisely nodding their heads, I couldn't keep up even my clowning and felt enveloped by a cloud of misery at the state of England.

The QC, who is also a recorder, described my essay as an 'unhelpful intervention', adding, *'...if this person thought that he was helping anyone he was mistaken* '. Of course in saying this, the man entirely missed the point, I have no interest, nor does my writing, in *'helping anyone'* , just in speaking up for the parents and their vaccine damaged children and of course the more abstract cause of 'justice'.

The assessor, however, does not appear to share this later principle. Paid by the GMC he seemingly wants to nail his colours to a more pragmatic lance than mine. He is essentially demanding that no one disrupts the

hearing, that no one holds it up or slows it down. One of his objections to my essay was:

If anybody thought that they were helping anyone, they were not because it has involved, lawyers having to read and consider it, it will have involved unnecessary expense, unnecessary work and possibly even unnecessary concern.

One point he made against me, one of my worst crimes, was that I had made the intervention with my essay *'...at this point in the hearing'* , that is after a year of its prevaricating repetitious time wasting.

The best that can be said is that this was considerably unhelpful and entirely inappropriate at this stage in these proceedings.

He implied, had I made my observation about Dr Kumar's conflict of interest at the beginning of the hearing, perhaps it would have been considered in a more kindly light. Of course this is doubtful.

The Chairman has at various stages in the proceedings declared interests and nobody representing any of the parties, has raised any objection and everyone has agreed there was no conflict of interest.

I do say in my essay that Dr Kumar, on occasions near the beginning of the hearing, made the point that he had worked on committees of the Medicines Control Agency, renamed in 2003 as the MHRA.

However, absolutely everyone who had the benefit of reading my essay knows full well that being a committee man for the MCA or the MHRA was not the conflict of interest stated in the essay. That most serious conflict was holding shares in Glaxo Smith Kline, the company that produced and distributed one brand of the MMR vaccination which is at the very centre of the hearing.

It would be interesting of course if the Legal Assessor or anyone else involved in this charade, could read from the transcript Dr Kumar's exact words when, during the hearing, he explained that he held shares in GSK. I wonder if he could do this?

The fact is we know that t he GMC has from the beginning agreed with the government and the pharmaceutical companies, that matters of vested interests are of no account.

Unfortunately this is not a court of law and does not have the benefit of contempt law, otherwise I might give firmer advice to the Panel as on how to deal with such interventions. The Panel members who were shown this of course were concerned about the propriety of their position. It is an entirely unhelpful intervention.

I'm still staring at the circus in front of me, all the familiar figures. I am still confused, still cannot really believe that this man has threatened me with Contempt of Court, as if I have committed a crime.

For those of you who don't know what Contempt of Court means, here is a lay definition of the only kind of contempt that he could have meant:

A finding of contempt of court may result from a failure to obey a lawful order of a court, showing disrespect for the judge, disruption of the proceedings through poor behavior, or publication of material deemed likely to jeopardize a fair trial. A judge may impose sanctions such as a fine or jail for someone found guilty of contempt of court.

This, of course, introduces a splendidly Orwellian definition of contempt, for as you all know, I exposed Dr Kumars share holdings in Glaxo Smith Kline, entirely so that the three doctors and especially Dr Wakefield might have a fair hearing.

Since CryShame has been in communication with the GMC over this matter, the GMC has failed to answer the questions asked of them and most specifically failed miserably to directly address the issue of Dr Kumar's shares. In order to obfuscate and confuse the issue, the GMC has said on a number of occasions, just as the Legal Assessor did this morning, that *'the procedures laid down for conflict of interest have been followed* '. The problem is , this is knowingly or unknowingly not the case.

There are procedures that the GMC have which should be followed for all Panel members in all cases of this nature. Those procedures have been followed as far as Dr Kumar is concerned and there has been seen to be no conflict of interest.

The procedure for disclosing conflict of interest, laid down by the GMC is clear although limited - any suspected conflicts are to be communicated to the GMC who will list them with the name of the putative panel members. If the procedures on conflict of interest had been followed, Dr

Kumar's shareholdings in GlaxoSmithKline should have been stated on the GMC web site next to his name; they were not there.

I think at the end of the day we have to understand clearly the strategy that the GMC has chosen, to avoid any public exposure of Kumar's conflict of interest. They keep repeating that 'the GMC policy on conflict of interest has been followed'. While saying this they refuse point blank to answer the accusations about Kumar's shares with GSK. At the best this is evasive.

However, the approach taken by the Legal Assessor to the problem of Kumar's shares is something that we have come to accept as inherent in the Council's ongoing abuse of process. Why should we expect anything new or original from the Legal Assessor just because he's a QC or a Recorder, after all he's a paid servant of the GMC, a part of a jury that is entirely paid for by the GMC. It was horribly noticeable today as I sat and suffered the petty tirade of this man, that I was completely alone. As he looked round the room and solicited the opinion of all the other barristers, both prosecution and defense, they were all in agreement. I, and not Kumar's shares, was the problem.

It's a strange realisation that you are alone in a room amongst some 50 or so people all of whom, defendants, defense counsel, prosecution counsel and even Brian Deer are all of the same opinion. I have to admit I felt very isolated. I think that we have to understand that in this legal venue, no one, except Professor Murch and Professor Walker-Smith, (Dr Wakefield having gone home to the US) cares about the parents or the vaccine damaged children.

Finally, for my part, I have to say that I have spent the rest of the day wishing upon wish, hoping upon hope, that the nature of this Gilbert and Sullivan comic opera would turn in to a real court hearing, so that the Legal Assessor could make a fool of himself and instruct the GMC to consider charges of Contempt against me. But I know of course that this is never going to happen and I will never have the pleasure of seeing this man brought to book by some higher authority.

* * *

Brian Deer responded immediately both to my essay and then to the legal assessor's statement. It appeared to be the case that my essay hit a raw nerve. His first reaction was a vitriolic personal attack:

Some of the latter, in their pain, have now turned nasty: with me as a target for their hatreds. Although almost literally a handful of people, and some with no link to MMR or autism at all, they've insinuated themselves among affected British families and are causing distress with false allegations. Among these is a claim that my ***Sunday Times*** *and* ***Channel 4*** *investigation - which nailed the scare and helped to restore public confidence - was covertly supported by the drug industry.*

A string of recent outings for this sickening falsehood are authored by a 61-year-old graphic artist called Martin Walker, who apparently lives in Spain, but last year surfaced at the mammoth hearings of the GMC in London. He claims to be a "health activist", and, although generally of little consequence, is a relentless peddler of smear and denigration, with a track record of latching onto the vulnerable. These he beguiles - like he's their new best friend - and then, if past form is a predictor for the future, attempts to sell them self-published books.

His recent attacks on me are pretty much to be expected from this man. He has a well-worn modus operandi. First, in an ill-written 60-page online diatribe, which affects the tone of discovered facts, he suggests - entirely falsely - that I've been supported by the Association of the British Pharmaceutical Industry [ABPI], with the implication that I'm concealing this misconduct.

Deer's second response, a brief report of the Legal Assessors statement completely distorted my essay, calling it an attempt to 'smear' Dr Kumar:

On 3 November 2008, the ***defendants*** *joined with the GMC in condemning an attempt by this individual [described in derisive tones as "a Martin J Walker"] to smear the panel's chairman, Dr Kumar, with false allegations of a conflict of interest through an alleged shareholding in a drug firm. Counsel for Wakefield, Walker-Smith and Murch all agreed that there was no such conflict. "Unfortunately this is not a court of law and does not have the benefit of contempt jurisdiction, otherwise I might be giving a lot further advice to the panel," Nigel Seed QC, the hearing's independent legal assessor, said. " If anybody was misguided enough to think they were helping any of the parties, they were not. "*

By November 10th , reference to ' ***the defendants'*** (above) had become a direct reference to ***'Wakefield, Walker-Smith and Murch '*** , which carried the further implication that the individuals themselves had somehow joined in the condemnation.

See ***http://briandeer.com/mmr/lancet-summary.htm*** (accessed 3rd November 2008 and 10th November 2008).

As I suggested at the beginning of this report, I think that it is probably futile to follow through with this argument and that we should shelve it, to be brought out at a latter date and added to all the other conflict of interest matters.

Mr Mole, Mr Dormouse and Mr Badger Talk Strategy

It has long been known that barristers inhabit a world of their own. They speak in ‘barrister- ese ' and reason in ‘barrister- ogic '. The GMC hearing has exhibited frequent examples of the veneer of civil accommodation that can exist between the defence and the prosecution in arenas beyond the court. As I have said before, my previous experience is in criminal trials and one thing stands out in such trials that separate them from the GMC hearing.

The defence counsel in a criminal trial will have only one objective in their sights, that is to have their client walk from the courtroom free of any charges. This objective might be achieved by any mechanism from getting your client incarcerated in a mental hospital until it is too late to stand trial or having the twin brother of the accused stand half the trial, before finally making the act clear to the court. The defence counsel in a criminal trial will throw everything at the prosecution.

The fact that the defence teams of all three defendants, agreed completely with the plainly wrong 'legal' ruling by the 'legal' assessor about Dr Kumar's shares, opens a new chapter in the already large book about the accommodation between the defence and the prosecution in this shabby case.

* * *

A friend of mine, Mr Fox, was walking past The Burrow in the Inns of Court the other day, when he overheard snatches of a conversation drifting out of an open window. Peaking over the ledge he saw that a strategy meeting was taking place, between, Mr Mole, Mr Dormouse and Mr Badger.

Dormouse was doleful, his nose twitched as he mentioned in a rather sorrowful voice the Legal Assessors statement about ' Snooper ' Walker.

'It hardly seems right that we let the man tell those porky's about Walker', said Dormouse as he sniffed and reached for his red spotted handkerchief, 'I mean', his voice almost trailed off as he whispered, 'He said, that Kumar had told the hearing about his conflicting interests', his voice got even lower, 'but of course this wasn't .... not in relation ... shares in Glaxo Smith Kline'.

With the mention of the company, Dormouse looked towards the window and almost mimed the following question.

'I mean, everyone has shares in GSK, I'm not saying it's an offence or even a conflict ... be recorded by the Chair. Dontyathink '

Dormouse rested his case and Mole looked at him with a weathered but sympathetic eye; his voice was round and though gentle, quite commanding.

'Always so idealistic Dormouse, whatever shall we do with you?' Mole put on an exasperated face and blew air at the ceiling, making an almost rude noise.

'What could we do', he drew out the words, 'If the Chairman of the Panel was to be dismissed now, now, after 100 days of hearing, what, what would we do, do, can you imagine the chaos' Mole tapped the table with his claw and as he often did, repeated himself, 'c a n y o u imagine!'

Dormouse began to splutter, seemingly quite angry, and when he was angry he tended to stutter, ' T,T,T,That , some w,w,w,wo,wo,would say, is a problem for the GMC!'

Badger was immediately dismissive, 'We just can't have this, Dormouse, you really are very disruptive ...' Badger never got to the end of a sentence because his mind ran on and he began thinking about things far into the future.

'Cast your mind back Dormouse to our original strategy meeting a week before the hearing began'. Badger was able to say things like this because he had a good memory, but for the rest of the counsel he always had to formulate a mnemonic.

'Remember our strategy ... Bathrooms have Loos ... and ... SABEEFAP ... what do they stand for Dormouse?'

Dormouse was by now very agitated, 'Yes, I know all that ... I'm just not sure that it's the right thing to do anymore ...'

Badger interrupted him with a leaden voice. 'You can't actually remember can you Dormouse ... you can't actually remember ...?' Badger stroked his whiskers with a paw and looked hopelessly disappointed.

'Oh all right ... of course I can remember ... Bathrooms have Loos is 'Bank on Losing' see!' Dormouse almost fell off his chair with glee and anger.

Badger stared at him without blinking and leaned forward, ' And the rest', his voice boomed a little round the small white walled room. 'The most important bit'.

'Easy', said Dormouse, 'because I disagree profoundly with it', Dormouse's voice too had become louder, but was now accompanied by a high pitched girlish giggle. "'SABEEVFAP' ... ' SAve your BEst EVidence For APpeal '". Dormouse looked from Mole to Badger, it's very good mnemonic but a very silly strategy', and with that Dormouse buried his chin in his chest, and his big eyes looked up and round the table, 'sorry!'

Badger looked crestfallen, Mole looked at his long nails and wondered what Mrs Mole might have got him for dinner, while Dormouse jumped down from the Chair, saying, 'After all it's not Wittgenstein. Lets go for a drink'.

The Big Question

Monday November 10 - Friday November 14

The big question that hangs over the GMC hearing is whether Dr Horton can find time in his busy schedule, saving humanity, to fit in an appearance at the GMC to defend his prosecution evidence.

The presentation of Professor Walker-Smith's expert witnesses was, in its entirety, fairly short, lasting from November 3 to November 14. The last week, from November 10 to November 14, saw some pauses and witness-agenda problems. In fact, the hearing only sat on Monday, Tuesday, a half day on Wednesday, not at all on Thursday, and finished around 15.00 on Friday, when it wound up completely. The nature of the evidence, as well, seemed stilted and stuttering; it kind of dribbled along until its culmination on Friday, in a sudden and unexpected fire-work display.

In the end, Professor Walker-Smith brought three expert witnesses in his defence. Dr Williams, who as I reported in my last account, gave evidence about the safety of colonoscopy; Dr Miller who gave by far the longest evidence of the three experts, and Dr Thomas who was shoe-horned in last week during Dr Miller's evidence.

Perhaps I should explain again why it is not really worth looking at the evidence of the expert witnesses in detail. All three expert witnesses, obviously, defended the clinical course of action taken by Professor Walker-Smith. The prosecution argued as they always have, that the children arrived at the Royal Free by unorthodox routes, that dangerous invasive procedures were used on them and most importantly that a number of the children were not treated on the basis of clinical need but experimented upon as part of an undeclared and unethical research project.

As I said in my last report, Dr Miller was a good defence witness in a number of ways. It occurred to me during his evidence, that the prosecution had been very clever in lulling me and presumably others, into a false feeling that the three defendants, especially Dr Wakefield, were in some way charlatans connected to private medicine, or in the case of nutrition, quacks. Whether or not this has been deliberate I don't

know, but nevertheless, this very abstract idea has often been re-enforced. Talk during Dr Wakefield's prosecution and defence, of private patients, money paid into this account or that account, legal aid money, transfer factor quackery all added up to a construct of Dr Wakefield as a 'smooth operator' deeply embroiled in 'private' rather than 'public' medicine.

Dr Miller did his best at every turn to dispel these ideas about the defendants and to draw all three doctors and their practice back into the domain of the NHS. He frequently introduced the phrase 'In the NHS we do it in this way', so playing a light on the defendants as servants of the community rather than quacks preying on the parents.

Miss Smith's cross examination of Dr Miller ended with the most outrageous question, intended to push Dr Miller into a corner. 'If ' Miss Smith asked 'the panel decided that the children in the Lancet paper were also in (the research project) 172/96, he would think it wrong and unethical wouldn't he?'

The question was outrageous because it was a singular attempt to bring the prosecution case back to the attention of the jury despite the fact that it did not come exactly within the remit of Dr Miller's evidence. Although Dr Miller could talk on such things as the clinical protocol and research ethics committees in the abstract he didn't actually have evidence of whether the children had or had not been seen under any research protocol. The question was based upon an assumption about the possible decision of the Panel on what is one of the primary issues of the hearing; Miss Smith was asking Dr Miller to state that there was a chance the defendants were guilty.

After a brief exchange, Miss Smith's question was reduced to; 'If seven children were investigated for research purposes it would be unethical, wouldn't it?' Although I say above that this question was outrageous, it probably represented Miss Smith's most professional legal flourish. It was a question that, completely phrasing the prosecution case, asked an expert defense witness for agreement.

Quite rightly, Dr Miller began by trying to evade the question on the grounds that it was too hypothetical. Although he tried his level best to avoid a simple answer and ended by answering the question generally as an expert witness should have been allowed to do, this was only after

Miss Smith had harangued him into making the clear and undeniable statement, 'Yes it would be unethical'.

There were signs throughout this last broken week that even Miss Smith was tiring of the repetitious account of the charges and the ceaseless drip, drip, drip of the same questions relating to the individual children. But then suddenly on Friday, when everything was almost all over and people were wondering where they had left their macs and umbrellas, one of the hearings small subterranean volcanoes erupted. I almost missed its beginning when it went from criticism, to what passes for a full-blown row in about 90 seconds.

I was first conscious of the fact when Miss Smith, in her usual *sotto voce* style - as if she didn't really want anyone else to know what she was saying - talking about Dr Horton being recalled to give rebuttal evidence. I will refresh your memories before I go further with this.

Dr Horton gave evidence for the prosecution against Dr Wakefield. In his evidence he suggested that from a scientific perspective there was nothing at all wrong with the Lancet paper, in fact he praised it. His criticism of Dr Wakefield in particular was that he had undeclared conflicts of interest, having received money from the Legal Aid Board to conduct research as an expert witness which he had failed to declare in the *Lancet* paper. According to Horton's evidence, as soon as he found out about this conflict of interest, he made a statement saying that the conflicts invalidated the paper and had he known about them before the publication he would not have published the paper. Following Horton's evidence and after he had left the witness stand, the defence produced documents, to the hearing, that had just then come to light. The letters contained information which indicated that Dr Horton knew about Dr Wakefield's contact with the Legal Aid Board a year prior to the publication of the Lancet paper.

Anyway on the afternoon of Friday 14th November, Miss Smith was on her feet explaining in very sensitive and sympathetic terms why getting Dr Horton to Euston Road this century was a logistic feat similar to the one that faced Hannibal in 203BC during the second Punic War. Unusually, and obviously in order to impress the Panel and assume the moral high ground, Miss Smith detailed Dr Horton's itinerary in the days after the hearing resumed on January 12. This diary included what Miss Smith seemed to think was a clincher. On one day, pride redolent in her voice Dr Horton was in 'Palestine', 'launching a session in relation to

health on the West Bank'. Of course, this is very laudable and I'm sure that the whole prosecution team has been a constant supporter of the Palestinian cause; one can tell this from Miss Smith's use of the term Palestine, a country that ceased to exist in 1948. Interestingly one wonders whether Dr Horton's visit to the West Bank has anything to do with his relationship with Mr Blair who is now a Middle East Envoy.

Anyway, it was quite apparent from Miss Smith's litany of Dr Horton's important humanitarian work, that fitting in to give evidence at the GMC hearing was not only small potatoes but indescribably difficult. Miss Smith attacked the problem as if all the parameters of it were settled and taken for granted, it was, undoubtedly the hearing that had to fit in with Dr Horton and not Dr Horton who had to fit in with the hearing.

Miss Smith even had the length of Dr Horton's evidence decided and in one particular defence of him, she said something like; 'Well Dr Horton's evidence will take about 50 minutes, he should be able to fit that in ....' To be honest, it might have seemed to the casual observer that Miss Smith wasn't trying very hard to get Dr Horton to the hearing. This idea was supported by a seemingly quite angry Kieran Coonan, who spluttered, that it was obviously impossible for the defence to come to any conclusions about how long Horton's evidence would take because all they had so far produced was an unsigned statement i.e. a rough draft of what Horton might say but without the authority of his signature. 'We have', Mr Coonan said, 'been waiting since day 69 for a signed statement (it was now day 108)'. This was clearly a lamentable situation and I wondered why, with Mr Coonan and Miss Smith seeing each other on most days in the same chambers, Mr Coonan had not asked her about Horton's statement. This led me to ponder the rules that govern any conversation about cases between defence and prosecution outside the hearing; I'm still not sure there are any.

But Mr Coonan's evident dissatisfaction was as nothing compared with that of the Legal Assessor who when asked to contribute to a solution about the timing of Horton's appearance said quite dryly, 'I haven't even seen the unsigned statement, so it is hard for me to make any decisions'. On this, Miss Smith did one of her little turns that so endear her to us; a little aside that carries with it great natural humour and drollery. Holding up the two pages of the statement, for the Legal Assessor, sitting twenty feet away, she said,

'This is Dr Horton's statement', before returning it to her table.

To my mind this was surreal, but someone later suggested to me that it was also reminiscent of Neville Chamberlain's return from his meeting with Hitler in 1938, when he held up a piece of paper and said: 'Peace in our time'. Thinking about it afterwards, it seemed that the pleas by Miss Smith with respect to Dr Horton's appearance, might actually be as confusing as Mr Chamberlains entreaty to the crowds of reporters at the air field.

Mr Hopkins obviously had to be consulted on the time that Dr Horton appeared, because the next time the Big Top comes to Euston Road in January 2009, Mr Hopkins will be conducting Professor Murch's defence. It would do neither Mr Hopkins nor Professor Murch any good at all to have to stopper the flow of the defence with Dr Horton's complex explanations about his sudden discovery of conflict of interest.

The next hearing is scheduled to take place between January 12 and January 30. I'm unsure how much of the defence will come within this time frame and whether or not it involves re-examination and questions from the Panel and I am therefore unsure of when the defence and prosecution summing up will be; I will try to keep everyone posted on any changes to the agenda.

The Circus On Euston Road

Allison Edwards (italics) & Martin J Walker (regular type)

Getting an innocent London bus from Victoria to Warren Street, on Monday 12th January, I found myself regaled by a robotic female voice that told me whenever the bus reached any notable point on the journey. Although this broke into my solitude and private thoughts I found it more or less acceptable, until we reached a point just past Westminster, when the voice suddenly intoned in a slightly more discursive manner, 'The next bus stop is closed'. As it was raining, my first thought was that this was a good thing, until that is, I realised that 'closed' in this case meant non-functioning. Britain is going through a language crunch just as important as the credit crunch. Very little means anything anymore, especially a high-sounding *Fitness to Practice Hearing* that actually has more similarities to a corrupted eighteenth century trial for debt.

On Monday the 12th, I showed up at the GMC just before the end of the morning session being at the mercy of Virgin Trains Saver ticket rules, for off-peak travel times; my earliest possible arrival at Euston was midday. The whole excursion, including an overnight stay came in at £112, better than a standard day return fare of £153.00. It's steep for any parent/carer of an autistic child but a price worth paying, I feel, to show my unstinting support for these three eminent doctors. So, during my son's four night stay at respite, I travelled to London.

I had bad dreams in the early mornings of the days that followed New Year's Day. They were all to do with Finlay Scott, the Chief Executive of the GMC, receiving the Commander of the British Empire (CBE) in the New Year's Honours list. In the dreams, the GMC building remained as it had been, except when I got to the third floor and approached what used to be reception; I found that I was on the Star Ship Enterprise. Captain Kirk's position in the chair was now taken by Finlay Scott. As I came in he was saying quietly and assuredly, to a statuesque black woman 'Warp Three Uhura, let's break the Wakefield hearing'. Scotty, who seemed tired and emotional, questioned the Commander, 'But Sir I might have to tighten some nuts and bolts on the engine before we can outrun Wakefield's ship'. Finlay Scott gave a questioning frown, 'I'm Commander of this Star Ship Scotty, and don't forget it', 'Yes Commander, of course Commander, it's just that at warp speed 3, our whole strategy will be

exposed'. 'Scotty, this isn't the time to argue the toss on this one, the Lord High Commander of the Star Fleet, His Great Master Salisbury, has instructed that we bring this adventure to an end'. With this last statement, the Star Trek theme began, but it seemed different; mainly it had Chinese instruments and Miss Smith's voice-over said something about 'I'm going where no man has boldly gone before.' I always woke up scared and in a terrible sweat.

You can imagine my relief when I did get to the hearing, only to find that none of the staff were wearing the tight, powder-blue uniforms of my dreams, and apart from new ribbon bedecked pictures of Finlay Scott giving a wave, entitled 'Our New Commander' everything was as drab and dreary as usual. The dreams about Finlay's CBE did make me think, however, and not for the first time, about the linguistic dissonance, the grammatical dysfunction, that exists in Britain, and I wasn't really surprised when I found that the Chief Medical Officer, Liam Donaldson was on the committee that gave him this honour. Unfortunately I haven't had the time to research how much influence GSK have in this matter, although I have heard the rumour that in the next New Year's Honours list, the honour will be called CBDGSK. That's Commander of the British Dominions of GlaxoSmith Kline. This is far more applicable anyway because there no longer exists any Empire to speak of. These acronyms, and the failing of language, brought to mind an acronym in the civil service that I think well fits Finlay's situation, POWG (Paid Off With Garbage).

My parental anger simmers because it was whilst these top-flight pioneers were delving into discovering the 'whys' of regressive autism in some children, that they were confronted with these ridiculous charges. Undoubtedly those who brought the charges were more deserving, themselves, of some sharp questioning about their own motives for this 110 day fandango. How have these people got away with stifling medical and scientific investigations and more crucially the treatment of very poorly, vulnerable children?

And in the newspapers and on the telly, the same old lazy media, denials, disguising any opportunity to shed light on this important topic, constantly churning out the original charge sheet, time and time again, screaming guilty whilst bowing to the political factions hell-bent on putting this WMD type issue to bed. The 'can't-be-bothereds' who won't do what we parents do and sit in on and find out the facts of this stitch up job by listening to the defence. Where have all the decent reporters gone,

did boredom eventually kill them off? How can the media be so uncaring towards our babies? Hush, hush from the top seems enough for them!

The next three weeks of the hearing is devoted to the defence of Professor Simon Murch. Murch is defended by Mr Adrian Hopkins. I was wondering how I could write about Hopkins without seeming somehow condescending - after all, who am I to critique a barrister of 20 years standing - so I turned to the web site of 3 Serjeant's Inn, to see what the site said about him:

"...'incisive and knowledgeable, with an amazing grasp of detail'..." **Legal 500 2008**

*'The "flawless" **Adrian Hopkins QC** offers "great attention to detail, combined with the ability to step back and look at the broader issues of a case." His "low-key, quietly courteous and moderate approach" stands him in good stead with disciplinary tribunals.'***Chambers & Partners 2009**

***'Adrian Hopkins QC** heads the set's medical team and is a perennial favourite with solicitors. "Low-key and deadly," he boasts "a clear-thinking, analytical approach," which he deploys in negligence issues of considerable importance.'* **Chambers & Partners 2009**

"Hopkins is very diligent and measured. He is excellent in complicated, high-value cases where he has delivered some impressive results. He really knows how to make the most complex case appear straightforward while showing such good attention to detail." **Legal Week article, 8 December 2005**

Well, I agree with all of that and these brief reviews come amazingly close to the words I would have used myself. From the very beginning, as Hopkins began leading Professor Murch through his evidence in chief, he showed an intuitive grasp of the case and it's context. He led us into the Royal Free Hospital and gave us a tour of the Department; he described through Professor Murch's eyes, what the team of highly skilled doctors did in the Department. During this tour, he opened all the doors on the muddled prosecution charges, and Simon Murch explained and refuted them from his singular point of view.

Dr Simon Murch and his Counsel, Adrian Hopkins, conducted the defence adeptly. Both are as confident and concise as an Oxford Dictionary. Two

or three times or more I felt like bursting into a spontaneous round of applause for the crystal clear explanations of this particular group of children with a novel form of bowel disease and regressive autism. Like partners in a waltz the questions led well to answers in step and in sequence. Dr Murch puts everyone at ease with his manner, particularly empathic he began some answers with, 'If it was my own child this had happened to….'

Questioning highlighted the care and diligent enquiries needed to understand whether the children really were in need of investigation due to their histories. Had they carried out appropriately required colonoscopies? They had. Were the biopsies necessary, where from and how were they done, and for what purpose? For good, proper and accurate diagnosis to help the child and parents and not specifically for research. Meetings were discussed, who was there, what was recommended by whom and why? Much of what was said had been covered by previous defence counsels for Wakefield and Walker-Smith, but we heard again how this was teamwork, carried out by the best of the best, carefully drawing from the wealth of experience they all had in their field. All carried weight in their opinions and the opinions of others connected with the Department.

As far as I could hear, not one of them would have been able to make rash, ill-considered decisions without being noticed. The families were crying out for help. Quality of life was impaired by severe gut pain and brain function deterioration following MMR; they suffered amongst other things from various allergies. The doctors' aim was ultimately to diagnose and treat. Cause and science are rarely challenged or brought into question here, so why is this not the case when it's reported. These doctors and their right and proper work, are being junked in the most unforgivable way. Failure to continue with such important research is indeed Britain's loss.

Hopkins chose the days of a week to describe the work that went on at the Royal Free, and by the end of Monday he and Professor Murch had between them presented an intimate picture of work in the department, of its challenges, its routine and a solid refutation of the bizarre intervention of this much later prosecution.

Most important, it seemed to me in this break down of work at the Royal Free, were the following.

- The role of Professor Walker-Smith as one of the founding fathers of paediatric gastroenterology.
- The different diagnostic needs of world wide referrals to the unit.
- A look at mitochondrial disorders that were being researched at the Royal Free as early as 1996.
- The especially important matter in this case of clinical protocol books.
- The lack of involvement of Dr Wakefield in any of the clinical work of the hospital.
- Professor Murch's role on the hospital ethics committee and ways in which conflict of interests were avoided.
- A detailed look at the tests given to children, in order to work up a complex but realistic diagnosis.
- How biopsy samples were dealt with.
- A detailed picture of why and how a colonoscopy is carried out and what exactly this process is used for.
- Mother and child 2, used to explain in detail the considerable complexities of children presenting with serious bowel problems and regressive autism.

Perhaps the most interesting aspect of Hopkins' analysis of Professor Murch's work, was the way in which he approached it from a position that was empathetic with

both the children and the parents. Hopkins' trek through Murch's evidence in chief was marvelously post-modern and multi-layered. It spoke eloquently about the role of the doctor in modern society, the needs of parents and children with undiagnosed illnesses, and most of all it created an umbrella of explanation about human concern, and therefore ethics, that surrounded surgeons and researchers.

Professor Murch never ceased to be quietly reasonable, the kind of doctor one might only dream about in the hubbub of modern urban society. His tone was measured and fair, except where he refuted the mainly absurd prosecution allegations, such as those that he examined children and then performed colonoscopies on them for research purposes. These often ludicrous assertions were put with a chilling clarity, delivered by Hopkins in a tone equal to that of the chillingly logical Dr Spock, to be answered by Murch in an alert, definite and even forceful manner.

Perhaps being only day one, all in the room are alert, a perky panel on the right and down at the prosecution end of the room is the same twitching, flappy, hair flicky, and scratchy, as a bad case of nits. Lots of coughing and nose blowing going on too – in the circulating air conditioning all sorts could be blowing about. Let's hope a clear run at some good evidence is possible throughout the month of January without cases of plague.

Throughout Professor Murch's evidence I was constantly reminded, as I had been during Professor Walker-Smith's case, that both these doctors placed considerable reliance on nutrition. This opens up a whole new area of speculation, because since 1988, the quack-busting groups, now consolidated with Sense About Science and the Science Media Centre, have been attacking nutritionists, especially those that suggest that nutritional treatments can help alleviate cases of serious illness. Most strenuous in the attacks on nutritional medicine are the followers of the pharmaceutically dominated and genetics lobbies, who not only suggest that every condition is genetic in origin but that nutritional approaches to treatment should be banned.

It was odd and rather surprising to hear Professor Murch describe Candida as most noted in the 'grey literature' and then to talk about Professor Jonathan Brostoff as a widely respected allergist. The original quack busting group in Britain - the Campaign Against Health Fraud, now called HealthWatch - spend years campaigning against allergy, saying that anyone who claimed to have it was probably mentally ill. While Professor Murch might be right today in saying that the whole field of allergy has changed and much more credence is now given to claims of it, the exposure of this subject reminds us that as well as the pharmaceutical companies, the processed food industry is also involved in the refutation that nutrition has any bearing on health. While from the perspective of a hospital consultant, appraisals of nutrition might have changed, on the ground, nutritionists are still mercilessly attacked by quackbusting reporters like Ben Goldacre.

At around mid-day on Tuesday, Mr Hopkins leaned on his rostrum and apologised to the panel for what he said he was about to begin; going through the Lancet cases one by one. He was aware, he said, that the panel - and everyone else in the room - had heard this detailed evidence over and over again. However, it was not until Mr Hopkins began down this path that I really understood his need to apologise. Master of detail that Hopkins is, this review of the twelve cases is evidently going to be

a *tour de force*, a kind of War and Peace version of the Lancet paper. One has, at least, to bow to Mr Hopkins' judgment even if his approach could well be heralded as the new post-industrial equivalent of Chinese Water Torture. He is obviously right to be so descriptive in building up a material picture of all twelve cases, after all it has been the very looseness of the defence case generally that has left the clear ground on which Miss Smith has erected her shibboleths.

* * *

The beginning of the hearing on Monday 12th of January was considered with excitement by those who had closely followed the hearing. The last episode had ended with the vague possibility that Richard Horton might return to the hearing to explain how he had failed to recall that he had known for at least a year before the publication of the Lancet paper; that Dr Wakefield had been promised funding by the Legal Aid Board.

This matter of a conflict of interest is at the very centre of the case against Wakefield and was the core of Horton's evidence to the Panel. His case was that he was suddenly and virginally surprised, almost shocked to find in 2004, following his briefing from Brian Deer, that Wakefield had a conflict of interest. When the defence produced papers, after his evidence, that showed clearly that he should have known about the legal aid money, it was asked if Horton could be recalled. At the end of the last session Miss Smith adroitly presented 'the dog chewed my homework' defence for Horton and most observers saw a full blooded cross examination of Horton drift away.

At 4pm the afternoon session drew to a close, Professor Murch was invited to leave if he so wished and that was when the Horton shenanigans reared its head. A statement was to be read by the panel, who would deliberate after adjournment and give a response as to whether Dr Richard Horton, Editor of The Lancet would be called for further questioning on the 21st of January. If I have rightly understood what I was hearing, Horton, during his evidence, had not been precise with the facts regarding dates and what he knew when. The reality of his knowledge was exposed in a letter discovered in a lost filing cabinet at the Wakefield's home which now left room for further investigation.

We were all to find out in the morning what the panel's decision would be in relation to that statement, although it seems discussions between Counsel Smith for the prosecution and Counsel Coonan for the defence

had already taken place on whether or not it was necessary, and seemed to be a 'done deal' for the let's-not-bother-brigade AGAIN with the panel beginning to look weary at the thought of anything that might prolong and interfere with the smooth running timetable of Dr Murch's defence – it was a hefty consideration! But how come, from the beginning the whole prosecution has been swept along in the prosecutors wake ? And she makes up the most cloying disguises for her true intentions. She gave the impression of WANTING Horton to be summoned back there to be cross-examined harshly – as he so rightly should have been - she said in a fake serious voice, but " not wanting to run the risk of being the most unpopular person in the room" she would concede. We could all see what she was playing at, creating yet another dread of stretching it into forever, implying it was the others, the defence who didn't want that to happen, and the panel too, Que Sera Sera! She tried….sigh! Shocking tactics I felt.

On the afternoon of Monday, the hearing was told that Mr Coonan and Miss Smith were, not for the first time, in complete agreement, that there was no need to recall Horton, especially as his diary was so full. Both barristers were sure that a statement from him would be completely sufficient. The Panel were sent into camera to discuss this important agreement and to consider whether they would like to see Horton back at the witness table. Inevitably they endorsed the unanimity of the counsel and it was agreed that Horton's statement should be read on Tuesday morning.

And so, tomorrow….. Tuesday 13th January. Will it be drama or a damp squib? A long lens got me as I came in. Why? Maybe they liked my jacket and scarf combination! Up on the 3rd floor, a little later than the intended 9.15am start, it began. And just like The Magic Roundabout's Zebedee, Brian Deer arrived, dropped out of nowhere, ready to hear the Horton statement even though he hadn't been there the day before to hear which act was on next. Curiously, this man seems to get wind. When something goes on, he's there, then vanishes like Harry Houdini. How come? Is he the Ring Master or merely an entertaining plate spinner? Tiresomely, the rest of us have to sit through the gusty slow flow of this age-old case barely knowing when the circus is next coming to town.

Horton's statement was worse than even I expected. In it's introduction it pointed to papers he had been supplied that hinted at the fact that he had known for years before 2004 about the LAB money. These papers referred to a Dawbarns fact sheet, the agreement between Dr Wakefield and the

Legal Aid Board and the letter from Mr Rouse printed in the Lancet. Horton didn't waste words, he simply said that he had considered each of these references and claimed that none of them had forewarned *him* of any conflict of interest.

Given that Horton's maligned contention - that Wakefield's case review paper in the Lancet was hopelessly compromised because he failed to note funding for other forthcoming work from the Legal Aid Board - is at the very centre of the case against Wakefield, I personally will never be convinced that it wasn't in the interest of the defence to force Horton's second appearance at the GMC. Never was there a better case, in my opinion, for an aggressive cross examination of a major prosecution witness who had failed to give the facts in his evidence in chief.

The problem appears to be that while the prosecution and its agents, from the government down to Brian Deer, have poured venom into the prosecution, the defence, apart from a couple of incidents of intransigence and some exceptions in attitude, have been strolling through the park, smelling the flowers and pretending that the case isn't actually about thousands of vaccine damaged children.

The Worm in the Bread

Thursday 15th, Friday 16th, Monday 19th January.

Like a tired old man looking for a bench to rest on in a crowded park, the GMC hearing is now staggering along with days and half-days of rest halting the proceedings more and more frequently. This week the GMC showed utter contempt for the parents and the public, deciding on the Monday of a week already bereft of sitting for two and a half days, to sit on the following Sunday. The legal assessor had a pressing engagement, even on this day, and politely exempted himself, suggesting anyway that it was unlikely that there would be any legal matters raised in this session. So the hearing sits on a Sunday unlike any other tribunal of its kind anywhere in the world and the legal assessor turns into a gypsy clairvoyant, able to gainsay the problems thrown up by the wily Miss Smith's cross examination.

Perhaps the only competition left in town, is trying to guess the purpose for which this hearing is being dragged out. Someone should open a book on this. My guess, for what it's worth, is that the government will announce a new MMR - perhaps with another additional ingredient – and launch their campaign the week before the Panel finally get round to stating a verdict.

If, however, there was a competition for clairvoyance, then Dear Brian would definitely break the tape first. How Brian knows that evidence naming him is coming up, will probably always be a mystery. To add to all this speculation, it is rumoured that the usually placid and lugubrious Deer lost it at the mid-day end of Monday's session.

The hearing started late that Monday morning, there having been problems on the Victoria line, as Dr Kumar explained. Funnily enough I use the Victoria line to get into the hearing, but that morning understanding that there had been work over the weekend on the line, I took a bus. Still the delayed start was only half an hour and the Panel and the witness were in place by ten.

For the previous two days, Mr Hopkins had been going through the condition of the children cited in the Lancet paper, with Professor Murch. This evidence was exemplary, extracted from Professor Murch in the most

forthright manner. There was a snow-flake freshness to Professor Murch's refutation that the children might have been subjected to procedures and investigation for the purposes of research. In fact, more than any other evidence given so far, Professor Murch's evidence has stressed the inevitable need for the doctors faced with the children at the Royal Free to obtain a diagnosis which might enable them to embark upon a correct course of treatment.

For an hour between 10 and 11am, Hopkins drew out of Professor Murch the story of Brian Deer's sudden intervention in the lives of the Royal Free doctors. Although Deer had surfaced amongst the detritus of this case, in relation to both Dr Wakefield and Professor Walker-Smith, no one had so far opened the door quite so wide on Deer's attitude and strategy as Professor Murch did in this hour.

Professor Murch narrated how in 2004, the head of his department Professor Brent Taylor, who it appears was assisting Brian Deer, called him into a meeting with Deer. Taylor intimated to Murch that Deer did not have as good a grasp of the case he was presenting as he should have done. Why Taylor was privvy to this 'case' we might never know, although it is known that Taylor has, on occasion, had a place on the JCVI.

Professor Murch told the Panel that the atmosphere in that meeting was deeply unpleasant and that he found Deer's approach unduly aggressive and unsettling. Long documents, Murch said, appeared under his nose and he was pushed into making some response to a series of allegations. Now, thinking back, he suggested that following such a lengthy, hostile and adversarial meeting it was difficult to remember specifically what had been said.

Deer, Murch said, was alleging that the 172/96 document had been knowingly and fraudulently put in for ethical approval, in an attempt to provide some form of cover for a fishing expedition that would provide data for the parents court case. Deer seemed to be claiming that the procedures carried out on the 12 children, had been to provide ammunition for the legal hearing rather than a clinical diagnosis. No one had forewarned him about the allegations that Deer was about to make and Taylor had even told Murch that Deer had made it quite clear that the clinicians were 'not a target'.

Murch was quite candid about his view of Deer's operating methods; the way in which the allegations were delivered, he said, was not far from the

third degree. He had not had a light shone in his eyes, but effectively it had been a hostile, aggressive and very unsettling interview. Had it not been for the fact that he was there under the instructions of his head of department, he would, he said, have turned on his heels and walked out.

Professor Murch, was, he claimed, along with Professor Walker-Smith, at a serious disadvantage, not having had the time or possibility of looking at any records. He was sure that there was no substance to the allegations being made, but the interpretation being placed, on what he knew to be innocently motivated actions, was, he said, very melodramatic. He concluded that it was important to someone that there was an adverse outcome to the Royal Free press briefing after the paper itself and the press coverage, and so some years later, he believed, it was being spun into something that sounded very sinister and therefore ultimately difficult to give credence to.

Mr Hopkins went on to discuss, with Professor Murch, the meeting organised by Horton at the Lancet. Still at this time, neither Walker-Smith nor Professor Murch had access to the children's names that had been anonymised in the Lancet paper. This was a major problem for the two of them in arguing with Deer. Eventually they managed to contact Dr Wakefield in the USA, who handwrote a document of patients' names; Murch remembered the hospital numbers, and these were faxed to the Royal Free.

Professor Murch steadfastly denied all of Deer's allegations. He was quite adamant, reinforcing his answers to Mr Hopkins questions with such expressions as 'absolutely not' and 'quite the contrary'. He stressed time and again, as he did throughout his evidence, that the teams primary aim had always been to seek a diagnosis for the child being investigated and to construct a guide or protocol for further treatment and management. Throughout Murch's evidence in chief, Hopkins had intelligently and correctly ensured that Murch was able to give adequate details about the feelings of the parents faced with very disturbing undiagnosed illnesses in their children. And for the first time in the hearing, voice was given to pure feeling, when Murch invited those listening to… 'Imagine how you would feel with your child in such pain, but undiagnosed'.

Asked about his feelings on being accused unfairly in this manner, Professor Murch gave some of the most telling evidence yet. The accusations were, he said, profoundly disturbing and he was left with feelings of anger about the unfairness of this. He said that the lengthy

documents with which he had been forced to deal, suggested that somebody had enough information to identify patients from an anonymised table, and to provide dates of their investigations. The information to which Deer had been given access, went, in Murch's opinion, beyond the level of knowledge that a journalist might reasonably have, and suggested to him that a breach of the Data Protection Act might have taken place.

Asked to prepare a report on the ethics of the work that had taken place around 1996 he felt under great pressure and did not know quite how to deal with the situation. He had difficulty, he said, in getting his emotions under control, or his head straight to draft a reply.

Professor Murch denied every aspect of the case, put by Deer, which was eventually transformed into the charges levelled by the GMC prosecution. For the first time in the hearing, the finger was pointed directly at Deer and the suggestion was now clearly 'on the table', that Deer was behind all the charges, that they were in great degree manufactured by him and that they were not based upon supportable fact. The suspicion was there as well, that rules governing the privacy of patient information might have been broken. This is a fear that some parents have expressed on a number of occasions.

At one point towards the end of Professor Murch's evidence, I looked over my shoulder to observe any reaction. I was surprised to see the normally laid back Deer, red faced, shaking his head and straining forward in his seat. When the session ended for the mid morning break at 11.00am, I watched Deer rise out of his seat and hang back until Professor Murch left the room, at which point he slithered like a snake, out of the closing door in Murch's wake.

Deer didn't return after the break and rumour cracked back and forth in the hearing room that an unnerving incident had taken place. Although I have to say when the Professor returned to the hearing he continued to give his evidence in the same certain and strong manner that he had observed throughout the last week. On the other hand, Mr Deer didn't return to the hearing, but slunk off to his lair where he spent the afternoon cogitating.

At the end of the hearing on Monday, Mr Hopkins closed his note book and said clearly 'those are all the questions I have to ask you Professor Murch' and sitting down he left his witness to contemplate the slow

semantic torture of cross- examination by Miss Smith. However, Professor Murch, was given a respite from erosion when the day finished early, it being thought inconsiderate to let Miss Smith proceed with her cross examination, when she would have to break off in an hour. In the wake of this decision, Tuesday was suddenly declared a non-sitting day, and Thursday was known to be a long standing one, and so consequently the Chairman announced the panel would be sitting on the coming Sunday. If the hearing continues in this ludicrous manner no doubt we will all find ourselves doing nights at a hearing that begins at 10pm and goes on without break until 5.00 am when we can get the first tube or the last night bus home. And it is for this consummate organisation that Finlay Scott was awarded the CBE; oh that the Commander would command more effectively!

I only hope that the Guiness Book of Records is keeping abreast of all this, because now the GMC is not only presiding over the longest regulatory trial in history, but can probably lay claim to being the first regulatory tribunal in the developed world to sit on a Sunday. I must say that I was heartened by the sturdy individuality of the legal assessor, who was able to look the rest of the panel in the eye and even in these dark times when the barbarians are beating a path to the gates of reason on a Sunday, was able to excuse himself announcing a long standing Sunday luncheon engagement; now there's a man with the right priorities.

A Sudden Silence Descends on the GMC

A Sudden Silence Descends on the GMC as Miss Smith Stops Hammering

Wednesday 21st, Friday 23rd and Sunday 25th January.

If the only tool you have is a hammer,
it is tempting to treat everything as a nail.
Abraham Maslow

Sitting on Sunday

When they decided to sit on Sunday, although I thought it was silly in the extreme, I was kind of relieved because it suggested that maybe they were going to try to claw back some of the many non-sitting days that have spattered the two year hearing. Of course I have no idea why these non-sitting days were taken, to do Christmas Shopping, visit friends, lunch-out or maybe cover some of their professional commitments.

When they gave the time-table for Sunday 25th, I was amazed. Because it was a Sunday, and the transport was difficult, they weren't sitting until 11.30. So the situation began to look like what my debt counsellor would call 'increasing your debt'; she always says this in a friendly kind of way whenever I offer to pay back an ultra-minimal amount of money, 'No', she says, 'Really, I can't condone that, because before you've made any gains, you'll be hit with another bill and you're debt will be increased'. And blow me down, that's just what happened at the GMC, although they didn't take any more days off the last week, they did finish two and a half days early and then up pops Miss Smith and asks for another full week's non-sitting at the beginning of the March session because the dog has chewed her homework. So not only was the Sunday sitting not entirely necessary, except for the Panel being paid time-and-a-half which would help the poorer members, but by the end of the sitting they had actually increased their debt by 4 whole days.

I'm right aren't I? That's what they're doing at the GMC, they are making what seems like a decent gesture for pay-back; a whole Sunday, no less, and then they say next week they'll take three whole days off because Tuesdays and Fridays are the only days that they can get to the

hairdresser or avoid leaves on the railway line, and there you are, they've just considerably increased their debt.

On my worst nights, the nights when the nightmares are most severe, the hearing never ends and I'm ancient with white hair down past my shoulders stooping and walking with a cane. It's always someone's funeral, someone who came to the hearing quite young and full of hope and then gradually deteriorates. The nightmares are always interrupted with one of those cinematic conventions, like the leaves of dates blowing off the Calendar, or the years passing at the centre of a wheel; 2007, 2008, 2009.

The Serious Side of the Hearing: Professor Murch's Evidence

On the morning of Wednesday 28th of January, on the seventh day of her cross examination of Professor Simon Murch, Miss Smith, seemingly aware that she was digging a hole in which she was burying herself, threw in the towel. Those who were there to see this historic moment will no doubt savour it for many years. However, it has to be said that much more time could ultimately have been saved if Miss Smith had relented in her cross-examination with each of the other defendants as well; perhaps one question would have been sufficient. 'You do agree don't you Dr Wakefield' that the GMC case against you is absolutely preposterous?'

Apart from making the proceedings far more transparent, this course would have saved Britain's doctors the millions of pounds spent by the GMC on the prosecution. Miss Smith began her cross examination of Professor Simon Murch on Wednesday 21st of January and it continued for only five days, through Friday 23rd., Sunday 25th., Monday 26th., and Tuesday 27th.

It might be claimed of some barristers that they start each new cross-examination with their own persona, approaching the defendant with a pleasant empathy, and as the exchange goes on they begin their mordant act, forcing themselves to appear callous and biting. With Miss Smith, the opposite seems most often the case, she begins with a cold but friendly exchange of what appear to be pleasantries, this is her act and within minutes her real character has surfaced and she is barking like the maddest of dogs. Nevertheless, I am always beguiled by her opening shots and then suddenly confronted by her apparently cold aggression,

from nought to very angry in 10 seconds; and I wonder, why was I taken in like that?

It was clear from the very beginning of the cross-examination that Professor Murch was going to be an exceptional and difficult witness. While some observers thought that he lacked the steeliness to take on Miss Smith, this proved not to be the case. Professor Murch began as he meant to go on, polite, reasonable, sensitive and while always willing to concede reasonable points he was as solid as set concrete in his constant refutation of the prosecutions main off-the-wall ideas.

Professor Murch's evidence given under cross-examination was a splendid narrative of denial which reproduced the defence story in great detail; it was also scattered with wise and perceptive comments just bordering on quiet humour. In the first part of her cross-examination Miss Smith drew Dr Wakefield back into the prosecution. Professor Murch had mainly left Wakefield out of his evidence, although where he had introduced him he had worked hard to lessen the differences that evidently existed between them. Miss Smith's drive was to push Dr Wakefield back into the clinical area and Professor Murch's intent was to stand his ground and repel Dr Wakefield from this arena; this he did with some success. Professor Murch, had similar problems to Professor Walker-Smith in relation to his approach to Dr Wakefield, but what might, at the beginning of the hearing, have threatened to be a cut-throat blood-letting, turned into a well balanced review of respected differences between the three doctors.

We can list below the, by now, well known strings to Miss Smith's bow, before we dwell with some pleasure upon Professor Murch's style as a defendant.

- Miss Smith tried to show as she had done in Dr Wakefield's case that Professor Murch was not a paediatrician.
- Miss Smith introduced Dr Wakefield early to Professor Murch's evidence, in the hope that she could show that he was the criminal master mind behind the actions of the two other defendants. She attempted to maintain the fiction that Dr Wakefield was deeply involved in the clinical work of the department.
- Miss Smith consistently made out that the clinical diagnostic protocol was actually the research protocol for 172/96. This was despite the fact that she has no real argument when it was put to her that project 172/96 was never actually carried out.
- Miss Smith insisted that the 12 child case series in the Lancet is

actually a fully blown research 'study'.
• In her references to Brian Deer, Miss Smith assumes that his motives for involvement in the case are straightforward and no mention is made of the war that Deer has waged against Wakefield, or of him being the complainant.
• Miss Smith claims that for their own purposes, these doctors refused to give the children neurological examinations. This is all part of her plan to present the children as 'simply' autistic and to ignore their IBD.
• Miss Smith reacts with horror to the fact that some of the children were given lumbar punctures, in an attempt to test important diagnostic information.
• The matter of ethical committee approval dragged on for a whole half day. At the centre of Miss Smith's argument is the assertion that the procedures carried out on children, and cited in the Lancet paper, did not receive ethical committee approval. It doesn't matter how many times the point is made by the defendants that the 12 children were investigated for clinical purposes, Miss Smith carries on digging.
• Miss Smith embraced a long and undignified discussion about the 'report' that Professor Murch was brow beaten into writing in answer to Brian Deer's complaints against all three doctors, just before his expose was published in the Sunday Times in 2004. Professor Murch argues time and again that this rebuttal, in which he made a number of mistakes, was written in response to a very lengthy document suddenly thrust at him by Deer. He had 24 hours to reply, with work intervening and with none of the documentation available. Miss Smith who had over 3 years to prepare the prosecution case and who even now has no qualms about asking for an extra seven days to prepare her closing speech, insists that every word Murch wrote is valid.
• Great emphasis is placed by Miss Smith on the principal medical expert witness, Professor Booth. You might remember him as the enlightened doctor who made the point that constipation is a condition on it's own, unrelated to any other factors beyond its own incidence. He also had grave doubts about food allergy and intolerance while suggesting that marker tests were the single most effective diagnosis of IBD and could obviate the need for colonoscopy. The repetition of Professor Booths minority views led to a prolonged dispute with Professor Murch about whether or not colonoscopy was an appropriate investigation in the Lancet cases.

If Miss Smith's cross examination could be described as pedantic, repetitive and simply wrong, Professor Murch's rebuttal in his answers could by comparison almost be described as brilliant. Refusing to stick to brief responses, to Miss Smith's inane questions, Murch gave lengthy responses that, while answering the questions, also gave listeners a real understanding of the context within which the three doctors were working.

Professor Murch built up a real picture of himself as a caring but also very honest doctor, whose placid agreement even with some of Miss Smith's notions showed him to be utterly unafraid of compromise on reflection while determined to emphatically state the truth as he saw it when Miss Smith tried to harry him.

When Miss Smith wantonly accused him of carrying out too many tests and being over concerned with Wakefield's theoretical position on such things as measles vaccine, he answered; 'Ours was a thoughtful approach to complex cases. We were no more interventionist than the centres in Italy or France or other centres in Britain'.

He tried wherever possible to put Miss Smith's accusations within a wider context, so making the whole picture accessible to the panel and the public. This practice was of particular value in the area which I have come to consider one of the most important in the whole hearing. From the beginning Miss Smith has insisted that the children cited in the Lancet paper where the subjects of research and not clinical cases. The number of complex investigations were, the defendants have claimed, needed because they were trying to deduce the cause of a novel and complex condition. Professor Murch stuck to his guns and explained the position simply, again and again to Miss Smith. It was necessary, he said, to build up a diagnostic protocol so that the doctors could formulate an approach to treatment.

The problems around this treatment protocol were in many ways the central issues of the case. Simply put we can say that Miss Smith claimed that the twelve children cited in the Lancet paper were not ill; they were children with autism, prone to behavioural disorders. By looking at the children in this top down manner, the prosecution was able to avoid a close scrutiny of IBD and a complete separation of the children from their parents and in turn their suggestion that MMR might have been implicated in their children's illnesses. If the children were 'only' autistic, there was

no need for any kind of 'novel illness' investigation and so no need for a diagnostic protocol.

While all three of the defendants have defended the diagnostic protocol built within the department, none of them did this as successfully as Professor Murch. Frequently departing from the evidence, Murch went out of his way to stress that the parents' narrative and the actual presentation of the children's condition were the most important facts in the clinicians examining the children. Accused by Miss Smith of 'relying on a nebulous theory' in the examination of the children - or in her terms, research into them - Professor Murch answered, 'No, there we part ways, we were relying on the children's symptoms'.

Miss Smith has gone to extraordinary lengths to try to establish the idea that the twelve children were principally autistic and did not need any further medical intervention. At one point on Friday 23rd, she insistently said to Professor Murch, 'Didn't it disturb you that these children didn't have a neurological examination'. This was followed some time later with the bizarre question-statement 'The children were sent to the Royal Free for behavioural disorders, you would not expect them to be sent to a paediatric gastroenterologist!?' This bizarre 'question', speaks volumes about the prosecution ability to distort utterly the picture of work at the Royal Free Hospital. Professor Murch, along with the other two defendants, having made it completely clear that the children arrived at the Royal Free, principally because of bowel disorders, answered Miss Smith's stupidity in a quietly understated way. 'If a child with a purely neurological disorder was sent to a gastroenterologist, yes, this would be odd'.

In his narrative describing the investigations into the children, Professor Murch took every opportunity to explain the need for a multifaceted search for any cause of regressive autism. He constantly brought up the work of their department on mitochondrial dysfunction that had been well under way even in nineteen ninety six. Miss Smith inevitably steered well clear of such information, despite Professor Murch's offering her entreaties such as 'I don't know whether you are aware of ...'. During one particular exchange, with Miss Smith insisting the children were autistic and that was the end of that, Professor Murch made two classic statements which one hopes will be well quoted for a long time.

'A diagnosis of autism is not a signal to stop looking for the cause'.

and

''A wide variety of different causes of autism are possible'.

Professor Murch, came across as a man, even in the torrid climate of the GMC prosecution, willing to make himself vulnerable. At one point, when Miss Smith was criticising the report that he had hurriedly cobbled together at the insistence of his department head and Brian Deer, Murch said words to the effect; 'I had no occasion to think that my report was not all right. I thought it was a good report 'from the bottom of my heart'. I was struck by the openness of Murch's language and a brief comparison with Miss Smith and Mr Deer flitted across my mind; 'Heart? What's that?'

Where lesser men might have broken down, Professor Murch, as had Professor Walker Smith and Dr Wakefield, retained an exasperated cool and it seems now almost impossible that none of them lost their temper on a single occasion. But it was Professor Murch who showed an exceptional ability not just for cool, but for calm intelligence in his confrontational replies.

Talking about what Miss Smith considered his failure to have responded to a legal letter, he said; 'You're asking the impossible'.

On ethical approval for the investigations he carried out, he said: ' Your questions and their implication is unfair ... You are continually casting doubt on my integrity and I don't think that's right'.

Accused of being gung-ho with his colonoscopy investigations, he said: 'I don't undertake any investigation lightly nor do I shrink from them if they are necessary'.

On one occasion, exasperated by Miss Smith's insistence that he could remember why he had done such a thing, he answered mockingly; 'Miss Smith you appear to have a better insight into my memory than I do myself'.

Often throughout the cross-examination, Miss Smith seemed to only just have a grasp of the English language. At one point she accused Murch of 'trying to explain everything away'. To which the Professor answered, 'I'm not trying to explain anything away, I'm trying to give an interpretation'.

There was a flash of the old Miss Smith on Monday 26th, that made me warm to her again, as I had done in the very early days of the hearing. She had just finished berating Professor Murch for having ignored a 'neurological' diagnosis of Asperger's Syndrome. Having made clear that his expertise was in gastroenterology, Murch said; 'I think you're making too much of what is essentially a small point'. Seeing that she was losing ground Miss Smith retreated with a very precise intonation of; 'Well ... Well ... Well'. And I thought that Miss Smith had got out of this habit of endearing vacuity.

Following the sudden and perhaps premature end of the cross examination on Wednesday, the Panel asked their questions of Professor Murch. All the questions were insightful and showed that the Panel were on the ball. A couple of questions were slightly unsettling; one from one of the medical members who asked if Professor Murch thought that 'Time was a good treatment'. Although Professor Murch answered the question gracefully, it suddenly occurred to me that perhaps the panel had not grasped the full picture of these children's history. A number of them had in fact been languishing in the byways of poor quality diagnosis with no treatment far away from any centre of gastrointestinal excellence for long periods.

Another question assumed that the children were seen under 172/96 and my stomach turned over at the thought that the continual refutation of the fact that the children were not examined under this research protocol was still not taken for granted by the panel.

Law-making on the hoof at the GMC

In the last throes of the case against the three defendants, Brian Deer has become increasingly concerned that the Panel might believe their defence. Just before Professor Murch began the presentation of his Evidence in Chief, Deer apparently sent a number of emails to the GMC, reinforcing, as he thought, the prosecution case and putting Miss Smith right as to what had happened between him and Professor Murch at a meeting engineered at the Royal Free Hospital by Brent Taylor, Murch's head of Department in 2004.

It has always been Deer's claim that this meeting went swimmingly and that Professor Murch happily confessed to all three doctors having carried out research while thinking little of a clinical approach to formulating diagnostic guidelines for treating the children.

This attempt by Deer to ensure that the prosecution had the full facts, seems especially bizarre when you consider that Miss Smith has had over four years now, to consider the details of the prosecution based upon Deer's original complaint. Not just bizarre but also, it turned out, auto-destructive. It appears that Professor Murch's counsel had no intention of bringing out Murch's opinion of Deer's pressurising behaviour at the Royal Free meeting or anywhere else. However, having read the emails sent by Deer to the GMC, Murch's counsel Adrian Hopkins QC, felt impelled to introduce questions about Deer's attitude.

When Deer heard the evidence given by Murch against him, he lost it and his further actions led to what has become known in the quiet ante-rooms of the GMC, as The Incident in the Coffee Machine Queue that took place on Monday 19th January.. The GMC has remained remarkably quiet about The Incident…, which all adds weight to the idea that Mr Deer is well protected by powerful people. I do feel bound to report on this incident in full now that we know more about it, and I do this in the spirit of all my reporting over the last eighteen months, during which I have tried hard to draw attention to breaches in due process committed at the GMC.

The grandest of these breaches is clearly that the GMC has framed the charges while employing the prosecution counsel and the Panel, making a mockery of any system of self-regulation. From those dizzy heights we pass down to matters of only slightly lesser importance and have been bound to look previously at the role of Mr Deer in the lodging of the complaint to the GMC and the investigation and expose of the many charges brought against the three defendants. At the end of these breaches of due process come some minor issues, such as the response of the GMC to my essay An Interest in Conflict. Some of you might recall that when I wrote about a conflict of interest of one of the Panel, my essay and myself were roundly and publicly condemned by the Panel's Legal Assessor and it was suggested that had the hearing been a court of law, which of course it is not, he might have seen fit to bring charges of contempt of court against me.

I raise these matters now, not because I harbour any ill-will against the Legal Assessor who I have warmed to increasingly over the weeks since he berated me; I raise it because I want to put The Incident in the Coffee Machine Queue, involving Brian Deer into some kind of legal context. I have waited for over two weeks before putting up this piece because I wanted to be absolutely sure that there were no unnecessary interruptions to the evidence of Professor Murch. I have to make clear,

that in discussing this matter, that I consider happened 'outside' of the hearing, I am not in any way attempting to prejudice any party in the proceedings. I am however, hoping that even at this late date it might be possible to push the GMC into a more transparent approach to their proceedings.

The manner in which the GMC handled this incident raises much more serious questions than my essay or even matters of conflict of interest. The incident raises question about Mr Deer's attitude to the three defendants, and the GMC's conciliatory approach to Mr Deer.

The Incident.

On the morning of January 19th, between the hours of 10 am and 11.30, Professor Simon Murch was taken through his Evidence in Chief by Mr Adrian Hopkins. Some part of that evidence concerned Brian Deer's aggressive nature and another matter to do with the origins of information he held in 2004 about the children cited in codified form in the Lancet paper.

Clearly, it is not my role to comment on the weight of this evidence and we are concerned here, only with Brian Deer's personal reaction to it. As I pointed out in my last report, the evidence appeared to make Deer very uncomfortable and at the 11.30 break, he left the hearing immediately in the wake of Professor Murch. What happened next, in the foyer of the Fitness to Practice hearing room, really needs a proper enquiry, conducted briefly by the GMC and then published with a record of the actions to be taken against Mr Deer, if in the event he was found to be guilty of any transgression of GMC rules or guidelines.

Because the GMC and the hearing has remained silent about the incident I can only briefly describe what appears to have happened. I have to stress that I gathered this information from a three sources and I did not at any time approach or try to approach, the witness Professor Murch who was still giving evidence, up to the end of this session.

The impression of the incident I have put together is as follows. Professor Murch on being released, went out of the hearing and approached the coffee machine in the foyer. I myself witnessed Brian Deer purposefully leave the hearing immediately in his wake. Arriving in the coffee machine queue directly behind Professor Murch, Deer proceeded to knock into the

witness and then standing level with him, turned to place his face directly in from of the witness almost nose to nose glaring angrily at him.

There can be little doubt that if this account is correct, Deer's act was tantamount to the intimidation of a witness. What does this mean? In relation to legal situations generally, the intimidation of witnesses in any form has especially since the 1950s - through the criminal gang trials of the sixties and then into the anti-terrorist trials of the 1970s and 1980s - been considered one of the most serious charges that could be brought against someone acting inside or outside the court.

The idea that witnesses or jury members should under no circumstances be approached, bribed or threatened has been the corner stone not only of changes in statutes affecting trials, but also in the architecture of the modern courts. At the Old Bailey and other important courts in the 1970s and 1980s, even a hard stare at a witness from a person in the public gallery could result in the starer being questioned by the police.

In relation to the GMC and it's hearing procedures, we might look briefly at what appears to have happened and then put it in context. Following the incident, a complaint was made to the GMC and it might be that everyone watched the CCTV footage of the incident. No reference was made to the incident publicly. We might assume that Mr Deer was spoken to by GMC staff and on the Wednesday when he next attended. Professor Murch was assigned a 'minder' as he left the hearing for a break.

What might we say about the GMC's approach to the incident? Admittedly, the whole matter is somewhat confused by the fact that the Fitness to Practice hearing is not being held in a court and inevitably therefore the GMC is continually faced with having to act 'on the hoof' as it were. I can well see that in the case of this incident, the GMC must have thought itself with limited options.

However, there are clearly a number of questions that might be asked. Some weight has been placed on the behaviour of the public gallery during this hearing, members of the public have frequently been told off, for slight noise or other infringements, while last year, an autistic child was expelled with his father on two occasions from the public gallery, for making noises. Every morning, the public gallery is told in quite abrupt terms to turn off their mobile phones and witnesses are quite rightly warned by the Panel Chairman about speaking to anyone about their evidence while they are giving it. I might add to this list, the fact that I

was gratuitously named, while I sat in the public gallery, by the legal assessor and it was suggested on very flimsy grounds that I had broken the criminal law. We might also cite with this list of 'quibbles' the fact that it was common practice at the beginning of each round of the hearing in 2007, for the public's bags to be searched.

I might add to this list an odd story that I have so far not related to you. A couple of weeks ago it happened that one of the downstairs receptionists employed by the GMC was leaving. This young woman had on the whole been very helpful as well as charming and consequently, on the morning of her leaving, I bought her a small box of hand made chocolates. She wasn't there when I went up to the hearing at 9.20am, so I left them with another receptionist. Returning through the reception at lunch-time, the receptionist told me that she was very pleased to have received the small present, but sadly, she had been told to return the chocolates to me on the instructions of her supervisor. Apparently, her supervisor had told her that no GMC staff were able to accept presents, as such a present could well constitute a bribe.

It goes without saying that I was gob-smacked by this. What did her supervisor imagine I would ask this young woman to do? If I worked quickly, would I be able to get her to hand over the transcripts of the hearing? Perhaps if I worked at the relationship for a long period I might be able to get her to slip some cognitive mind altering substance in Miss Smith's tea so that she could experience the emotion of empathy? As my imagination ran wild, I came back down to earth remembering the young woman, whose name I did not know was actually leaving the employ of the GMC that very day, and due to return to Australia, could be of little use to me. However bizarre this incident, it shows clearly that the GMC has an inflated opinion of its legal and security status, with regards to those by whom it feels threatened. I would add that I refused to accept the return of the chocolates and found later that the woman's supervisor had in fact relented.

It might be, that in a long and complex hearing, and one that addresses controversial issues, such as does this hearing, all of the above are things we have to put up with. Also continuously poor sound quality, and the odd late cancellation and uncancellation aside I can't say, that the hearing has been conducted in an oppressive or even a 'difficult' manner from a public point of view.

However, throughout the hearing, there has been in the background a consistent question of whether the GMC as a self regulating body, has been fair and without bias. This question has arisen especially in terms of the relationship between the GMC and Mr Deer. When it appears that Mr Deer is caught up in an incident involving a witness against whom he has made a complaint, while that witness is giving evidence, we would surely expect a real effort from the GMC to assure the public that there exists openness and transparency in its dealings with him.

I myself, have no solutions to offer, although a couple of alternatives could be suggested, perhaps arguing for a week's suspension from the hearing or a clear statement about what happened from the Legal assessor, so that the incident could become a matter of record. At the very least it appears to me that in the absence of criminal proceedings that might well have been the outcome had the incident occurred in a real court, the legal assessor has a duty to admonish Brian publicly, regardless of his presence or not in the hearing room.

I must make the point, that quiet words with Mr Deer by GMC staff and the minding of witnesses by them, which appears to have been their response, are both clearly wrong moves. The second move in particular, is classically wrong in intent and action. The witness's story in such circumstances, has always to be believed and the transgressor together with any threat there might be, has to be removed for as long as he represents a threat to the witness. The imposition of a minder, which makes the victims circumstances more difficult, by curtailing their mobility, while taking no public action against the perpetrator, places quite the wrong emphasis on the incident.

Not being a lawyer, I remain particularly confused about the nature of Deer’s actions in relation to Professor Murch's evidence. What is the 'legal' position in the case of a defence witness giving evidence on a complainants aggressive disposition - as Professor Murch did - being threatened by this same person? Should the perpetrators actions be entered into the proceedings as corroboration of the witness’s evidence?

It is not too late for the GMC to act with authority on this situation now, but whatever their response, one would hope that their management will learn serious lessons from this uncommon occurrence and if it ever happens again, will have procedures to set in motion. After all we must be careful that the law or regulation is not brought into disrepute and anarchy seen to rule in judicial chambers.

The summer session: Towards 2010

On the last Wednesday, after the Panel had asked their questions, everyone listened to submission about the dates for the next session. Happily I had asked the previous day for a copy of these dates, otherwise, I wouldn't have had the faintest idea what they were talking about.

The next session entails all the counsel giving closing speeches, beginning with the prosecution and being followed by counsel for each of the defendants. Miss Smith had an application. Beginning the next session on the 2nd March, would not she said, give her adequate time to prepare her closing speech. Miss Smith is always, humorous, however, and she brushed away the week long delay at the beginning of that session as she looked gravely round the room; 'The prosecution doesn't set the agenda, it isn't me who wastes time'. I wondered whether she believed that fiction, as Shakespeare's words rang in my ears, 'The lady doth protest too much, methinks.' (Hamlet III, ii,). No less amusing, however, was the twittering of the defence counsel, inevitably unaffected by the credit crunch; 'We really must protest' they huffed and puffed. 'This hearing was supposed to finish after four months', huff and puff. 'And we have been here now for two years'. They make these noises as if the length of the hearing had nothing whatsoever to do with them.

The panel sat in camera to deliberate this weighty matter, before deciding that if Miss Smith's professional opinion is that she needs one month and ten days to prepare her closing speech, on top of the five years she has already had, then she should have it.

We are now set for the final leg of this regulatory, sub-legal marathon, with the closing speeches being given throughout March and the final deliberations spluttering on throughout May and June and who knows how long after this. One thing can be said with certainty, that a few of the press might drift in through the closing speeches but when it comes to the verdict on the charges, the GMC will be packed with journalists and other freeloaders who will, with a few exceptions, circulate reports which bear no relationship at all to the evidence. We should prepare ourselves for this time.

A Right Palaver

> Soon after Murdoch bought Times newspapers ... Harry Evans, who had been switched from *The Sunday Times* to *The Times* , was passed a confidential letter from the government's chief medical adviser, warning that hundreds of thousands of children were at risk of brain damage from ingesting the high levels of lead in petrol fumes. Evans commissioned a major front-page story to run in *The Times* on Monday morning but then fell ill over the weekend, leaving it to the Murdoch chosen editor of *The Sunday Times* to publish. On Monday Evans was surprised to see that not only had the story been played down but *The Sunday Times* editor was resisting writing a leader on the story, saying that he did not want to go beyond 'normal news values'.
>
> *Nick Davies, Flat Earth News, Vintage books, London 2009*

Outside the glass bubble of the GMC, in Almost-Normal Land, it did look as if things might be taking a turn for the better. Brian Deer's next instalment of bile, the forewarning of which was emailed to Dr Wakefield as he prepared his presentation to the Treating Autism Conference, never materialised in Sunday's paper. In all probability this withdrawal was influenced by the first complaint to the Press Complaints Commission handed in at the end of the previous week. The news that James Murdoch had come out of the closet and publicly accepted an executive position on the Board of GlaxoSmithKline, in whose interest he now vows to use his good offices to put down community opposition to their drugs, gave some hope that The Sunday Times and Brian Deer would be seen for what they are; there was even a rumour that *The Sunday Times* was to be renamed *The GlaxoSundayKlines* . Even the second Treating Autism Conference at Bournemouth, packed with parents who applauded Dr Wakefield till their hands hurt, raised hope that change was in the air. In America, after the recent set backs in the corporation-tinted Omnibus Hearings, there was a second court decision in favour of the argument that vaccines are implicated in some cases of autism.

But inside the GMC building, however bright the lights appear, there is constant chiaroscuros and an odour of mustiness as the characters gather

for their almost Dickensian-like hearing; the crackle of papers, the rubbing of hands in fingerless gloves, the whispering antique sound system in the umbra depth of the hearing room.

Anyone who has seen the brilliant documentary feature film about Enron, *The smartest guys in the room*, will realise that corruption seeps insidiously and symbiotically between the broader society and closed institutions like Enron and the GMC. When Miss Smith rises to finally state the prosecution case in her closing address, one might be forgiven for imagining the shadow she casts is that of the most senior administrator of Enron or the chief executive of the Royal Bank of Scotland. Miss Smith's case is unbelievably inflated, based on the prospect of immense future profits which actually will never materialise. In fact, inflation is the most central concept in the hearings, none of the parents or Wakefield supporters would be the slightest bit surprised if Miss Smith were suddenly to rise to the ceiling, her normally well fitting clothes suddenly ballooning like a Russ Abbot comic opera costume.

* * *

In all seriousness though - where to start? That is *the* question. Let's recapitulate: first there was an organised adjournment for a month or so, then on the last day of the previous hearing Miss Smith, having learnt nothing new since the start of the hearing and having had almost two years to write her closing speech, claimed that she needed another week to finish it, which of course she was granted with the immortal words of the Panel Chairman, which went something like: 'Miss Smith is a professional and if a professional asks for another week then we have to give it to them'. Then while the hearing was in recess, coming to the end of Miss Smith's gratuitous week, she slips, falls, and damages her shoulder so deserving, as a professional, another week's respite.

So, on Monday 16th of March, on the one hundredth and twenty second day of the hearing me, and no doubt Brian, the only two attendees on the day, are expecting to hunker down for a clear run through the closing speeches into the deliberation and verdicts. But no, this couldn't possibly occur; on Monday two non-sitting days on Tuesday and Thursday of that week are announced. There are times when I think that this can't be happening and I think that someone's head should roll for this execrably organised farce that is an insult to those accused and a sad reflection on the honesty and capability of its organisers.

All that aside, how did the first day of the sitting go? Perhaps it should first be admitted that the hearing is in some respects, as a production, the longest running anti-climax ever witnessed; why I keep expecting Miss Smith to be creative, or the GMC to exhibit intellectual or cultural acumen and integrity, I don't know.

That first morning, back in London, slightly disorientated and tired, it took me a while to get over the shock of seeing Miss Smith with her sling. To be honest, and this is a measure of my developing cynicism, I did think when I heard reports of her accident, that it was an excuse to gain more time. Secretly, I had imagined that come the day, come the counsel, and she would enter with two cartwheels and then flex her shoulder muscles behind the rostrum before embarking on a scintillating closing speech. But no, there was the very ordinary linen coloured NHS sling - no attempt to match her barristerial clothes - accompanied by the occasional wince and the abrupt massage of the upper arm.

The big surprise, however, was to come when the doors opened for the Panel to crocodile in; only the lone lay member, Mrs Sylvia Dean, came into view. Instead of her usual warm and relaxed persona, Mrs Dean hobbled in on crutches. As she carefully manoeuvred her crutches passed Miss Smith, her GMC minder close behind ready to catch her should she fall, a smile of recognition passed between them. Later that day I noticed that one of the attending barristers had his whole hand in splints and bandages; I was to find out that he had severed a tendon in his arm and was still to recover any feeling in his fingers. While feeling nothing but sympathy for the wretched injuries suffered by those associated with this hearing, it did cross my mind that day that there must be some link between this rotting pageant of procedural abuse and the injuries.

For the Monday, Wednesday and Friday of the following week, Miss Smith has regurgitated the prosecution case. The case that she now put to the panel, was little different from the case with which she began and certainly no different from the case that she put to and discussed with her expert witnesses. To be fair, it is rarely the case today that the prosecution will adapt or change its case in the light of the defence. The days of the sudden shock presented by the defence, such as the disclosure that the defendant was actually in police custody on the day of the robbery, are now long gone. The State and the defence have now closed ranks, to ensure known unanimity prior to the trial opening. What can be done, obviously, is the slightest tuck and cut in the prosecution

case so the more undermined of its assertions can be played down, and its stronger ones repeated with more gusto.

Miss Smith began her address to the panel, firstly by explaining her mortification on injuring herself: 'I am absolutely mortified by what effect this has had on a great many people and I want to apologise, particularly to the doctors and the Panel'. Despite the fact that the hearing had only just begun I had already dozed off slightly and I awoke with a sudden jolt imagining that Miss Smith was apologizing for the whole 121 days, I was just about to stand up and cheer when she sashayed into summing up the case in a simple couple of sentences. The prosecution case, she said, came down to simple allegations of misconduct, in relation to a research project investigating a new syndrome of gastrointestinal symptoms and behavioural disorder following vaccination. In the last analysis, Miss Smith said, this was what the case was all about. The clarification was in fact a very exact and good definition of the prosecution case. However, Miss Smith followed this with a whopping piece of obscurantism with which she excused the cruelty and the anti-parent nature of the prosecution with these words: 'I want to say that no-one doubts or questions the tragedy of these children's disorders, nor, of course, the love of their parents'.

Although we know that Miss Smith has more front than Blackpool, how she could look the hearing in the eye, even with a dislocated shoulder, and spout this whopper is beyond my comprehension. The defence case, summed up as clearly as the prosecution case was by Miss Smith, has clearly been about a group of doctors at the Royal Free Hospital, whose duty it was to investigate a large number of children who were referred on the basic of serious gastrointestinal problems that appeared to have precipitated regressive behavioural disorders. When the children arrived at the Royal Free Hospital, the defence says the doctors on trial were bound to investigate the children with similar presentations so that they could try to diagnose their illness and then treat it.

Absolutely implicit and singularly necessary in the prosecution case has been the accusation that the children were not in fact ill, except of course for the natural development of autism, and that their parents were led to the charismatic Dr Wakefield partially by their own hysterical ignorance of medicine and their mis -observation of their children's condition. The very core of the prosecution case has been the suggestion that the children were not ill but were abused by the three doctors with unnecessary procedures conducted solely for the purposes of mounting a legal claim against the vaccine manufacturers. If what Miss Smith says had even the

slightest ring of truth, the hearing would of course have opened with evidence from the parents about the condition of the children; but then there would have been no hearing! Listening to Miss Smith's hypocrisy, it came to my mind just how unbelievably British and middle class her statement was, her voice dripping with pious insincerity.

Over the following three-day week that the hearing sat, Miss Smith gave a more detailed but equally awry view of the case. By now the readers of this account are well versed with the prosecution case, so I will just highlight the main heads.

The research embarked up by Dr Wakefield and others was research into MMR and the research rather than vaccine damage ignited a great deal of controversy.

Dr Wakefield was responsible for the planning and the execution of the whole unethical affair.

Dr Wakefield failed to reveal conflicts of interest relating to money from the Legal Aid Board.

Dr Wakefield had no qualification in virology or paediatrics.

The division between research and clinical work became impossibly blurred.

Dr Wakefield cherry-picked cases that would affirm his research brief, undertaken with Legal Aid board funding, entirely for the purposes of gratuitously damaging the vaccine manufacturers.

The 1998 Lancet paper that posed as a case review series was actually a Legal Aid funded research project carried out to help claimants and their solicitor prove that MMR had damaged the claimants.

Dr Wakefield intervened in every case of the twelve children cited in the Lancet paper. By talking with parents (something definitely not done in the prosecution's book of ethics) he inveigled the children to the Royal Free Hospital.

An abundance of paper exchanges, which use words like 'programme', 'study' and 'protocol', demonstrate clearly that the children were all subjects of research.

Professors Murch and Walker-Smith, supported Dr Wakefield's research by using their professional clinical skills to oppressively examine the children, without the slightest regard for their clinical condition.

By his poor research that was critical of MMR Dr Wakefield created detrimental public alarm.

With respect to the majority of these charges, the contextualising information, the cultural fabric, is built entirely on notes and various documents written for different purposes over ten years ago. Inevitably a historical reading of this material is very confusing because, although the messages all refer to a variety of projects, these projects come from the same wellspring; a large number of cases of children who attended the Royal Free Hospital for bowel conditions and a team of doctors who treated such cases. Interestingly, the prosecution have not been able to bring any witnesses who could give material evidence about the exact nature of any of the constructed situations upon which they rely, their evidence is at best shaky and at worst entirely circumstantial.

There can be no doubt that the sling impedes the drama of Miss Smith's presentation. As she gestures with her remaining free hand towards the panel, one gets the distinct impression that her body is not behind her movements and she looks like an amateur actor practising sincerity in front of a mirror.

I left early on the afternoon of Monday the 16th, as did Brian. I had frequently had to force myself awake during the morning session and leaving became the only option. So when I walked into the lobby of the hearing rooms at around 9.10 on Tuesday morning and found Brian hunched over the coffee machine, I imagined it was business as usual. I had noticed Brian having serious difficulties with the machine on Monday and figured that he had probably come in especially early to work on the problem.

Before I had settled in I was informed by one of the barristers that the day had been deemed a non-sitting day and looking over at Brian, who was then signing in, I felt a sudden sense of camaraderie. I approached him tentatively and told him that the day had been deemed a non-sitting day. I have to remark upon the incredible skill that Brian has developed in relation to me. Like some highly trained Japanese Mask player, he managed to turn his head without his eyes alighting on my face and continue signing in, then gathered his things together he walked off past

me without uttering any noise or even acknowledging my presence, as if I were a vaporous illusion; quite brilliant. So easily does he manage to rise above reality in my presence, were it not for his rather sickly pallor and sudden emotional outbursts I might think that he had been receiving advanced training in Zen Buddhism.

I spent the Tuesday writing and dutifully returned to the GMC on the Wednesday morning. However, even that day's beginning was blighted by some poor woman who decided to give birth on the underground, so delaying the arrival of two members of the panel. On this matter I have since heard that the GMC are to bring fitness to practice proceedings against a female neurosurgeon who helped deliver the baby on the grounds that she had no training in obstetrics.

When the hearing got underway Miss Smith dipped her toes in a couple of the children's cases, with the intention of showing that Dr Wakefield manipulated the parents to attend at the Royal Free. There were flashes of brilliance from Miss Smith that morning. I particularly liked this telling thrust: 'It is an established fact that Dr Wakefield was in touch with parents and he was more than a conduit.'

She then followed the tortuous route through the 'protocol maze'. The trick with this semantic farrago is to considerably confuse the 'clinical protocol', that is, the list of symptoms and investigations checked off against each patient with a view to creating an aid to diagnosis, with the 'research protocol', that is, the structured proposal which might, had it gone before the ethics committee, have guided research carried out on a sample and a control group of the children attending the Royal Free.

As the mid morning break came round on Wednesday, Miss Smith uttered a Smithism good enough for anyone's grave stone. Addressing the panel chairman, with sweetness and light she murmured coquettishly: 'I'm very much in your hands as to how long I go on'.

Afterthought

I have come to accept the incredible tiredness that overcomes me on my first day's re-attendance at these hearings . On Monday the 16 th , I was struck by the most profound thought and made a note to approach Miss Smith afterwards about the possible commercial uses of her presentation style. It came to me in a dream. As I fell asleep for the third time that

morning, I drifted away and found Miss Smith had relinquished her job as barrister and was now working for the NHS.

At the beginning of the dream I was in a doctor's surgery and while passing me a prescription he appeared to be joking about my life style: 'Here', he said, 'it's very non-interventionist and in tune with your belief in Homoeopathy'. Looking at the prescription as I left his office, I saw that it simply had that evening's date on it and 'One half day in the marquee on Hampstead Heath: beginning at 2.30'. I looked at my watch and realised that I had plenty of time to get to this place.

Arriving at the heath I could see the marquee from some distance. It was huge and white. Inside I sat down with some trepidation amongst thousands of other seemingly tired people. All around the inside of the tent were huge signs, in red brush strokes, such as 'Wakefulness is the enemy of reason' and 'Life awake is a life of sickness'. There were, as well, contrastingly optimistic signs that said things such as 'Sleep will wake you up' and 'Be joyful, in your sleep'.

At the front of the sitting masses, was Miss Smith standing above everyone on a dais, in a white diaphanous robe, with her hands raised, she appeared very still, and the whole peculiar mix was reminiscent of a scene from that wonderful Burt Lancaster film Elmer Gantry and one of those still human sculptures that you can watch on a South Bank Sunday. It took me a while to realise that Miss Smith wasn't entirely still but presenting some kind of closing speech or summation of a case, her voice was very low and almost as soon as I heard her speaking I passed into a mercifully dreamless phase of my sleep.

This Contemptuous Hearing

Monday 23rd to Tuesday 31st March

I mean that quite sincerely folks
Catch phrase of Hughie Green
British talent show host of the 1960s and 1970s

On Monday 23rd March Miss Smith continued her closing speech. Tuesday 24th was a non-sitting day; Wednesday was to be half a non-sitting day in the afternoon but at the last minute on Monday the hearing heard that Dr Kumar had to attend a funeral, so the morning hearing too was called off. On Thursday and Friday Miss Smith picked up steam again.

Monday set the tone of the hearing for me when I was once again 'told-off' by the legal assessor, whom I was unsurprised to hear this week is known amongst his judicial brethren as 'The Enforcer'. When Miss Smith wants to have someone told off, he quickly combs his hair and then takes on the opposition. Apart from these 'high-horse' demonstrations, the legal assessor has been mainly silent for the last 125 days of the hearing. The word *sinecure* is often heard on the landings and in the lifts, in reference to everyone involved in this two year prosecution.

My latest GMC report had gone up on the Cry Shame web site the previous night and as I walked in to take my place in the public 'gallery' - a roped off floor level area of five rows of chairs - I was acutely aware that something was about to happen. I was the only person in the public gallery and no one in the room would look at me. Feeling thoroughly isolated I tried to catch the eye of a member of the defence team, but no one would share even a glance with me. After a few minutes the whole gaggle of lawyers sauntered out of the far end of the hearing room, when they came back ten minutes later they all sat again without catching my eye and the proceedings were handed over to the Legal Assessor to do his hatchet job.

The prosecution's ability to get absolutely everything wrong is, as young people say nowadays, 'awesome' although not at all 'cool'. I learned later that the attack on me had been provoked by one of the defence counsel

mentioning their considerable annoyance at the abusive articles by Brian Deer in the Sunday GlaxoSmithTimes . Utterly unprepared to react rationally to this complaint, and unwilling to criticise the complainant Deer, the prosecution had sought to attack me for my last report of the hearing.

The legal assessor's route to me was like Miss Smith's route to Dr Wakefield; tortuous in the extreme. According to the legal assessor, my reports on a web site 'that should remain nameless', had again made inaccurate reports of the proceedings and voiced personal things about Miss Smith and one of the lay panel members. The fact that Dr Wakefield also had things posted on the CryShame campaign site apparently prompted a panel member to ask 'who is behind this'. In answering this question, Miss Smith and even the defence team, made the mistake of telling everyone that the web site was in fact my web site and that it was *me* who had posted Dr Wakefield's defence papers and other information from the hearing on the site. *Ipso facto* I was responsible not only for the dastardly personal remarks about Miss Smith and the lay member's injuries, but also Machiavellian scheming and disclosure of defence papers on behalf of Dr Wakefield. Neither the defence nor the prosecution seemed to understand that the CryShame web site represented a quite separate organisation, and its contents were independently moderated.

While it was all complete bunk, and yet another example of the bias of the prosecution, it was to me another example of the odd airless bubble in which the prosecution inhabits. They actually do think that the people are buying their story, that the thousands of parents fulminating beyond the GMC do not exist; that this is no movement against the vaccine programme and that these prosecutors will not actually be brought to book for their crimes.

Because the defence lawyers were concerned that the panel might believe that I was responsible for distributing Dr Wakefield's papers on my personal web site, I was asked not to put up a rebuttal to the legal assessor. However, once someone had pointed out that if my independence was seen to be compromised this would simply support the prosecution argument - that I was a creature of the defence team - it was suggested that I should put up my independent answer to the legal assessor. So here it is below, a little late but still strongly felt.

With Contempt

This morning I was again verbally admonished by the legal assessor sitting on the GMC Fitness to Practice Panel. Again he told the hearing, three times I think, that had the hearing been a 'proper' court I would have been charged with contempt. Being thoroughly fed up with the legal assessor dressing up his personal views in the legal regalia of the self-interested GMC prosecutors, I am exercising my right of reply.

Nothing that is said by me in my reports of the GMC hearing comes close to the huge and clearly purposeful insult of gross dishonesty and professional malpractice levelled by the GMC against Dr Wakefield, Professor Murch and Professor Walker-Smith.

The one hundred odd charges intended to protect, at all costs, the reputation of the British MMR vaccine programme and pharmaceutical industry manufacturers of vaccines, while denying all vaccine damage, are sordid, corrupt and by necessity completely dishonest. The primary strategic aim of the GMC hearing is to destroy the professional reputation of Dr Wakefield.

I am truly amazed that the chief prosecutor in the case is concerned about personal satirical remarks that I have made about her. At the very heart of this charade are over one thousand children damaged in a variety of ways by the MMR vaccination; her upset is as nothing compared to the emotional, financial and personal trauma of these children and their parents. From the beginning of this two-year 'trial', these parents have been denied any voice in the proceedings. Far from having the public health in mind, the GMC and the government are acting entirely in defence of their own interests.

The legal assessor did his level best, in a sneaky sort of way, to suggest that 'the media' in general had been writing inaccurate articles about the hearing. There has in fact been next to no mention of the GMC hearing, critical or otherwise in the main media, except, that is, for the preposterous claptrap written by Brian Deer in The *Sunday Times* and David Rose Jnr. and David Aaronovitch in *The Times.* Were the GMC Fitness to Practice hearing taking place in a court, I would be heartily interested to hear why the Legal Assessor felt no need to mention these journalists' contributions including Deer's latest article, which based on evidence given during the hearing, accused Dr Wakefield of fixing research results. Surely it is as much the duty of any 'court' to protect the

identity of the defendants prior to any verdict, as it is to protect the prosecutor.

I would ask the legal assessor to refrain from threatening me with an action over contempt, the like of which he is completely unable to bring about. I would also ask that he looks to the integrity of his legal office beyond the GMC hearing, and considers exercising a more level, fair and unbiased approach to public writings about the hearing. In fact I would like to say to the legal assessor that his comments on my writing are thoroughly unhelpful, without any legal or literary merit and it might be better for everyone all round if he simply desisted and concentrated upon his non-court case for which he is paid by the prosecuting authority.

* * *

Not surprisingly because Miss Smith was in the middle of her closing speech, journeying through the heads of charges against all three defendants, her speech generally took the path of her opening speech and cross-examination. Although this was roughly, the fourth time that anyone observing had heard the prosecution case, Miss Smith did dwell with slightly more focus on certain aspects of the case.

The core of the case, inevitably stayed more or less the same: it involves what the prosecution claims to be a thorough look at the twelve children 'roped into' the research project being directed by Dr Wakefield with the willing co-operation of Professor Murch and Professor Walker-Smith. In this scenario, Dr Wakefield, whose contract with the Royal Free Hospital only allowed him to do research, reached out to parents with autistic children throughout Britain and on the basis of knowledge gained only from the parents, that their children had become ill after they had received MMR, brought them to the Royal Free Hospital so that he and his partners in crime, who might better have been called Professor Burke and Professor Hare, could experiment upon them.

It was the shepherding of the children to the Royal Free that has been at the centre of the case against Dr Wakefield. Miss Smith's case has been in part that these children were cherry picked on the basis of their having received MMR and, according to their confused and medically untrained parents, were unable to accept that their children were autistic. Therefore, they claimed that they had reacted to the vaccination. The prosecution has argued that what the parents mistook for an adverse reaction to MMR was actually the temporally linked onset of autism.

So it is that the rallying cry of medical orthodoxy, the government and pharmaceutical lobby groups, has throughout the whole affair been: 'Don't be silly, MMR is not the cause of autism'. In relation to this case, however, this slogan though cropping up in various forms in Miss Smith's closing speech, has little to do with the facts. What Dr Wakefield and his colleagues have said throughout this inquisition, and over the last almost twenty years is that between 1993 and the year 2000, the Royal Free Hospital was inundated with children whose parents told doctors that after receiving their MMR vaccination, their children quickly developed a degree of Inflammatory Bowel Disease (IBD). In the most serious of these cases, but not all of them, these children consequent upon their IBD and previously having developed well, regressed into behavioural traits characteristic of autism spectrum disorder.

Following this analysis, we can clearly define the prosecution strategy. In the first instance to make much of Dr Wakefield's part, in apparently corralling children into the Royal Free, where they could be researched in order to find the link between MMR and autism. Everything in the prosecution case then flows from this. The defence case, on the other hand, pays considerably more attention to the seminal fact of the children's arrival at the Royal Free with very serious but undiagnosed bowel disorders.

To bring the whole case down to its most simple, the prosecution has tried to prove two things. First that the case review paper drawing on a chronologically continuous group of 12 children who had attended the Royal Free Hospital with bowel problems for clinical enquiries, were actually a research cohort upon which Dr Wakefield and his colleagues experimented in order to prove that MMR caused autism; thereby helping these children's parents with a false civil claim against the pharmaceutical of MMR. Second, to argue the above proposition in it's clearest light, they have tried to prove that all twelve children did not have IBD and only had problems with diarrhoea or constipation. Both, they suggest, common amongst children with autism.

The defence case, on the other hand could not be more straightforward: between 1992 and 1998, a large number of children with serious and extraordinary bowel problems, linked in the first instance by parents testimony, to MMR and in the last instance, again according to parents testimony, to a regressive autistic-like disorder, arrived at the Royal Free Hospital in order primarily to seek treatment for their children's bowel problems. Any 'research' that followed the admission of these similarly

affected children to the Royal Free, at least up until the assembling of the cases for the Lancet case review paper, was only research in that it was an attempt to find the cause, diagnosis and possible treatment, for the then undiagnosed serious bowel disorder that these children suffered.

Miss Smith has made a great deal, on the flimsiest of evidence, out of the fact that Dr Wakefield put considerable energy into corralling children into the Royal Free, despite the fact that he was not a paediatrician; that he was not supposed to have anything to do with clinical work and that he also received funding from the Legal Aid Board (now called the Legal Services Commission), to prove a link between MMR and regressive autistic behaviour. The fact is, it was absolutely in keeping with Dr Wakefield's job at the hospital to ascertain a group of children suffering from similar serious bowel disorders, so they might be examined on a common basis to find a diagnosis, and it was absolutely the case that these children came to the Royal Free because the gastrointestinal unit there was one of the best in the country. The fact that the hospital received Legal Aid Board money for research to support Dr .Wakefield, as an expert witness, in the case of over one thousand parents whose children had a wide variety of adverse reactions to MMR, actually has no bearing at all on the case before the GMC.

When Miss Smith did get going on Thursday, after the lay-off on Tuesday and Wednesday, she re-started her journey through *The Lancet* paper children. Those who have regularly attended the hearing know these caricatures by heart. The children and their parents are anonymised and referred to by numbers. Miss Smith goes through the initial contact of the child's parents with the Royal Free Hospital, their attendance there and then their interaction with the doctors; particularly, obviously, the three doctors on trial. In the mouth of the prosecution, each child turns out to have more or less the same story. The parents, particularly mothers of the children, forced their GPs and local consultants to refer their children to the Royal Free Hospital. Dr Wakefield was involved, in varying degrees, in helping these parents get their children admitted to the Royal Free. Miss Smith makes a great deal of Dr Wakefield's involvement at this stage: 'What was a research worker doing, funnelling children into the gastrointestinal department of the hospital; he was a researcher whose job clearly forbade him from having any link to the clinical work carried out in the hospital'.

Once they arrive at the Royal Free Hospital, each child is then magically transformed by Miss Smith from a child in pain with a serious bowel

disorder to the subject for inhumane experimentation by the doctors whose object was to bring a massive case against the vaccine manufacturers. According to the prosecution, the tests carried out are not the right tests with which to explore IBD, even if these children had even an inkling of this condition. And so Miss Smith goes on, impugning the integrity of the three caring professionals, on the grounds that they had not the slightest intention of acting to find either a diagnosis or a cure for the children, who anyway were not actually ill.

But what a mess the doctors made of their research! Of these three doctors, one Professor Walker-Smith was, before retirement, one of the most highly regarded gastroenterologists in Europe; a man who had dedicated his life to child health. Professor Murch had studied under leading colonoscopists and been a member of the ethics committee at the Royal Free Hospital; only a couple of years away from having the title of professor bestowed upon him. Dr. Wakefield, meanwhile, had at the end the 1980s arrived back from Canada, where he been a transplant surgeon, and had immediately received awards for his ground-breaking work on the origins of Crohn's disease.

The prosecution presents these three characters as incapable of organising a piss-up in a brewery. Carrying out research on twelve children without ethical committee approval, it is hinted sometimes without parental consent, without a control group and trying to rig the outcome of the research by cherry-picking the subjects and even switching results in a couple of cases at the end of the 'project'. These indeed are the three stooges of medical research. One is bound to wonder why these doctors would behave in this manner.

* * *

On the morning of Friday 27th March at around 9.50 am, during the hearing, Miss Smith's red and pink mobile phone went off. This is usually the most mortifying thing that can happen to anyone involved in the hearing. I have only got to make a slight crackling noise as I turn over the pages of my note-book to have the officious young woman, who is on hand to give documents to participants, turn on me eyes ablaze. Miss Smith, however, didn't appear to feel any of this embarrassment, she laughed, issued an off-hand apology and then waited for her two juniors to study the message on her phone. After they passed the phone back to her, the sitting stilled with bated breath, she looked at the message for some time before finally turning off the phone and continuing. I don't

want to make too much of this incident, but it does seem indicative of the way the prosecution assumes a peculiarly mannered superiority over everyone else in the building.

Having dealt with Transfer Factor and the charges over taking blood at the children's party, Miss Smith wound up her closing speech. If I'm honest I should say that at the end of the day her case is little stronger, but definitely not weaker, than when she first presented it nearly two years ago. Perhaps the most striking aspect of the case is that Brian Deer's dummy of a narrative has ended up walking, talking and dressed in a Saville Row suit. With the help of a motley collection of expert witnesses, the prosecution has managed to dress up Deer's ribald tale, so that it might be discussed in polite society.

In some ways, I have to say that I will probably never feel comfortable with the way that the defence has been run. Miss Smith's closing speech was stuffed with references to MMR and the great danger that Dr Wakefield was to the public health. She never presented any complex answers to the basic questions posed by the prosecution, such as: 'How can the scientist who discovers uncomfortable truths about government and corporate policies be protected and supported'. It has been an unfortunate fact of this massively overrun hearing, that, probably by necessity, the defence has always allowed itself to be drawn into a professional wrist smacking exercise and avoided a real brawl on the cobbles.

Miss Smith was able in her closing speech, to make the case for the government and the pharmaceutical corporations by suggesting that one of Dr Wakefield's uncharged crimes was that he criticised Government vaccine policy and threatened pharmaceutical company profits. It seems unlikely, however, that Kieran Coonan will in repost bring up the case of the vaccine damaged children and their parents.

The defence's seemingly tacit acquiescence in the GMC's professional isolation of Dr Wakefield has inevitably added to the impression that Dr Wakefield was an arrogant and isolated professional. By not bringing the parents to testify about the actual physical condition of their children, the defence, it seems to me, missed one of their best defensive manoeuvres; to be able to show just how gastroentestinally ill the vaccine damaged children were, and therefore explain how all the Lancet children really came to make their way to the Royal Free Hospital. This stance by the defence, has, it has to be said, isolated the parents just as much as the

prosecution case, leaving them open to subtle abuse by both Brian Deer and Miss Smith. Yet these parents and the vaccine damage suffered by their children, amidst a rising tide of autism, are in reality the absolute foundation of Dr Wakefield's case.

While this two-year inquisition has been a polite professional hearing, apparently about ethics, it should really have been a bare-knuckle fight about MMR and its adverse reaction. I understand of course that there will be no sympathy for this view amongst defence counsel and perhaps on one ground, at least, they would have good cause to disagree. Had Dr Wakefield pursued this more determined and conflict orientated approach, Professor Simon Murch and Professor Walker-Smith would not have accompanied him.

This last point is perhaps adequate justification for managing the case as the defence has. When the case began two years ago, it seemed to me that almost inevitably, the prosecution would want to drive a wedge between the two Professors and Dr Wakefield, so that they could gain a finding of guilt against Wakefield while allowing the Professors to walk away. However, the prosecution undoubtedly found itself between a rock and a hard place on this matter. Not only were all three defendants in the same hearing, they were all charged with similar offences. Because the prosecution had over-egged the case, saying that the doctors had used oppressive and unnecessary research procedures on the children. If all three defendants conspired together, it seems to me that Dr Wakefield has been tainted by Murch and Walker-Smith's obvious innocence, rather than the two professors being affected by Dr Wakefield's presumed guilt. It seems to me almost impossible that the panel could even begin to imagine that Professors Murch and Walker-Smith could be found guilty of stealing paper-clips from the Royal Free, let alone the experimental war crimes with which they have been charged. Miss Smith however, or more originally, the GMC, foolishly tied the defendants together far too tightly with common charges.

* * *

Afterthought

As some of you might know, I usually write about pharmaceutical company practice, conflicts of interest and corruption. The hearing, over this last two years has provided me with welcome relief from these dark areas of enquiry. Or at least I thought that it had, until last week when I

found myself deeply immersed in a drug marketing scam, involving the pharmaceutical companies and the legal profession.

The day after I was admonished by Mr Pink the Enforcer, I received an email, that normally might have gone straight to spam, except for the fact that it had my Christian name in the message title; it read:*Martin, are you tired - tired of falling asleep at the GMC?* I do very occasionally get the odd message from a well wisher. Of course, such messages don't of course balance the tons of hate mail I receive from company executives; but that's life.

On opening the email, my first thought was that it was one of those ads for Viagra, because it had some small bullet shaped pills, in bright colours above the message, but as I read on, I saw that it was clearly for me:

Dear Martin,

Here at GSK, as you know, we are always alert to new marketing possibilities. We have been reading your reports of the GMC fitness to practice hearing for almost two years now and quite soon after the hearing began, our white coat boys and girls buried themselves in their laboratories to see if we could answer some of the questions that your writing brought to our attention. We felt particularly keen to develop a pharmaceutical product that could keep public observers, and in fact some GMC panel members, awake during the time that certain barristers were speaking.

About a month ago, we carried out the first part of Phase Two trials for a new product SNOOZSNOT and we are writing to you to find out whether you might be willing to take part in a second part of the Phase Two trials during the hearing that you are still attending. Clearly we couldn't tell you whether or not you would be part of the control group or of the group that were given the drug. Nor can we tell you which barristers were chosen to be subjects of the trial.

For your information we have included with this email, the data sheet attachment for SNOOZSNOT. We would like to say that the major adverse reaction listed in the leaflet as ' chickenosis ', has been found to affect in the region of only one person in three hundred thousand and these are mainly males who live in countries with repressive political

regimes, or those who work generally in what might be called the area of propaganda. We also found out much to our surprise that ' chickenosis ' affected our own salaried employees here at GSK in much higher percentages than it did members of the public; particularly those employees who suffer serious stress when unable to discern the truth but desperately want to fall asleep to avoid this experience.

If you decide to take part in this trial you will be able to pick up your SNOOZNOT or the placebo at the GMC registration desk on the third floor; we have an ongoing relationship with the GMC for this kind of trial. If you could be kind enough to contact us at the email address above we would be grateful.

Yours Sincerely,

Of course my mind ran wild after reading this. I was suddenly preoccupied with many questions: were they trying to bump me off? Which barristers were being paid a retainer to present cases in a certain way so that GSK could test drugs at the GMC? This could obviously be quite remunerative. But I suppose the question that most occupied me that day, came to be whether or not I would get involved in this trial. I looked at the data sheet, the only one main adverse reaction ' Chickenosis ', in the leaflet was described as a condition of continual wakefulness, much like that suffered by amphetamine dependants. The one difference with Chickenosis , however, was that sufferers strut about continually pecking with their noses forward and their shoulders back, eyes very wide open - hence the name.

Anyway, I made my decision that night and I suppose it was fairly predictable. I decided that entirely for research purposes, I would appear to be taking part in the trial but wouldn't take the pill that was given to me, but have it analysed somewhere later. They had chosen a good day for the trial, because on that Wednesday, Miss Smith was yet again discussing why the children who attended the Royal Free were not actually ill, and she was due to be on her feet all day.

Having put the pill into my pocket, I sat in my chair and began straining to hear Miss Smith. Needless to say, as usual, I was asleep in no time at all. I don't know how long I slept but I have the feeling that I was deeply asleep. I woke though, to the most terrible sight, such that I felt I had not

actually woken at all but was even then part of some waking nightmare. My first impression was of one of Goya's lithographs. In the middle of the room, inside the tables at which the participants sit, was Deer. His whole body was contorted, his head thrust forward, led by his nose, his elbows back as if they had been bound behind him, his legs bent at the knee. His movements were chaotic and as he crouched, his elbows flapping about, he banged into tables and trashed piles of paper, that fell like snow drifts about him. His human voice had vanished and he uttered this horrid hen-like noise in a loud but broken cry. Around him were a scattering of men with large nets, they wore dark green uniforms with small badges on the shoulder that read, 'GSK Regents Park Zoo'. Miss Smith, seemingly struck by conscience, was steadily getting closer to Brian while holding out some seeds in the palm of her hand. I could hear her words quite clearly, she was saying, 'I'm sorry Brian, I'm sorry', tears clung to her voice.

As I walked out of the GMC, past a number of adversely affected employees, doctors and barristers, I could feel the smooth round pill in my pocket and I felt considerable relief that I had not let myself be drawn into the trial. I was just about to step into the revolving door that would take me out of the GMC, when I was roughly brushed aside by four of the GSK rangers who carried Brian trussed up in the rough net and still making plaintiff crowing noises. I hoped with great insistence that the next day would be calmer and more peaceful.

Broken English

It's just an old war,

Not even a cold war,

Don't say it in Russian,

Don't say it in German.

Say it in broken English.

Marianne Faithful

Dr Wakefield's counsel Keiran Coonan began his closing speech on behalf of Dr Andrew Wakefield at 9.30 on April 7th. He continued on Wednesday April 8th and then there was a break until the afternoon of April 14th, after which he continued on his feet again on the afternoon of Wednesday 15th, the afternoon of Thursday 16th and all day Friday 17th. When KC was just half a day away from finishing his closing speech the GMC broke up again, leaving him with two hours to finish on Tuesday 28th of April.

Much of Mr Coonan's closing speech was given over half days. Perhaps you have heard the latest credit-crunch catch-phrase presently drifting round the GMC, 'Half days are the new full employment'; apparently it's an expression that Miss Smith takes very seriously. Having never been a barrister, I do not know how difficult this continual stop and start makes a presentation. I can consider with some certainty, however, that the panel's perception of this whole affair must be affected by what Marianne Faithful might call 'Broken English'. As to the barristers, I can only think of the outcome of their product and the fact that its quality must be jeopardised.

As a good closing speech should be, Kieran Coonan's was delivered logically and steadily, refuting every murmur of the prosecution case. His masterly critique of the case so affected one *naïf* to write on his blog that the prosecution case had 'collapsed'; if only. Friends wrote to me from all

over the world wanting to congratulate Dr Wakefield. I did wonder for a moment whether or not this was yet another example of my having become institutionalised by the hearing, but quickly realised that it was the particular commentator's lack of understanding of the English language. It is of course not possible for the prosecution case to collapse as a consequence of the defence's closing speech. It is possible, however, for the defence counsel to demolish the prosecution case in his closing speech, which is what Kieran Coonan did efficiently.

Before I report on the closing speech I want to say something about motive; not the motive of the defendant, that might seek to explain the things that the prosecution suggests that they have done, but the *motive of the prosecution*. To my mind, addressing this motive is now, and has been since the beginning of the hearing, essential. It is made even more urgent because the three defendants have been subjected to a corrupt legal process.

One of the central judicial problems with regulatory hearings, unlike courtroom trials, is that while it is commonly accepted that the case for the defence and the prosecution in legal proceedings can reach beyond the evidence of fact, in a specialised professional or regulatory hearing the knot of the evidence is very tightly drawn. It would be inconceivable in the present climate in Britain to defend a Muslim person charged with terrorist offences without extending the lines of argument well beyond those of specific facts, into areas of culture, politics, law and police organisation for instance.

In a 'bent' prosecution where the defendant was innocent, wrapped up in all these seemingly extraneous issues one might well find a 'motive' for the prosecution that was useful to the defence in arguing the innocence of their client. This principle holds true even in much lesser cases, for example, in a civil action brought by one neighbour against another over noise. In such a case, the life-style and beliefs of a defendant can speak volumes about motive.

What concerns me about the defence of all three doctors is that no information has been given to Panel members about the prosecution's motive, shaped by the much larger environment of vaccination, vaccine damage and its denial. I know that many lawyers can be quite paranoid about introducing social or cultural evidence into a trial of any kind that is not exactly supported by fact; fearful perhaps of introducing concepts into the defence that might signal their client, or even they, as conspiracy

theorists. However, if we look at the GMC hearing from the perspective of the Panel, what are they to think? When they reach their verdicts, they will have listened, for over 140 days or so, to the minutiae of what could well appear to be balanced legal arguments and they have been given very little information about the social and political context in which this case is set.

The panel might well ask themselves, on behalf of the defendants, 'What could be the motive of these well established doctors in carrying out research on children without ethics committee approval, using potentially damaging invasive procedures?' However, they might equally ask themselves, 'What could be the prosecution's motive for proceeding against these doctors if they are wholly innocent?' The answers they might come up with could sink the defence. In my opinion, the Panel have been provided with no social, political or cultural information that would help them answer this question in favour of the defence. I think that if the defence loses this hearing, or the defendants are found guilty on a good proportion of the charges, this lack of explanation will be at the root of the verdict.

However, strategic issues aside, after so many days of straining to hear the lickspittle legal debate, it was immensely refreshing to get out onto open ground again and hear studied, strong and accusatory statements coming from the defence.

* * *

Mr Coonan did a sterling job in a seriously professional manner, despite the frequently collapsed sound system. His studied defence of Dr Wakefield was reminiscent of early days in the proceedings, and I found myself once again enjoying the logic and force of his argument. Mr Coonan began with the statutory and very necessary remarks about the burden of proof, which is of course, on the prosecution; while they have to prove their charges beyond reasonable doubt, Dr Wakefield and the other defendants do not have to prove anything. Following this, Mr Coonan covered some of the worst abuses effected over two years by the prosecution.

My thoughts on motive were brought to the fore by these preliminary remarks; each one appeared to draw attention to the inadequacies in honesty and efficiency in the prosecution case. His strong statements included the following: '...most of the prosecution witnesses were

irrelevant...'; the prosecution carried out '...a sustained attack on Dr Wakefield's honesty...', the prosecution was '...scornful and hostile...'; the evidence was not about '...the underlying science...'; there was a '...significant failure to disclose documents...'; some documents '...were not included in the bundle...'; correspondence was used in evidence by the prosecution '...that Dr Wakefield never saw and had never commented on...'; the prosecution displayed 'hypocrisy' in its closing speech; what has been said about Dr Wakefield's character '...says more about the prosecution than Dr Wakefield...'; the defence has very real concerns that press coverage '...may have had a corrosive effect...' on the hearing; what about the evidence of '...the witnesses who were not called...'; and finally Mr Coonan's excellent but perhaps slightly misguided suggestion that '...the expression "Off Side" comes to mind...', I say misguided, because for me Miss Smith has not just been loitering alone near the goal line from where she might have scored a dodgy goal, rather she has played throughout with the overt pathology of an Argentinean fullback while the prosecution generally has generated a filthy match during which all the prosecution players, even their central witnesses and members of the press gallery, should have been shown red cards very early on.

The relevant witnesses as far as the defence counsel was concerned, were those who, if they had been called by the prosecution, would have added detail that would effectively damage the prosecution case. From the beginning this was the quandary of the prosecution; most of the witnesses they did call ended up giving evidence for the defence and those who stuck to the threadbare prosecution case found themselves unable to add forcibly to its shaky structure. One thinks, for example, of Professor Rutter, the eminent psychiatrist discussing the rights and wrongs of colonoscopy, when such procedures had absolutely nothing to do with Dr Wakefield or for that matter Professor Rutter himself; or Professor Booth insisting that blood tests were the primary way of testing for IBD, again, something that had nothing to do with Dr Wakefield and was given as evidence against Professor Walker-Smith, one of Europe's most renowned paediatric gastroenterologists, who had diagnosed hundreds of cases of IBD.

However, where the evidence for the prosecution was seen to be threadbare, it was not just with respect to the experts, none of whom were cross-examined by the defence, but to the everyday information surrounding such issues as the funding from the Legal Aid Board (LAB, subsequently the Legal Services Commission). Clearly only a few mouthfuls of evidence from someone who dealt with the LAB funding

could have vouched for its validity, its authority and its eventual use, while the prosecution asked countless witnesses their speculative opinion in this matter. In relation to the condition of the individual children, this speculation was even more pronounced. Why did the prosecution bring all the general practitioners to give evidence for the prosecution that the twelve *Lancet*children were not suffering from IBD when none of these doctors had the expert experience or medical knowledge to determine this? In fact, Mr Coonan's accusation that '…most of the prosecution witnesses were irrelevant…' was probably a gross understatement. Or phrased another way, those witnesses who were not irrelevant were asked wrong or leading questions that produced no evidence of value in support of the prosecution case.

Although Mr Coonan made the point that the prosecution dwelt on wrong witnesses, he made no mention of the fact that the parents were the most important witnesses *not* called, not just by the prosecution but also by the defence. These were the witnesses who could have given strong and reliable evidence about the everyday condition of their children from the beginning. One gets the feeling that the parents were not called because they might have been loose cannons, but in the context of a prosecution case that was dying on its feet, surely the defence could have afforded to take its chance with the parents.

There can be no doubt that the prosecution held onto their narrative throughout this two-year debacle only by the skin of their teeth. Mr Coonan, as the other counsel have begun to do, laid emphasis on the prosecution having created, even engineered, the impossible two-year time frame of the hearing. Mr Coonan, for the first time in public, posited the blame for this considerable delay squarely on the shoulders of the prosecution. Most important, he suggested, in the panel's assessment of his client's case was the fact that Dr Wakefield had given his evidence nearly a year ago. How did this affect the Panel's recollection, and therefore their understanding of Dr Wakefield's demeanour while giving evidence?

Witnesses' demeanour, Mr Coonan pointed out, is very important. He suggested that after a whole year had passed it was likely that the Panel could have forgotten Dr Wakefield's body language, tone of voice, general appearance and the sincerity with which he presented his evidence. Had I been Mr Coonan, I think I might have been tempted to draw attention also to the fact that that a year's delay and more might also have eroded from the Panel's mind the demeanour of the major prosecution witnesses;

their argumentativeness, cynicism and inability to address the important issues. In the case of Professor Zuckerman, his juvenile tantrums and attempts to blackmail the hearing, standing up and sitting down like a demented jack-in-the-box every time Mr Coonan suggested something in Dr Wakefield's favour. I can still recall with sickening clarity Zuckerman's refutation of his supported for Dr Wakefield in his approach to single vaccines, and that the two mentions of this support in one letter must have been a double typing error, his secretary having twice mistakenly put monovalent instead of multivalent!

"*you support the continued use of the monovalent vaccines and you write that you have no doubt of their value...".* And in the same letter, "*it is vital in your own interest and that of children that you state clearly your support for monovalent vaccination.*"

Another of Mr Coonan's preliminary points related to coverage of Dr Wakefield's case in the media. He was, he said, concerned that this might have an adverse effect on the Panel. Inevitably for me, this slight warning wasn't anywhere near enough, it was clearly up to the prosecution to keep their informer, Brian Deer, in check and as in any other venue that vaguely resembles a court, the prosecution should have brought him to heel. He should have been warned that if he indulged in rhetorical abuse through the pages of the GlaxoSmithTimes, there would be repercussions for him and the case.

* * *

When he began his closing speech proper, Mr Coonan was at pains to stress that the core issue around which the whole prosecution was built was the difference between clinical treatment and research. Were the 12 children cited in *The Lancet* case review paper drafted into the Royal Free Hospital specifically for the purposes of research in the 172/96 project, or did the hospital represent a last refuge where the parents were able to obtain their first sympathetic clinical appraisal of their child's condition?

Almost all the other issues in the hearing and consequently Mr Coonan's closing speech revolved around this central issue, raising questions such as whether research project 172/96 had actually been carried out and whether there had been applications for ethical approval and parental consent; whether they arrived at the Royal Free in the first instance to get a clinical examination and hopefully a diagnosis. Such issues as Dr Wakefield's contact with the parents, was he trying to 'recruit' patients to

a research project, whether or not the frequently mentioned 'protocol' was developed for the purpose of a research project or as a record that kept track of developing diagnostic circumstances.

One aspect of this conflict between clinical and research activity, that tended to get lost in both the case as a whole and in Mr Coonan's closing speech, was the fact that the 1998 Lancet paper was a case review study and not a research cohort at the centre of a research project. That the prosecution failed to grasp this at the beginning of the hearing and then failed to acknowledge it when it came to light is one of the most disturbing aspects of the whole affair.

In the bright light of Mr Coonan's closing speech, it was tempting to wonder what one had been listening to for 135 days. He brought out the implicit emptiness of the prosecution case; the improbable weakness of its every aspect. He went on to look briefly at Dr Wakefield's contract with the RFH, at the Ethics Committee application that had been made and approved, at Dr Wakefield's contact and relationship with the Legal Aid Board and the money that the hospital had received from them.

Under other headings came *The Lancet* paper, broken down under a number of subheadings that reflected the charges; *The Lancet* paper clinical or research; Dr Wakefield's response to Dr Rouse; the Medical Research Council meeting following the publication of the paper. It wasn't, however, until we came to *The Lancet* 'Disclosable Interests', that I really began to pay attention. It was Mr Coonan's demolition of Dr Richard Horton's evidence that I thought would be one of the high point of his closing speech.

Two matters that I had waited for were not mentioned. Mr Coonan said nothing about the fact that*The Lancet*, one of the most prestigious medical journals in the world, is owned by Elsevier and the senior manager at Elsevier is also a non-executive Board member of GlaxoSmithKline. Why should Horton's word be accepted on any matter even vaguely connected with conflict of interest when the drug company that manufacturers MMR have a controlling interest in *The Lancet*? The other matter, more seminal to the hearing, which had not been brought up was the question of whether or not a person who might appear as an expert witness in a court case has to declare this as a conflict of interest. In theory, Dr Wakefield was receiving money from the LAB to undertake research that would clarify evidence *for the court*, whatever the results of

any research undertaken. Even had it been damaging to the claimants, the doctors involved would have had to tender it to the court.

In the event, these finer points were of no consequence, because Mr Coonan fought these issues from a number of angles that made the prosecution case appear empty and dishonest. No money was received from the Legal Aid Board until Dr Wakefield and his co-authors were well into *The Lancet* paper; the money did not, even in the first instance, go to Dr Wakefield, but to the Royal Free Hospital and then finally to a researcher in the hospital who was examining histology samples for viruses; and, finally, Dr Wakefield had no way of knowing in the early stages, when the children sought clinical treatment, which ones were in fact in touch with lawyers and whose cases had been funded by Legal Aid.

But the most important issue in relation to conflict of interest that everyone expected Mr Coonan to make the most of was the matter of Dr Horton's statements that he had no knowledge of Dr Wakefield's involvement with the Legal Aid Board at the time *The Lancet* paper was published. If he had knowledge of this, he was later to claim, he would not have published the paper. More probably, of course, he might have warned Wakefield of the need for a conflict of interest declaration. Dr Horton's position in this matter was completely undermined when, after he had given his evidence, Dr Wakefield's lawyers received documents which showed clearly that staff in *The Lancet* offices had known of Dr Wakefield's receipt of Legal Aid at least a year before the paper was published. This news shed a new light on Horton's evidence in which he claimed that at the time of the publication, he had been ignorant of Dr Wakefield's conflict of interest.

During the hearing itself, this matter led the panel and the prosecution, for Horton was one of their witnesses, to ask for him to be recalled to answer to this new evidence and explain the evidence he had already given. The prosecution twisted and turned, determined to get Dr Horton off the hook. When they finally succeeded in securing the safety of their witness, they presented a very loose statement from Horton in which he claimed that every time the information about Dr Wakefield and legal aid had been voiced in the office, or been on anyone's lips, he had been either helping the Palestinians, in *The Lancet's* outside toilet, suffering temporary deafness, had mislaid his glasses or been making the tea, as his station required. In other words, the editor of *The Lancet* was not '...personally aware of the relevant contents of the documents...' circulating in *The Lancet* offices. When Miss Smith originally read this

statement to the hearing, she spluttered to a stop for a moment when a huge pig borne on gossamer pink wings flew slowly the outside glass wall of the hearing room.

Dr Wakefield's defence accepted Dr Horton's statement, despite the fact that it skirted one of the most important issues of the 'trial'. For fear of getting into a mud slinging contest during a re-examination of Horton, nothing was said by the defence to challenge Dr Horton or suggest that he was 'credit crunching' the truth. Horton, anyway, was always a two-edged sword, and in some ways even an intemperate aging radical like myself can see the defence reason for not pressing to recall Horton. He was, after all, the only authoritative voice that did not climb down at all from the science of the case review paper, telling the hearing that it was of the highest order.

Oddly enough, Miss Smith, despite getting her way, couldn't help but manufacture a little edifice of untruth around the issue. In her closing speech she insisted against all the evidence that Wakefield's defence counsel had called '..into question Dr Horton's integrity and honesty'. Yet another example of Miss Smith's ignorance of the aphorism, 'When you're in a hole stop digging', which she should undoubtedly have emblazoned on her sling or tattooed somewhere where she can draw strength from it every day.

* * *

In this account I have chosen to deal only with the central issues and not even mention the massive number of subsidiary charges that arise under the main heads. Mostly these smaller matters are without any foundation at all and even if they are apparently evidenced, they are not things that come near to constituting real offences.

A good example of these smaller and insignificant matters that have been blown up out of all proportion is what the prosecution present as Dr Wakefield's plan to entice children into the Royal Free, so that he and his colleagues could then 'cause' dangerous procedures to be carried out on them. The GMC was forced to introduce this new concept of 'cause' into the English language, as in '...he caused the operation to take place...', so that they could blame the colonoscopies on Dr Wakefield. Those who can be blamed for 'causing', covers anyone who worked in the Royal Free Hospital and includes the building's architect and the company that owned the land on which the hospital is built. This bizarre prosecution scenario,

like something out of Edgar Allan Poe, of tricking stricken children into the Royal Free, was founded on the fact that Dr Wakefield had been in correspondence with GPs, or crime of crimes, that he had spoken to parents. So far has Miss Smith's idea of medical professionalism sunk into the cold bureaucratic pit, that the idea that a doctor, research or otherwise, should *speak* to a patient appalled both her and the GMC.

Another example was the receipt of money from the Legal Aid Board. Miss Smith seemed adamant that this was a crime in itself. That a doctor should receive money from the Legal Aid Board in order to prepare research to inform the court was an abomination to Miss Smith. No charge throughout the whole hearing has been more tellingly associated with the pharmaceutical corporations, which had exerted such pressure on the government that all legal aid was finally withdrawn in 2003 from MMR damaged claimants.

Miss Smith herself called three expert witnesses, a consultant gastroenterologist, a psychiatrist and a physicist, one of whom had been scheduled to give evidence for the vaccine manufacturers, another of whom could be linked to quackbusters and a third who was a founding participant in Sense About Science. None of these 'experts' were asked by Miss Smith about funding or affiliations.

If we pass to the real minutiae of the case, we come upon the most peculiar charges which might better be called insinuations; the strange case of Dr Wakefield's clinic is one of these. According to the prosecution, Dr Wakefield saw patients in his own clinic. What he did during that 'clinic' was not defined, but suffice to say for this prosecution, that if it was done in a clinic, it must have involved 'clinical' work; this was in complete conflict with his contractual role as a research worker. It turned out that Dr Wakefield didn't hold a clinic anyway, but it didn't seem to occur to Miss Smith that even if Dr Wakefield did hold a clinic, a process entity used by a research worker who hopefully needed to talk to the parents and the children whose illnesses he was researching, this would not be a crime, an ethical lapse or a breach of contract. Dr Wakefield's role as a clinical research worker has always been presented to the Panel as if he was an ambulance mechanic or a gardener at the Royal Free and therefore not allowed on the premises or sanctioned to speak with any trained medical personnel.

Two of the most spectacular, false charges out of the many against Dr Wakefield, charges that show clearly that the GMC has concocted a

corrupted prosecution, are firstly the claim the Dr Wakefield gained £55,000 from the Legal Aid Board and then spent it on something other than research. This charge of dishonesty was made in the absence of any kind of evidence and without even a guess at the nefarious purpose for which Dr Wakefield might have used the money.

The other charge is one that involved the accusation made originally by Brian Deer that Dr Wakefield had patented a vaccine to compete with MMR? Of course this simply wasn't true on any level, yet it was still brought forward into the prosecution in a cavalier manner by the GMC'.

I feel sorry that I can't do justice to Mr Coonan's closing speech in more detail than I have. On the other hand, it did occur to me during the speech, which must have run to 400 or so double lined-spaced pages, that when trying to rebut the most exaggerated deceit it might be better just to pare down to the basic points and set these against the background of the case. Somehow, rebutting even the most absurd charges lends them a horrible credibility.

* * *

Those who have attended over the whole two years of the hearing have known from the first day that the prosecution case is nothing but a colander through which the truth has long been washed away. When Brian O'Deer presented his famous informer's letter to the GMC, offering to hawk the details of his 'investigation', the narrative was already a mishmash of broken English, in which Deer's imagination ran riot in the spaces where he lacked documents.

When I first met Dr Wakefield around four years ago, he was still stung by the bizarre case presented to him in outline by the GMC, which copied almost exactly Brian Deer's expose in the GlaxoSmithTimes. Dr Wakefield moved documents about on the long pine table in the kitchen. 'Look' he said, 'he's got this, but then there is a gap, then he's got this and because of the missing information, inevitably his story doesn't make sense or even coincide with the truth'. Over four years after that first meeting, I sat in the GMC hearing, listening to Kieran Coonan QC saying exactly the same thing, but because Brian Deer had long been airbrushed out of the picture, it was Miss Smith, and the GMC prosecution, that were now being accused of having deliberately withheld documents and presented broken English as the truth.

Nothing could have shown more vividly than Mr Coonan's closing remarks, the terrible violence done to any judicial process when it fails to employ a higher tier of prosecution review. Let’s face it, this case has been a charade from beginning to end, simply because it was organised by people lacking in ability, doing a lack-lustre job who either understood or failed to understand that they were working for the pharmaceutical corporations and a corporate government.

Kieran Coonan's preliminary issues that prefaced his closing speech were evidence of the fact that a rank amateur body like the GMC should never be entrusted with full-blown legal powers, any more than police officers should. In the real world, the final judgements on the strength of prosecution cases is overseen by lawyers in the Department of Public Prosecutions (DPP). The DPP is the last public judicial tier that ensures public prosecutions are honest and only proceed if they have a good chance of succeeding.

There is an incredible arrogance abroad in the GMC considering they feel they have the right to prosecute charges of 'dishonesty' without their evidence being overseen by a higher body. Mr Coonan's list of prosecutorial failings and process abuses was actually frightening, like the suddenly disclosed innards of the Star Chamber. While, of course, we knew from the beginning that the prosecution was 'bent' it didn't quite sink in, as when the misdemeanours are strung together as accusations by a lawyer.

But how are panel members to process these remarks? The holding back of relevant documents not included in the bundle, for instance, constitutes an exceptionally serious offence by the prosecution, serious enough to wipe out whole swathes of their case, but will the panel be objectively instructed on such matters?

* * *

I don't generally like contemporary or fashionable slang, however, when someone made an allusion to Miss Smith having a *hissy fit* it appeared to be such a perfect description of her temperamental style that I just had to use it. Looking it up I found that it was North American in origin and its first recorded use had been around 1935.

What occasioned the use of this expression was one of Miss Smith's quite bizarre off-road incidents that have occurred throughout the hearing. As

is always the case whenever the hearing is reaching the end of a session, housekeeping takes place. One of the most incredible things about this hearing, is that it seems to limp awkwardly along, being given too many days on one occasion and too few on another. There was, you might remember, the one Sunday sitting created for no apparent reason and the endless half days when the hearing seems to proceed as if God had made the world in fourteen days and rested on every morning. I have been in the hearing now for something like 135 days and trying to find rhyme or reason in its plan is like breaking the ENIGMA code that has been written in fountain pen on a piece of paper left floating in the sea for fifty years.

On Friday the 17th of April, Mr Coonan was happily wending his way to the end of his closing speech with an understanding that another ubiquitous half day at least would be needed before he could sink back into his chair and dream about a stiff drink and a piece of carrot cake. At the end of that afternoon, there was a serious housekeeping discussion, its principle focus being when Mr Miller might begin his closing speech on behalf of Professor Walker-Smith. As the hearing was due to resume in one week and two days time and it was then that Mr Coonan would end his closing speech, Miss Smith began arguing vociferously that Mr Miller should begin immediately after Mr Coonan had finished. If this were a few days after Mr Coonan had finished and after the panel had had the opportunity to reacquaint themselves with Walker-Smith’s evidence, it would inevitably mean that Mr Miller's closing speech would be broken up, with a five week interruption between beginning and end; Miss Smith failed to see anything even vaguely unfair in this.

While the defense counsel all laughed into their cuffs, Miss Smith began her 'hissy fit'. She was adamant and quite determined no more time should be wasted. Miss Smith is always at her worst when everyone is against her. The opinion of the room was taken and amongst much glee and muttering, everyone agreed not only that Mr Miller and the panel should have some time to read back over all the evidence and Mr Coonan's closing speech, and time to prepare his own, but that his closing speech should be unbroken. It seemed for a moment as if Miss Smith was not about to give in and it occurred to me that we might have the second Sunday sitting in two years, taken up entirely with Miss Smith arguing for the first time that the proceedings should be speeded up rather than slowed down.

However, when the hearing finished on Friday afternoon it had been decided that Mr Coonan would finish using a couple of hours on Tuesday

28th April and following that the hearing would go into recess until June 8th, when Mr Miller would begin his closing speech, that he could make uninterrupted to its conclusion on behalf of Professor Walker-Smith.

* * *

Professor Walker-Smith himself was much on my mind during the last days of Mr Coonan's closing speech. Having arrived early and wasting some time one rainy morning during the session, I walked past Pret a Manger near the GMC and saw the Professor sitting at a window stool, drinking a coffee with a book propped up against the rain spattered glass. He saw me and gave the rather formal nod of polite greeting that in my case, for him, always seems slightly tinged with worry. From the beginning, two years ago, Walker-Smith has appeared aloof from the hearing. While the opposition to the frame-up is signaled by the countenance and body language of both Professor Murch and Dr Wakefield, Professor Walker-Smith despite his sound and stoic defence of himself during cross-examination, seems to silently rue the day he became involved in this ongoing medical brawl; he looks tired of the whole matter, as well he might, and his 75 years lend him a look of quiet unhappiness. Whenever I see him, I am stressed with thoughts that his retirement years with his wife and their family are being trashed by heartless cynics in the GMC, government and pharmaceutical corporations, who if asked would probably suggest that Nazi war criminals - especially those who worked for pharmaceutical companies - should not be tried due to age, humanity or changing standards of guilt.

Professor Walker-Smith's desperately depressing role in this fiasco is part of another tragedy that is being played out somewhere beyond the hearing. And yet for all his old world courtesy and the sense that he should be somewhere else, the GMC's stupid mistake of including him in this prosecution could well rebound on them. Walker-Smith's case is directly linked to the cases of Wakefield and Murch. If the panel find him not guilty it will be very difficult to bring in a converse verdict in the cases of the other two.

For those who imagine that my reports have no effect on the important players at the GMC, let me address the matter of Miss Smith's sling. I said in my report *A Right Palaver*:

... there was the very ordinary linen coloured NHS sling - no attempt to match her barristerial clothes - accompanied by the occasional wince and the abrupt massage of the upper arm.

No sooner had this been written than Miss Smith turned up wearing an exquisitely delicate *off the shoulder* number in black and fiery red that would be the envy of any professional accident-prone barrister. And there for a second was the hint of another Miss Smith, a beguiling and perhaps more feminine woman whose thoughts might encompass such challenging things as feelings.

Afterthought

The two-year GMC hearing has stirred up much discussion in legal circles, mainly centring on the ideal form that such independent tribunals might take in the future.

Searching around for someone who could head-up a more independent and definitely quicker tribunal than this GMC hearing The Law Society recently interviewed General Zuk, the Director of the Zargoan department of celestial bodies [the equivalent of our Department of Health]. As you probably know, Zargo is considered one of the most financially efficient planets in the near planetary system and General Zuk's ideas on how an independent adjudication might be held, without truth being impaired, have often been mentioned.

The Law Society interview with General Zuk is reproduced below.

Law Society: Greetings, General Zuk, we hear that you have been following the GMC hearing in some detail.

It was thought a good idea for readers to see just one answer spoken in Zargoan, so that they could see what kind of language they used.

General Zuk: BPROIZ ASNJDC EAEIRO IXSK APBEEZ AXSMT LOZF IBPEE EZLOZ QEMBZULB. WAEGHZOIL OD IDZRAWEAZKOEP FXIZEY LED ICNOGIRBEEAAT ORLEJSBP ZEXCUTW.

INTERPRETER: The first part of General Zuk's answer is a derogatory remark about Brian Deer and for this reason I shall not interpret it, however, the second part can roughly be translated as: We hold Dr Wakefield in great esteem here on Zargo.

LS: In your opinion how might it be possible to make such a hearing completely fair and independent. For instance, how would you go about it on Zargo.

General Zuk shifted slightly in his chair. Zargoan's have no bodies, but General Zuk had used Zargoan shape shifting technology to assume a vaguely human form. I asked one of his aids before the interview, on whom he had based his persona for the interview and I was shown a photograph of Dr David Salisbury, the Director of the Vaccination and Immunology Department in the Department of Health. Something, however, had gone badly wrong with Zuk's data input because as he sat before me, certain of his elements - especially the short blond hair and the black and red patterned sling - more clearly resembled Miss Smith.

GZ: Well I think that before we start I should say that there might appear to be some serious differences between our much older traditional system and your newer one. For instance, we have been of the opinion for some time now that in the case of any proceedings, the complainant, once they have lodged their complaint, is put to death. All judicial proceedings then continue from there.

LS: That's very interesting, in our country, especially in the present GMC case, we do try to obscure the identity of the complainant and ensure that the complainant’s role is taken over by a higher authority; although of course we do not condone killing people.

GZ: This in my humble opinion is a serious mistake; such complainants are ultimately a very subversive force. They might be right or wrong and strategically useful, but if for instance they pursue the objectives, even misguidedly, of a multinational corporation or say, a government - we don't actually have these but I note that you still do - they can never be trusted.

LS: So the prosecuting authority takes centre stage?

GZ: Yes, this is right and as it should be. We have to cultivate the prosecution, let them develop their own system, in terms of planning and timing and such things . . . *the virtual reality of General Zuk moved forward, his finger resting on the side of his nose, as if we were co-conspirators* ... even these people have not got to get too big for their slippers, however. We give them all a handicap, like with the VW Golf you have.

LS: This is really fascinating, are you referring to Miss Smith.

General Zuk utilizes a laugh which seems to have come from the Bela Lugosi data bank; it's a creepy sort of laugh emanating from some point way behind him.

GZ: This is your English sense of humour, no? Miss Smith is one of the hardy survivors, but even so prosecutors need handicaps. There is a very tall building in the centre of Zolus, our capital city; all the documents submitted by the erstwhile complainant and the prosecution are thrown from the top of this building. The prosecution team and any friends they have, on the word Zol (*Interpreter*: this means GO) gather up as many papers as they can. They have exactly two earth minutes before armed forces begin firing laser cluster bombs into the papers. After this ritual is over, the prosecution has four years to put together a case that is then published and broadcast using corporate media. And that is more or less that.

LS: This is fascinating and all so familiar ... yes, very similar to what we do in London, although of course I stress again, we don't kill people. So how does the trial proceed then?

GZ: 'Trial?' I don't understand?

As he says this, General Zuk rears back exaggeratedly, as if he is about to fall in a heap of clothes on the other side of his chair. He seems almost shocked.

LS: The hearing. You have the complaint, the prosecution has been prepared with limited papers … How do you then proceed against the defendants?

GZ: Oh yes, I now understand ... well, there are no procedures followed. All defendants of whatever nature are then 'dispatched'.

LS: Your word that we translate as 'dispatched' sounds an interesting concept. Can you explain it to us?

GZ: Well the concept is very pragmatic ... also extremely simple. On Zargo we like very much simple concepts. As soon as the complaint is broadcast formally all defendants are rarely, sometimes, sent into exile, but most usually shot.

LS: So you have no process similar to a trial, or a hearing. That's very interesting, although I have to say, as I have said before, we don't believe in killing people.

GZ: Yes, Yes, I hear you. But think this way, these trials, what a waste of everything. As you will no doubt have been told in your briefing, Jeremy Bentham, the great utilitarian, is one of our founding philosophers, as he was one of yours, but while you have drifted far from his principles we have developed them – Oh, but you must not get me talking about Jeremy. Another way to look is that trials are very indulgent, a little like philosophical Zhogokins (interpreter: the nearest word to this is 'masturbation' but the Zargoans live in an asexual world so it is not precise). And as well, dissenters are a little like informers and complainants, I think you might say that they are 'an injury in the fleshy behind'.

LS: I find all this so interesting General. I am sure that there are lessons that we might learn from your magnificent regime. After all, our objectives appear to be identical, that is, primarily to support the continuation of the establishment and the mechanism of the prosecution.

GZ: I too have great respect for your system, despite it appearing somewhat overblown. I cannot though comprehend your need for these show trials. (Show is the nearest English word to the Zargoan expression 'Zagazagas' which almost describes 'spectacle' and is used for Cabaret or Circus). Why go through all this p .. a .. l .. a .. v .. a - such a beautiful word that I picked up from your Martin J Walker - very funny these reports. Even the Zargoan elite can comprehend them. We have just had all of Walker's GMC reports translated and published on mini-disquettes - very funny. Watch out, General Zarharinzy, I say to myself, you could well be displaced in funnyness. Do you know him?

LS: Who? General Zarharinzy no, I haven't had the pleasure.

GZ: No, not General Zarharinzy. Martin J Walker?

LS: On earth we try very hard to ignore him!

GZ: If you could get me his autograph, I would reward you ... at least with the 3rd Star of the Zargo's writers collective, it is aluminium and can be worn even on informal dress like velour sweat-suit or with T Shirt and shorts.

Swimming in the Shallows

GMC Fitness to Practice Hearing Against Dr Wakefield, Pofessors' Murch and Walker-Smith Monday 8th June 2009 - Wednesday 10th June 2009.

It's hard to believe that I have been sitting in this hearing room in London while two years of my life and that of my family has slipped by. And now it's an odd experience listening to the defence closing speeches, odd because here we are in June 2009 with the defence lawyers finally answering, the prosecution charges made almost six years ago.

Why this case seems particularly unlike other cases I have attended over the last forty years, is that although one is obviously in favour of the defence making it's case, a five year old could have filled in the gaps, corrected the confusions and challenged the untruths embedded in the prosecution case, in a couple of days following the initial presentation. To my mind what this cruel and unjust waste of time, not to mention £5M dropped down the drain, point to more than anything else is the absence in the proceedings of someone resembling a Judge.

Looking back on the hearing, one is inevitably drawn into considering the role of Judges in 'real' trials, the Judge 'presides' over a trial and is the person who has more or less the final say. In a head-on confrontation between the defence and the prosecution, like this GMC hearing there is no one to draw the line, to rise above the absurdity of the prosecution case, to arbitrate. And this, of course, is exactly what this case needed.

Had the prosecution not been able to get away with the massive manipulation of its threadbare evidence, distorting the reality of their case, presenting a disjointed reality peppered with missing times and parallel events, the hearing would have been over a year and a half ago. This abuse of process and the drawing out of the hearing, the lack of the prosecutions evidential base, the flickering reality of the picture presented by the prosecution were matters brought up at the beginning of the closing speeches of both Mr Coonan on behalf of Dr Wakefield and Mr Miller on behalf of Professor Walker-Smith. These matters, however, which to me have appear to be the crux of the whole affair, the political and social aegis of the whole case against the prosecution have been considered by the defence lawyers as somehow incidental matters of etiquette rather than matters of sheer dishonesty. Most probably, I would

have made a singularly bad counsel, for rather than using all these apparently small matters to garnish the main case, I would have presented them to the Panel as the main case.

Perhaps in my writing-up of the hearing, over the last two years, I have spent too much time on the abuse of process at the GMC and too little time on an analysis of the evidence. I do feel very deeply, however, that this is a political case and not a simple legal conundrum. It is unfortunately because of this, that whatever the verdict levied by the Panel, the truly guilty parties in the NHS, the GMC and legal profession, will never be brought to book, despite having perpetrated the longest legal fraud in history.

In any real trial, there is a point after the prosecution has made it's case, when the defence is able to put forward a motion of 'No case to answer'. In this hearing however, that masqueraded as an inquiry in its initial stages, there didn't appear to be any such point, nor anyone of standing to hear such a submission. The so called 'legal assessor', employed by the GMC, who sits with the Panel has hardly squealed in two years. He is certainly not placed to arbitrate or make big decisions about the direction of the case and appears more like a legal tutor and minder for the panel.

Even in the lay-out of the hearing, the fairness of these proceedings is questionable, since the first day I have been conscious of the fact that in the centre of the proceedings, at their head, so to speak, is Miss Smith the prosecutor, behaving to all intents and purposes like an accusatory, high handed, Judge Jefferies, while the defence lawyers, and the defendants face the lay jury (the Panel) again paid for and employed by the GMC.

I have called this report, Swimming in the Shallows because I suddenly realised half way through Mr Miller's closing speech that this was what the prosecution case represented, a series of very shallow suggestions that do not tie together and were a long way from the deep analysis of any real prosecution.

* * *

Opening his closing speech for Professor Walker-Smith, Mr Miller as had Mr Coonan, brought up a number of procedural matters. He began by pointing out that the case though popularly referred to as The Wakefield Case, The MMR Case or even the MMR Autism Case, was in relation to

Professor Walker-Smith none of these. Mr Miller wanted to steer the case well clear of any suggestion that Professor Walker-Smith had been involved in an attempt to destabilise the country's vaccine programme.

Although this friction between Professor Walker-Smith, Professor Murch and Dr Wakefield had been a part of the case from the beginning, this was the first time that Mr Miller made it clear that Professor Walker-Smith and Dr Wakefield were coming from different corners; a 'scratch cheek' defence rather than a 'cut throat' one. In reality, however, this stand on behalf of Professor Walker-Smith has, in my opinion as I have said before, only gives more strength to Dr Wakefield's defence. So positively, without any proof, has the prosecution linked all three defendants together, that even the most antagonistic defence could not pry them apart; a proper defence of Professor Walker-Smith inevitably undermines the case against Dr Wakefield.

So concerted had the prosecution attack on Professor Walker-Smith been, so cavalier had been the assertion that he had lied and dissembled at every turn, said Mr Miller, that an observer might have felt that they were in number one court of the Old Bailey rather than the General Medical Council.

Mr Miller gave a very clear and prosaic description of the origins of the case. He listed the people who had not complained to the GMC, no family or parents, no complainant from the medical school, no complaint from the Lancet - in fact Dr Horton had said time and again that there was nothing wrong with the science of the study. There was only one complainant, the hack Brian Deer, and Mr Miller made the point that not only had Deer not given evidence but his role in the case had never been explained to the panel. Recently, in order to make Mr Deer's role in the GMC hearing clear, I have taken to describing him as 'the only person in the world to complain to the GMC about Dr Wakefield'. However, although this clearly states the reality of his position, it doesn't question the legal or illegal use of Deer as clearly as Mr Miller's reference to him as a complainant whose identity is hidden and who did not give evidence.

Getting deeper into the shallows, Mr Miller pointed to the lack of appropriate evidence offered by the two 'expert witnesses'. Neither Professor Rutter or Professor Booth had any material evidence to give, their suggestions to the hearing were based only on the virtual case presented to them by the prosecution. The prosecution had put their

shallow case to the experts and the experts had concluded that the defendants had probably done something wrong.

Mr Miller rightly selected Professor Booth for particular criticism. He had not acted with the independence of an expert witness, he had directly argued the prosecution case. In his evidence on 'Inflammatory markers' and on 'The Aporto criteria' he had, in the words of my notes, as I listened to Mr Miller, been - argumentative, argumentative, argumentative.

There had been, Mr Miller suggested, an absurd reliance on paper during the hearing. What he meant by this, it was to emerge, was that the case was based on so many assumptions deduced from written notes, letters, case notes, memo's etc. mainly written over a decade ago, none of which could be relied upon to tell even part of a 'whole story'. As I envisaged them, they were bits of paper blowing in the wind.

All three defendants had complained continuously that during crossexamination they had been questioned on papers that they had played no part in formulating. In fact, this has been one of the cheapest tricks of the prosecution, demanding that defendants answer questions about notes not written by them and about which they knew nothing. Much of this was summed up in one of Professor Walker-Smith's erudite, if Kafkaresque, answers during cross examination; 'I'm trapped in someone else's document'.

Mr Miller made much of those who were not called to the hearing. At the top of this list were the parents, then in descending order, Dr Spratt who might have shed light on one of the cases, and then any number of nursing staff and junior doctors who had worked at the Royal Free and who could have told the hearing that the children were seen entirely for clinical reasons and that they were not subjected to research.

Mr Miller moved on to the considerations that Keiran Coonan had worked hard to impress upon the Panel. The astonishing length of time between the evidence and consideration of the verdict was, he suggested, bound to affect the Panel. Speaking of the time that had passed between the writing of various notes and memos, Mr Miller remarked that remembering was unfair and sometimes impossible. While the prosecution had said that the documents told the story of the case, Mr Miller suggested that in fact, nothing could be further from the truth, the prosecution had 'very few' documents and page after page was missing

from the case narrative. Mr Miller stressed that Professor Walker-Smith had brought many documents to the hearing, as had Dr Wakefield. Throughout the hearing, new pieces of the jig-saw favourable to the defence kept coming up.

Mr Miller throughout his presentation on Monday 8th and the morning of Wednesday 10th, went to some lengths to scorn the suggestion that the prosecution had a continuous narrative that represented a case. At one point in the introduction he used the word 'unreal' to describe the prosecution argument, at another point he suggested the prosecution was 'fanciful', at another that the prosecution was 'misleading' and finally pointed to the prosecution's 'simplistic approach'.

Mr Miller went deep into the moral issues involved in the prosecution particularly against Professor Walker-Smith. Here was a retired physician, who had undoubtedly been a great and important paediatrician, he said, who had been crossexamined for longer than either of the other defendants. He had been faced with summary notes made out 12 years ago and now treated by the prosecution as if they were the Bible! His cross examination had subjected him to a hostile and relentless attack. Three of the allegations against him were of dishonesty, these were obviously very serious charges for a professional. It was now a year since the Professor Walker- Smith had given evidence.

* * *

Having introduced Professor Walker-Smith's case, Mr Miller began a detailed appraisal of the issues involved. As the other barristers had done on various occasions during the hearing, he began by placing Professor Walker-Smith in the context of both a busy hospital and a particular stage in his career at a time when he was just about to retire.

In an attempt to diffuse the tight conspiracy that the prosecution had portrayed, one in which Dr Wakefield and Professor Walker-Smith were hand-in - glove, Mr Miller pointed out that the patients Walker-Smith had seen were but a tiny minority of all the patients seen by both doctors between 1995 and the year 2000. While the prosecution had given the impression that the two men were constant collaborators, this was not so, between 1996 and 2006 Walker-Smith had authored, with others, 55 papers, only four of these also had Dr Wakefield's name on them.

Mr Miller's closing speech, began on Monday 8th of June, but even at this stage in the proceedings, with the background of constant criticism, the GMC was only able to carry the hearing on for one more morning that week. I personally find it almost impossible to keep track of the arguments and write them up representing a continuous analysis, how the Panel is dealing with this anarchic temporal situation I can't imagine.

The morning of Wednesday 10th of June was made even shorter than planned by a tube strike, the Panel Chair and Mr Miller himself arriving just 15 minutes late. I must I suppose apologise to both Mr Miller and Dr Kumar before I make the following remark; personally I don't think that there can be any excuse for lateness. I arrived at the hearing almost an hour before it was due to begin because I was concerned that I might be late. Later in the day, I had a profound shock when as I pressed through the hearing room doors with Professor Walker-Smith, he took one of those rare occasions to whisper to me that that morning he had walked from Liverpool Street Station on the extreme east of London City to the hearing on the West side. The walk had, he said, taken him an hour and a half.

Mr Miller's continuing assault on the prosecution case, on Monday and Wednesday morning concerned the research project 172/96. The whole prosecution case was built upon this project, and the great majority of the prosecution charges grew from it. In fact the greatest absurdity of the whole hearing, grew from a project that the defence have clearly stated never took place.

Consider that that at the very heart of this hearing is a project that the three defendants and their counsel insist did not exist and you begin to understand the chaotic incompetence of the prosecution. It is as if in a criminal trial for bank robbery, the prosecution state that the three defendants carried out an armed robbery in London and escaped with £2 million. The problem that the prosecution has is not in proving that these defendants were robbers or even together around the time of the robbery, but that the robbery actually took place. The prosecution call various expert witnesses, senior police officers, who give their opinion that the defendants were the kind of people engaged in the kind of work who might definitely have carried out such a robbery had it occurred.

Even as an observer in this interminable hearing, I find the knowledge that research project 172/96, did not actually taken place, has weighed very heavily on my mind. I thought of it in this way - if the prosecution

can say that these three defendants carried out research on children during their execution of a project that never took place, how much other evidence might they have fabricate. I found myself turning over the role of the prosecutors in my mind, considering how they might continue with their case knowing as they must that 172/96 did not actually get off the ground; the mind boggles. Miss Smith's approach to this conundrum has been unequivocal throughout the hearing - the defendants are lying!

Another vital element of Mr Miller's closing speech was the matter of the two protocols. This is a matter that I have seen as vital throughout the hearing. The prosecution have claimed that 'THE Protocols', was a set of procedures drawn up for no other purpose than it's use as a plan for the research involved in project 172/96. The defence on the other hand claimed that while there was the glimmerings of a protocol for project 172/96, submitted to the Research Ethics Committee, what each of the doctor's have referred to consistently as 'the protocols', were a set of diagnostic procedures used to assess the cases that turned-up at the Royal Free.

The matter of the protocols, has been one of the matters that has shown up the prosecution as entirely ignorant of medical practice. It is instructive to go back to the evidence of Dr Horton with regard to the protocols. Horton was completely happy with the science of the Lancet paper and even at his most perfidious could only suggest that the lack of a conflict of interest statement was the sole thing wrong with the paper. Horton suggested that the case review paper gave such a good description of a novel illness that it could be compared with the early case study reports of Aids related illnesses published in the 1980s. In these few words, Horton gives the complete answer to the question of the protocols.

In the event of any new medical phenomena, hospital, intra-hospital and international protocols are paramount. Imagine patients reporting to different hospitals with a similar condition that has previously not been observed by doctors. The first thing that has to be done is for the doctors in various hospitals to draw up a common list of symptoms and then a common diagnostic plan of the new condition, they have to describe the symptoms and then formulate a set of tests that will focus the reasons for this condition. This list of diagnostic tests is a protocol and it should be shared inside hospitals, between hospitals and in fact internationally. No investigation of a novel or original illness can take place without protocols. In fact, the only argument that could get rid of the need for

protocols would be that either the illness does not exist, or if it does is neither novel or original; the prosecution has used both these arguments throughout the hearing.

Miss Smith insists that 'the protocols' were actually nothing to do with clinical diagnosis but were the basic plan for a research programme, namely 172/96. You can see her point, as she has consistently argued that the children in the Lancet paper were not actually ill, never mind suffering from a novel illness that might have grown from vaccination, there would be no need for experimental investigative diagnostic protocols. But Miss Smith's case so far defies logic and common sense that she has consistently stated something else - that some tests carried out for clinical and diagnostic purposes, such as lumber puncture, were only carried out on some children and not on others, in pointing to this, she seems to be saying 'this is thoroughly bad research practice'.

What her point has been in making this observation has actually been unclear throughout the hearing. While she began with the argument that lumber punctures were a seriously dangerous intervention that the prosecution was against on vague ethical and 'moral' grounds, she ended her case claiming that lumber puncture had been used on a number of the Lancet children as part of the 172/96 protocols and was wrong because it had not been used on all the children. In the face of this more or less disastrous prosecution argument, the defence has never faltered, faced with seriously ill children but without a full diagnostic protocol, the doctors had tried any tests that might give a clue to the origins of the illness. In the case of both lumber puncture and ECT, it had been found quite quickly that no useful information was elicited from the tests and so the doctors stopped carrying them out.

The defence has from the beginning been keen on the idea that one of the major failings of the prosecution case is that they have a stark black and white picture of what the three doctors were doing - using children as research subjects, without parental consent and without ethical committee approval. Nothing could be further from the truth the defence say, they were always looking to diagnose a new illness, and find its cause so that they could treat it. The procedures they carried out were both clinical and investigative. Mr Miller stressed this situation at the start of his closing speech saying that the prosecution was almost myopically set on the idea that clinical and research work were absolutely separate and could not overlap. The defence of course might well have argued that this case was almost entirely about the overlap between clinical and

investigative medicine. However, whatever the defence has or might have argued, the ears of the prosecution have glue in them.

* * *

Mr Miller's closing speech should take another couple of days and will be followed by Mr Hopkins closing speech on behalf of Professor Murch. This slice of the hearing is meant to finish around the 26th of June. I will be reporting next weekend on the conclusion of Mr Miller closing speech and the beginning of Mr Hopkin's. Because I am still finding it financially hard living in London and attending the GMC hearing, I would like to draw readers attention to the appeal for funding that can be found on the Cry Shame site (www.cryshame.com) and on my own site (www.slingshotpublications.com). If you have not already made a contribution, to my coverage of the hearing, anything will be greatly appreciated. I still have two weeks to go in the most expensive city in the world and next to no money.

Deeper into the Shallows

The GMC Hearing Monday 15th June - Friday 19th June

I am here to tell you that this case is not that complicated. What the prosecution's

case amounts to is a labyrinth of smoke and mirrors. And when we blow

away the smoke and get through the labyrinth, you will understand that.

You will find that there is no fire, that there is no case against the defendant.

That there is more than reasonable doubt here, that there is outrage that this case

was ever brought in the first place.

Defence lawyer, Michael Haller introducing his opening

remarks to the jury in Michael Connelly's,

The Brass Verdict [Orion 2008]

All aesthetic judgements are based on two factors, form and content, this is just as true of a barristers closing speech as it is of a sculpture. Perhaps in the case of a barristers closing speech there is the added factor that the barrister is, as well as presenting a case in measured and creative terms also trying to convince a jury, a judge or in the case of the GMC a panel of professional jurors, of the correctness of the clients case. This being so, it is sometimes tempting to respond quietly to oneself, aside from either form or content, 'well he would say that wouldn't he'

Taking this into account, Mr Miller's closing speech seems to me to have been so far, close to perfect in relation to form and content; a consummate synthesis. As for selling anything to the panel, this hardly

seems necessary as his goods tumble off the barrow of their own accord pressing themselves on to the buyer. Of course the casual observer with a butterfly mind, such as a journalist, might be tempted to comment that Mr Miller's critique of the prosecution evidence is over the top or laced with depreciating comments that belittle the witnesses, but then they didn't sit through the evidence and would not see that if anything Mr Miller is politely downplaying, as is his style, the bare stupidity of much of the evidence.

Admittedly Mr Miller has an easier task than Mr Coonan who had to make a closing speech referring to evidence of phenomena that actually had nothing to do with his client. There is, of course always the chance that in arguing against something which hasn't happened, you make it more positive in the minds of observers. In concentrating on the areas of evidence he is, Mr Miller has been able to do that almost impossible thing in this case, make his closing speech interesting and alive. Believe me, I know, I have sat through one hundred and twenty odd days of evidence that on occasions have put me to sleep with greater efficacy than any prescription medicine.

In this report as in the last one, I have chosen to highlight only what I consider to be the most serious areas of contention. In order to suggest that non of the children were ill with gastrointestinal problems, the prosecution had to climb the wall in distorting and manipulating the evidence given or written by GP's and consultants, they had to not call parents, and they had to call expert witnesses who were practiced enough to avoid giving expert evidence in this area.

Dealing with the evidence of GP's and the letters sent with children who attended at the Royal Free, Mr Miller said that while the prosecution claimed that non of the children had IBD or any other novel gastrointestinal problem, the evidence from GPs and others did in fact point to some kind of gastrointestinal problems in the majority of the children. Of course it is not the GP's position to diagnose IG problems, this is better done in hospital with a battery of quite advanced procedures.

Once he got into his stride on Monday 15th June, Mr Miller homed in again and again on the issue of 172/96. So clear was it that 172/96 did not happen, that one marvels at Miss Smith's skill, and the GMC's audacity in hoaxing the whole hearing over two years - eventually perhaps even three - into believing that the trial was about the research

ethics of this non existent study. If Miss Smith ever steps down from the bar, which one hopes she might have the grace to do soon, she could always work the Soho fringe venues as a magician.

Mr Miller often appeared to be adopting an ironic tone when he addressed the matter of 172/96, this is not to say that he was actually being ironic, just that the things he said in all honesty inevitably rang of irony. He detailed 9 main aspect of defence evidence that argued 172/96 had not actually occurred.

- All three defendants had given evidence that the Lancet children were not seen under the protocol for 172/96. Miss Smith can only suggest that the defendants are lying.

- The defendants say that all the children were seen on the basis of clinical need. Miss Smith can only suggest that the defendants are lying.

- All procedures were clinically indicated by everyone who saw the children. Miss Smith can only say that her expert witnesses who did not see the children suggest that there was no basis for these clinical decisions.

- Professor Walker-Smith wrote to Dr Pegg who chaired the Research Ethics Committee, that all the procedures took place on clinical grounds, whether or not 172/96 had been agreed.

- That where histology samples had been taken, a common occurrence during IG procedures, previous ethical committee approval was held for the taking of these samples.

- Why, said Mr Miller, in a question voiced by many people, would Professor Walker-Smith have wanted to deceive the research ethics committee at this point in his meritorious career. Miss Smith can only suggest that Walker-Smith, 75 years old and without a blemish on his career and one of the greatest European paediatricians is lying when he defends himself against these accusations.

- Other doctors and staff at the Royal Free Hospital all agreed that tests and procedures were carried out for clinical purposes. Miss Smith failed to call any of these doctors, nurse or other staff.

• The team that dealt with the clinical management of the children did so in a big hospital under the aegis of NHS care. Mr Miller asked how did the doctors on trial deal with other doctors involved while looking after these children did they dupe them while carrying out unauthorised research on them? Miss Smith seems determined that the whole hospital is lying and involved in a conspiracy.

• Mr Miller posed two alternatives, either there was a major conspiracy inside the hospital or Professor Walker-Smith was telling the truth and the children were seen on the basis of clinical need. Miss Smith is determined that there was a conspiracy.

In fact, following the run down on these points, Mr Miller pointed clearly to the paranoia present in the prosecution case when he suggested that the prosecution had intimated that the defendants had forged one document in order to make it appear that studies were clinically rather than research based!

From around 11.00 am on Monday, having explained the above points, Mr Miller embarked upon an analysis of the clinical presentations made by the children and analysed the procedures that they were used to try and diagnose their conditions. For the first time in a long time, the hearing became interesting and alive. I think that this was because Mr Miller did not, nor did he appear to want to dodge the very personal issues especially relating to Professor Booths evidence. It is undoubtedly when we begin to look at the personal dimension of the prosecution narrative that the hearing suddenly lights up.

Both Professor Booth and Professor Rutter asserted that the procedures carried out by Professor Walker-Smith and Professor Murch were not clinically indicated. In the case of Professor Rutter the matter was of little consequence because there was no indication that he had the slightest knowledge of anything gastrointestinal. In the case of Professor Booth however, things were far from simple. On reflection Booth reminded me of the bombastic and oppressive Croation music intellectual Hugh Simon in Bogdanovitch's What's Up, Doc? he appeared utterly sure of himself while arguing against all logic and probability in an oppressive and overbearing manner.

Mr Miller pointed out that there was not a shred of evidence to suggest that any colleagues of the three defendants questioned the clinical nature of the procedures used on the children. From then until the end of his

presentation, Mr Miller discussed the clinical presentation of the children, how they were dealt with by the receiving doctors at the Royal Free Hospital and how the prosecution derided these approaches claiming that not only were they unsuitable but that the three physicians on trial had abused the children and lied about their obviously well planned research programme . Perhaps one of the most exquisite yet brutal aspects of Mr Millers closing speech has been its logic. He has carefully taken each branch of the prosecution case laid out its threadbare premises and then smothered it with the detail of the defence case. The areas in which he worked his logical magic were:

Was there a suspicion of IBD in the children?

Were the procedures clinically indicated?

Was colonoscopy a necessary clinical procedure?

Was lumber puncture used as a clinical investigation?

Were the procedures used on the children, dangerous and cruel?

Was it even more cruel to use such procedures on children with ASD?

Were Dr Wakefield, Professors Murch and Walker-Smith manipulated by the patient's families.

Dr Booth's outrageous, belittling and inaccurate inexpert evidence against the Porto criteria.

Dr Booth's expert evidence on the clinical presentation of the children, evidence he gave without seeing the children.

Dr Booth's expert evidence on inflammatory markers, again that he gave without examining the children.

Lumber Punctures as a necessary diagnostic procedure.

At the end of Tuesday 16th of June, Mr Miller was able to give a brief introduction to the analysis of the individual children that was to take-up the major part of his closing speech over the next four days, The morning having been non sitting on Wednesday, Mr Miller began going individually through the children cited in the Lancet paper. Although he only managed to get through an analysis of the first two children, it was clear, as it had

been at other junctions in the hearing, from these cases that Professor Booth had himself done immense damage to the prosecution case. Arguing outlandishly as Booth did that the children in the main were not ill and if they were they suffered only common childhood complaints, he reduced the hearing to a farce. Mr Miller went back over the two aspect of each child's case. He described in what way they were ill when they arrived at the Royal Free and whether or not their cases were suited to the clinical use of the various procedures such as colonoscopy.

Even in the first two cases, the evidence in favour of the use of colonoscopy was obvious, both children had blood in their stools together with diarrhea and constipation. Drawing on the expert evidence for the defence , particularly that of Dr Miller, Mr Miller made it clear that the evidence of Professor Booth that colonoscopy was not clinically indicated in these cases was heretical.

Obviously tutored by the prosecution, Professor Booth had given outlandish, evidence in relation to a number of the children claiming that they suffered only from constipation which in his opinion was an illness in itself and should be treated as such. Oddly, Brian Deer can be seen offering the same ignorant view as he waves his finger about, admonishing parents, outside the GMC in Alan Golding's film Selective Hearing . The prosecution was determined to ensure that Dr Wakefield's view and those of professors' Murch and Walker-Smith, that the children suffered a new kind of gastrointestinal illness and IBD brought on by MMR, was completely hidden while the familiar childhood complaints of diarrhea and constipation took their place.

Mr Miller proceeded with an analysis of the case of each child, from One through to Twelve. The issues on the surface of this part of Mr Miller's closing speech were simple:

To show that each child was ill with gastrointestinal problems.

To show that colonoscopies were clinically necessary.

To show that other tests were clinically necessary.

To show that rather than a quick involvement in a research programme , these children stayed in touch with and on the whole continued to be treated by doctors at the Royal Free for some time after their first admission.

Professor Booth and his patently inadequate medical opinions was again at the centre of these discussions, suggesting for instance that some of the pain the children suffered could well be a consequence of kidney or gall stones. Such views were quietly ridiculed by Mr Miller.

Professor Booth argued against the opinion of the entire medical profession in claiming, for example in the cases of child 1 and child 2, who both had rectal bleeding and low haemoglobin together with fecal loading, that neither child needed a colonoscopy but they should be treated for constipation. Mr Miller referred to professor Booth's opinions expressed in his evidence, especially his idea of long-term constipation as being odd and incomprehensible.

* * *

Fortunately, I have always known for whom I am writing, apart from that small part of me that is writing because this area of legal and medical chicanery is the one in which I am interested, I am writing for the parents. This does not mean, however, that I can really understand their predicament. The complex lies being told by the prosecution and the GMC in this case, reach well beyond the kind of courtroom fixing that I observed when I was writing about professional criminals. The hearing is an utter whitewash, a complete and fundamental re-writing of the real experience of both vaccine damaged children and their parents.

Inevitably on occasions I try to imagine what it must be like to be such a parent, to see your beloved child disappear like a fading photograph, to see your child in terrible pain, loosing speech, eye contact and social relations. Perhaps even more profound than these things, to be a citizen in a country where your child's vaccine damage first goes untreated and is then denied. But even then after that when you are still fighting your way through all the tragedies associated with your child's disability, twelve or thirteen years afterwards, to be aware that one of the only doctors who grasped the truths about your child is being pilloried and held hostage and tried over two years. For these parents it must feel as if they are being wiped out, like a wet cloth passing over chalk on a blackboard.

Unfortunately it is increasingly the fact that it is only during the closing speeches that the mendacity of the prosecution is really becoming clear. I say unfortunately because I wonder what effect of one hundred and forty days of Miss Smith's histrionic and suspect evidence will have had on the panel. I actually wonder at the ability of the defence counsel to retain a

civilized demeanor, if that is quiescently following corrupt procedure is a mark of civilized behaviour . I have to admit to a singular need to see blood and loud name calling, in order that some honour is saved from this debacle.

Of course, my appraisal of the hearing might be utterly wrong, it could be that the defendants are lying through their teeth; it is I suppose always a possibility. It could also be the case that their lawyers are also lying as they present their evidence; that also is always a possibility. It could also be the case that the parents have consistently lied about their children during a period over twenty years. It could just be possible that Brian Deer, the GMC and then Miss Smith, genuinely believe that the three accused doctors are guilty of the most cruel and perverse medical experiments on children.

Somehow though I doubt all the above. My understanding of the case has stayed more or less the same over the last five years. Simply, it goes like this, in the early nineties after the proven dangerous MMR containing Urabe vaccine was withdrawn by the government, Dr Wakefield and the Royal Free Hospital were inundated by a large number of children who presented with adverse vaccine drug reactions which culminated in regressive autism. From this point onwards everything was done, by civil servants, the New Labour Government and Pharmaceutical companies to shut-up Dr Wakefield and create a campaign of vaccine damage denial.

In 2003 the first and most serious blow was struck against parents when the legal aid supporting their ten year civil claim against three pharmaceutical companies was deprived of legal aid roughly six months before it went to court. Almost immediately after the appeal against this decision, in 2004, Brian Deer, a pro-vaccine hack presented his unfounded expose in the GlaxoSmithTimes and immediately after this the GMC drew up their charges for the longest regulatory trial in the history of British Medicine.

When Mr Miller said at the beginning of his closing speech, that this was not the Wakefield hearing , nor was it the MMR hearing or even the vaccine hearing , he was of course wrong, speaking, as it were to suit the strategy of Professor Walker-Smith's case, it is all of these things and something much more than their sum. Although law has need of simplicity, it is actually something complex and sinister in the extreme, something so outlandish that it cannot be named in polite company and certainly not by a Queen's Council in a quasi legal hearing at the GMC.

This case ultimately embodies the kind of depraved political behaviour that would have provided Bertolt Brecht with a swinging anti-government theatrical spectacle and it fits in absolutely with the decline in the moral and political values that are being exposed in the ongoing drama about expense claims of Britain's laughingly labeled Law Makers. The hearing is a clear sign of the present moral degeneracy in British political life.

The End of Mr Miller's Closing Speech

Monday June 22nd and Tuesday June 23rd.

At mid morning on Tuesday June 23rd, Mr Miller finished his closing speech on behalf of Professor Walker Smith. It was a bravura performance

Having dealt with the Lancet Children singularly throughout the previous week, on Monday Mr Miller turned his attention to Professor Walker-Smith's involvement in the Lancet paper. Generally speaking the prosecution case in relation to the Lancet paper - not each of the children cited in it - is that this paper was entirely organised by Dr Wakefield in defence of his supposed view that MMR created autism. The paper was promoted at a 'press briefing' when Dr Wakefield uttered the words that ended his career in England when he suggested that parents might want to use single vaccines until the adverse reactions associated with MMR had been researched at the Royal Free.

In terms of content, the prosecution claimed that the paper was actually a very badly carried out research trial with missing controls. According to Miss Smith the paper was the result of research project 172/96. This view was completely wrong, untrue and a misrepresentation, the Lancet paper had always been a case review study that examined the symptoms presented in 12 sequentially referred children and tried to diagnose a specific illness. The defence had said from the very beginning of the GMC trial that the paper not only did not set out to prove anything about MMR but that each child cited in it had already been treated clinically and the case review was, as case reviews are, an overview of the twelve cases and an attempt to describe a novel illness. Clearly in writing up the paper, especially because the cases were self-referred, the authors had to mention the fact that a number of parents had told Dr Wakefield that the onset of first gastrointestinal problems that were followed by ASD like developments had coincided with their child having received the MMR vaccination.

Mr Miller had an easy case to argue on the Lancet paper because Professor Walker-Smith, though being one of the paper's authors, had a completely different and much more conservative view of how results of work at the Royal Free should be publicised and reported. Walker-Smith's

difficulties with Dr Wakefield went back to the publication of an article in Pulse which had reported a number of things that Dr Wakefield had apparently not discussed with his colleagues. What was not made transparent during this trial was that Dr Wakefield had been fighting his corner with the Department of Health for some time before the Lancet paper was published and that he had originally written to David Salisbury, head of vaccination and immunisation, asking for a meeting but was refused for six years. While Professor Walker-Smith simply continued his clinical work when he arrived at the Royal Free, Dr Wakefield was deeply embedded in less tangible battles over government vaccine policy.

These minor differences in approach between Dr Wakefield and Professor Walker-Smith did little to enhance the prosecution case and could easily be admitted to. In fact, as I have said many times in my reports, that the prosecution tied Walker-Smith and Dr Wakefield so closely together has definitely damaged the prosecution case against Dr Wakefield.

So much more conservative were Professor Walker-Smith's views about science and medicine that he refused even to attend the 'press briefing' saying that he didn't think that this was the way to conduct either clinical practice or the announcements of research results. Unfortunately the most vital information about the press briefing, that it was organised by Professor Zuckerman, the academic head of the Royal Free Medical school, and not by Dr Wakefield, did not seem to come across clearly at any point in the hearing.

Mr Miller explained at some length that the authors of the Lancet paper made it clear that the paper did not prove or attempt to prove a link between MMR and autism. What the paper did suggest and what the post-paper investigation of another 40 cases showed was that there was a link between IBD and behavioural problems. The Lancet paper, in fact, made a direct refutation that the cases cited in it proved a relationship between MMR and behavioural difficulties. The GMC and its prosecution, however, proved as obdurate and determined to re-enforce untruths upon the defendants as had the media over the last five years or so.

Having covered the Lancet paper as it affected Professor Walker-Smith, Mr Miller then moved on to deal with his last topic, that of transfer factor, what it was, whether its administration had ethical committee approval, whether it was safe and who had actually given it to the parents of Child 10. The prosecution was in a bit of a fix with this last matter because the father of the child who had received transfer factor was a knowledgeable

microbiologist, so in order to make substantial headway the prosecution would have to rope him into the conspiracy. In fact the prosecution failed to call either of the parents and chose instead to blame the whole matter on Dr Wakefield and Professor Walker-Smith.

On the morning of Tuesday June 23rd, I found myself wishing that I had a better grasp of semantics. Had I had this, Mr Miller's closing speech would undoubtedly have been even more rewarding. Barristers clearly find it difficult to be brazen and 'out front' with language and tend to practise circumlocution at a very high level. There can, however, be little room for broad misunderstanding in Mr Miller's continual use of many phrases. He had a field day with such language because the case against Professor Walker-Smith was as far away as was possible from any fair reality.

According to Mr Miller, one prosecution accusation was 'verging on the absurd' and there was something 'deeply unsatisfactory' about some of the charges. One of the prosecution accusations was, Mr Miller's thought, a 'bizarre suggestion'. The prosecution had got 'nowhere near proving' that professor Walker-Smith was dishonest as some of the charges stated and many charges were 'extremely difficult to understand' or even 'impossible to understand', in fact in the charge that Walker-Smith was dishonest there was 'no evidence at all'.

While I am sure that Mr Miller does understand the political underpinning to this case, I have a great deal of admiration for his robust, even radical use of legal language in trying to tell the panel that the prosecution case against Walker-Smith was without value. It was 'baffling in the extreme', and the defence could not understand how certain accusations 'could possibly be relevant', and were 'surprising to say the least'. The prosecution pursued a position that 'was completely untenable' and 'impossible to understand'. Mr Miller twice referred to the prosecution as 'patronising' and once as 'highly cynical'.

Mr Miller produced a summation of his 'case against the prosecution' at the end of his closing speech, which he called with marvellous understatement, a 'few closing remarks'; this summation was brilliant. It combined many of the existential questions that one is bound to ask about this case while heaping clouds of confusion on the heads of the complainants and prosecutors by asking the simple question, 'Who are they?' and 'What are they doing?'. Of all the genuinely spoken, wasted or useless words heard in the hearing room over 144 days, this vital summary of the case in defence of Professor Walker-Smith was the best

short philosophical treatise, the best literature and the best legal text we have heard. In relation to Walker-Smith's case it was principally so acute because it asked the most fundamental question, 'Why?'

Quite a lot of Mr Miller's summation at the end his closing speech was rhetorical; this is inevitable because few of the questions have clear or proven answers. Here are just a few of Mr Miller's unanswered questions and statements put to the Panel in relation to Professor Walker-Smith:

- Has this 144-day hearing, this monumental investment, been necessary or reasonable?
- What is the great wickedness?
- What has Professor Walker-Smith done!!!
- No one else besides the GMC complained!
- There is layer upon layer of supposed conspiracies in the prosecution case.
- According to the prosecution all the doctors, the parents, and everyone else were involved in a conspiracy while they knew that there was nothing wrong with the children.
- These stories grow entirely from the prosecution team and however many versions there are, they ask you (the Panel) to believe only the worst view.
- About colonoscopy: Professor Booth was obsessed with saying it could not be used, Booth never said why it shouldn't be used. In Professor Walker-Smith's experience it was utterly safe.
- Some tests like lumber puncture were elevated to something deeply sinister.
- The prosecution have suggested that Walker-Smith lied and lied, but what did he have to gain from lying. It would have been wholly out of character.

One was left, after this well written and cleverly presented summation, with the same questions resting heavily on ones mind: why had the pharmaceutical companies, the GMC and the government gone to such extreme lengths? It's a question to which there is only one answer: to cover up the initial one and a half thousand cases of vaccine damage and frighten off parents from reporting further cases.

Mr Miller's final words to the Panel rang with truth: 'This has been a manufactured case with nothing at its heart, you should reject it for what it is'. I suppose I with my more intemperate use of language might have added a couple of words to this, perhaps saying; 'This has been a

manufactured case with no evidence and only venom and deceit at its heart, you should reject it for what it is'.

These days it is common when blame is allotted following failed court cases, to blame lawyers. Sometimes this of course is correct while on other occasions it shows the same failing that we are all sometimes prey too; a failure to accept our own weaknesses, while on other occasions it is simply the case that the prosecutors were too powerful and perhaps riding on the crest of a manufactured.

Whatever the outcome of this monumental charade of a hearing and however much damage the case has done to Professor Walker-Smith and his family in his well earned retirement, at least he will know that he had the best defence and it is unlikely that any lawyer could have done better than Mr Miller.

Eye Witness Report from the UK GMC Wakefield, Walker-Smith, Murch Hearing

The expression often used by Mr. Herbert Spencer

of the Survival of the Most Corrupt

is more accurate, and is sometimes

equally convenient.

With apologies to Darwin and Mr Herbert Spencer

And so it came to be that Dr Kumar, the Chairman of the GMC Fitness to Practice Panel trying Dr Andrew Wakefield, Professor Simon Murch and Professor Walker-Smith sat without the flicker of a smile on his face, leaning on the long plastic topped table and read out the verdicts to the many charges. The Panel found that; most of the children in the Lancet paper had been experimented upon outside the inclusion dates of research ethical committee approval 172/96. That a number of the children had been subjected to aggressive procedures not sanctioned by any research ethics committee. That in most cases parental approval had not been lodged in the case files and that Dr Wakefield had "treated children with a 'callous disregard' for the distress and pain that he knew or ought to have known the children involved might suffer. This latter aside, although repeated by the media incessantly throughout Thursday night, actually referred to the taking of a small quantity of blood by a trained professional from 5 healthy children, whose parents were friends of the Wakefield's; a control sample for a study. This had nothing to do with the experimental procedures that were supposedly carried out by Dr Wakefield on the 12 children reviewed in the Lancet paper.

As the recitation of the crimes of Dr Wakefield came to an end, it appeared as if Dr Wakefield, had in the mid nineties, been some kind of inhuman Nazi experimenter practicing on children in the heart of England; an overlooked human vivisector who stalked a large North London hospital committing serious crimes with the two other criminals in his firm, invisible to his colleagues and unseen by the hospital administration.

Kumar didn't have an easy read of the verdict. Feelings ran high. The GMC were unable to keep order. Muttering began as Kumar's message became clear while he dodged through the verdict; the microphones working with loud clarity for the first time in two and a half years. Suddenly one parent exploded in a clutter of bags and clothing, a scarf and a jacket, she stood up, twisted round a blur of mustard, shouting as she made her way out of the hearing room. She evaded the GMC security as they tried to manhandling her. After a short quiet with Kumar continuing, another parent, dressed attractively in purples, fury on her face, raged against him, repeating 'the children' over and again. GMC security did catch up with this diminutive parent and held her bruisingly in the lift on the way to expelling her from the premises.

The public gallery began to empty. Then after another five minutes of Kumar's sucrose voice, a freewheeling free-for-all pushed its way to the door. It was headed by a straighter than straight parent, one who usually appeared unable to be aggressive, he remonstrated with the Hearing, like a radical haranguing a rabble, every word in place, beautifully composed. He informed the panel that they were the only ones who had behaved unethically, not the doctors who had tried to care for their children.

Outside again, the parents drew together and began chanting their message or catching up with reporters, trying to squeeze the last juice from the media. Jim Moody, Dr Wakefield's friend and a lawyer a frequent visitor from the US during the hearing had that day delivered to the GMC an indictment of the prosecution's central witnesses in the hearing. I thought as I listened to him, he was far too articulate for a media able only to understand cacophony. Nevertheless they pretended to listen intently, pointing 57 varieties of recording technology in his direction. That night I could find not even rubble of his speech in the broadcast media.

At the end of the afternoon, in the gathering dusk of the Euston Road, a real treat, the presence of Andy and Carmel, this time completely in control, without the press snapping at their heals, walking fast like an escaping Bonny and Clyde but standing calmly saying exactly what needed to be said but answering no questions. Of course the media had their own way of portraying even this. Dr Wakefield became 'an unrepentant doctor', a man who wouldn't take his medicine! I personally was so pleased that neither Dr Wakefield or Professor Walker-Smith

graced the hearing room with their presence showed proper contempt for the hearing.

* * *

It is 10.30 am on the morning of Thursday 28th January, I'm sitting in the student canteen inside the University of London on Gower Street. This University is now and has been for the last hundred years, the hub of science research. The body of Jeremy Bentham, resides sitting in a glass and wood exhibition box. The library of the Wellcome Institute is just round the corner and because of its closeness to the Wellcome Trust, the University has been the recipient of funds from that body and its original pharmaceutical counterpart, The Wellcome Foundation, for a century. The university was used for the filming of Silent Witnesses one of the most popular forensic science detective programmes on British TV. The University College London, has centuries of science ground into it's very bricks; it was here that Francis Crick studied on the way to discovering the double helix of DNA.

Ten minutes' walk up the Euston Road stands the big glass building of the GMC where later in the day, the panel in the Wakefield, Murch and Walker-Smith case will announce its verdicts or 'findings on fact' as they fancifully call them. Here in the glass panelled hearing room, a different kind of science has been practiced for the last two and a half years; the science of deception.

We already know, and some of us have known for a long time, that all the defendants will be found guilty on almost all the charges. Although the hearing does not begin until 2.00pm, the cameras are already there in the early morning, like vultures on rocks. The camera men and reporters, hands stuffed in windcheaters talking in low voices, with constant nods of the head and shuffling of the feet, looking determinedly at the pavement. It's very cold in London and especially so on this part of the Euston Road that is like a canyon down which the wind whistles.

I was the first of Dr Wakefield's contingent to arrive. I got to the GMC building early because I always have a need to sink into the situation to feel that I can get the measure of atmosphere, to mull it over, long before the proceedings begin. I am here after following Dr Wakefield's case over five years and attending the hearing at every sitting over the last two and a half years.

Today I know will be one of those times that signify a dark night of the soul, for defendants, parents and campaigners alike. This afternoon the defendants will be knocked from their horses by rib smashing lance blows, on the ground they will lie dazed and have to figure whether it is right or even possible to remount and continue the battle. Parents will contemplate the bleak landscape of their children's illness without any treatment and with open skepticism from medical practitioners from whom they seek help. Activists and campaigners like myself will have to face the melancholic prospect of either continuing the campaign or slipping away to support apparently more equitable battles.

This particular battle is a post-modern struggle, one in which the most powerful forces, multinational companies, reshape the world hand in hand with governments. This is a struggle from which parents and citizens have been expunged. A blind struggle, in an age where all the ties between governments and citizens have been severed, where it is no longer possible for citizens to have any real effect on either the processes of industrial science or of national politics. At the same time that Dr Kumar is pulling his verdict out of the hat this afternoon, a quarter of a mile away near Parliament Square ex-prime minister Tony Blair will be excusing his role in the killing of 100,000 civilians in Iraq. Huge and the little crimes are spoken away with 'the people' unable even to dent the facade of apparent fairness.

Today at the GMC we all will have to suffer the slings and arrows of outrageous and organised fortune, the defendant will have to bend with the wind like trees on the beach cliffs and smart from the ignorance of the news media. Parents will have to pretend that they can cope, make themselves strong and hope that help will come from somewhere for their children; the prospect of no further clinical help is impossible to contemplate. Activists, scientists, politicos and campaigners - supporters of truth and science will have to steel themselves to the phlegm spat from the PCs of snakes like Brian Deer, stand still and take the belittling mountain of toxic words that he and his blancmange brained associates will heap belittlingly upon us.

Before I become too maudlin, however, I have to say that about one thing we can rest assured, history will prove us right, will turn in our favour. In fact this is a rule cast in iron, scorned as our truths are now, they will undoubtedly be recognised in the future; when the science is

resurrected, and when the politics go through sea changes.

* * *

It's now Friday morning and I have just gathered enough strength to begin my post for Age of Autism. Sometimes it's hard to write in the face of such an emotional maelstrom. Yesterday, the Chairman of the GMC Fitness to Practice Panel, Dr Kumar, a man who during the hearing refused to answer questions about his shareholding in GlaxoSmithKline, pronounced on behalf of the multinational drug companies and the British government that there was no such thing as vaccine damage and that any parents who claimed that their children had suffered such, would be treated with scorn and contempt.

Dr Kumar had been selected as Fitness to Practice Panel Chairman following the outing by campaigners of the GMC first choice, Professor Dennis McDevitt who had been a member of the original adverse reactions sub-committee of the Joint Committee on Vaccination and Immunology (JCVI) that had manipulated and disguised the reported adverse reactions of the unsafe MMR. In 1988, McDevitt had declared funding for a Research fellowship from Glaxo and Smith Kline and French (as the present day vaccine manufacturers GlaxoSmithKline were then named).

Dr Kumar, also, thought obviously not in so many words, proclaimed the complete confidence of the GMC in the medical authority of Brian Deer, the only man in the world to make a formal complaint against three of Europe's leading gastroenterologists. Brian Deer has carried out his campaign against Dr Wakefield from the pages of the Sunday Times, a paper managed and owned by James Murdoch a man who sits on the board of GlaxoSmithKline. Deer researched his case with the help of Medico-Legal Investigations a private enquiry company funded solely by The Association of the British Pharmaceutical Industry.

The panel gave their verdict after two and a half years partial scrutiny of the case, after legal aid for the parents claims to be heard in a real court, against vaccine manufacturers, was denied by High Court judge Sir Nigel Davis, whose brother, an executive board member of Elsevier the publishers, was on the Board of GlaxoSmithKline. During the hearing, some of the apparently most authoritative evidence, not about science,

but about conflict of interest, was given by Dr Richard Horton the editor of the Lancet one of the most prestigious medical journals in the world. The Lancet is owned by Elsevier and Sir Crispin Davis is Dr Horton's line manager.

Since the beginning of this GMC charade, I have though that anyone who even entertained a verdict other than one of guilty for the three defendants, was setting themselves up for a fall.

* * *

From 2.00 o'clock onwards, right into the late media evening, the last two and a half years of conflict over the MMR combined vaccine, was reduced to simplicity itself. So simple did it all become that I found it almost impossible to believe that I was hearing about the same hearing in which the prosecution had produced two and a half years of evidence.

In his announcement of the verdict Kumar, reduced the whole of the panel's verdict to an assessment on Wakefield's 'care' for the twelve children written up in the 1998 case review study published in the Lancet. In order to introduce this paper and the resultant verdict to you in this post, I have to simplify the hearing and the evidence given during its two and a half years, I ask your forgiveness for this.

In 2004, six years after the Lancet paper was published and nine years after the children cited in the paper had been seen by clinicians, Brian Deer, the British government, the GMC and all their drug industry connected supporters made this case:

Dr Wakefield and colleagues had applied to the research ethics committee at the Royal Free Hospital to carry out research programme 172/96, this programme was to study children who had inflammatory bowel disease. Dr Wakefield had also agreed to a Legal Aid Board funded study of two groups of five children. Dr Wakefield had published the results of his research into 12 autistic children, under programme 172/96, in the Lancet in 1998. The paper showed clearly that Dr Wakefield and his colleagues had included children in this research for whom they did not have ethical committee approval. That children were given aggressive procedures for which the doctors did not have ethical committee approval. That experimental research had been carried out on these 'autistic' but

otherwise healthy children, that did not have bowel disease, without ethical committee approval, nor even in some cases parental consent. The prosecution frequently tried to show that children who attended at the RFH, had been garnered by Dr Wakefield in an illicit manner. Taken the children to the RFH had, the prosecution said, been a way of parents hoping to rid themselves of the guilt at having autistic children. The objective of the 'research' upon which the paper was based, was to show that the MMR vaccination had created 'regressive' autism and the motive of Dr Wakefield who had engineered the paper and the involvement of the other 11 authors, was to aid the claim of the parents against the three pharmaceutical companies being sued.

Finally, the prosecution had said that Dr Wakefield played a part in the clinical treatment of the children despite the fact that his contract as a researcher forbade him to do so. Further the prosecution claimed that while Legal Aid Board money had been used to fund Dr Wakefield's work he had made no declaration of this conflict of interest in the publication of the study.

It was in light of this prosecution evidence that the panel made its findings on Thursday. The verdict re-iterated the charges originally framed by Brian Deer in the Sunday Times as if no defence evidence had been presented, in fact, as if neither the defendants nor their counsel had never been involved in the case.

The defence case had been straightforward and unlike the prosecution case, had seemed more or less unarguable. Around 1994, various parents whose children suffered from terrible bowel problems, and regressive autism, sometimes immediately after their MMR vaccination, began to approach the Royal Free Hospital, wishing the country's gastrointestinal experts to examine them and give a diagnostic opinion. Throughout 1994 to 2002, such parents were always passed by Dr Wakefield to Professor Walker-Smith who involved Dr Simon Murch, in clinically reviewing these cases. Dr Wakefield's involvement in these cases had deepened when it began to become evident that many of the children were suffering from a new, or novel bowel illness. Dr Wakefield was, after all, the head of the Experimental Gastrointestinal Unit at the Royal Free Hospital.

In 1997, before any formal research trials were begun or carried out, Dr Wakefield with a number of other colleagues, began to assemble 'a case review paper', which involved recording the cases of 12 children who had

arrived at the Royal Free consecutively in the preceding few years. Such a paper serves two purposes, it advertises the work of the department and can be used to argue for new funding, and it gives an early warning to other clinicians who might well come across similar cases. The resultant paper, was not the report of 'a trial' or 'a research project' of any kind, it was simply an account of the presentation of twelve children. Although Professor Walker-Smith did have ethical committee approval for the extraction of histological samples from child patients, research ethical committee approval is not needed for such a paper unless the children have been examined with such a paper in mind. No money was used or received from outside the National Health Service, for either the clinically necessary evaluation of the children or for the case review study. All twelve children were examined by clinicians and not Dr Wakefield who had nothing at all to do with their clinical examination, review, or agreed treatment. Most importantly, no research of any kind was carried out on the condition of these children prior to their clinical review by clinicians at the Royal Free Hospital. All the children were examined on the understanding that it was the clinicians duty to find a cause and to understand the painful and exceptional bowel trauma experienced by these children.

Claims by the prosecution that the clinical care of the children had been in the hands of Dr Wakefield, proved to be so 'off the wall', that the prosecution had to change the wording of some charges to read, 'Dr Wakefield caused procedures to take place'. How one causes a colonoscopy, as if it were an act of God, remains a mystery to me.

This case review paper, made absolutely no attempt to prove that vaccination caused autism. MMR vaccination was mentioned at one point in the paper, when the authors made it clear that some parents had drawn attention to the coincidence of MMR and their child's illness. The authors suggested that more research might be useful in this area. Nor was there any mention that MMR or any other vaccination caused autism, rather the paper described a possible link between Inflammatory Bowel Disease possibly affected by an unidentified environmental trigger and regressive autism in some children.

It became clear part way through the hearing that the prosecution had got everything wrong. They had rested their case entirely upon a study, for which ethical approval had been sought but which by the time of the publication of the Lancet case review study, had not actually taken place.

Clearly, the GMC prosecution and the panel did not want to hear or admit to this huge error, contained originally in Brian Deer's toxic writing for the Sunday Times. Unable to concede to clarity of the defence case, the prosecution continued head-banging as if it were a national sport. The false description of a research trial paid for by the Legal Aid Board that proved MMR created autism continued to be used to stir up great clouds of dust, misapprehension and confusion.

* * *

It is perhaps important that we understand what really happened on Thursday, that we understand the language that was used and it's meaning. Following the verdict, most of the lay public will be thinking that the professional behaviour of the three doctors had been seriously scrutinised at great length and considerable cost, using significant analytical, intellectual energy.

However, this is not true description of what had happened. A truthful reflection on yesterday would go as follows. Towards the middle of the 1990s Dr Andrew Wakefield wrote to the Senior Medical functionaries in the National Health Service, warning that a public health crisis might occur if the government continued with it's MMR triple vaccine programme. This communication came roughly two years after the UK Chief Medical officer had withdrawn two MMR vaccines which contained Urabe mumps strain. Over the previous decade, in various countries this vaccine had been found to create serious adverse reactions in children. With the British government left holding only one brand of 'safe' MMR and having caused already perhaps thousands of diverse adverse reactions in the children who had received the vaccine, the government and the pharmaceutical industry was not about to listen to Dr Wakefield or anyone else who mentioned the words adverse reaction.

In 1998, Dr Wakefield along with eleven other authors published 'a case review' paper in the Lancet. The paper charted the details of 12 children who had sequentially arrived at the Royal Free Hospital in search of clinical treatment for serious bowel conditions. Dr Richard Horton of the Lancet, even today, maintains that the science of this paper was beyond reproach, although he gave evidence to the hearing that Dr Wakefield's non-declaration a conflict of interest in the journal of which he is editor was unforgivable.

From 1998 onwards, the government and the pharmaceutical companies organised a merciless campaign against Dr Wakefield. Brian Deer wrote a number of stories in the Sunday Times with the intention of discrediting expert witnesses in previous vaccine damage cases in the 1970s and 1980s. In 2003, legal aid was withdrawn from the claim being prepared by parents against three vaccine manufacturers. In 2004 the appeal on behalf of the parents was turned down. Immediately after this, Brian Deer published in the Sunday Times his first major attack on Dr Wakefield, a complete character assassination written with the help of the private enquiry agency Medico-legal Investigations, solely funded by The Association of British Pharmaceutical Industries. With the help of various people including the then Secretary of State for Health John Reid, Deer tendered his paperwork upon which he had based his skittish article, to the GMC and from then on it formed the basis of the developing Fitness to Practice Hearing against Dr Wakefield, Professor Murch and Professor Walker-Smith.

In 2007, the GMC began their trial of the three doctors that has continued over two and a half years and is yet to finish with the sentencing of the doctor in the period between April and July of this year. In the time between Brian Deer lodging his complaint with the GMC in 2004 and the verdict on fact on Thursday, a period of six years, the government has continued to introduce new and unsafe vaccinations damaging hundreds if not thousands of young people and children. This programme has culminated with the International fraud over swine flue vaccination, with which major pharmaceutical companies conned governments out of billions of pounds.

So, yesterday's verdict was not what it might appear, a reasonable judgement of a wise and considered tribunal. Rather the verdict was what the pharmaceutical companies hope would be a death blow, an end to the battle with a troublesome doctor. When Big Pharma and the corrupt New Labour government asked the question 'Who will rid me of this troublesome doctor', the GMC was the first to put its hand in the air.

* * *

It’s11.30 pm on Thursday night, I have watched a number of news broadcasts, I think in the believe that sense would prevail on one channel

and the truth would break through the screen. It didn't happen. Watching the news was a little like taking a bath in Walt Disney animations. Relentlessly, Wakefield was portrayed as a scaremonger, and worse as a criminal, a man who carried out damaging experiments on autistic children.

Even the parents tended to come across in news extracts as a confused entity because the media does not have time to explain that these people are parents of vaccine damaged children who have supported Dr Wakefield and his colleagues in their attempt to find a diagnosis for their children's illness. The media simplifies and distorts everything making it eminently clear who are the good guys and who are the bad guys yet brings you no evidence as to how they arrived at these opinions.

There is a peculiar sense in which all messages are broken, or twisted; nothing is continuous, deep or simply expressed; all statements are based on false premises.

* * *

It seems important to say something about the media in Britain - at least as far as medicine is concerned, though it could easily be stretched to the invasion of Iraq - in the throws of corporate totalitarianism.

Having sat through the two and a half years of the hearing, I know that the media generally have only been ghosts in the machine, never present, never making a clear or analytical record of the proceedings. Turning up as they did like cattle on the day of the verdict what could they report apart from the panel's corrupt verdict? But, inevitably the situation is far worse than this lapse in concentration as the headlines last night and this mornings papers testified.

Yesterday, early outside the GMC, I watched Brian Deer being interviewed by Sky News, he said things about the hearing which seemed to me to be a product of his own fevered imagination, things that bore not the slightest relation to any reality I had observed. After the interview was over, I approached the Sky journalist who had carried out the interview and asked him politely whether or not, when the interview was run that evening, an announcement would be made of the place of James Murdoch, one of the family owners of Sky, on the board of GlaxoSmith

Kline the vaccine manufacturer.

'No', the journalist said, already turning away from me. 'We give a balanced account and there is no need for that kind of declaration'.

Obviously I had expected nothing more than this, but even so, I couldn't help but be astounded again, at how crooked the contemporary world is and at what shysters these people who call themselves journalists are.

I think that it is time that we turned 'secret ties to industry', from conflict of interest into corporate crime and made it a clearly defined criminal offence for any person to hold a position of authority or to be quoted on any material matter without citing either personal or organisational, contemporary or historical, links with corporations involved in the area under discussion.

I will end this report with a clear example of the criminal misinformation indulged in by the British press. Not having lived in the US, I have no idea of how the media deals with the matter of vaccines, but I fear that most North Americans can have no understanding of the unmitigated rottenness of the British Media, and without such an understanding they might find it hard to grasp how this tidal wave has crashed down upon Dr Wakefield.

A report appeared this morning in the Mirror newspaper, a vaguely Labour leading tabloid, quoting Dr Miriam Stoppard who is a septuagenarian columnist in the paper. Stoppard has campaigned against alternative medicine, in favour of Hormone Replacement Therapy and in favour of MMR, in everything from the most immature teen girl's magazines to the Mirror newspaper.

On Friday morning, previous writing of hers was repeated in the Mirror newspaper. Stoppard is just one of the many medical hacks that keep the wheels of vested interest turning inside the UK pharma-soaked media, but I think for reader world wide a brief look at the inanity on the morrow of the verdict against Andrew Wakefield, Professor Murch and Professor Walker-Smith might help readers outside the UK understand how the GMC is presently getting away with its lamentable corruption.

Miriam Stoppard writes an agony aunt column for the Daily Mirror Newspaper. She has a company, Miriam Stoppard Lifetime through which

she sells her books and health products. After training as a doctor she began working for the drug company Syntex and eventually becoming one of the companies a managing directors. In 1997, she married Sir Christopher Hogg, who until 2004 had been Chairman of GlaxoSmith Kline, the vaccine manufacturer.

Here are Miriam Stoppard's remarks on Dr Wakefield's work, read on Friday morning by thousands of Mirror readers.

Knowing the MMR was probably one of the most highly tested vaccinations ever, I was shocked by Andrew Wakefield's words in 1998. I looked at his paper and I found it was very badly researched with lots of holes. It certainly didn't constitute any kind of cause or relationship between the MMR vaccine and the appearance of autism. I was astonished it was even published. Shortly after, I wrote a big piece for the Mirror about how it was flawed and irresponsible. I tried to reassure parents it didn't show a connection between MMR and autism, the jab was safe and they should vaccinate their kids. However, a lot of the media came out and emphasised the autism connection and my attempts at reassurance were ineffective. Parents were driven towards single vaccines. But single vaccinations aren't licensed in this country so we don't even know if they're safe or effective. And while you're giving children single vaccinations, they're not protected against the other illnesses. So there is absolutely no reason, science or logic in using them. And the argument that the MMR overloads a baby's immune system is rubbish. It can take more than 10,000 doses of the MMR vaccination and not turn a hair. Wakefield and his bad research have an awful lot to answer for'.

Although it is hardly necessary, here is a brief rebuttal

MMR was probably one of the most highly tested vaccinations ever - not true.
I was shocked by Andrew Wakefield's words in 1998 - which words?

I looked at his paper and I found it was very badly researched with lots of holes - evidence?

It certainly didn't constitute any kind of cause or relationship between the MMR vaccine and the appearance of autism - the paper didn't claim to show any causal link between MMR and autism - how did you read it and

miss this?

I was astonished it was even published - Thank God you're not the editor of a medical journal.

Shortly after, I wrote a big piece for the Mirror about how it was flawed and irresponsible - How much were you paid for this article. Did you declare any conflict of interest?

I tried to reassure parents it didn't show a connection between MMR and autism, the jab was safe and they should vaccinate their kids - The paper didn't claim to show any connection between MMR and autism, however to assure parents without any evidence to the contrary is a disgusting abdication of medical responsibility, do you still have your doctors practice certificate?

Single vaccinations aren't licensed in this country, so we don't even know if they're safe or effective. And while you're giving children single vaccinations, they're not protected against the other illnesses. So there is absolutely no reason, science or logic in using them - How is possible to pack so many mistakes into 3 sentences? Single vaccines were licensed at the time of the publication of the Lancet paper. We do know that they are safe and effective because in the case of measles they were used from 1976 onwards. In the case of mumps, the NHS advised against vaccination and in the case of Rubella, vaccination was suggested only for women likely to become pregnant. Interesting that you say that we shouldn't be using single vaccines. Is this the case for say, malaria, I mean if it doesn't also protect people against measles I think you must clearly be right!

* * *

At the end of the day, we have to keep the parents at the forefront of our mind and we have to consider that everything that can be done, should be done to find some kind of safe haven for them. All our battles, whether they be political, scientific or cultural have to be directed towards getting diagnosis and treatment for the children, while at the same time mercilessly pursuing the criminals within the pharmaceutical industry and the government who now profess the new creed of vaccine damage denial.

Counterfeit Law: And They Think They Have Got Away With It

"Part of me isn't surprised by this apparent new development (the resignation of Dr Wakefield from Thoughtful House). The simple math of Thoughtful House's board suggests that there will be at least one or two people of caliber and integrity, who know that all the cranksite stuff about a witch-hunt, sinister forces and all that shit, are just that: shit. Wakefield has been nailed, absolutely fairly, properly, but belatedly, with no hidden agendas or vested interests. Apart, that is, from the public interest".

Brian Deer February 18, posted on Respectful Insolence

Occasionally I look at how my reputation is faring on the internet. There, amongst pages about my writing and campaigning over the last thirty years, is Brian Deer's character assassination of me, Liar for Hire, (1) whenever I see this, I spend a few moments checking reality. I go back to the beginning and remind myself that it began with the parents: ordinary, able, loving and honest individuals whose lives and children were suddenly plunged into the maelstrom of inflammatory bowel disease, regressive autism and other forms of vaccine damage.

Despite the fact that many of these parents knew that their children's illnesses began following the MMR vaccination, in Britain some of the best healed professional people, as well as some of the seediest like Brian Deer, have closed ranks on them, denied vaccine damage and tried to erase both parents and children from the organic life of British society.

Worse still, some of these people, such as the GMC prosecuting counsel, have accused the parents sotto voce of a sly plot, a vendetta to enrich themselves by suing vaccine manufacturing pharmaceutical companies, either that or diagnosed in them a kind of Munchausen's syndrome by proxy, as a result of which they forced their children upon Dr Wakefield. In the midst of this moral crime wave, amongst academics, regulators and medical profiteers, amongst media, science and political personalities, Dr Wakefield emerged as a kind of hero; a lone voice that put his faith in science and scientific method, a good doctor whose reputation was dragged through the fake mud of a Hollywood film set.

The battle over the moral character of Dr Andrew Wakefield has for the moment become a stumbling block on the road to recovery and treatment of the children adversely affected by vaccines. Inevitably the most difficult of decisions is now presented to parents: do they cold shoulder the advancing political reality and draw in their wings around the nest to protect their children or do they immerse themselves in politics and put the diagnosis and treatment of their damaged children on hold? - Perhaps there is a way to do both things simultaneously.

I would contend from my relatively privileged position, that the first strategy will walk us all into the snows of oblivion like blind beggars in a Bruegel's painting. The second strategy will set us on a path of energetic confrontation with our enemies, but every marginal victory will help the children. There is no doubt in my mind which battle needs to be won in order for us to reach back and tighten our grip on the hands of the damaged children. Now more than ever we have to win the political battle in the public arena.

* * *

My last two posts have been about corrupt detail of the GMC hearing; I have written them as part of my reality check. In times when even the strongest and most committed feel weakness like a nausea, travelling back can reassure us of the manipulation that has taken place. As a writer, of course, I am used to the details of my work getting lost in the slipstream of a struggle. As days go by, things that are important in context get jammed on the towpath and we find it difficult to keep the overall picture in view.

At the end of August 2008, I wrote an essay, (2) In the Interests of Conflict. In it I tried to bring-up the issues of conflict of interest to the heart of the GMC hearing and lay it at the feet of the Panel Chairman Dr Surendra Kumar. I consider conflict of interest massively important, because this is the hidden mechanism by which corporate science manipulates reality. This is the secret armoury of funding and public relations that hides in the bunkers beneath an apparently level playing field.

The whole battle against Dr Wakefield and the parents has been shot through with conflict of interest, some of which might be refuted, some of

which might be made to appear trivial and some of which might be dismissed as coincidental. I believe, however, that my essay about the Panel Chairman, like some of John Stone's investigative work, raised irrefutable issues that should have brought the GMC hearing to a juddering halt.

* * *

In the late nineteen eighties, at roughly the same time that the MMR vaccine was introduced by the British government, Dr Andrew Wakefield took up a post at the Royal Free Hospital. He was a well-respected gastroenterologist charged with the task of heading a new department of experimental gastroenterology. One of the areas he was to research was the increase in Crohn's disease amongst young people. Wakefield, who had travelled from Canada where he had been researching bowel transplantation, would win awards for his work on the aetiology of Crohn's disease.

In 1992, the British government backhandedly admitted that two of the three types of MMRs they had introduced in the late 1980s had been dropped following serious adverse reactions created by the Urabe strain of mumps virus used. Thousands of children, principally in Canada, Japan and Britain, were made ill by this vaccine. However, in Japan and Canada parents of vaccine damaged children were quickly compensated. In Britain, a morally bankrupt Department of Health sided with the pharmaceutical industry to claim that the adverse reactions suffered by these children were so slight as to be of no consequences. (3)

By 1993, parents seeking help with one aspect of MMR's adverse reactions, a novel new condition of Inflammatory Bowel Disease (IBD) followed by regressive autism, began to attend the Royal Free Hospital. As these children began presenting there, Dr Wakefield contacted the DH to inform the head of vaccine and immunology Dr David Salisbury that he considered MMR could be creating a public health crisis and asked for a meeting. It took Salisbury almost six years to arrange such a meeting.

In 1992, the parents of MMR vaccine damaged children began preparing a legal claim against three pharmaceutical companies. By the end of the 1990s the number of parent claimants attached to this lawsuit had grown to around 2,500 and Dr Wakefield had been assigned by the claimants' lawyers to give expert evidence for the parents. In 1998 the Lancet

published the case review paper and later that year Deer wrote the first of a series of articles character assassinating previous expert witnesses who had appeared for vaccine damaged claimants and casting doubt upon other cases of vaccine damage claimants.

In 2004 after a decade of organisation and legal finessing, , the first batch of claimants cases, were due to come before the High Court. However, in a move to support the pharmaceutical companies and deny thousands of parents their rights under civil law, legal aid was withdrawn from all the cases. Under a post-industrial New Labour government, a century of civil law enabling citizens to sue powerful interests was snatched from the people.

2004 was the fulcrum year, the year when the legitimate legal claims of citizens against three pharmaceutical companies were turned on their head and a zealous, immoral and criminal campaign was begun by the government and the pharmaceutical companies to wipe out all reports of vaccine damage and anyone who might stand as an expert on this issue. Only months after Deer's Sunday Times attack on Dr Wakefield, Dr Richard Horton whose line manager at Elsevier the Lancet's publisher was Sir Crispin Davis also a board member of GlaxoSmith Kline, published a pulp fiction paperback which lauded the absolute safety of MMR.

* * *

Immediately after Brian Deer's 2004 article in the Sunday Times and following the instructions of John Reid, the then Secretary of State for Health, Deer submitted his papers as a complaint against Dr Wakefield to the General Medical Council. The journey of Deer's speculative and shoddily researched article to the GMC prosecution is crammed with abuses of the legal process, I detail some of them below before I discuss what I believe to be the most important issue of conflict of interest.

Since 1988, there have been two ways in which cases arrive at a Fitness to Practice Hearing at the GMC. There is the official route, by which a complaint made by a patient or relative can be filtered by readers and preliminary hearings to arrive in front of a panel, and there is the unofficial route by which cases promoted by the Association of British Pharmaceutical Industries (ABPI) arrive. This second path, made available by the GMC to Big Pharma, gives control to the industry over cases involving doctors who might be carrying out research for the industry

which results in unethical behaviour, or damage to trial subjects or patients, or finally those cases of doctors who might have embarked upon research or treatments which threatens the competitiveness of pharmaceutical products. These cases are researched, investigated and then legally formulated in conjunction with GMC lawyers by a private detective agency solely funded by the pharmaceutical industry named Medico-Legal Investigations (MLI). While cases prepared internally by the GMC have resulted in mixed findings over the last two decades, cases prepared by the pharmaceutical industry usually result in guilty verdicts.

Neither the GMC nor its hearings make statements about the origins of cases that are brought against doctors, unless of course this is evident from the presentation of the complainant in the hearing. In the Wakefield, Murch and Walker-Smith hearing, the GMC consistently denied that Brian Deer was the complainant in the case and claimed spuriously that the case against the doctors had been brought by the GMC itself. As the defence lawyers approached the case as if it were any 'normal' case, the hearing never approached the issue of who had investigated and assembled the information of the case. However, we know from a number of sources that in investigating his case against Dr Wakefield, Brian Deer was helped by MLI. In the past MLI have used complainant journalists to progress cases into the GMC.

GMC Fitness to Practice Hearings, are constructed to all intents and purposes, like criminal or civil trials that take place in jury trials. To some extent this sets them aside from the usual extra-legal tribunals, such as those that deal with issues like unfair dismissal. It is, however, the way in which the hearings differ from a proper trial that must concern us; these differences are startling. The first and perhaps most seminal difference is that while the judiciary in Britain is separated from the political executive, the GMC acting as the prosecuting authority pays for the employment of all parties, other than the defence, including the jury (Panel), in any hearing.

In a real criminal trial, which the Wakefield hearing tried to emulate, all the investigation prior to charges being brought are carried out by the police. Over time such investigations have become trammelled by rules and regulations, such as the judges rules in Britain and the Miranda ruling in the US.

It is interesting that although the GMC lawyers gathered a series of

unproductive and dubious prosecution statements from a whole variety of people, they depended quite heavily for their information of the three defendants, not just upon their evidence but on written statements obtained under threat by Brian Deer and Dr Richard Horton. None of the defendants had access to lawyers when they were pressured into making these statements. All three doctors answered questions put to them by Deer, under the threat that the Sunday Times was about to break a story that would ruin them, with a sincere desire to help put together a complete story of the work that had been done at the RFH. None of the doctors knew that what they said would be used against them in a legal hearing.

When it comes to the structure of the court, this tries to mimic a real court. There are defence counsel and prosecutors, there are defendants and a 'jury' called a Panel, there is a Legal Assessor to the Panel who tacitly takes the place of a judge in advising them. The difference between a real judge and the Legal Assessor is that one of the real judge's most skilful tasks is to advise the jury in public session on what weight should be placed on the evidence. In the GMC hearing the Legal Assessor had no such role; God knows how the Panel understood or contextualised the evidence they heard over two and a half years. It us clear by the ultimately shambolic verdict that the Panel failed or refused to grasp the most basically transparent defence evidence, upon which nearly all the verdicts rested, that 'the Lancet paper' was only a case review report and not a 'study' or 'trial' of any kind. Such defence evidence had to be agreed by the Panel because they had to allow the defence the benefit of the doubt on any unproven allegations.

In the proper court, not only are the jurors chosen from the population at random, but the counsel for either side are allowed peremptory challenges, to ascertain any kind of bias in the jurors that might apply specifically in relation to the case being heard. In Britain, this right to peremptory challenge has been completely eroded over the last decades, ending with the 1988 Criminal Justice Act. However, in an important case, involving for instance a police officer charged with causing a death, the judge will usually warn the jury of conflict of interest and ask anyone who has been a police officer or who had a relative who was a police officer or anyone who worked in a civilian capacity within a police station to declare this. Having concluded these tests, the jury themselves chose their foreman or woman in camera and this person helps the other jurors negotiate their verdicts and offers them to the court.

In the case of a GMC prosecution, the Panel consists of professional jurors paid per day by the GMC, the prosecuting authority. Any conflict of interest they might have had were reflected only in cursory notes about their roles outside the GMC, displayed on the GMC web site. In relation to the specific case, none of the Panel were asked about whether they agreed with mass vaccination, whether or not they or any of their relations had autistic children or for that matter what their employment was prior to offering themselves as Panel members. There was no elected foreperson of the jury because the GMC imposes a Panel Chair. Again, details of the Chair's interests are noted on the GMC's web site, with no particular sharpness or alacrity. The Panel Chairman and any other Panel members might take the advantage of making a declaration at any time during the hearing.

In the Wakefield, Murch, Walker-Smith hearing, the GMC first chose a Professor Dennis McDevitt as Panel Chairman, however, campaigners forced the GMC to make McDevitt stand down when they made public the fact that in 1988, McDevitt had been a member of the very JCVI committee that had agree the safety of Pluserix MMR, manufactured by Smith Kline & French (now GlaxoSmithKline). In fact, following serious adverse reactions, this vaccine was belatedly withdrawn in 1992. A number of the children who suffered adverse reactions to Pluserix were claimants in the court case for which Dr Wakefield had been asked to give expert witness evidence. Nor only this, but McDevitt had received research funding from both Glaxo and Smith Kline French before both companies joined to become GlaxoSmithKline the MMR vaccine manufacturers. Even the GMC was unable to get away with such a high level of duplicity and conflict of interest.

The question that preoccupied me during the first three months of the GMC Fitness to Practice Hearing was this: if the GMC had gone to these lengths to shoo-in the first clearly biased Chair of the Panel, having been found out, were they likely to just give up and enter a second 'clean' candidate for Panel Chair? I had serious doubts, so I began researching an essay to see if superficially Dr Kumar had any vested interests.

It should be understood that the Panel Chair in GMC hearings is the most influential member of the jury, the person most in need of neutral and independent thinking, a person, like all other jury members, who has to be free from any taint of bias or preconception about the guilt or

innocence of the defendants. It goes without saying that the GMC, the prosecuting agency in this case, was duty bound to summon all its resources in testing all panel members in this hearing in great detail in order to discover and make public any possible conflicts of interests.

* * *

Anyone who took the trouble to go to the GMC web site and look at the declarations of possible panel members, could have ascertained that Dr Kumar was connected to the following organisations:

Principal General Practitioner. President, British International Doctors Association (formerly ODA). Interests: Medical Defense matters & Medico-politics. Member: General Practitioner's Committee (BMA), UK National Screening Committee (Dept of Health). Fellow: Royal College of GPs (FRCGP). Fellow BMA. Member Independent Review Panels of MHRA (Medicine & Health Care Regulatory Agency). Member of Clinical Executive Committee (CEC) of Halton & St Helens PCT. Member of Medical Protection Society.

The above list is as far as the GMC 'Conflict of Interest' policy takes us in the case of Dr Kumar. In fact, this list is woefully inadequate as one of Conflict of Interests and, in fact, discloses nothing specifically that might lead defence counsel to embark upon more detailed enquiries about Dr Kumar. However, I considered that this superficial review of Dr Kumar's involvement in the medical culture of the GMC, needed in such a sensitive case to be thoroughly investigated.

That Kumar's conflict of interests were not seriously probed or challenged was mainly the fault of the defence counsel, who throughout the case appeared to want to be polite and accommodating in relation to the prosecution. One can only assume that from the beginning of the case the defence lawyers denied the politics of the case and stuck doggedly to what they considered their 'legal' brief.

I have had considerable experience of defence lawyers in political cases, working as a Mackenzie friend throughout the 1970s and 1980s. The problems always begin with defence lawyers isolating the case from its social and political context. From the beginning, Dr Wakefield had considerable political support that should have been mobilized as a

defence campaign which the lawyers kept informed. Instead, Wakefield's solicitors and counsel swore Wakefield to secrecy and convinced him that the hearing was an easily winnable legal battle. Meanwhile, Brian Deer and the Sunday Times, the pharmaceutically controlled lobby groups, blog sites and tabloid newspapers continued a relentless campaign against him well beyond the legal detail of the hearing.

Perhaps more important than this, while the Chairman of the panel intoned that the hearing was nothing to do with vaccination, the government pressed on with its very public vaccine programme which made it appear that vaccination was a matter of life or death and anyone who stood in its way was possibly a murderer. Dr Wakefield's case was a political case and the lawyers should have seen this and refused to play ball without the most intense public investigation of such things as conflict of interest. As it was, the defence entered the hearing exuding bonhomie and acting as if the whole matter was just a terrible misunderstanding.

It was very noticeable that at the beginning of this hearing in 2007, there was no structured mechanism for introducing conflict of interest information, all of which should have been provided by the GMC and been the basis for challenges by defence council. Dr Kumar did make an almost mute point of telling the hearing, in general terms and quite hastily, that he had previously sat on committees that were part of the Medicines Control Agency (MCA). (4) It was also the case that at any point in the hearing when a named person known to Dr Kumar, or a particular place of work, cropped up, he told the hearing that he knew or had worked in the vicinity of this person or this location. (5)

In looking at what might be considered Dr Kumar's vested interests that might have been declared at the start of the Wakefield, Murch and Walker-Smith fitness to practice hearing, I have concentrated on four areas: Kumar's previous involvement with the GMC, his work on two committees of the MHRA, his work for the Department of Health, his work as Chairman of the British International Doctors Association (BIDA), and the previously declared information about shareholdings in GSK.

* * *

Between 1999 and 2005, it was recorded that Dr Kumar was a consistent activist within the GMC, the prosecuting authority in this case, and had, as he made clear in his list of posts and affiliations on the GMC site, prior

to 2004 been a GMC council member and served on the following committees: the 'registration committee', the 'health committee', the 'professional conduct committee', and the 'racial equality and diversity committee'. As an Associate of the GMC since 2003, he has also been a panel member on 'fitness to practice' hearings.

We have to bear in mind that the Panel in these cases is the jury, a small group of individuals capable of bringing in a verdict of dishonesty, that stands to a doctor with as much authority as the finding in a criminal law trial. Clearly the jury should be absolutely untainted by any involvement with either the defendants, the prosecutors or the many central issues of the case. In this case we have to consider whether being so intimately involved with the GMC it is possible that Kumar might have been au fait with the GMC's position on the prosecution of Dr Wakefield. His choice as Chairman was in effect no different from the Crown Prosecution Service, the English prosecuting authority, ensuring that one of its staff was on a jury in a criminal trial.

Since the late 1990s, Dr Kumar had been involved in two British medicines regulatory bodies, the Medicines Control Agency (MCA) and its main committee, the Committee on the Safety of Medicines (CSM). The MCA became the Medicines and Health Care Regulatory Agency (MHCRA) and in 2005 the CSM became the Commission on Human Medicines. Dr Kumar was definitely on the CSM in 1998 and this is the committee membership that he alluded to at the beginning of the hearing. (6) Members of this committee discussed the safety of drugs and vaccines.

Following the restructuring of the MCA after it became the Medicine and Health products Regulatory Agency (MHRA), Dr Kumar sat on two of this body's most influential committees. The Independent Review Panel for Advertising (IRPA) and the Independent Review Panel for Borderline Products (IRPBP). (7) Both the advertising of pharmaceutical products and the definition of what is a medicine are two of the hottest topics presently involving pharmaceutical companies in Britain and the first group is certainly relevant in relation to the advertising of MMR. Both the IRPA and the IRPBP has a policy of members declaring personal and non-personal interests. (8)During 2003, 2004 and 2005, and through 2006 into 2007, when the GMC hearing began, the MHRA records show that Dr Kumar held shares in GSK.

On hearing of the MHRA for the first time, it might seem to many people

that it is a 'normal' government regulatory agency. Few people would guess that the MHRA, while being the most important regulatory body for medicines in Great Britain and the organisation which, for example, processes Yellow Cards that notify the DH of averse reactions to drugs, is actually a trading company completely subsidised by the pharmaceutical industry.

The MHRA took over from the MCA in 2003. The MHRA is a Government Trading Fund that might just as well be called a business or a corporation. A Trading Fund is an almost entirely separate economic entity that earns money by the provision of services and, like any kind of company, it must balance the books at the end of each year. However, unlike a number of other Government Trading Funds, which provide services, earn money and accept fees from diverse ‘beyond government’ sources, the whole of the MHRA income is provided by one funding source; the pharmaceutical industry. Further, a percentage of staff and executives of the agency, have come into it from the pharmaceutical industry. It is therefore not surprising that, funded and partly staffed by the industry, its policies are shaped to please this sector. When considering conflict of interests, the workings of the MHRA have to be seen in light of the fact that the agency is completely beholden to the pharmaceutical industry.

Dr Kumar sits on the UK National Screening Committee that is chaired by the Chief Medical Officer for Scotland and advises Ministers and the National Health Service (NHS) in all four UK countries about all aspects of screening policy and implementation. Screening programmes are of immense importance to the contemporary drugs industry as the ongoing embittered battle over the Gardasil vaccine against human papillomavirus (HPV) for pre-pubescent girls is showing.

The Department of Health (DH), a central aspect of the NHS has been at the very forefront of the battle against Dr Andrew Wakefield. Anyone seeking information about MMR from the DH web site was at the time of the start of the hearing directed through links to Brian Deer's web site and, apparently speaking for the New Labour government and the DH, Deer gives his version of the crimes of Dr Wakefield. The DH gives no links to other web sites of a similar kind and there is not the slightest attempt at balance. (9)

If at the time I wrote my essay An Interest in Conflict, you had gone to 'MMR the facts' via the NHS site and put Brian Deer in the search box, the

site would have served you 50 items which mention Deer's work. The first item was this:

'MMR news: 14-Nov-04: Sunday Times: MMR scare doctor planned rival vaccine. Doctor whose work provoked a worldwide scare over MMR failed to reveal that he was developing his own commercial rival to the vaccine.' 'MMR scare doctor planned rival vaccine, Sunday Times - Brian Deer.' 'It has emerged that a patent was filed on behalf of Dr Andrew Wakefield for a measles vaccine and other products that would have stood a better chance of success if public confidence in MMR's safety was undermined. To read the full Brian Deer article in the Sunday Times, please visit Times Online'.

Now, the fact is, despite it being promulgated by the lobby groups, the Sunday Times and the government, this story promoted by the NHS is not true. Of all the allegations made by Brian Deer, this is one of the most apparently prejudicial while being completely untrue. The 'competitive vaccine' referred to was Transfer Factor, which Dr Wakefield experimented with in the hope that it might help children overcome serious adverse reactions to measles and other vaccines. The GMC enquiry was so little enamored of this 'evidence' that it dismissed it almost entirely, concentrating instead on whether or not Dr Wakefield, or either of the other two defendants were acting ethically in prescribing Transfer Factor to one child who was recorded in the Lancet paper.

Looking briefly at another connection between the NHS, Brian Deer's web site and the GMC hearing, if you travelled to Brian Deer's web site through the NHS 'MMR News' you would have found an analysis of the Lancet paper by a Professor Trish Greenhalgh. This off-the-cuff analysis repeats almost word for word the prosecution case put by the GMC. The fable suggests that the Lancet paper case-series review, was in fact a badly conducted full blown research project organised to prove that MMR caused autism in vaccinated children.

Greenhalgh's explanation of the Lancet paper (10) is quite extraordinary in that it followed the line of Deer and the GMC rather than the paper itself. Greenhalgh's interview answers give a very clear view of how Dr Wakefield's detractors, from the beginning, tried to portray the Lancet paper as the record of a full-blown study, rather than a short 'case series review'. They also give us an insight into the case that the GMC began prosecuting and how this case was broadcast by the NHS and the DH.

So the happy coincidence of Dr Kumar's involvement at a relatively high level in the NHS, although it might be dismissed as purely co-incidental, would appear inevitably to prejudice his view of the Lancet study if we understand that the NHS and the DH was from the beginning promulgating the GMC's prosecution view of Dr Wakefield's work.

To show how far up the system the honesty paralysis went within the NHS, at the beginning of the GMC hearing, we might quote John Stone:

After the publication of Brian Deer's story the Chief Medical Officer, Sir Liam Donaldson remarked to the BBC Today Programme (23 February 2004 - three years before the GMC trial began): 'Now a darker side of this work has shown through, with the ethical conduct of the research and this is something that has to be looked at'. On the same day the Prime Minister said to ITV [commenting on Brian Deer's article]: 'I hope now that people see the situation is somewhat different from what they were led to believe'. (11)

Since 2002, Dr Kumar has been the National President of the British International Doctors Association (BIDA). Prior to that he was, from 1990-1996, the General Secretary of the organisation. BIDA was established in the United Kingdom with the objectives of promoting the interests of Ethnic Minority Doctors and Dentists working in the United Kingdom. However, what doesn't become clear on the BIDA web site, unless you look closely, is the fact that the organisation is funded not only with membership fees but also by pharmaceutical companies. BIDA's magazine is also subsidised by drug company advertising. This information is declared by Dr Kumar in his conflict of interest declaration for the MHRA but not for the GMC.

Not only is it the case that anyone adjudicating in the Wakefield fitness to practice hearing has had from the beginning the power to raise or lower the price of vaccine manufacturers shares, there is inevitably a question that has to be answered about the individuals' commitment to that company and how these shares were obtained, were they given as payment by the company or bought from them?

* * *

I can remember that morning clearly. We had returned to the hearing

after one of those interminable delays and I was staying not far across the Euston Road in the Indian Student YMCA. I had a cheap down to earth room without anything resembling breakfast, and was not in any sense looking forward to yet another day in the hearing. Over the last break I had managed to finish the essay about the conflict of interests inherent in the hearing and particularly those of the Panel Chairman. I suppose that I was slightly apprehensive; on a previous occasion I had released an essay during a break, only to return to find Brian Deer raging against me outside the GMC building.

I went into the building, feeling as always somehow dwarfed by the architecture of post-modern humiliation, chatted to the funereally dressed young woman behind the polished granite desk, picket up my name tab on a red lanyard, stepped with experienced precision through the automatically opening glass half door turnstile to the lift. The lift was a place of concern for by this point you had passed through the cordon sanitaire of the GMC foyer and could well come face to face with one of the prosecution team, or a panel member.

The third floor that morning seemed eerily quiet and it was from that point onwards that I began to suspect the worst. Sitting in the outer lounge I glanced through the Daily Telegraph and got a cardboard cup of green tea from the machine. I eventually slipped through the glass doors into the carpeted corridor and then into the four rows of chairs that constituted the public gallery. I sat down, got out my pen and notebook, placed my coat over the back of the chair and sat quietly waiting.

Usually when the defence lawyers and the defendants came in, they glanced in my direction, after all I had attended as many days of the hearing as they had and I was considered a familiar face. On that day, there was a long wait before anyone came into the hearing room and the lawyers particularly, although sometimes smiling slightly, kept their heads down. As the last members of the panel entered the room, the Legal Assessor, a neat piggy faced man, was still in animated conversation with Dr Wakefield's counsel. It was then that I knew that something was about to happen and that something might involve me; after all I was the only outsider there.

Everyone took their seats and the little man with the pink face pulled at his cuffs, looked into the still air in front of him and then launched into me.

A judge in real life, the Legal Assessor described my essay as an 'unhelpful intervention', adding, 'if this person thought that he was helping anyone he was mistaken'. Of course, in saying this, he entirely missed the point, I have no interest in 'helping anyone', just in speaking up for the parents and their vaccine damaged children and, the more abstract cause of 'justice'.

The assessor, however, employed by the GMC, was more pragmatically concerned than I was. One of his objections to my essay was:

If anybody thought that they were helping anyone, they were not because it has involved lawyers having to read and consider it, it will have involved unnecessary expense, unnecessary work and possibly even unnecessary concern.

Inevitably my mind rolled back over the junk journalism that Deer had produced during the hearing, including a long article that newly accused Dr Wakefield of fixing the results of his research. One of my worst crimes, it appeared, was that I had made the intervention with my essay 'at this point in the hearing', that is, after a year of the prosecution's prevaricating, repetitious time wasting.

The best that can be said is that this was considerably unhelpful and entirely inappropriate at this stage in these proceedings.

He implied that, had I made my observation about Dr Kumar's conflict of interest at the beginning of the hearing, it would have been considered in a more kindly light.

The Assessor made the point that Dr Kumar had declared his conflicts of interests at the beginning of the hearing. Of course, neither the legal assessor or anyone else involved, could have read from the transcript Dr Kumar's exact words when, during the hearing, he explained that he held shares in GSK, the vaccine manufacturer.

The Assessor went on to accuse me of a criminal act for which unfortunately his tribunal was unable to prosecute me.

Unfortunately, this is not a court of law and does not have the benefit of contempt law, otherwise I might give firmer advice to the Panel as on

how to deal with such interventions. The Panel members who were shown this of course were concerned about the propriety of their position. It is an entirely unhelpful intervention.

For the rest of the day I caught Kumar leaning forward slightly and glancing side-stares at me, still the only person in the public gallery, as if he were reminding himself of my features. I wondered what he was thinking and was amazed at the seeming effrontery embodied in those glances.

As I was writing for CryShame, the parents' organisation at this time, the Chair of CryShame, Allison Edwards, following this cover-up by the Panel chairman and the Legal Assessor, supported my attempts to get the GMC to make a clear statement about their conflict of interest policy. After an exchange of correspondence, the GMC admitted that they didn't actually have such a policy.

Brian Deer, clearly primed by someone to reply to my relatively academic finding of Dr Kumar's GSK shares, responded with a vitriolic personal attack:

Some of the latter (parents), in their pain, have now turned nasty: with me as a target for their hatreds. Although almost literally a handful of people, and some with no link to MMR or autism at all, they've insinuated themselves among affected British families and are causing distress with false allegations. Among these is a claim that my Sunday Times and Channel 4 investigation - which nailed the scare and helped to restore public confidence - was covertly supported by the drug industry.

A string of recent outings for this sickening falsehood are authored by a 61-year-old graphic artist called Martin Walker, who apparently lives in Spain, but last year surfaced at the mammoth hearings of the GMC in London. He claims to be a "health activist", and, although generally of little consequence, is a relentless peddler of smear and denigration, with a track record of latching onto the vulnerable. These he beguiles - like he's their new best friend - and then, if past form is a predictor for the future, attempts to sell them self-published books. (12)

* * *

My last two posts have been about corrupt detail of the GMC hearing; I

have written them as part of my reality check. In times when even the strongest and most committed feel weakness like a nausea, travelling back can reassure us of the manipulation that has taken place. As a writer, of course, I am used to the details of my work getting lost in the slipstream of a struggle. As days go by, things that are important in context get jammed on the towpath and we find it difficult to keep the overall picture in view.

At the end of August 2008, I wrote an essay, (2) In the Interests of Conflict. In it I tried to bring-up the issues of conflict of interest to the heart of the GMC hearing and lay it at the feet of the Panel Chairman Dr Surendra Kumar. I consider conflict of interest massively important, because this is the hidden mechanism by which corporate science manipulates reality. This is the secret armoury of funding and public relations that hides in the bunkers beneath an apparently level playing field.

The whole battle against Dr Wakefield and the parents has been shot through with conflict of interest, some of which might be refuted, some of which might be made to appear trivial and some of which might be dismissed as coincidental. I believe, however, that my essay about the Panel Chairman, like some of John Stone's investigative work, raised irrefutable issues that should have brought the GMC hearing to a juddering halt.

* * *

In the late nineteen eighties, at roughly the same time that the MMR vaccine was introduced by the British government, Dr Andrew Wakefield took up a post at the Royal Free Hospital. He was a well-respected gastroenterologist charged with the task of heading a new department of experimental gastroenterology. One of the areas he was to research was the increase in Crohn's disease amongst young people. Wakefield, who had travelled from Canada where he had been researching bowel transplantation, would win awards for his work on the aetiology of Crohn's disease.

In 1992, the British government backhandedly admitted that two of the three types of MMRs they had introduced in the late 1980s had been dropped following serious adverse reactions created by the Urabe strain of mumps virus used. Thousands of children, principally in Canada, Japan

and Britain, were made ill by this vaccine. However, in Japan and Canada parents of vaccine damaged children were quickly compensated. In Britain, a morally bankrupt Department of Health sided with the pharmaceutical industry to claim that the adverse reactions suffered by these children were so slight as to be of no consequences. (3)

By 1993, parents seeking help with one aspect of MMR's adverse reactions, a novel new condition of Inflammatory Bowel Disease (IBD) followed by regressive autism, began to attend the Royal Free Hospital. As these children began presenting there, Dr Wakefield contacted the DH to inform the head of vaccine and immunology Dr David Salisbury that he considered MMR could be creating a public health crisis and asked for a meeting. It took Salisbury almost six years to arrange such a meeting.

In 1992, the parents of MMR vaccine damaged children began preparing a legal claim against three pharmaceutical companies. By the end of the 1990s the number of parent claimants attached to this lawsuit had grown to around 2,500 and Dr Wakefield had been assigned by the claimants' lawyers to give expert evidence for the parents. In 1998 the Lancet published the case review paper and later that year Deer wrote the first of a series of articles character assassinating previous expert witnesses who had appeared for vaccine damaged claimants and casting doubt upon other cases of vaccine damage claimants.

In 2004 after a decade of organisation and legal finessing, , the first batch of claimants cases, were due to come before the High Court. However, in a move to support the pharmaceutical companies and deny thousands of parents their rights under civil law, legal aid was withdrawn from all the cases. Under a post-industrial New Labour government, a century of civil law enabling citizens to sue powerful interests was snatched from the people.

2004 was the fulcrum year, the year when the legitimate legal claims of citizens against three pharmaceutical companies were turned on their head and a zealous, immoral and criminal campaign was begun by the government and the pharmaceutical companies to wipe out all reports of vaccine damage and anyone who might stand as an expert on this issue. Only months after Deer's Sunday Times attack on Dr Wakefield, Dr Richard Horton whose line manager at Elsevier the Lancet's publisher was Sir Crispin Davis also a board member of GlaxoSmith Kline, published a pulp fiction paperback which lauded the absolute safety of MMR.

* * *

Immediately after Brian Deer's 2004 article in the Sunday Times and following the instructions of John Reid, the then Secretary of State for Health, Deer submitted his papers as a complaint against Dr Wakefield to the General Medical Council. The journey of Deer's speculative and shoddily researched article to the GMC prosecution is crammed with abuses of the legal process, I detail some of them below before I discuss what I believe to be the most important issue of conflict of interest.

Since 1988, there have been two ways in which cases arrive at a Fitness to Practice Hearing at the GMC. There is the official route, by which a complaint made by a patient or relative can be filtered by readers and preliminary hearings to arrive in front of a panel, and there is the unofficial route by which cases promoted by the Association of British Pharmaceutical Industries (ABPI) arrive. This second path, made available by the GMC to Big Pharma, gives control to the industry over cases involving doctors who might be carrying out research for the industry which results in unethical behaviour, or damage to trial subjects or patients, or finally those cases of doctors who might have embarked upon research or treatments which threatens the competitiveness of pharmaceutical products. These cases are researched, investigated and then legally formulated in conjunction with GMC lawyers by a private detective agency solely funded by the pharmaceutical industry named Medico-Legal Investigations (MLI). While cases prepared internally by the GMC have resulted in mixed findings over the last two decades, cases prepared by the pharmaceutical industry usually result in guilty verdicts.

Neither the GMC nor its hearings make statements about the origins of cases that are brought against doctors, unless of course this is evident from the presentation of the complainant in the hearing. In the Wakefield, Murch and Walker-Smith hearing, the GMC consistently denied that Brian Deer was the complainant in the case and claimed spuriously that the case against the doctors had been brought by the GMC itself. As the defence lawyers approached the case as if it were any 'normal' case, the hearing never approached the issue of who had investigated and assembled the information of the case. However, we know from a number of sources that in investigating his case against Dr Wakefield, Brian Deer was helped by MLI. In the past MLI have used complainant journalists to progress cases into the GMC.

GMC Fitness to Practice Hearings, are constructed to all intents and purposes, like criminal or civil trials that take place in jury trials. To some extent this sets them aside from the usual extra-legal tribunals, such as those that deal with issues like unfair dismissal. It is, however, the way in which the hearings differ from a proper trial that must concern us; these differences are startling. The first and perhaps most seminal difference is that while the judiciary in Britain is separated from the political executive, the GMC acting as the prosecuting authority pays for the employment of all parties, other than the defence, including the jury (Panel), in any hearing.

In a real criminal trial, which the Wakefield hearing tried to emulate, all the investigation prior to charges being brought are carried out by the police. Over time such investigations have become trammelled by rules and regulations, such as the judges rules in Britain and the Miranda ruling in the US.

It is interesting that although the GMC lawyers gathered a series of unproductive and dubious prosecution statements from a whole variety of people, they depended quite heavily for their information of the three defendants, not just upon their evidence but on written statements obtained under threat by Brian Deer and Dr Richard Horton. None of the defendants had access to lawyers when they were pressured into making these statements. All three doctors answered questions put to them by Deer, under the threat that the Sunday Times was about to break a story that would ruin them, with a sincere desire to help put together a complete story of the work that had been done at the RFH. None of the doctors knew that what they said would be used against them in a legal hearing.

When it comes to the structure of the court, this tries to mimic a real court. There are defence counsel and prosecutors, there are defendants and a 'jury' called a Panel, there is a Legal Assessor to the Panel who tacitly takes the place of a judge in advising them. The difference between a real judge and the Legal Assessor is that one of the real judge's most skilful tasks is to advise the jury in public session on what weight should be placed on the evidence. In the GMC hearing the Legal Assessor had no such role; God knows how the Panel understood or contextualised the evidence they heard over two and a half years. It us clear by the ultimately shambolic verdict that the Panel failed or refused

to grasp the most basically transparent defence evidence, upon which nearly all the verdicts rested, that 'the Lancet paper' was only a case review report and not a 'study' or 'trial' of any kind. Such defence evidence had to be agreed by the Panel because they had to allow the defence the benefit of the doubt on any unproven allegations.

In the proper court, not only are the jurors chosen from the population at random, but the counsel for either side are allowed peremptory challenges, to ascertain any kind of bias in the jurors that might apply specifically in relation to the case being heard. In Britain, this right to peremptory challenge has been completely eroded over the last decades, ending with the 1988 Criminal Justice Act. However, in an important case, involving for instance a police officer charged with causing a death, the judge will usually warn the jury of conflict of interest and ask anyone who has been a police officer or who had a relative who was a police officer or anyone who worked in a civilian capacity within a police station to declare this. Having concluded these tests, the jury themselves chose their foreman or woman in camera and this person helps the other jurors negotiate their verdicts and offers them to the court.

In the case of a GMC prosecution, the Panel consists of professional jurors paid per day by the GMC, the prosecuting authority. Any conflict of interest they might have had were reflected only in cursory notes about their roles outside the GMC, displayed on the GMC web site. In relation to the specific case, none of the Panel were asked about whether they agreed with mass vaccination, whether or not they or any of their relations had autistic children or for that matter what their employment was prior to offering themselves as Panel members. There was no elected foreperson of the jury because the GMC imposes a Panel Chair. Again, details of the Chair's interests are noted on the GMC's web site, with no particular sharpness or alacrity. The Panel Chairman and any other Panel members might take the advantage of making a declaration at any time during the hearing.

In the Wakefield, Murch, Walker-Smith hearing, the GMC first chose a Professor Dennis McDevitt as Panel Chairman, however, campaigners forced the GMC to make McDevitt stand down when they made public the fact that in 1988, McDevitt had been a member of the very JCVI committee that had agree the safety of Pluserix MMR, manufactured by Smith Kline & French (now GlaxoSmithKline). In fact, following serious adverse reactions, this vaccine was belatedly withdrawn in 1992. A

number of the children who suffered adverse reactions to Pluserix were claimants in the court case for which Dr Wakefield had been asked to give expert witness evidence. Nor only this, but McDevitt had received research funding from both Glaxo and Smith Kline French before both companies joined to become GlaxoSmithKline the MMR vaccine manufacturers. Even the GMC was unable to get away with such a high level of duplicity and conflict of interest.

The question that preoccupied me during the first three months of the GMC Fitness to Practice Hearing was this: if the GMC had gone to these lengths to shoo-in the first clearly biased Chair of the Panel, having been found out, were they likely to just give up and enter a second 'clean' candidate for Panel Chair? I had serious doubts, so I began researching an essay to see if superficially Dr Kumar had any vested interests.

It should be understood that the Panel Chair in GMC hearings is the most influential member of the jury, the person most in need of neutral and independent thinking, a person, like all other jury members, who has to be free from any taint of bias or preconception about the guilt or innocence of the defendants. It goes without saying that the GMC, the prosecuting agency in this case, was duty bound to summon all its resources in testing all panel members in this hearing in great detail in order to discover and make public any possible conflicts of interests.

* * *

Anyone who took the trouble to go to the GMC web site and look at the declarations of possible panel members, could have ascertained that Dr Kumar was connected to the following organisations:

Principal General Practitioner. President, British International Doctors Association (formerly ODA). Interests: Medical Defense matters & Medico-politics. Member: General Practitioner's Committee (BMA), UK National Screening Committee (Dept of Health). Fellow: Royal College of GPs (FRCGP). Fellow BMA. Member Independent Review Panels of MHRA (Medicine & Health Care Regulatory Agency). Member of Clinical Executive Committee (CEC) of Halton & St Helens PCT. Member of Medical Protection Society.

The above list is as far as the GMC 'Conflict of Interest' policy takes us in

the case of Dr Kumar. In fact, this list is woefully inadequate as one of Conflict of Interests and, in fact, discloses nothing specifically that might lead defence counsel to embark upon more detailed enquiries about Dr Kumar. However, I considered that this superficial review of Dr Kumar's involvement in the medical culture of the GMC, needed in such a sensitive case to be thoroughly investigated.

That Kumar's conflict of interests were not seriously probed or challenged was mainly the fault of the defence counsel, who throughout the case appeared to want to be polite and accommodating in relation to the prosecution. One can only assume that from the beginning of the case the defence lawyers denied the politics of the case and stuck doggedly to what they considered their 'legal' brief.

I have had considerable experience of defence lawyers in political cases, working as a Mackenzie friend throughout the 1970s and 1980s. The problems always begin with defence lawyers isolating the case from its social and political context. From the beginning, Dr Wakefield had considerable political support that should have been mobilized as a defence campaign which the lawyers kept informed. Instead, Wakefield's solicitors and counsel swore Wakefield to secrecy and convinced him that the hearing was an easily winnable legal battle. Meanwhile, Brian Deer and the Sunday Times, the pharmaceutically controlled lobby groups, blog sites and tabloid newspapers continued a relentless campaign against him well beyond the legal detail of the hearing.

Perhaps more important than this, while the Chairman of the panel intoned that the hearing was nothing to do with vaccination, the government pressed on with its very public vaccine programme which made it appear that vaccination was a matter of life or death and anyone who stood in its way was possibly a murderer. Dr Wakefield's case was a political case and the lawyers should have seen this and refused to play ball without the most intense public investigation of such things as conflict of interest. As it was, the defence entered the hearing exuding bonhomie and acting as if the whole matter was just a terrible misunderstanding.

It was very noticeable that at the beginning of this hearing in 2007, there was no structured mechanism for introducing conflict of interest information, all of which should have been provided by the GMC and been the basis for challenges by defence council. Dr Kumar did make an almost mute point of telling the hearing, in general terms and quite hastily, that

he had previously sat on committees that were part of the Medicines Control Agency (MCA). (4) It was also the case that at any point in the hearing when a named person known to Dr Kumar, or a particular place of work, cropped up, he told the hearing that he knew or had worked in the vicinity of this person or this location. (5)

In looking at what might be considered Dr Kumar's vested interests that might have been declared at the start of the Wakefield, Murch and Walker-Smith fitness to practice hearing, I have concentrated on four areas: Kumar's previous involvement with the GMC, his work on two committees of the MHRA, his work for the Department of Health, his work as Chairman of the British International Doctors Association (BIDA), and the previously declared information about shareholdings in GSK.

* * *

Between 1999 and 2005, it was recorded that Dr Kumar was a consistent activist within the GMC, the prosecuting authority in this case, and had, as he made clear in his list of posts and affiliations on the GMC site, prior to 2004 been a GMC council member and served on the following committees: the 'registration committee', the 'health committee', the 'professional conduct committee', and the 'racial equality and diversity committee'. As an Associate of the GMC since 2003, he has also been a panel member on 'fitness to practice' hearings.

We have to bear in mind that the Panel in these cases is the jury, a small group of individuals capable of bringing in a verdict of dishonesty, that stands to a doctor with as much authority as the finding in a criminal law trial. Clearly the jury should be absolutely untainted by any involvement with either the defendants, the prosecutors or the many central issues of the case. In this case we have to consider whether being so intimately involved with the GMC it is possible that Kumar might have been au fait with the GMC's position on the prosecution of Dr Wakefield. His choice as Chairman was in effect no different from the Crown Prosecution Service, the English prosecuting authority, ensuring that one of its staff was on a jury in a criminal trial.

Since the late 1990s, Dr Kumar had been involved in two British medicines regulatory bodies, the Medicines Control Agency (MCA) and its main committee, the Committee on the Safety of Medicines (CSM). The MCA became the Medicines and Health Care Regulatory Agency (MHCRA)

and in 2005 the CSM became the Commission on Human Medicines. Dr Kumar was definitely on the CSM in 1998 and this is the committee membership that he alluded to at the beginning of the hearing. (6) Members of this committee discussed the safety of drugs and vaccines.

Following the restructuring of the MCA after it became the Medicine and Health products Regulatory Agency (MHRA), Dr Kumar sat on two of this body's most influential committees. The Independent Review Panel for Advertising (IRPA) and the Independent Review Panel for Borderline Products (IRPBP). (7) Both the advertising of pharmaceutical products and the definition of what is a medicine are two of the hottest topics presently involving pharmaceutical companies in Britain and the first group is certainly relevant in relation to the advertising of MMR. Both the IRPA and the IRPBP has a policy of members declaring personal and non-personal interests. (8)During 2003, 2004 and 2005, and through 2006 into 2007, when the GMC hearing began, the MHRA records show that Dr Kumar held shares in GSK.

On hearing of the MHRA for the first time, it might seem to many people that it is a 'normal' government regulatory agency. Few people would guess that the MHRA, while being the most important regulatory body for medicines in Great Britain and the organisation which, for example, processes Yellow Cards that notify the DH of averse reactions to drugs, is actually a trading company completely subsidised by the pharmaceutical industry.

The MHRA took over from the MCA in 2003. The MHRA is a Government Trading Fund that might just as well be called a business or a corporation. A Trading Fund is an almost entirely separate economic entity that earns money by the provision of services and, like any kind of company, it must balance the books at the end of each year. However, unlike a number of other Government Trading Funds, which provide services, earn money and accept fees from diverse ‘beyond government’ sources, the whole of the MHRA income is provided by one funding source; the pharmaceutical industry. Further, a percentage of staff and executives of the agency, have come into it from the pharmaceutical industry. It is therefore not surprising that, funded and partly staffed by the industry, its policies are shaped to please this sector. When considering conflict of interests, the workings of the MHRA have to be seen in light of the fact that the agency is completely beholden to the pharmaceutical industry.

Dr Kumar sits on the UK National Screening Committee that is chaired by the Chief Medical Officer for Scotland and advises Ministers and the National Health Service (NHS) in all four UK countries about all aspects of screening policy and implementation. Screening programmes are of immense importance to the contemporary drugs industry as the ongoing embittered battle over the Gardasil vaccine against human papillomavirus (HPV) for pre-pubescent girls is showing.

The Department of Health (DH), a central aspect of the NHS has been at the very forefront of the battle against Dr Andrew Wakefield. Anyone seeking information about MMR from the DH web site was at the time of the start of the hearing directed through links to Brian Deer's web site and, apparently speaking for the New Labour government and the DH, Deer gives his version of the crimes of Dr Wakefield. The DH gives no links to other web sites of a similar kind and there is not the slightest attempt at balance. (9)

If at the time I wrote my essay An Interest in Conflict, you had gone to 'MMR the facts' via the NHS site and put Brian Deer in the search box, the site would have served you 50 items which mention Deer's work. The first item was this:

'MMR news: 14-Nov-04: Sunday Times: MMR scare doctor planned rival vaccine. Doctor whose work provoked a worldwide scare over MMR failed to reveal that he was developing his own commercial rival to the vaccine.' 'MMR scare doctor planned rival vaccine, Sunday Times - Brian Deer.' 'It has emerged that a patent was filed on behalf of Dr Andrew Wakefield for a measles vaccine and other products that would have stood a better chance of success if public confidence in MMR’s safety was undermined. To read the full Brian Deer article in the Sunday Times, please visit Times Online'.

Now, the fact is, despite it being promulgated by the lobby groups, the Sunday Times and the government, this story promoted by the NHS is not true. Of all the allegations made by Brian Deer, this is one of the most apparently prejudicial while being completely untrue. The 'competitive vaccine' referred to was Transfer Factor, which Dr Wakefield experimented with in the hope that it might help children overcome serious adverse reactions to measles and other vaccines. The GMC enquiry was so little enamored of this 'evidence' that it dismissed it almost entirely, concentrating instead on whether or not Dr Wakefield, or

either of the other two defendants were acting ethically in prescribing Transfer Factor to one child who was recorded in the Lancet paper.

Looking briefly at another connection between the NHS, Brian Deer's web site and the GMC hearing, if you travelled to Brian Deer's web site through the NHS 'MMR News' you would have found an analysis of the Lancet paper by a Professor Trish Greenhalgh. This off-the-cuff analysis repeats almost word for word the prosecution case put by the GMC. The fable suggests that the Lancet paper case-series review, was in fact a badly conducted full blown research project organised to prove that MMR caused autism in vaccinated children.

Greenhalgh's explanation of the Lancet paper (10) is quite extraordinary in that it followed the line of Deer and the GMC rather than the paper itself. Greenhalgh's interview answers give a very clear view of how Dr Wakefield's detractors, from the beginning, tried to portray the Lancet paper as the record of a full-blown study, rather than a short 'case series review'. They also give us an insight into the case that the GMC began prosecuting and how this case was broadcast by the NHS and the DH.

So the happy coincidence of Dr Kumar's involvement at a relatively high level in the NHS, although it might be dismissed as purely co-incidental, would appear inevitably to prejudice his view of the Lancet study if we understand that the NHS and the DH was from the beginning promulgating the GMC's prosecution view of Dr Wakefield's work.

To show how far up the system the honesty paralysis went within the NHS, at the beginning of the GMC hearing, we might quote John Stone:

After the publication of Brian Deer's story the Chief Medical Officer, Sir Liam Donaldson remarked to the BBC Today Programme (23 February 2004 - three years before the GMC trial began): 'Now a darker side of this work has shown through, with the ethical conduct of the research and this is something that has to be looked at'. On the same day the Prime Minister said to ITV [commenting on Brian Deer's article]: 'I hope now that people see the situation is somewhat different from what they were led to believe'. (11)

Since 2002, Dr Kumar has been the National President of the British International Doctors Association (BIDA). Prior to that he was, from 1990-1996, the General Secretary of the organisation. BIDA was established in

the United Kingdom with the objectives of promoting the interests of Ethnic Minority Doctors and Dentists working in the United Kingdom. However, what doesn't become clear on the BIDA web site, unless you look closely, is the fact that the organisation is funded not only with membership fees but also by pharmaceutical companies. BIDA's magazine is also subsidised by drug company advertising. This information is declared by Dr Kumar in his conflict of interest declaration for the MHRA but not for the GMC.

Not only is it the case that anyone adjudicating in the Wakefield fitness to practice hearing has had from the beginning the power to raise or lower the price of vaccine manufacturers shares, there is inevitably a question that has to be answered about the individuals' commitment to that company and how these shares were obtained, were they given as payment by the company or bought from them?

* * *

I can remember that morning clearly. We had returned to the hearing after one of those interminable delays and I was staying not far across the Euston Road in the Indian Student YMCA. I had a cheap down to earth room without anything resembling breakfast, and was not in any sense looking forward to yet another day in the hearing. Over the last break I had managed to finish the essay about the conflict of interests inherent in the hearing and particularly those of the Panel Chairman. I suppose that I was slightly apprehensive; on a previous occasion I had released an essay during a break, only to return to find Brian Deer raging against me outside the GMC building.

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The third floor that morning seemed eerily quiet and it was from that point onwards that I began to suspect the worst. Sitting in the outer lounge I glanced through the Daily Telegraph and got a cardboard cup of

green tea from the machine. I eventually slipped through the glass doors into the carpeted corridor and then into the four rows of chairs that constituted the public gallery. I sat down, got out my pen and notebook, placed my coat over the back of the chair and sat quietly waiting.

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The Assessor made the point that Dr Kumar had declared his conflicts of interests at the beginning of the hearing. Of course, neither the legal assessor or anyone else involved, could have read from the transcript Dr Kumar's exact words when, during the hearing, he explained that he held shares in GSK, the vaccine manufacturer.

The Assessor went on to accuse me of a criminal act for which unfortunately his tribunal was unable to prosecute me.

Unfortunately, this is not a court of law and does not have the benefit of contempt law, otherwise I might give firmer advice to the Panel as on how to deal with such interventions. The Panel members who were shown this of course were concerned about the propriety of their position. It is an entirely unhelpful intervention.

For the rest of the day I caught Kumar leaning forward slightly and glancing side-stares at me, still the only person in the public gallery, as if he were reminding himself of my features. I wondered what he was thinking and was amazed at the seeming effrontery embodied in those glances.

As I was writing for CryShame, the parents' organisation at this time, the Chair of CryShame, Allison Edwards, following this cover-up by the Panel chairman and the Legal Assessor, supported my attempts to get the GMC to make a clear statement about their conflict of interest policy. After an exchange of correspondence, the GMC admitted that they didn't actually have such a policy.

Brian Deer, clearly primed by someone to reply to my relatively academic finding of Dr Kumar's GSK shares, responded with a vitriolic personal attack:

Some of the latter (parents), in their pain, have now turned nasty: with

me as a target for their hatreds. Although almost literally a handful of people, and some with no link to MMR or autism at all, they've insinuated themselves among affected British families and are causing distress with false allegations. Among these is a claim that my Sunday Times and Channel 4 investigation - which nailed the scare and helped to restore public confidence - was covertly supported by the drug industry.

A string of recent outings for this sickening falsehood are authored by a 61-year-old graphic artist called Martin Walker, who apparently lives in Spain, but last year surfaced at the mammoth hearings of the GMC in London. He claims to be a "health activist", and, although generally of little consequence, is a relentless peddler of smear and denigration, with a track record of latching onto the vulnerable. These he beguiles - like he's their new best friend - and then, if past form is a predictor for the future, attempts to sell them self-published books. (12)

* * *

Returning finally to myself and my 'reputation', I feel that Deer's execrable writing above hopefully does him more damage than it does my reputation and it goes without saying that, though I value my reputation quite highly, it is dust in the wind compared to the monumental reappraisal that the parents of vaccine damaged children have had to effect in their lives since they were struck by this manufactured tragedy.

What astounds me now more than anything has nothing to do with any sense of personal hurt, but the sustainability of the gross lies told by Deer and his criminal contemporaries in the government and corporations. Since the verdict against Dr Wakefield, Professor Murch and Professor Walker-Smith, Deer has affected the most odious and duplicitous persona, hailing himself as the promoter of the parents' cause and expressing empathy with them after their painful victimisation by Dr Wakefield.

That political forces in Britain are able to air brush out a whole society of vaccine damaged children and their parents while censuring the academic history of a man who speaks out for them, is quite extraordinary. I spend days now wondering how we might reassert the presence of the parents and their children, making public the crimes of those centrally involved. (13) Were it not for the fact that I know this struggle is for the future of science, justice and the chimera that we call democracy, I would be tempted to move on.

Recently on television I watched an interview with an Italian anti-mafia judge and marveled, not for the first time, at the moral strength of such people. The British legal community is so desperately lacking in individuals of moral standing that no one has stepped forward to challenge the corruption with which the pharmaceutical mafia and the corporate State are mocking science, justice and the parents of vaccine damaged children. In the case of Dr Wakefield, the GMC has brought the legal and regulatory process into utter disrepute, raising the age-old question of Quis custodiet ipsos custodes? Who guards the guards?

Endnotes

(1) http://briandeer.com/mmr/mli-information.htm.

(2) All my essays over the period of the Wakefield case were published in Medical Veritas, Volume 6, Issue 1, April 2009.

(3) http://www.wesupportandywakefield.com/documents/The%20Urabe%20Farrago.pdf

(4) As related below, in 2003, the Medicines Control Agency (MCA) became the Medicines and Healthcare products Regulation Agency (MHRA).

(5) This practice coincides with a note about spontaneous declaration that I was sent by the GMC after making an enquiry about their policy:

There are, however, occasions relating to Fitness to Practise hearings when a conflict, or potential conflict, of interest may arise and which would not be recorded in the Register of Interest. This would include occasions where the doctor appearing before the panel, or a witness, was known to one of the panelists or where one of the panelists had prior knowledge of the events that led to the doctor's appearance before the panel. You will appreciate it is impossible to list such conflicts in the Register of Interests. The procedure on those occasions is that panelists are required to declare those interests as soon as they are aware of them. Panelists are usually able to declare such interests in advance of the start

of the hearing but there are instances where conflicts only become apparent during the course of a hearing e.g. as the evidence is adduced or when a witness is called.

(6) 1998 Summary of the Meeting of the Committee on Safety of Medicines held on 11th February 1998.

(7) The Medicines (Advertising and Monitoring of Advertising) Amendment Regulations 1999, SI No. 267, came into force on 5 April 1999 and completed the implementation of Directive 92/28/EEC. Regulation 13 and the Schedule contain a procedure for a review of the Health Minister's preliminary decision on whether an advertisement complies with the Medicines (Advertising) Regulations 1994, as amended ("the Regulations"). The Health Ministers proposed that the review would be undertaken by an Independent Review Panel.

(8) 2005, Independent Review Panel for Advertising: Declaration of members current personal and non-personal interests. http://www.mhra.gov.uk/Committees/Medicinesadvisorybodies/IndependentReviewPanelforAdvertising/AnnualReport/index.htm

(9) http://www.dh.gov.uk/en/Publichealth/Healthprotection/Immunisation/index.htm ....to.... MMR Explained ... to... http://www.mmrthefacts.nhs.uk/

(10) http://www.mmrthefacts.nhs.uk/search.php?keywords=Wakefield [MMR news]: Analysis of the 1998 Lancet Wakefield paper Professor Trisha Greenhalgh explains why the Wakefield 1998 Lancet paper should never have been published on scientific grounds.

(11) Cited by John Stone in his bmj response: http://www.bmj.com/cgi/eletters/328/7438/528#56300

(12) The majority of Deer's attack on me and my rebuttal are published in Medical Veritas.

(13) One way everyone can help is by buying copies of the first two Silenced Witnesses books in which the parents tell the stories of their vaccine damaged children.

Part Two of Counterfeit Law: A Tale of Two Trials

"The oath taken when in the witness box is no less solemn or important. Often the only evidence given in a case is that of a single Constable and on it the Magistrate has to decide the issue. The greatest care, therefore, must be exercised to avoid any statement which is not strictly true. Never keep anything back, on the other hand never enlarge on nor exaggerate the evidence. State your plain story in simple terms, remembering that on your plighted word depends the liberty of a fellow citizen".

Instruction to Recruits into the Liverpool City Police from the Deputy Head Constable. 1919

In Britain today, especially in relation to vaccines, the pharmaceutical industry has managed to completely disappear both the history and the idea of serious pharmaceutical adverse reactions. The past is like a raked-over garden, the pharmaceutical companies have re-written the history of law, medicine and democracy to make the public believe that no one has ever suffered an adverse reaction from a vaccine. This mirage is evidently helped by the fact that there has been only one in-court decision against the pharmaceutical companies on vaccine damage since the second world war. (1).

In the presentation of the new pharmaceutical reality, even the case of thalidomide, a drug that was advertised as being 'outstandingly safe' is now heralded as a fine example of how pharmaceutical companies admit to their errors, accidents and organised disasters; like a fake wall of remembrance on a Hollywood film set. The truth about thalidomide is that the involved multinational chemical and pharmaceutical companies put up massive obstruction, obfuscation and prevarication, in a wholesale attempt to evade responsibility for the damage it did.

In a series of international trials the defendants were able to find scientists from all over the world to come forward and give evidence that there was 'no proof ' thalidomide had damaged anyone. The German branch of the trial against Chemie Grunenthal, the original producers of the drug, began in 1968. Six years of preliminary investigations were

followed by two and a half years of court proceedings, and the case finally concluded without a verdict in December 1970.

The trial in Germany was marked by constant melodrama by the defence counsel who crowded the court, continually demanding that certain defendants were freed because of illness. Expert witnesses for the claimants were consistently accused of having vested interest - despite the fact that most of the expert witnesses for the defence either worked for the company whose executives were on trial or were good friends of theirs and despite the fact that one of the defence counsel had until only a few months before the trial been in the dock as one of the accused.

The defence brought a number of expert witnesses, including a Professor Chain from Britain. They argued that there was no scientific proof that thalidomide caused teratogenic effects of any kind. In what remains one of the great books about pharmaceutical and chemical companies denying 'adverse reactions' to drugs, Thalidomide and the Power of the Drug Companies, (2) Sjostrom and Nilsson have the following to say about the evidence of these expert witnesses - it is worth repeating at length:

'To everyone's surprise, Chemie Grunenthal was able to produce certain medical experts who claimed that the hypothesis that thalidomide caused abnormalities was unproven. At a time when the impact of the thalidomide disaster had caused the medical authorities of most civilized countries to tighten their legislation for drug control considerably; when the teratogenic action of thalidomide was included in elementary textbooks for medical students as a horrifying example of the teratogenicity of a drug in man; when the intake of thalidomide in the sensitive period of pregnancy was considered sufficient reason for legal abortion in Sweden; when scientists all over the world were working jointly in cooperation with the controlling authorities and pharmaceutical industries to prevent a repetition of what had happened; when at international meetings on medical science no single voice had every been raised against Lenz's interpretation; when drug companies all over the world in the West and the East had included the testing of drugs for teratogenicity as a standard procedure for testing drug toxicity; when the Astra company who manufactured the drug in Sweden under license from Grunenthal had admitted in the trial in Sweden that thalidomide was to be regarded as teratogenic in man; and when finally, the English manufacturers, Distillers, had agreed to pay compensation to the parents

of malformed children in an out-of-court settlement, nobody would have expected a professor of anatomy from the university of Gottingen (Erich Blechschmidst), a Professor in pathology (Karl Ferdinand Kloos), a professor of orthopaedics from the medical faculty of Aachen (Anton Hopf) and a professor of forensic law (Gerhard Rommeney) from Berlin, to stand up in the Casino in the small town of Alsdorf in Nordrhein-Westfalen and claim that it had never been shown that thalidomide caused foetal damage'.

Since the thalidomide case, the drugs companies in Britain have fought desperately to keep themselves out of court.

In April 2003, lawyers in Britain acting for one and a half thousand parents whose children had been damaged by vaccines since the introduction of MMR in 1988, received a letter from the Legal Aid Board. The letter explained that in the case being brought against three pharmaceutical companies, Merck, GlaxoSmithKline and Aventis-Pasteur, which had taken just over a decade to assemble, and that had Dr Andrew Wakefield acting as an expert witness for the parents, would have its legal Aid funding rescinded. In Britain this was tantamount to a deathblow to the parents case.

The defendants were divided into groups claiming against a wide variety of disabilities caused by different aspects and different types of MMR. The strongest cases appeared to be those children who had suffered very serious bowel problems after being vaccinated and who had consequently experienced regressive autism. These cases, certainly on the word of the parents and that of Dr Wakefield, who had researched the bowel disease, appeared clear cut.

Had the case reached court, it would have been the first case against pharmaceutical interests to arrive there for three decades. Even if it had been over quickly and even if the companies had won, the case would undoubtedly have cost the pharmaceutical companies involved dearly in both money and reputation. As well with a wide range of adverse reactions to the MMR vaccination, there can be no doubt that the cases would have dragged on for many years. One of the most serious matters that a full court hearing would have raised, however, was who was responsible for paying out claims; vaccines in England were after all a central aspect of the government's public health programme.

In June 2004, just a few months after the Appeal against the withdrawal of legal aid was turned down in the High Court - by a judge whose brother was a non executive member of the GlaxoSmithKline board - the General Medical Council (GMC) served papers on Dr Andrew Wakefield commanding him to appear before them with a view to facing charges, included those of dishonesty. The eighty odd major and minor charges that were eventually to be listed against Dr Wakefield and replicated against Professor Simon Murch and Professor Walker-Smith, were all based, in essence, upon one Sunday Times article written by a pro-MMR journalist who had a history of writing in support of GlaxoSmithKline vaccines. The main core of the allegations rested on a single 'case review' paper that cited the cases of twelve children seen clinically at the London Royal Free Hospital and published in the Lancet in 1998.

From the perspective of the pharmaceutical companies, now free of the threatened civil action, this reversal of trials was strategically brilliant. With the help of the GMC such a 'trial' could be dragged out over years, the right person was in the dock, and joy of joys, not a single penny in payment would come from the profits of pharmaceutical companies. Every penny of the millions of pounds that the 'trial' would cost would by discretely lifted from the pockets of hard working medical practitioners by their professional regulatory body without discussion.

But perhaps the greatest sense of warmth that exuded from the plan was that if Dr Wakefield was found guilty, he would be shown publicly to be a dishonest rogue; if he were found not guilty on some charges, the medical world would anyway walk round chunnering-on about smoke and fire. And while pharmaceutical puppeteers might move around advising on the direction of the prosecution, they need never break cover, or indeed make a single public statement.

Before moving on to look at some of the evidence that was and was not given, in this faux trial at the GMC, lets compare the two 'trials'. The first case was progressed by the parent claimants of thousands of vaccine damaged children, those people the law is there to protect and care for. The second case was brought by the General Medical Council also there to protect injured patients, but in this case triggered by one journalist, who made no declaration of conflict of interest and who was not to actually appear as a witness. Ostensibly the case was brought in the name of thousands of doctors who pay the GMC to keep their profession 'clean'.

The first witnesses in the real trial would have been a select group of parents whose clinical cases showed most clearly that their children had changed from their normal development to have horrendous bowel problems and regressive autism. The first witnesses in the GMC 'trial' were to be the General Practitioners who had first seen the damaged children. These children were apparently not ill but simply autistic, they had not been examined clinically but used as research subjects. This switch from the weight of proof being with the 'full-time' parents of vaccine damaged children, to reside with peripherally involved local medics, led inevitably to the dilution of the case that the parents would have presented of their seriously vaccine damaged children.

The second group of witnesses in the first real trial would have been a small group of expert witnesses, including Dr Wakefield; they would have argued that the serious bowel problems experienced by the vaccine damaged children, were novel and extraordinary and were most probably caused by an environmental trigger. In the second 'trial' there were also to be expert witnesses, even the same expert witnesses that the defence might have brought in the real trial; unfortunately however, the expert witnesses for the claimants in the second trial were in the dock. They still gave their evidence, it just didn't carry much weight because they were now the accused parties!

A last comparison relates to the content of the argument used in both cases. In the first real trial, the claimants would have argued that their children developed terrible bowl problems and a number of other adverse reactions soon after their MMR vaccination; that their children had been developing normally but then began to regress into autism; the expert witnesses would then have given evidence as to how this might have happened. The pharmaceutical company defendants in this case would have had a huge problem in managing the burden of proof. Although they might have argued persuasively that it was unlikely that serious bowel problems could lead to ASD, they would have had difficulty in cross examining parents about the temporal and physical onset of their children's bowel problems. At least a half of the claimants case would have been proved by parents experience before the jury made up their minds about the second half of the case, on the basis of the scientific evidence of the expert witnesses.(3) However, thirty years ago, in the last round of whooping cough vaccines, the pharmaceutical company defendants did win a major victory when they persuaded the court that the scientific rather than experiential evidence should be argued first.

In the second 'trial' run by the GMC, still continuing after almost 3 years, the defendants narrative hasn't changed, the children are still at the heart of the defendants case, they argue that when the children came to them they had terrible bowel problems and that many of them had also slipped into regressive autism and that these children were only ever examined clinically in order to find a diagnosis. The GMC prosecution however sets about severing any connection via bowel problems, between MMR and ASD. In fact this is easy, because some of the children's GP's say that they didn't actually see any evidence of IBD. Some of them also make the point that they were in no way equipped to find evidence of IBD.

The next bullet fired from the prosecution gun, after their attempt to show that none of the children were actually suffering from IBD, was to have the general practitioners be absolutely sure that the children they saw were autistic. The prosecution expert witnesses were then able to make a definite case on two main points; that the children were autistic, and the children did not show any special symptomatic picture that looked like IBD. This later argument became a belt and braces argument, because the expert witnesses argued that autistic children often have bowel problems anyway. As the prosecution argued that the children did not suffer IBD, they also had to argue that any tests carried out on the children were not related to a suspicion of IBD, but were experiments carried out on disadvantaged autistic children, by the defendants, without the knowledge of the parents, without ethics committee approval with the sole intention of making pots of money in suing the vaccine manufacturers. Had the parents presented evidence about the signs of IBD and the onset of regressive autism, the whole prosecution house of cards would have collapsed.

One of the most startling, bizarre and indeed horrific aspect of this 'bogus' GMC trial was hearing doctors and legal prosecutors arguing that not only were the children not ill - only autistic - but that testing autistic children diagnostically with such preliminary tests as lumber puncture and colonoscopy was barbaric. The truth of the matter was as plain as the well-sculpted nose on the hard face of Miss Smith, the principal prosecutor: the prosecution did not want any doctors, anywhere, to even partially suggest that prior to regressing into autism, these children had suffered a major environmental challenge.

At the end of the day the GMC prosecution case relied almost entirely on

three unfounded suggestions. First the suggestion that Dr Wakefield and the other two defendants had tested and conducted procedures on the children that were not clinically necessary; that the 1998 Lancet case review paper was the result of illicit non-ethical committee approved experimentation on children; and finally the two most senior expert witnesses, Professor Sir Michael Rutter who argued that these children were first and foremost autistic and Professor Ian Westercot Booth who argued that had the children showed signs of IBD, which they did not, any such condition could have been explored using non-invasive tests.

There were of course other related matters in the GMC trial that were thrown into the case like confetti in order to ensure a common view of Dr Wakefield as a criminal of note. There was conflict of interest; the accusation that Dr Wakefield developed a competing measles vaccine; that someone treated one child with Transfer Factor and finally that Dr Wakefield callously and injuriously took blood from children so that he could use these samples as controls; but even more importantly - in telling a joke publicly about obtaining the blood samples, he brought medicine into disrepute. (4)

The main body of the evidence given by the prosecution referred to the 12 children cited in the Lancet case review paper. However, the proposition that the 12 Lancet children had been experimented on for an illicit research project carried out without ethics committee approval and often without parental consent and written up in the Lancet, was a complete fabrication. The Lancet paper told the clinical presentation and diagnostic enquiries of 12 children who had arrived at the Royal Free Hospital consecutively in the mid 1990s. The paper did not represent a study of any kind, nor did the clinical examination of the children or the reporting of these examinations, require ethical committee approval.

I would like now to look at the kind of evidence that parents might have given had they been called by the defence. I want to do this through the statements given by parents in the two Silenced Witnesses books that I have edited and published. These parents and these children are not the ones cited in the Lancet paper but seven self selected parents, who describe a small number of the many children who arrived at the Royal Free after the first twelve but showed a similar presentation. (5) I have used the stories of these children because in theory at least, the twelve Lancet children's cases have never been placed in the public domain, as whole narratives.

* * *

Jack

That morning before Jack got his vaccine he was in good health, but I recall that in the three months prior to receiving the MMR vaccination he had been suffering from a cough and a high temperature. The doctor advised us that Jack could develop a high temperature, may be a bit under the weather and may need nursing after the MMR vaccine.

After Jack had the MMR vaccination, I remember holding him for most of the day. He was a bit clingy and unwell and needed medication to keep his temperature down. I noticed a bad reaction to the vaccine around twelve hours later at about one in the morning when Jack seemed very distressed and cried for a period of time. A cry that was different from his normal cry and I rubbed his back because I thought he may have wind, but he also felt floppy.

Two days later I was out with Jack and he had another prolonged crying fit as if he was in real pain, so I brought him home immediately, gave him something to bring down the temperature he had developed and for the pain. Again Jack settled. Jack went to the doctor seven days after receiving the MMR and I explained that he was not his normal self; he was listless, crying, suffering from wind, diarrhoea and occasional fever.

Within a month of receiving the MMR around early summer, John and I realised that Jack was beginning to deteriorate quite significantly. He stopped responding when my husband or I called his name, he had a gaunt almost stunned look upon his face and he would stare at things. He became anxious and his behaviours started to change. He would sit and constantly flip the pages of a book over and over again and when we tried to intervene to slow down and look at pictures or read from the book he would get upset and seem to need to get back to what he was doing previously.

His lack of speech, playfulness, attention, focuses and habitual activities became more worrying. Again this was pointed out to our GP, family and others whom I came in contact with. Before he had the vaccine Jack would say ‘teddy’, ‘light’, and 'mum' and mimic his favourite programme ‘go go power rangers’. After the MMR vaccine Jack was virtually silent. He stopped responding to his name and began to withdraw completely. This

was the beginning of a search to obtain a proper diagnosis. (6)

* * *

David

In these early months, David gave good eye contact and interacted with us all. He was a joy to me because we could not have been closer. I was not going to miss one moment of David's first year. I stopped breast-feeding when he was just over 11 months. David was a calm happy baby. He took his first unaided steps at about this time.

At the age of 13 months and 3 weeks on 5th July 1994, I took David to the Doctor's surgery. He was checked over by our GP to see if he was well. His eczema was not considered a problem and the same Health Visitor, who had visited us regularly, administered his MMR, his first and only dose of Merck's MMRII. Job done, we left the surgery.

That following weekend on the 9th July, the family were all present at my parents' house for a garden party. There were many guests and we thought it safer for David to be put in his pram, while I tended the Bar-B-cue. Two things were apparent about David on this day. Firstly, my Aunt saw him struggling to get out of his pram reigns with what she describes as almost manic determination. When he was finally 'released' we saw what we thought was the cause of his upset, DIARRHOEA, in capital letters, bright yellow soft mushy stools.

David's stools were always mushy from that day onwards, with no solid form at all. A short while later the stools were checked for what was described as 'bugs' but nothing was found so it was put down to 'toddler diarrhoea'. (It was still given this title when David was 6 years old and the condition continued).

Within a short time, we began to notice the development of strange behaviours that accompanied the diarrhoea. What speech he had gained began to deteriorate. He developed a phobia to his toothbrush and if he caught sight of it he would give a high-pitched scream. In the early days of David's regression, late 1994-1995 I could not believe that my son, who had once done everything so well and so easily suddenly was not able anymore. Babies do not regress for no apparent reason and perhaps that is why it just wasn't covered in the baby books. I later read that it is

extremely rare for a young child to loose speech unless they have experienced a serious illness or trauma and David had had nothing, not even a mild temperature in his first year.

In 1995 I had to stop taking him with me to school to collect his sister because he started to ‘run away’ from me if he was out of his reigns. I had to chase him across the playground through crowds of children and parents on numerous occasions. He also stopped talking to us. The odd words that he did still speak became shorter, Ribena became 'bena'. Instead of telling us what he wanted he would lead us by the hand to whatever he wanted and use my finger to touch the object. He lost the ability to cry and it was replaced by the high-pitched scream.

The diarrhoea continued, approximately 3 times a day. Every time it occurred the bright yellow or pale brown smelly mushy stools would ooze out of his nappy and stain his clothes. (7)

* * *

Josh

Josh was born on the day he was due, 13th December 1992, after a normal delivery. He weighed 8lb 11oz. The midwives all called him a little bruiser, he was very chunky and looked muscular, he looked gorgeous in his little bodysuit. I decided to breast feed Josh; he took to this and fed very well, on several occasions he put on 1lb a week. After six weeks when my milk did not seem to be satisfying him, I put Josh on the bottle to which he took immediately. Now Josh was sleeping right through the night, we couldn't believe it; at two his brother was still waking up.

Josh developed normally and reached all his milestones as expected, he sat unaided at just over six months, and although he was the slowest to walk at 11 months, I didn't consider that to be late. By 11 months Josh was saying single words such as 'Mamma', 'Dada', 'Ta', 'Gone', 'Juice' and 'Bye'.

Josh had his MMR vaccine at 13 months; on the evening of the vaccination he had a high fever so we gave him Calpol. The following morning he woke with severe diarrhoea, it had leaked all through his baby grow and onto his cot bedding. This was bright yellow and then changed to what I can only describe as being like Oxtail soup. This continued for

five days, he then became constipated. Prior to the MMR he had opened his bowel every day, sometimes twice a day.

We began to notice changes in him, my happy contented little boy now seem to always be miserable and upset and would scream and cry for no apparent reason; he no longer liked to be picked up and cuddled. He seemed to not like to be touched, and changing his nappy was a nightmare, anyone would have thought I was hurting him. He became withdrawn.

How could our little boy have changed so quickly within four weeks of having the MMR vaccine? Josh's behaviour was what I can only describe as 'odd', I put this down to his constipation, but soon began to realise that there was more to it. He became obsessed with light switches and would climb on chairs and tables to get to them, turning the light on and off. It was the same with door handles and opening and closing doors. He was getting a lot of enjoyment from this repetitive behaviour and clearly had to do it. It was now a real struggle to get any eye contact with him; before he loved posing for the camera, he now ignored any camera that was pointed at him.

It was now six weeks since his MMR vaccine and we had heard no language from him for at least two weeks. The single words he had gained had vanished and he made no attempt to say anymore. At his 18-month assessment concerns with his behaviour, poor interaction, little eye contact and a total loss of speech were noticed. He was still only opening his bowel once a week, I was being told not to worry as all children are different with their toilet habits. Anything I said about MMR was completely ignored; it was as if I hadn't spoken. (8)

* * *

Adam

From the very first day following the MMR vaccination Adam changed dramatically. His first reaction was recorded by visiting nurses on the 6th day following the vaccination as being miserable and out of sorts. On the 8th day, Adam had loose stools, was vomiting, had a rash and was feverish. He continued to have pronounced measles symptoms for over six weeks and he also developed an ear infection. The visiting Community

Paediatric Sister identified the symptoms as a reaction to the MMR vaccination. Her notes recorded on 15th April 1994 include 'mother and respite nurse appear to have measles from Adam's MMR'. On 29th April 1994 she recorded 'Rash still evident on face from measles, appetite not improved'.

This period marked the beginning of a long-term change in Adam. The measles symptoms were followed by general malaise, intermittent fevers and rashes, temperature control problems and profuse cold sweats, which continued for over 15 months. Even today, Adam has cold sweats - some nights drenched - and I know that he is heading for a viral episode, it's as though his body cannot fight it off, it just lies below the surface like a malignant viral breath, not something tangible and obvious that I can fight, nothing that the doctors take seriously.

Frighteningly, Adam also became very withdrawn, and lost interest in everything. Within days he became a different child, losing many skills he had previously acquired. The behavioural changes were very apparent during the summer although I thought he was lethargic and withdrawn because of his illness. I therefore paid more attention to his physical symptoms at that time and concentrated on trying to restore him to full physical health. At this time, Adam's physiotherapist, described him as being like a totally different child. She could not engage with him and he had no motivation; it was as if she were not there. She had been a fixture in his life since he was born, she called him her little Rangers fan, due to a green and white stripy outfit, and he loved her. Now, she no longer existed for him.

By September 1995, the behavioural changes were more pronounced, Adam seemed to be regressing, he had no interest in communication, and he spent hours every day gazing at his hand, holding it up in front of his face and moving his fingers. He was in a world of his own. He craved gluten and casein foods such as pasta, bread, soft cheese, milk and fromage frais, and by the summer of 1996 these were actually the only foods he would eat. Before the MMR vaccination, Adam had been eating a range of foods including fish, meat, chicken, vegetables and fruit. (9)

* * *

Andrew

At eighteen months Andrew received the MMR vaccine and five days afterwards he had what can only be described as a bout of chronic diarrhoea. A few weeks later he was vomiting and had developed a rash on his torso, which the GP suspected was measles; this I found alarming! There followed a vast array of medical complaints, eczema, conjunctivitis and tonsillitis. At this time diarrhoea was part of our everyday life with up to seven bowel movements a day. A referral was made to a pediatrician who requested tests for thyroid function, a stool test and one for coeliac disease; every test came back normal.

Although the doctors were trying very hard to find the cause of Andrew's bowel condition we were becoming very frustrated. We noticed Andrew was not responding to us when we called his name; unbeknown to us he was showing signs of autism.

Andrew was referred by an audiologist to a consultant paediatrician, who looked over the coming year at Andrew's behaviour. In March of 2000 we were devastated to be told that Andrew was autistic. Our first thought was that the bowel condition came first, autism second, although we did feel that the two things could be connected.

Everyday the nauseating smell of diarrhoea filled our house. I think that over time we began to get used to it. Tests for Andrew followed, one after the other, referrals followed by the problem of getting Andrew into a special educational needs school. (10)

* * *

Billy

So on the 30th May 1997 at 13 months old, Billy had the MMR.

That night Billy developed a high fever, we gave him Calpol and put him to sleep in his cot with his beloved drinking cup of milk; he was now on cow's milk straight from a carton, slightly warmed. The next day he was restless, he cried a lot and maintained a fairly high temperature. That evening I went to check on him and he was lying in his cot shaking uncontrollably. He seemed cold. I grabbed a blanket and wrapped him

tightly and held him close.

My sister, Rosie raced over to sit with Bella while Jon and I dashed to Kingston Hospital. In the car I held him tighter and tighter, Jon kept talking to him, 'It's OK son, we'll get you some help.'

'He needs a massive course of antibiotics, he's probably had a reaction to his jab, it's quite common. In future don't wrap him up; you should have stripped him off and let him cool down', said the hospital doctor.

We watched our little boy sitting on the examination table, shaking, his teeth chattering. His cheeks, tummy, tops of his arms and legs were scarlet. Another young doctor came in and gave him a jab of yet more antibiotics. "Take him back to the doctors if he is still like this in 48 hours", they said.

Well, guess what, he was, and we were prescribed a 6-week course of antibiotics 'to really blast everything out'. Billy was vomiting so much on the antibiotics now; he couldn't even drink his milk without projectile vomiting.

Billy deteriorated fast; he lost the few words that he had. Within a week he started to reject most foods, he only wanted Weetabix, milk, apples and his bread sticks. We tried to encourage him to eat vegetables, meat, and all the foods he used to love so much. He would throw his head back against the chair, banging it repetitively and screaming this new high pitch scream. He lost a lot of weight and eventually his hair started to fall out. But the very worst part of all of this was his diarrhoea. It was frightening; it was liquid and endless; it seeped through any nappy and into everything.

I took him back to the doctor.

"Does he eat lots of apples?" he asked.

"Yes, he loves them", I replied.

"Good. Don't worry, it's perfectly normal, just toddler diarrhoea, keep him hydrated."

When Billy was 18 months old, the Health Visitor turned up for his routine

check. After asking Billy to, 'Brush Dolly's hair', 'Point to his nose', and 'Pick up a book', it was blatantly obvious that Billy had a serious problem. (11)

* * *

Thomas

Thomas had his triple jab on 12th June at age 13 months. Supplied by Meriux Immravax, Batch no D1400. The impact was not immediate, but over the next two weeks Thomas started to lose his spark. He just slowed down, slept a lot more, and started to get more grumpy.

Something was clearly wrong, we had been to the doctors and given the usual re-assurances: growing phase, typical boy, don't worry he will soon be babbling ten to the dozen. We felt we needed to push for more medical investigations.
Jan already had a clear view on the cause. Something had changed and gone dramatically wrong at around 14 months, at around the time of the triple jab.

Finally there were so many other things that were going wrong with Thomas. Things that were not included in the definitions of autism that we had researched. Why did Thomas keep falling over. Why did he perspire so much at night, and often sleep for very long periods. What about the excessive drinking of apple juice and Ribena. Why did Thomas gorge on certain foods, breaded products especially: it would not be unusual for Thomas to consume 5 packets of crisps in one go. What about the grey eyes, the pot belly and the explosive poo's?

I remember coming home from a two-week business trip to the States. I arrived to find Jan in the hall, trying to wipe excrement off the walls of the stair well. Thomas had not made it upstairs and had one of his many 'explosions'. None of this fitted the autistic label. (12)

* * *

Denying the experience of Parents

The fact that the GMC chose not to present the parents at the prosecution of the three doctors showed conclusively that they were not interested in conducting an honest enquiry but instead were bent upon a trial and ultimately a finding of guilt. It has been suggested that it was the responsibility of the defence to bring the evidence of the parents to the tribunal and in part this is true. However, it was clearly not possible for the prosecution to present anything near a True Bill having refused to acquaint the Jury with a major portion of the information pertaining to the charges. In a real trial in a court of law, rather than a fixed professional regulatory tribunal, it would have been impossible for the prosecution to proceed without presenting all the evidence, however detrimental it was to their case. (13)

In the case of the GMC v Wakefield, Murch and Walker-Smith, although it has been consistently stated by Brian Deer, for instance, that what was done to the children by the doctors was terrible, the GMC was not only unwilling to articulate the route of any complaint to the hearing, but purposefully made invisible the 'victims' upon whose cases they traded during the hearing.

Having disappeared a good portion of the evidence, the prosecution pursued its case about the children solely through the two expert witnesses Sir Michael Rutter and Professor Booth. The entirely circumstantial evidence of these two men was used by the prosecution to bring in a guilty verdict against Dr Wakefield. Their evidence had nothing to do with the facts of the twelve children cited in the Lancet paper, for neither of them knew anything of factual note about the condition of the children. Their evidence went entirely to what they themselves might have done if presented with such children in a hospital setting. Because, however, the prosecution presented the experts with a distorted picture of the children's illnesses the great majority of the evidence of both experts was beside the point.

* * *

The Place of Sir Michael Rutter in Industrial Science

Professor Sir Michael Rutter is Britain's foremost expert on the genetic, hereditary and psychological causes of autism. He sees autism as an

aspect of mental illness that might be treated with drugs. He gives no credence to the view that ASD can be caused by environmental factors. Because he holds these views Sir Michael is inevitably close to the pharmaceutical companies that promote drugs for psychiatric conditions. He was signed up as an expert witness by GSK in the run-up to the parents' civil action.

David Sainsbury's term in office as the Under Secretary of State responsible for science, a position granted him in exchange for his donations to New Labour both before and after their victory in the 1997 election, spawned a cabal of industry orientated scientists who having first organised within the Royal Society with the help and guidance of Sainsbury's department, went on to set up and become part of the Science Media Centre, Sense About Science, and the Academy of Medical Sciences (AMS), while rejuvenating the British Association. With the influence and money available to the Department, Sainsbury cultivated, placed and honoured a series of scientists and non-scientists, capable of bringing industry into the heart of government.

These individuals and institutions have been the ones principally organising against Dr Wakefield on behalf of pharmaceutical companies in Britain. One of the stars in Sainsbury's firmament of proselytizing industrial-academic organisations is the Academy of Medical Sciences (AMS). The AMS is a relatively small and select new science club, the base from which industrial science now send out its troops to attack unbelievers.

Although the AMS was only set up in 1998, Sainsbury while in office as Minister of Science promoted it as if it were on a par with the Royal Society, which was founded in the eighteenth century. As the biggest drug, chemical and bio-tech companies poured money into it, its leading representatives began to describe it as one of the leading and most renowned academic and scientific institutions in Britain.

'The Academy of Medical Sciences is one of the five learned academies in the United Kingdom, alongside the Royal Society, Royal Academy of Engineering, the British Academy and, in Scotland, the Royal Society of Edinburgh.' (14)

Although the AMS has insisted on the pretence that it is 'independent', this word is never defined. The truth is that the organisation has never

come close to being independent in any form. Although while he was in post Sainsbury promoted the Academy, pushing research work through it, benefit from its representation was always a one way traffic; promoting industry without reference to the lay-public.

When in 2003 the Sainsbury initiated Brain Science, Addiction and Drugs Foresight exercise on addiction and behaviour modification, recommended the next psychiatric black arts drugs, cognitive behaviour enhancing substances, Sainsbury, whose family funds a number of mental health projects, passed the recommendations on to the AMS, for industry take-up. He then portrayed this in 2005 to the parliamentary Science and Technology Committee as a kind of public consultative arrangement.

'We have asked the Academy of Medical Sciences to do a similar project in that area. I think overall we are pushing forward that agenda on public engagement pretty strongly.' (15)

Outside of his Ministerial post, Sainsbury then promoted cognitive behaviour enhancing substances, in partnership with the pharmaceutical industry, just as he had promoted genetically modified food in partnership with Monsanto as if their development and use, without any reference to the precautionary principle, was a foregone conclusion.

The power that the AMS has within the industrial world of bio-technology and pharmaceutical medicine was seen in 2008, when one of the longest running academic drug fronts, the Novartis Foundation, previously the Ciba Foundation, shut up shop and threw in its lot with the Association, a merger that was completed in 2010, when the AMS moved into a new multi-million pounds building in Portland Place.

Coincidentally, three of the witnesses called by the GMC prosecution, who did the most damage to Dr Wakefield in the GMC hearing are embedded in the AMS. Professor Sir Michael Rutter, Professor Peter Lachmann and Dr Richard Horton, the editor of the prestigious medical journal the Lancet, are all founding members of the AMS, each of them having been made fellows in 1998 when the academic drugs front was first set up.

Lachmann was also on the scientific advisory board of SmithKline Beecham (now GSK), which invests heavily in biotechnology. At the height of the row over GM crops and Arped Puztai, Lachmann, then the first President of AMS (1998 - 2002) and three others wrote a Blimpish

letter to the Times (Times December 4 2002), attacking Puztai from their new ensconcement in the Academy.

Not only Horton himself but the apparently independent Lancet is deeply involved in the AMS. In September 2008 the Forum held a one day workshop on 'Benefits and Harms of new medicines'. The workshop was supported by only two funders GSK and the Lancet (16). In 2004 when the most serious attack was carried out against Dr Wakefield by Brian Deer an the year that Horton published his book claiming the absolute safety of MMR, the Lancet's manager at Elsevier was Sir Crispin Davis, who also sat on the Board of GSK.

Funders of the AMS include amongst many: AstraZeneca, Chiron Vaccines, Department of Health, GlaxoSmithKline, Medical Research Council (MRC), NHS Education for Scotland, Roche, Sanofi Pasteur, the Lancet, the Wellcome Trust and Wyeth. The AMS has a Forum that decides upon and pursues academic scientific projects. Funders include the Association of British Industries (ABPI), Astra Zeneca, GSK, the MRC, Merck Sharp & Dohme, Pfizer, Wellcome, Wyeth, the Health Protection Agency and Hoffmann La-Roche.

* * *

Rutter's evidence against Dr Andrew Wakefield

As she led him through his evidence, Miss Smith made a point of revealing that Sir Michael was primed as an expert witness for Merck in the claim for compensation taken by the parents against the MMR manufacturers. In turn Rutter made the point, quite strongly, that the case never actually got to court. At the end of his evidence, when it was suggested by the Chairman of the Panel that Rutter ‘acted for’ the pharmaceutical company in the compensation case, Rutter bridles at the term, telling the Panel that he was an independent expert. One presumes that experts for the claimants might legitimately lay claim to such similar independence?

With the possible exception of Professor Zuckerman, Rutter was to become the first real witness for the prosecution. He was an ideological witness, anything but independent, one who was not giving evidence to

fact, but rather, agreeing with the prosecution critique of the behaviour, the methods, the language and the professionalism of the three doctors being tried.

Like Professor Booth who came after him, Rutter was to end up giving expert evidence, with a broad brush, on the work of the whole gastrointestinal department at the Royal Free Hospital. This despite admitting at least three times during his evidence that he knew nothing about gastrointestinal medicine. Perhaps even more oddly, at the end of his evidence, he assures the Panel of one thing: he could not, he said, criticise the gastrointestinal work carried out in the department and his view in sum was simply that the neuro-psychiatric aspect of the 'work up' on the children was lacking.

This is not something that the defence wanted to argue about. In the main, the majority of the children had already been diagnosed with a disorder on the autistic spectrum before they arrived at the Royal Free. And even though a psychologist did interview a number of the children, the authors of the Lancet paper were quite definite about what they were writing about: a new syndrome which linked inflammatory bowel disease (IBD) to various behavioural disorders, the onset of which a number of parents suggested coincided with their children's MMR or MR vaccination.

Through a Thursday, Friday and the whole of Monday, Miss Smith presented, for the third time, the whole of the prosecution case; turning from her reading every ten minutes or so to let the Professor reassuringly nod his acquiescence with her case. Rutter was equally uncreative in the presentation of his evidence. It was as if Miss Smith and he were in a three-legged race, both completely of one mind. Rather than elaborate on the various pillars of the case, Professor Rutter simply agreed wholeheartedly, and sometimes enthusiastically, with the propositions put by Miss Smith.

'It was odd', he agreed, to this and that. 'It certainly wasn't the way he would have done it', he shook his head, to that or this. Miss Smith segued into a repeat trawl through the cases reported in the Lancet paper. After discussing ethics committee approval, Miss Smith picked up each case one by one and travelled through referral, hospital induction, invasive procedures - particularly in respect of lumbar puncture - lack of consent for, and lack of notes with respect to, involvement in research. Miss Smith bore witness to the howlers, sins, crimes and simple gaffes of Dr

Wakefield, in the measured voice of a teacher explaining elementary arithmetic.

Certain matters are not deemed worthy of comment by the prosecution. One such matter is the real, rather than prosecution-sanitised, condition of the children and the crisis of coping and caring which the parents were, and still are, faced with daily. An understanding of the severity of the children's gastrointestinal condition was absolutely essential to a realistic understanding of the work of Dr Wakefield and others at the Royal Free in the mid 1990s. The prosecution, however, avoided this, as did Professor Rutter, who not being a gastroenterologist had not the faintest notion of the children's medical condition.

While the whole of the prosecution case settled on the twelve children reported in the Lancet paper, no one has made mention of the fact that in the five years between 1993 and 1998 and for some years afterwards, hundreds of parents made their way to the gastrointestinal unit at the Royal Free. They went there often with their own determination, because this was the only collection of doctors in the whole of the UK who were dealing with the public health crisis which had occurred following the introduction of the various MMR or MR products after 1988.

* * *

The Deconstruction of Professor Rutter

Oddly, It was not Dr Wakefield who bore the brunt of Rutter's evidence because he had not instructed others to, or himself, carried any 'invasive procedures'. In terms of argument, what Hopkins, Professor Murch's counsel, was able to do, was to make it clear to the panel that much of what Professor Rutter claimed during his evidence-in-chief was little more than personal opinion. Perhaps even more exactly, it was personal opinion heavily biased towards the neuro-psychiatric axis of the arguments around autism.

He began his cross examination by rescuing Dr Wakefield from the isolated corner into which Professor Rutter and Miss Smith had painted him. Hopkins made it clear that there were actually four hospital departments involved in the clinical work of caring for the children who attended the Royal Free. That there were a number of 'responsible

consultants' making decisions from day to day about treatment and investigations.

Although Hopkins laid siege to each strand of Rutter's evidence, his strategy was most pronounced when dealing with the matter of lumbar punctures. From the beginning the prosecution has made the case that the use of lumbar puncture, as a diagnostic aid on children, especially children with any kind of autistic disorder, was an abomination akin to torture. Rutter, however, when speaking on lumbar punctures, was at best a reluctant witness. At his most transparent, he was happy to admit that in cases of disintegrative disorder or regressive autism lumbar puncture was necessary in order that encephalopathy could be confirmed or disregarded.

It was apparent that Rutter was concerned at having made this admission and he tried to lessen its force and its use to the defence by claiming that next to none of the cases in the Lancet paper could be shown to have a disintegrative disorder and in other cases lumbar punctures should not be used as a general investigation.

Very gradually, Hopkins introduced papers to the tribunal from Professor Chris Gilberg who has carried out clinical research in Sweden. Hopkins described him as having been an expert in autism for 33 years and pointed out that in the mid 1990s Gilberg was considered a leading authority. But unlike Rutter, Gilberg was in favour of using lumbar puncture.

Rutter began contesting Gilberg's work, suggesting that he had made a number of mistakes in his career, having evinced arguments which had proved to be wrong or fallacious. This defence came across as the expression of professional jealousy and not as scientific evidence.

Hopkins turned the ratchet up a notch with each paper that he put to Rutter. As the papers mounted, so did their authority and so did the number of authors who favoured the use of lumbar puncture as a primary biomedical investigation. Besieged, Rutter was thrown back on the odd argument that while this might be the case in the rest of the world, in Britain it was not considered an acceptable practice.

Gradually, Hopkins began to develop a more important argument relating to the legitimization of bio-medical investigations. By introducing the idea of the medical work-up in cases of autism, he made it apparent that there was, is and historically always had been, a serious conflict between two schools of thought on the diagnosis and description of autism. These two schools are on the one hand those who believe in an almost entirely psychiatric approach and those who believe that a whole battery of biomedical investigation should be carried out in an attempt to find a medical explanation of autism. While neither of these schools of thought were exclusive, the psychiatric partisans had held sway almost without argument for the last thirty years. This school was, in fact, only now beginning to accept that there might be environmental factors involved in autism. While Gilberg cited the supposition that one in three cases were based upon a 'medical' condition, Rutter would agree only to a possible one in ten ratio.

While presenting Gilberg's papers, Hopkins drew attention to one of his primary suggestions, that there was a serious lack of comprehensive biomedical work-up in autistic cases. The gap between Gilberg and Rutter, and therefore between the Royal Free team and an entrenched psychiatric view of autism, was obviously considerable.

Following the Gilberg papers, Hopkins moved on to deal with a few more of Professor Rutter's expert views, such as his half-hearted support for the inclusion of bowel pathology in diagnosing cases, and more simple things, such as his views on the patient consent form used by the Royal Free team.

At the end of Mr Hopkins' cross examination, it was difficult to imagine that the panel had not received the message that Professor Rutter was far from independent in his view of Dr Wakefield's research. At 2.00 pm on the same day, Mr Miller, counsel for professor Walker-Smith got to his feet. Of the three barristers, Mr Miller appears on the surface to be the most sympathetic. However, seeing him in action it is easy to understand that his introductory bonhomie is simply a distraction. It was never more so than in his dealing with Professor Rutter. After the exchange of a few pleasantries, Mr Miller plunges straight into the heart of his cross examination.

Mr Miller puts it to Professor Rutter that the case-series reported in the Lancet was not the study '172/96', which he and Miss Smith have made

the core of the prosecution case. As the argument developed, with Mr Miller putting it to Professor Rutter that the children in the Lancet paper had clearly been treated on the basis of clinical need and not as research subjects, for the first time Rutter's response became uncertain. He said, 'My impression is that this is research'.

Mr Miller was positively cruel in his repost, 'This is the danger of poring over the documents!' This comment went deep in to the shaky prosecution case and revealed what appeared to be a massive schism in both the prosecution reasoning and the paper work.

Mr Miller drove his point home. In answer to Rutter's assertion that the children do not represent a homogeneous group, like good research subjects, Mr Miller replies, 'No one ever went out to look for these specific types of children'.

And on the matter of the research consent forms which Professor Rutter and the prosecution have been adamant are missing from the patient notes, Mr Miller was again scathing. 'You also say that there are no research forms in the children's notes; was this because there was no research?'

When Professor Rutter realised what had happened, I would not have been surprised if he had addressed Miss Smith with the words, 'This is another fine mess you've got me into'. To his credit, however, Professor Rutter seemed to suffer the cross-examination in good heart, he continued to protect the prosecution case while sounding almost as if he recognised that, for the moment at least, he was on the losing side.

So there we had it. Research project 172/96, the project that the prosecution maintained had led to the Lancet paper, was actually a quite different project, that had nothing to do with the clinical work that had generated a review of 12 consecutively referred initial cases; cases seen at the Royal Free on the basis of clinical need. Once this had been exposed, one could not help wondering how Miss Smith could continue with a large part of her prosecution. One also had to wonder what the defence had left to throw at Professor Rutter on the next day's cross-examination. Professor Rutter now appeared to be an expertless expert. He had been softened up by Mr Hopkins and then knocked out by Mr Miller. All the counsel on the defence table seemed to finish their day with eyes averted from prosecution counsel and the expert witness as if

embarrassed by the enormity of the prosecution's mistake.

At the end of cross-examination by the defence, Rutter's entire case lay in tatters on the floor, and he was left repeating an earlier criticism that 'the investigations were done without consulting with the other specialists (the psychiatrists and neurological specialists)'. Making the point even more specifically, he said, nearing the end of his cross examination, 'follow-up is lacking on the neurological, psychiatric side. My criticisms are on the brain side and not on the gut side'.

With this final criticism it appeared, to me at least, that the whole case for bringing Professor Rutter as an expert witness was brought into question. To hear Rutter say that he had no criticisms of the gastrointestinal side of the work, but only the lack of psychiatric and neurological aspects of research or patient care, was to invoke the words of Mandy Rice Davies in the trial of Stephen Ward, 'Well, he would say that, wouldn't he'. There can be little doubt, however, that this personal and professional bias was very far away from anything vaguely resembling damning, or even 'expert' evidence against Dr Wakefield.

* * *

Professor Booth followed Professor Rutter as an expert witness. He is a gastroenterologist. Not only was Professor Booth not capable of commenting upon the psychological or autistic dimension of the cases but his gastrointestinal appraisal, although expert, could not have been more conservative. By leaving out a whole series of aspects that concerned the doctors working at the Royal Free, his expertise in gastroenterology failed completely to match the more complex cross disciplinary approach that imbued the work of the Royal Free team and specifically the research of Dr Andrew Wakefield.

Although manifestly a consummate professional, with his patients at heart, Professor Booth showed himself to be the very kind of highly qualified clinical practitioner whose safe conservatism probably led to parents with vaccine damaged children seeking out more positive and investigative clinical attention from other practitioners. His diagnostic vision never seemed to stretch further than the most prominent and primary gastrointestinal symptom presented by the children in the Lancet paper. He frequently commented on the fact that this or that child had constipation, or a typical type of diarrhoea, and one got the feeling that

this could have been the beginning and end of the diagnostic work undertaken by him in such cases.

Professor Booth's mental frame of reference appeared to be almost exactly opposite to that of Dr Wakefield and the gastrointestinal team at the Royal Free. Whereas the latter was expansive, interdisciplinary and creative, Professor Booth's approach appeared to be single-symptom orientated, mono-disciplinary and conservative in its references.

For this reason alone, Professor Booth was a witness who contributed next to nothing to the overall picture of the prosecution. Nor did he further our understanding of the medical practice, or, from the prosecution's point of view, the supposed criminality of the doctors at the Royal Free. His answer to almost everything was the most conventional answer. What one does not do, he emphasised constantly, is anything unconventional. His evidence steered well clear of any mention of MMR, or vaccine strain measles virus, and he said almost nothing about autism.

Despite the fact that autism did not come within the scope of either his evidence-in chief or his cross examination, at the end of his evidence, he gave a stunningly forceful answer to a panel member who asked him whether disintegrative disorder - so far accepted by everyone during the hearing as being a type of autism – was a product of inflammatory bowel disorder or a neuro-psychiatric disorder. The question was awkwardly put, but even so, the answer to it lay at the centre of the hearing. Ensuring that the panel member stayed in the dark, Booth answered her with an utterly dogmatic response, saying: 'It is a neuro-psychiatric disorder.' Gladly straying beyond the remit for his expert evidence, Booth answered without faltering as if he had been eagerly awaiting the question.

Booth not only agreed with anything that Miss Smith put to him, but did so in a heavy and ponderous manner, adding a varnish of wrongdoing to simple and often quite uncertain matters. Late in the morning, Booth introduced a radical new note into the evidence, which although it had always slept uncomfortably beneath the surface of the prosecution, had found no one brave, or ill-informed enough, to adopt it. It had frequently been suggested that parents were the motivating force in the referral of patients from GPs to the Royal Free. In Booth's evidence, this idea was embroidered and built upon. What he termed 'parent objectivity' – as if the very matter of being a parent was now one of scientific learning – might, he suggested, be skewed, with parents forcefully pushing the need

for invasive investigations against the beleaguered clinician's better medical judgement. In Booth's rather bizarre world-view, the desperate parents of children with (psychologically induced) autism, had been willing to offer up their children for all kinds of damaging procedures.

Booth labeled the parents as just short of hysterical for searching unstintingly for a diagnosis and treatment of their children's condition. Unlike the other witnesses, who had vaguely floated this notion, Booth made it an ideological tenet and he was to repeat it on a number of occasions. Although these remarks were introduced with the caveat 'this is not to blame anyone', according to him, parents were 'vulnerable' individuals willing to go to any lengths to find out what was causing their children's (non-medical) pain and (non-medical) ill health. This evidence was, of course, particularly inexpert given that only one of the parents had given a statement to the prosecution.

This concept introduced a new and considerably different perception of the three doctors on trial. Parallel with the idea of vulnerable patients, or parents, runs the idea of exploitative doctors. This, then, was the prosecution getting the 'parents complaints', non-existent in reality, into the hearing via the back door. It could be deduced from Booth that the GMC was bringing the case on behalf of parents and children who had been led up the garden path by – and the motivation was never entirely clear – 'non evidence based' practitioners at the Royal Free.

Miss Smith spent almost three days again going through the case of each Lancet child with Professor Booth. This was the fourth time that she had performed this act and she was rightly confident in her presentation. We can simply list the other areas in which Booth agreed with Miss Smith in her criticisms of Dr Wakefield and sometimes of Professor Walker-Smith and Professor Murch, which arose mainly during the prosecution review of the children's cases.

Blood-screening tests should always be done before planning colonoscopies.

The Royal Free team definitely appeared to be involved in research rather then clinical work.

Dr Wakefield frequently appeared to overstep the boundaries of his research employment. Dr Wakefield frequently overstepped his job

description.

Dr Wakefield should have had no part in admitting or helping get patients referred from GPs to the Royal Free.

Many of the children were not suffering from disintegrative disorder as suggested by the protocol for project 172/96. Many of the children reported in the Lancet study did not fulfill inclusion criteria for project 172/96.

On occasions it appears that Dr Wakefield actually ordered an investigation.

The team went further than initial/past diagnoses of diarrhoea or constipation to carry out more invasive tests which were rarely indicated.

It is unusual to send a child patient to a tertiary clinical centre hundreds of miles away from their home.

Should Dr Wakefield have been ‘working with children’ when he had no paediatric qualifications.

In a number of cases Professor Booth saw no reason for follow-up investigations.

Professor Booth did not consider it ‘normal’ for a consultant to personally contact a GP, neither he nor any of his colleagues ever did this.

Dr Wakefield should have sought extra Research Ethical Committee approval for the prescription of a novel treatment. (This referred to some of the invasive procedures and prescriptions, but most particularly to ‘transfer factor’).

Dr Wakefield’s taking of blood samples for controls at his son’s birthday party Professor Booth considers ‘deeply disturbing’ and ‘utterly repellant’.

During his cross examination, Professor Booth showed himself radically adept at countering specific questions. Booth argued every question or statement that was put to him by Mr Miller and Mr Hopkins. Although he managed to argue the defence to a stale-mate it is difficult to know whether his strategy actually won him friends. Getting into such personal

arguments with counsel is like dancing naked at a psychiatric convention to prove your sanity. It is unlikely that you will gain much advantage from it, except by virtue of respect for your audacity.

It is hard to tell whether Booth embarked upon this strategy of argument because he opposed the medical practices at the Royal Free, or because he is naturally an argumentative person. As time went by it became evident that Booth had come to the GMC to argue, to the point of irrationality, against the work of the Royal Free gastrointestinal team. He made this view clear, not just with reasoned quiet disputation but with free ranging argument that, to paraphrase Professor Rutter, 'smelt like' pure bloody mindedness. On the lighter side, his evidence resembled nothing so much as a medical version of The Office.

Both Mr Miller and Mr Hopkins cross examination focused on a small and contained number of specific points.

Was Dr Wakefield carrying out research or was he involved in clinical work?

Were the children reported in the Lancet paper treated in accordance to a research protocol or on the basis of clinical need?

What were the usual procedures used to diagnose IBD in children?

Did the children in the Lancet paper present problems of sufficient seriousness to merit investigation by colonoscopy?

Were screening tests carried out to determine whether the children had signs of IBD prior to colonoscopy?

Did the literature endorse the use of colonoscopy?

Is it useful for a doctor to have a check-list of symptoms in mind when examining children who might be suspected of having IBD?

These seminal questions of the prosecution were restricted to the proper parameters of Professor Booth's evidence, however, the tides of his evidence lapped on shores miles away from these more focused matters. Before going in detail through his approach to the cross examination, I would make reference to just one matter. Seemingly of a new generation

of orthodox physicians, Professor Booth repeated whenever he could the expression ‘evidence-based medicine’; not once did anyone ask him what he meant by this.

I would make two points in relation to this absurd assumption that either Professor Booth or the GMC prosecution supported ‘evidence based medicine’. First, it is palpably obvious that neither of the expert witnesses knew anything at all about the real condition of any of the twelve children upon whose diagnosis and treatment they were commenting. At a distance of over ten years, with restricted notes and the absence of any record of conversations between doctors at the Royal Free and parents, Professor Booth, gave guesstimates, over three days, as to what he would have done in ‘this situation’. It is difficult to imagine anything further from the reality of ‘evidence-based medicine’.

Although Booth’s strategy of arguing about everything carried him through his evidence, and clearly disrupted the defence, he came unstuck on two occasions and was led into ridiculous overcompensation. Both these seminal arguments had to do with the place of colonoscopy in the diagnosis of IBD, a clearly essential component to formulating treatment. Nearing the end of a long day on Wednesday 17th. Mr Miller cross examined Professor Booth on a position paper, The Porto Criteria, which had been formulated by the IBD Working Group of the European Society for Paediatric Gastroenterology, Hepatology and Nutrition, and was termed a ‘Medical Position Paper’ and described as representing ‘recommendations for diagnosis’.

When Mr Miller put ‘…the criteria for inclusion of colonoscopy in investigations of children suspected of having IBD…’ from the Porto paper to Professor Booth the professor was unable to think quickly enough and deny their validity. The paper was very strong in suggesting that colonoscopy was ‘essential’ as a diagnostic aid in cases of children who might have IBD. In agreeing to sentences of the criteria as they were read to him by Mr Miller, Booth almost scuttled the prosecution boat.

In the night, someone must have whispered in his ear, for the next morning, when again confronted with the Porto Criteria, Booth denied them all plausibility. It was clear that someone had helped him find an argument. Now, while still agreeing with the separate criteria and their importance in diagnosis, he claimed that the document in which they were embedded had no validity at all. According to Booth such amateur

papers, in this case written-up by 25 or so specialists, were clearly biased in favour of the authors opinions and had no authority. They had, said Professor Booth, been overtaken by objective systematic reviews that scrutinized many papers and articles, coming to a completely independent view of what was considered best practice.

This view was clearly claptrap. However, unfortunately for the defence lawyers, a GMC fitness to practice hearing is not the place to argue sociology, methodology or science. I will briefly make a couple of points which could have been used by the defence in other circumstances. Firstly, the position paper was simply that. The consensual position of 25 practicing clinicians. It existed as a guide for anyone in the society who thought that it made sense. Secondly, it is not possible to arrive at an objective consensual view by systematic review in circumstances where there is major conflict. What does emerge from such work is the dominant and orthodox view that is usually the most conservative reduction; not necessarily the right conclusion or the most creative view.

The second of Booth's pratfalls also grew from his attempt to extricate himself from his previous days agreement with the Porto criteria. Now, under cross examination from Mr Hopkins, Booth developed a theme that he had been warming to throughout his evidence and which suited most completely his bizarre argumentative disposition. In order to deny the symptomatic criteria for the use of colonoscopy in the investigation of suspected cases of IBD, Booth denied that what he called 'tick lists' were of any use. If he had left this view as a general remark, in the way that Professor Rutter might, there can be no doubt that it might have held some meaning. Unfortunately for all those who had to listen, Booth became involved in a repetitive incantation that claimed not only were all these listed symptomatic criteria in the Porto document known to every practicing gastroenterologist, but checklists were useless without the experiential skill of the physician who could asses and balance the various items on the list. When Booth made deep incursions into this argument, he began to sound quite barmy because of course no one had ever suggested that these lists should be used by first time amateur practitioners, say the next door neighbour, who had decided to carry out a helpful colonoscopy. Everyone had taken it for granted that it was experienced doctors who diagnosed IBD and then decided whether or not colonoscopies were a necessary investigation.

It was clear from the beginning of Professor Booth's evidence that he and

the doctors practising at the Royal Free had completely different approaches and were looking for quite different things in their patients.

While those at the Royal Free were of the opinion that an extensive and cross disciplinary ‘work-up’ was of the essence in attempting to diagnose and therefore treat the very serious illnesses of the children concerned, Professor Booth, no less professionally, believed that a gastroenterologist should be mainly concerned with first symptomatic manifestations, best diagnosed and treated without invasive investigations; an approach, as Mr Miller put to Professor Booth in cross examination, that might be described as ‘wooden’.

* * *

So there in the evidence of the General Practitioners, non of whom knew anything at all about the behaviour of Dr Wakefield at the Royal Free Hospital nor anything specific or specialised about IBD, and the two expert witnesses, Sir Michael Rutter and Professor Booth, we see the full extent of the case against Dr Wakefield on the matter of whether he carried out non clinical research on the 12 Lancet children cited in the Lancet paper.

'But surely', I hear you cry, 'there must have been other evidence!' There wasn't. What there was, however, was a mass of innuendo, prosecution assertions, haphazard asides and Deerisms (defined as un-researched and usually defamatory statements made by Brian Deer) which tended to make it look as if Dr Wakefield and the other two defendants were men of evil design. In the GMC Fitness to Practice Hearing against Dr Wakefield, Professor Murch and Professor Walker-Smith it might be said that the Prosecution argued a good case completely unsupported by evidence and using the untruthful premise that the Lancet case review paper was a botched and illegitimate piece of research carried out by mercenary doctors at the behest of hysterical parents who wanted to prove that MMR caused autism. When one considers that the British Government, the GMC, the Sunday Times and the pharmaceutical industry dragged this burning case from the ashes of the parents claim heading for the high court and remodelled it into a Phoenix of vaccine damage denial, we can only be amazed, not just at the cruel inhumanity of those involved but also at their strategic brilliance.

Endnotes.

(1) The case of Margaret Best and Kevin, her whooping cough vaccine damaged son. There have been out-of-court settlements but always on pharmaceutical company terms.

(2) In Britain law firms, taking defence cases or claimants cases in civil actions, were until recently totally dependent upon state aid to pursue the case. More recently the state has cut back drastically on Legal Aid, so making it impossible for many poorer individuals or groups to be involved at all in the legal system. British lawyers have shown no desire to get involved in pro bono cases on a no win no fee bases, instead preferring to let wrongly accused defendants and damaged civil claimants go to the wall.

(3) Up until the time of the last whooping cough vaccine claims trials, the parents told their stories, the defence cross-examined them and the jury, after also having heard the expert witnesses believed or disbelieved them.

(4) In fact, Dr Wakefield did not take the blood samples in question, they were taken by a fully qualified nurse.

(5) Silenced Witnesses first volume and Volume II.

(6) Joan Cambpell on Jack in A belief in Angels, volume One of Silenced Witnesses.

(7) Deborah Nash on David, In The Presence of Strangers, the first volume of Silenced Witnesses.

(8) Heather Edwards on Josh in Suffering in Silence, Volume II of Silenced Witnesses.

(9) Celia Forrest on her son Adam, in Adam, Volume II of Silenced Witnesses

(10) Deborah Heather on her son Andrew, in Being the Voice of my Child, Volume II or Silenced Witnesses.

(11) Polly Tommy on her son Billy, in Futures for Billy, Volume II of Silenced Witnesses.

(12) Richard and Jan Crean on their son Thomas in Disgusterous!, Volume II of Silenced Witnesses.

(13) The prosecution did bring one parent to the hearing. However, they got her to give evidence under false pretences, telling her that she would be giving evidence for Dr Wakefield when in fact she was being called by the prosecution.

(14) From their web site.

(15) Uncorrected transcript of oral evidence - to be published as HC 490-i House of Commons minutes of Evidence taken before science and technology committee OST scrutiny 2005. Wednesday 19 October, Lord Sainsbury of Turville.

(16) Annual Report and Financial Statements 31st March 2009.

Counterfeit Law, Part Three: Houdini Horton

In the first part of Counterfeit Law I looked at the verdict of the General Medical Council's Fitness to Practice Panel in the case of Dr Wakefield, Professor Murch and Professor Walker-Smith, and what followed it. In part two I looked at the evidence given by the expert witnesses in relation to what the prosecution claimed was research carried out on the twelve autistic children cited in the Lancet paper. There is no doubt that these claims were the centre of the case, however, this kernel was deceptively wrapped in a mass of lesser charges like a wood hidden by the trees.

All these subtle and apparently lesser strands of the case changed and metamorphosed during the hearing as the historical circumstances and present day evidence came together. These cocooning lesser charges were always very important because they added a taint of deceitfulness, dishonesty and in one instance apparent stupidity to the character of otherwise honourable professionals; they helped uphold the central charge of experimenting on autistic children.

The peripheral issues in the hearing were: 'the lack of declared conflict of interest in the Lancet paper' (1) , the 'blood samples taken from children', 'research ethics committee approval for the Lancet paper 'study' and 'the administration of Transfer Factor'. The charges around these issues might be termed 'padding', for if looked at individually we see that they could hardly exist as stand-alone charges, it is only when they satellite around more major charges that they gather weight and energy (2). None of the arguments in the whole 'Wakefield affair ' changed more organically or showed such dissonance as those around the suggested undeclared conflict of interest held by Dr Wakefield at the time of the publication of the Lancet paper and none it transpired could have been so easily refuted in a court of law or a genuine enquiry by the unfolding evidence. This last part of Counterfeit Law looks at the conflict of interest issue and the role of Dr Richard Horton, editor of the Lancet medical journal.

* * *

Horton's description of the conflict of interest issue, although in the last analysis deceptive, was simple: Wakefield, he said on finishing the case review paper for publication in the Lancet, failed to add, and therefore hid from him, from the Lancet and from the public the information that he had received funding from the then Legal Aid Board (later to become the Legal Services Commission) to carry out research, that would aid his expert witness testimony on behalf of the parents of vaccine damaged children (3).

This accusation of conflict of interest was developed and extended by the GMC prosecutors, so when proffered in the Hearing it had become baroque. Ultimately the prosecution narrative was that Wakefield had hidden his conflict of interest in a paper that was the fraudulent conclusion of a disguised research study carried out on healthy autistic children with the intention of fixing a result that showed MMR caused autism. The 'fixed' results of this research study were to be used by the solicitor Richard Barr in the parents claim against pharmaceutical companies, so making pots of money for all parties while helping Wakefield in his Jihad against vaccine manufacturers.

The issue of conflict of interest has become increasingly important over the last decade and it is the centre of a great deal of debate within the scientific community (4). Concern has arisen especially because increasingly, highly paid 'scientific' witnesses acting as experts for corporations, not claimants, particularly in environmental, industrial production and high technology damage cases, have been found to lean towards the defence. There is an old legal rubric about witnesses - ‘There is’ it goes, ‘no property in a witness’ and expert witnesses in particular are meant to do their research and give their evidence for, and to, the independent 'court'.

The Legal Aid Board or the more recent Legal Services Commission in England does give funding to lawyers acting in claimant's cases. It does not, however, represent private interests but is an agency of the state that funds research of many different kinds. The contemporary test for conflict of interest is whether or not readers of the research might perceive there to be a conflict. Ultimately this perception can only be exercised if authors state possible conflicts; therefore the first subsidiary offence in the conflict of interest calendar has to do with declaration of such conflicts.

It is generally recognised that the regulation of interest conflicts in research, has changed from being lax - almost none existent - twenty years ago, to more clearly defined. One of the central rules which dictates declaration of conflict of interest is that the reported research must be related to any projects undertaken with payment or other involvement with parties who might be seen to gain from the research (5).

The Lancet paper was a case review paper recording findings of a clinic work-up on twelve children. The prosecution in the GMC hearing and the more general campaign against Dr Wakefield, only got near to getting away with their fraudulent accusations over conflict of interest, because they claimed that the Lancet paper represented the conclusions of a research study that set out to evaluate the link between MMR and autism. The prosecution, had to maintain that the Lancet paper was the conclusion of a research study because rules about research ethics committee approval and such things as conflict of interest apply to research studies and not necessarily to case review papers - especially a decade and a half ago. Apart from many other considerations, this explanatory paragraph from Professor Michael Siegel should be seen as important:

'It is important to note that the research must be directly related to the testimony (in expert witnesses) in order for there to exist a conflict of interest. If I am testifying that an individual's smoking caused his or her lung cancer, then there is no reason why all of my research related to smoking must include a conflict disclosure. However, if my research relates specifically to the issue of lung cancer causation by smoking, then a conflict disclosure would be in order.' (6)

If Dr Wakefield had given evidence in the parents claim against pharmaceutical companies on behalf of their vaccine damaged children, his evidence would have been about any link between MMR and autism. However, the case-review Lancet paper was not about that, was not a study and did not try to prove anything. Dr Wakefield was quite clear in his evidence at the GMC hearing, that had he begun or finished for publication any research which looked at the relationship between MMR and regressive autism he would have clearly stated any perceived conflict of interest. This is, however, yet another example of how, in the GMC trial, the burden of proof was deceptively shifted to the defence - that the absence of any declared conflict of interests showed that Wakefield had

them but had deliberately hidden them from the Lancet editor, so proving his guilt.

A notable case of undeclared conflict of interest that was exposed relatively recently was that of the late Sir Richard Doll, the world acclaimed public health epidemiologist. In 1989, Doll published an important paper on Vinyl Chloride and brain cancer in production workers. The paper had been suggested to him by Brian Bennett, the Medical Advisor to ICI UK, a major producer of vinyl chloride. Bennett had originally sought the advice of the US Chemical Manufacturers Association about whether or not Doll should be involved. Agreeing to Doll's involvement, they provided him, not only with payment for the research but also all the industry data upon which to base his research.

The research paper produced by Doll concluded that although there was a an increased risk of brain cancer amongst vinyl chloride workers, that increase was not related to exposure to vinyl chloride. Bennett had advised Doll of the journal that would publish the paper but before Doll submitted the paper, he absolved himself of responsibility for any declaration of conflict of interest by writing to Bennett asking if he should disclose payment received from major vinyl chloride companies. Bennett wrote back to him saying that this was unnecessary. Consequently Doll's lucrative involvement with the Chemical Manufacturers Association and particularly one of its major members, Monsanto, remained a secret until 2005 (7).

When this story emerged for a second time, two years later in 2007 on the front page of the Guardian, those who supported Doll, the Chief executive of the Medical Research Council, the director of the Wellcome Trust, the President of the Royal Society, the President of the Academy of Medical Science (8) and the chief executive of the Cancer Research UK, all scions of industrial science, wrote a letter to the Guardian pointing out why Doll had not needed to state his conflict of interests. Although their argument that the paper was published pre-rules about declaration had some validity, the fact that Doll had clearly been aware of his obligation to make a declaration, is shown by his apparently sincere inquiry, not of the journals editor, but of Bennett. Over and above this, there were no ifs or buts about the matter, Doll had, for whatever reason, determinedly kept secret a series of funding and methodological links with the industry that he had researched. Nevertheless Doll's paper is still today used by industry as the 'proof' that there is no link between the production of vinyl

chloride and brain cancer.

The dispute over Wakefield's conflict of interests continued between 1998 and 2010 and became one of the main factors in a finding of dishonesty against him by the Panel of the GMC Fitness to Practice Hearing. While everyone else involved in the prosecutorial campaign against Wakefield constantly developed and extended the case against him, Richard Horton, despite disguised forays into more general aspects of the issue and anodyne propagandizing support for MMR, appeared to focus in his more serious public utterances almost solely on the conflict of interest issue. The fact is, he had to do this because he had published Wakefield's paper in his journal and unless serious criticism were to befall him, he had to choose an issue to 'expose' that reflected solely on Dr Wakefield and not upon his editorship of the Lancet.

* * *

Parents first began to make contact with the Royal Free Hospital in the early nineteen nineties. Their children suffered from a range of conditions; most had bad bowel problems, constant diarrhoea and were in pain; many of them had begun to regress into shades of ASD. Some of the parents anecdotally reported that their children's problems had begun soon after they had received their MMR vaccination. These parental anecdotes were flagged up, as they should have been by conscientious clinicians and researchers as an area of possible future research.

The children of parents who made contact with Dr Wakefield in his capacity as head of the Experimental Gastrointestinal Unit, were passed to Professor Walker-Smith for clinical evaluation (9). In those cases, where suspected IBD was linked to regressive autism, even Professor Walker-Smith, with a long experience of paediatric gastroenterology, could not reach a diagnostic conclusion. Other than the fact that the children appeared to have Inflammatory Bowel Disease and had regressed into autism, it was difficult to garner any more diagnostic information. It was odd for IBD to appear so quickly especially in young children, and it was even more odd for young children who had been developing well to suddenly regress into autism.

Faced with this kind of diagnostic conundrum especially in the field of public health, doctors all over the world do the same thing. They create a

protocol that includes a variety of tests and procedures covering as many bases as possible. In essence this is detective work that the doctors hope will ultimately uncover a diagnosis leading to a treatment.

In 1997, Dr Wakefield, in his capacity as a research worker, began writing up a case review of the first twelve children who had been examined at the RFH. The idea of the paper was to give other doctors in other hospitals an early warning about the condition. Sticking to the academic rules of case review papers, children with similar presentations who had sequentially attended the hospital were included in the report. The children were admitted as inpatients for short periods so as to undergo tests and clinical procedures.

Although, when they left the hospital some children were given advice on remedial treatments, none of them received treatment for the root cause of their conditions because this was still not known. Such case review papers, which are not the writing-up of research but which record clinical observations, did not need research ethical committee approval in 1997/8, and some do not today.

However, during procedures such as colonoscopy, small samples are clipped from parts of the body under observation; if these biopsy samples are intended to help with diagnosis, research ethics committee are often asked for approval, especially if the intention is to stored for future research. The approval covering the taking of samples from any child patients, application 162/95 was a 'blanket' approval that had been obtained by Professor Walker-Smith from Guy's hospital and brought with him to the Royal Free.

The writing of this first case review paper was almost entirely the work of Dr Wakefield as he was head of the unit and the senior researcher. The reason why twelve other authors had to be attributed on the paper was because all these specialists had played some part in the evaluation of all, many or a few of the children. In the GMC farrago, Miss Smith, the prosecutor, tried to show that apart from Dr Wakefield, Professor Murch and Professor Walker-Smith, all the other authors were makeweights whose names had been added to the paper virtually without their consent.

Dr Wakefield submitted the first draft of the paper to the Lancet in May 1997 and it was finally published in February 1998. Its publication was

accompanied by a press briefing organised by Professor Zuckerman, the Dean of the University attached to the RFH. During the preparation of the press briefing Zuckerman agreed with Wakefield that given the possibility that MMR was not completely safe for all children it would be a good idea to advocate single vaccines (10). When a journalist at the press briefing asked what parents were to do given the contention that the triple vaccine might not be safe for some children, the question was fielded by Zuckerman to Wakefield. Wakefield answered in the manner agreed, that it might be a good idea to return to single vaccines until research at the Royal Free had clarified the position.

This call by Wakefield for parents to return to the single vaccines - translated by the media into a call by Wakefield for parents not to vaccinate their children - became the story of the press briefing and effectively ended Dr Wakefield's research career in England. With this statement, he had threatened the profits of the vaccine manufacturers, derailed successive governments combined vaccine policy and become a public health pariah. From the day of the press briefing, his career began to unravel, and in 2002 he left England to do research in the United States of America.

* * *

One of the enduring questions about the GMC hearing is why the onslaught against Dr Wakefield began in 2004 a full six years after the publication of the Lancet paper. The most straightforward reason for this interregnum was that from 1992 lawyers and claimants had been pursuing a civil action against three pharmaceutical companies. Any attack on Wakefield a prospective expert witness, would have been seen as a clear breach of sub-judice. The first thing that the pharmaceutical companies had to do was bring an end to the civil action (11). This they managed in 2003 when the government withdrew legal aid from the parents, who appealed to no avail against the decision in 2004.

In the years between 1998 and 2003, however, the pharmaceutical companies and the government prepared the ground for a post-civil action assault on Wakefield. In 1998 Brian Deer began work with an oddly titled Sunday Times article about Margaret Best and other whooping cough claimants. 'Vanishing victims' supported Wellcome's (later GSK)

whooping cough vaccine and derided the expert witnesses appearing for the parents. (12)

At some point in the five-year lay-off, Dr Richard Horton was commissioned to write two pro-MMR books, one destined to be published in the wake of Deer's 2004 exposé of Dr Wakefield. Behind the scenes arrangements were also being made for Sir Crispin Davis, Horton's manager at Elsevier, the Lancet publishers, to be moved onto the board of GSK in 2003, seemingly to mind Horton during the crisis that was about to overtake the Lancet. This intervention of GSK in the Lancet, should have been enough to end the journals reputation and raise the most serious questions about Horton's role as editor. Finally, from 2003, it appears that Brian Deer began to construct a specific case against Wakefield that could be progressed through the GMC.

* * *

Despite their facile nature, the two books Horton wrote between June 2003 and June 2004 were rushed to print by Granta a mainstream liberal documentary and fiction publisher. The 2003 book was titled Second Opinion and was a book of general medical concerns that contained a single chapter on the MMR conflict. The second book, MMR Science and Fiction: Exploring the Vaccine Crisis, is a paean of praise to MMR and a subcutaneous assassination of Wakefield.

In Second Opinion Horton recounts how the Lancet's publication of Wakefield's case review paper, unleashed a tide of reaction against him personally. How he was telephoned by the former president of the UK’s Academy of Medical Sciences 'in a fury about the publication of a paper that raised questions about MMR'. The only past President that fits the bill is Sir Peter Lachmann, the founder President of the Academy, 1998-2002. Horton must truly have been annoyed at getting phone calls from his fellow Fellows in the Academy of Medical Sciences; readers of my last essay will remember that Sir Peter Lachmann had telephoned him on another occasion, threatening his job if he published a paper on the health dangers of GM potatoes. Sir Peter was to be a prosecution witness with Horton and Sir Michael Rutter at the forethcoming GMC Hearing. Horton seems to have joined these two high-flying drug company-linked academics as a founding Fellow of the AMS (13) without paying any heed to the old adage 'if you lay down with dogs, you get up with fleas'; or

were his protestations just a pantomime?

In the book, Horton spins the Department of Health line that single vaccines were not licensed in Britain (14) at the time that the Lancet paper was published and when Dr Wakefield advised parents to chose them: 'for all practical purposes (it was) a recommendation to parents not to have their children vaccinated at all since the components were not available separately in the U.K.' In fact this is completely wrong. The truth was that in an attempt to bully through their combined vaccine policy, soon after the Lancet paper, the government moved on companies importing the single vaccines, withdrawing licenses, and coming down heavily on practitioners who advocated them, so helping deny UK parents freedom of choice.

In the book, Horton introduces many of the hoary old chestnuts that became staples in the ongoing barrage against Wakefield. However, he says as well that Wakefield's work opened up a new field of science - the relationship between the brain and the intestine - in the aetiology of autism. Even here, though, he was unable to leave the matter without throwing a gratuitous spanner into the works, maintaining that no one had replicated Wakefield's work - work that Wakefield had not actually produced!

'... Not one person or group has confirmed the original findings in the Lancet paper'.

While this statement might well have been true of the large scale epidemiological studies manufactured and re-presented by the Department of Health, and its related bodies, that looked at how many cases of autism appeared in large samples of vaccinated vs. unvaccinated children, it was not true of small clinical studies or case reviews which took as their starting point children who presented with serious bowel problems and regressive autism; the actual subject of the Lancet case review paper.

Horton concludes the chapter in Second Opinion with the lessons to be learned from this 'sad affair', which has left 'Wakefield's reputation unfairly in tatters, virtually unemployable in the UK for the work he wanted to do.'

Unless Horton is intellectually compromised, which I suspect he is not, he

is disassembling throughout this book and the next one, for he emerges shortly down the line with Deer and Harris, as one of those most responsible for the destruction of Dr Andrew Wakefield's career.

* * *

Horton's public re-engagement with Wakefield's paper, came almost six years after the Lancet paper's publication and was triggered by Brian Deer who, out of the blue, called up all the actors in the drama a week before he was about to publish his 'exposé' in the Sunday Times.

A PR consultant friend had been helping take the heat off Wakefield following the publication of the Lancet paper. (15) Between December 2003 and January 2004, he was contacted by Deer who asked for an interview with Wakefield. Deer said he was planning to publish a story about the Lancet paper in the Sunday Times, the patchy details that Deer gave about this imminent publication were enough to send Wakefield hot foot from Texas to London in February 2004.

Wakefield made this trip without any of his documents referring to the period of the Lancet paper. In fact, both Professor Simon Murch and Professor Walker-Smith, also called to an urgent meetings with Deer, were as well thrown back on their memory of events that had occurred six to eight years before. From this point onward, Deer and Horton appeared to play the traditional urban masque of 'good cop, bad cop', as they extracted statements from the three doctors.

Wakefield flew into England at dawn on Tuesday 17th February and in the few hours he had left before any meetings began, he gathered what information he could lay his hands on. Horton had also made arrangements with Deer for Deer to brief him and the Lancet staff at the offices of the Lancet that morning. While Andy was answering questions and defending himself against Deer's accusations with representatives of the Sunday Times, including Paul Nuki, the newspaper’s ‘Focus’ editor, at an office in Mayfair, Deer was at the Lancet.

Paul Nuki, a journalist at the Sunday Times from 1993 until 2007, is the person originally thought to have given Deer the job of finding something on MMR for the Sunday Times (16). He is the son of Professor George Nuki, who was coincidentally a member of the Committee for the Safety

of Medicines for a period in the late 1980s, when the CSM was considering the Pluserix MMR vaccine, for safety. Pluserix was taken off the market by the British government in 1992 after it was found internationally to have caused serious adverse reactions. (17)

Having also pressurized Murch and Walker-Smith to meet with Deer at the Lancet offices, in the afternoon, Deer was there with Evan Harris - whom Horton later describes as a 'shadowy presence' - and presented, Horton says, a five hour seminar on Wakefield's corruption. Horton later described the presentation as 'gripping' and the allegations it contained 'devastating'.

Horton's objectives in acting as an administrative secretary for Deer have never been explained. As the editor of the Lancet, a fairly conservative medical journal, why did Horton give Deer the audience he did? After all Deer was a relative unknown 'medical' reporter without any connections with above board health or medical organisations. If Deer wanted to raise issues about a single paper authored by thirteen highly respected medics, why didn't Horton simply point him in the direction of the Lancet letter pages?

In fact it was Horton who launched the pre-publicity for Deer and the Sunday Times and he seems to have known the game plan from 'early doors'. Apparently gob-smacked by the revelations of Wakefield's unethical adventures at the Royal Free, Horton immediately set himself up as a contemporary Poirot with medical leanings. The next day he dragged Deer to the Royal Free Hospital to conduct interviews. In the afternoon of that day, a vehement Deer and a smooth Horton, amongst friends at the post Wakefield Royal Free, pressed Murch, Walker-Smith and Wakefield, the three 'suspects' into the writing of self-incriminating statements that appeared to support Deer's story about the origins of the 1998 Lancet paper. These statements were then added to Deer's Sunday Times article and later surfaced at the GMC being put to the defendants as 'confessions'.

Despite clearly wanting to damage Wakefield, Horton's diplomatic public account of his sleuthing at the RFH, suggested that he had found Deer's case to have been damaged by these enquiries. In fact, according to Horton, it was beginning to look as if some of Deer's accusations were ill-founded.

Despite appearing to be privately seeking the truth about Wakefield's paper and still apparently chummy with him, immediately following Deer's intervention and apparently still lacking verified information, with Deer's article ready to appear in the Sunday Times, Horton stepped out onto the boards to give a very public evening and early morning media show. (18)

On Friday February 20th Horton went on national television and accused Dr Wakefield of hiding a serious conflict of interest from him and the Lancet. To believe this, Horton would have also had to believe that the paper he published was not a case review paper but the result of a full-blown research study; this he didn't believe. Horton evidently saw nothing wrong with scuppering Wakefield's work on television before any 'evidence' had been verified, either in the Sunday Times or, more importantly, within the scientific or academic community. In his second book, published in October 2004, MMR: Science and Fiction, Horton's approach can be seen as much deeper and subtler than Deer's'.

Horton repeats what he said on the BBC television news:

If we knew then what we know now we certainly would not have published the part of the paper that related to MMR, although I do believe there was and remains validity to the connection between bowel disease and autism'.

The only problem with this statement is that no part of the paper was about MMR. The paper simply reported that in eight out of the twelve children parents or GPs had noted a coincidence of the vaccination and the onset of the child's illness, suggesting that this coincidence should be the subject of further research.

Horton's retrospective and unevidenced remarks were to get stronger 'in other interviews' (20)

'There were fatal conflicts of interest in this paper ... in my judgement it would have been rejected ... I called Wakefield's work on the link between the MMR vaccination and autism, "fatally flawed." ' (21)

In the book, Horton goes on to reflect on the Media coverage the following day, feigning surprise at its 'aggressive' nature:

'Medical journal raps MMR report doctor' said the Daily Express. 'Lancet in

attack on MMR doc', proclaimed the Daily Mirror. 'MMR doctor criticised,' announced The Times. 'Lancet MMR report invalid, says editor,' reported the Daily Mail. (22)

And:

'A whirlwind of innuendo ensued, which caught all of us in its wake. Evan Harris, the MP who had mysteriously joined Brian Deer at the Lancet's offices, called for an independent inquiry into Wakefield's research. Put on the back foot by the sudden escalation in media interest and by Harris's call for a public inquiry, Britain's Health Secretary, John Reid, urged the General Medical Council to investigate Wakefield, 'as a matter of urgency'. Even Prime Minister Tony Blair jumped into the debate, saying, 'There is no evidence to support this link between MMR and autism.' (23)

The following morning, Horton appeared on the Today radio news programme.When questioned by John Humphreys about MMR, he declared that the vaccine was 'absolutely safe.'

On Sunday the 22nd February, Deer's 'exposé' ran in the Sunday Times. The article opened the flood gates for all the vaccine establishment riffraff, evidently rehearsed and waiting in the wings, to speak their one line parts.

Professor Liam Donaldson, the chief medical officer, took the opportunity to have his Bram Stoker moment, 'Now a darker side of this work has shown through, with the ethical conduct of the research'. On the Independent Television news, Prime Minister Tony Blair took the opportunity to make a remark which could have been a reflection on his own judgement in the weapons of mass destruction debacle; 'I hope now that people see the situation is somewhat different from what they were led to believe.'

On Monday 23rd, all the newspapers were full of Horton's story, less so of Deer's, because he worked for another newspaper, and because no one could be certain that his information wouldn't invite libel actions. As the hyenas circled Wakefield's prostrate body, developing what was to become the case of the GMC prosecution, Evan Harris MP, who had never made any declaration of interests, vested or otherwise, came to be more frequently mentioned. Harris was a member of the House of Commons Science and Technology Select Committee, a group that since 1997 had

aggressively lobbied on behalf of corporate science against environmental dangers and alternative medicine.

Despite his apparent polite empathy with Wakefield and despite his approach being far subtler than Deer's or Harris's, Horton is quite venomous. Generally speaking his tone in MMR: Science and Fiction, is that of an emotionally challenged recidivist who, caught for the umpteenth time reaching his hand into a gentleman's coat pocket, says with bare faced confidence: 'Really gov I ain't done nowt wrong, was this gent 'ere left his wallet hanging from his pocket, inviting me to relieve 'im of it.'

Even in the introductory pages of MMR: Science and Fiction, Horton takes great delight in putting the boot in:

The Vaccine Guide by Randall Neustaedter looks innocuous enough. It is a book with a sober academic cover that can be found in most bookstores. I bought my copy in June 2004, at a cafe close to University College London. But as soon as the reader turns the cover they will enter a world of striking half truths, gross errors of omission and astonishing manipulation of fact. On the first page, you will read this: 'The vaccination campaign has traded infectious diseases of childhood for chronic autoimmune diseases that afflict both children and adults.' One of those gratefully acknowledged by Neustaedter is a doctor called Andrew Wakefield. (24)

As my eight year old son, too young to read between the lines, might say belligerently: 'And ...?'. To an astute adult, however, the 'and' is clear, 'And Dr Andrew Wakefield is a willing party to these "striking half truths, gross errors of omission and astonishing manipulation of fact".' Interesting as well how Horton manages to distance himself from Dr Wakefield, referring to the man whose papers he has edited, sent to peer review and then published, and in the company of whom he has practiced medicine at the same hospital, as 'a doctor called Andrew Wakefield.' If Horton was ignorant of the part he was playing in a Big Pharma conspiracy then I'm a Dutchman.

As he rolls on describing the Tsunami of media criticism that descended on Wakefield, he almost fails to mention Brian Deer's article, which appeared on Sunday February 22nd in The Sunday Times, MMR Research Scandal (25). The only part of the article Horton quotes is a little snippet

about himself: 'Medical insiders now wonder if he [Horton] can survive the scandal that has damaged the Lancet'. Horton quotes this, obviously distancing himself yet again from Deer, but also adds a softer quote, 'Meanwhile, he [Deer] was described as "one of Britain's top investigative journalists".'

Horton's solution to the crisis that enveloped him personally in 2004, was to call for a 'partial retraction' of the Lancet paper. The part Horton suggested needed retracting was the interpretation that might be thought by readers to claim that MMR was responsible for autism. Although Horton managed to convince some 10 of the authors that this 'partial retraction' was a valuable contribution to the scientific debate, Dr Wakefield, Peter Harvey and Dr John Linnell refused to lend their name to this retraction and wrote to the Lancet explaining why there was no conflict of interest and why, in the absence of a causal interpretation attributable to MMR in the Lancet paper, there was nothing to withdraw.

Horton's 'fiddling while Rome burned' did not placate Harris and other members of the Commons Science and Technology Committee who said that there was no such thing as a partial retraction. When Horton accompanied his Elsevier boss, Crispin Davis, who was within weeks to be made a GSK board member, to a meeting of the UK parliament Science and Technology Committee on 1st March 2004, Harris and other members of the Committee were vituperative, scolding Horton for being a wimp, a man without the strategic intelligence to straightway 'retract the whole paper'.

* * *

The next opportunity that Horton had to pursue the cause of the vaccine companies came when he was called by the GMC prosecution to give evidence against Dr Wakefield. On the day he assumed the chair vacated by Professor Zuckerman, Horton, who refrained from repeating President Chávez's words 'I can still smell burning' when following President Bush to the podium at the UN, stuck to his basic public view that while there was nothing wrong with the science of Wakefield's paper, there was everything wrong with his approach to conflict of interest. Horton performed throughout his evidence like Blondin on a high wire above Niagara while Miss Smith, the prosecutor, stretched herself out below him; an infinitely flexible and safe Olive Oyl.

Attending the GMC hearing and writing it up for the parents, I have to admit to having misjudged Horton. Like a very capable actor, he managed to present a likeable liberal self to the hearing that I now think was actually light years away from his real character. He slithered through his evidence for the prosecution as if he was best friends with everyone in the room and would walk a mile out of his way to help any number of old ladies across busy roads. Horton was tall and fit looking, wearing a casual but well cut charcoal black suit, he exuded the cool of well educated Brits and a younger Michael Cain. Of course, it probably helped that Miss Smith treated him like a long lost son, every question noticeably caressing his ego.

According to Horton his enquiry into Deer's allegations left him sure that at least one of Deer's most serious accusations was completely fictitious. From that point onwards it appeared that he gave impeccable evidence for the defence. In fact, he rose to a level of praise for Dr Wakefield the like of which any campaigner had heard only from parents. If the prosecution was expecting him to say that the paper was full of poor science, they must have been surprised when he said the absolute opposite. The Lancet paper was an excellent example of a 'case series'. Such a case review was a standard and entirely reputable way of reporting on a possible new syndrome. He likened it to how the first cases of HIV/AIDS were reported in the early 80s and how the variant CJD issue broke more recently. He said unequivocally that the science still stood and that he 'wished, wished, wished' that the clock could be turned back and the paper considered in the light it was first presented without everything that followed.

However, when it came to Wakefield's deliberately hiding his conflict of interest, Horton suddenly turned on Wakefield. Throughout this part of his evidence Horton tried desperately to shore up the idea that Wakefield had kept secrets from him and the Lancet. In response to a question by Miss Smith as he was being led through his evidence, Horton said:

'To my knowledge in February 1998 and during the peer review process going back into 1997, I was completely unaware of any potential litigation surrounding the MMR vaccine. I was not aware of the involvement of a firm of solicitors Dawbarns ... I was not aware of any other relationship between Dr Wakefield and Dawbarns and Richard Barr. When I read those statements I saw this as something that was triggered by the paper ...'

(26)

'To my knowledge in February 1998 and during the peer review process going back into 1997, I was completely unaware of any potential litigation surrounding the MMR vaccine.' (27)

'I was not aware of the involvement of a firm of solicitors Dawbarns.' (ibid)

'I was not aware of any other relationship between Dr Wakefield and Dawbarns and Richard Barr.' (28)

Horton told the Panel that he understood Wakefield's agreement with the legal aid board to carry out a study on a small number of children happened after the publication of the Lancet paper. Although this statement is a 'cover-up' which plays a significant part in Horton's story that he had no knowledge of Wakefield's involvement in Legal Aid Board funding of research for Dawbarns, prior to publication of the Lancet paper, it actually reflects the truth. It is directly contrary to the prosecution case that the Lancet paper was the report of an illicit study carried out with Legal Aid Board funding that attempted to prove that MMR caused autism.

Horton, in fact, dug a very deep hole, jumped in it and then proceeded to bury himself; he could only do this. If the case review paper was in fact a case review paper and its science was sound, then not only did the majority of the fraudulent prosecution case collapse but Horton must as well be arguing for the defence that the Legal Aid Board funded research which had not yet been carried out and there was therefore no conflict of interest. This was in fact the case and had this line of Horton's been pursued by counsel for the defence it would have done the prosecution immense damage. However, no one probed Horton's self-serving inconsistency, nor did the defence seek to seriously undermine his assertions that he had no knowledge of Wakefield's involvement with either Dawbarns, Richard Barr or the Legal Aid Board, prior to the publication of the Lancet paper.

Defence council did spend a considerable time cross-examining Horton about the lack of declaration of 'conflict of interest' issue. At the end of a long session, the worst that Horton appeared willing to sensibly adduce was that Dr Wakefield was genuinely surprised that there was the need

for him to reveal funding from the Legal Aid Board.

Horton seemed happy to say that Dr Wakefield had been honest by his own lights and he had not declared any conflict of interest because he genuinely believed - and believes still - that there was no conflict to be declared. While Horton personally disagreed with Dr Wakefield's interpretation of this, as did Professor Simon Murch and Professor Walker-Smith, he acknowledged clearly that it could be seen as a matter of opinion and not a reflection on Dr Wakefield's honesty. But then, Horton knew that if Wakefield was found 'guilty' of hiding a conflict of interest, he would be adjudged dishonest. For such a polite boy from the academic 'hood'. Horton remained as solid as it appeared possible, on the matter of conflict of interest.

* * *

During the life of the GMC hearing, after Horton had given his evidence, on February 29th 2008, Carmel Wakefield, unpacking overflowing filing cabinets transported from London to Texas where the Wakefields had settled, found a series of documents which told the full story of the state of Horton's knowledge of Wakefield's role in the civil action and his involvement with the Legal Aid Board a year before the publication of the Lancet paper.

At the time Wakefield submitted the final draft of his paper to the Lancet, Richard Horton and Richard Barr, the lawyer from Dawbarns, the company handling the parents civil action, were embroiled in an argument. In March, the Lancet had received a letter from a Dr B.D. Edwards; the letter brought to Horton's attention the fact that text and tables from various Lancet papers were being reproduced in a Dawbarns Fact Sheet, sent to parents (29). Sarah Quick of the Lancet noted Edwards' letter in a memo to Horton marked "urgent" on 19th March 1997.

B.D. Edwards was actually a member of the Medicines Control Agency (MCA) (later to become the MHRA), the agency responsible for the licensing and safety of drugs in the UK. Clearly the copyright of Lancet published material did not come within the remit of the MCA and Edwards had written his letter on personal notepaper. We should perhaps understand that with a major civil action in the pipeline, pharmaceutical interests would already be operating a harassment and an intelligence gathering strategy against the lawyers and defendants involved.

Barr wrote to Horton explaining Dawbarns' position in a faxed transmission of 3rd April 1997. In the coversheet of this fax Barr wrote that the 'Fact Sheet and other originals' had been sent by post. As far as Horton's knowledge about the civil action, Wakefield's involvement in it, and the granting to Dawbarns of Legal Aid for the action, Barr's letter contained much information. The letter makes it clear that Barr was involved in litigation related to possible damage to children following MMR and MR vaccinations. Barr refers to exchanges he had had with Wakefield and the latter's permission for Barr to quote, in the Fact Sheet, from papers authored by him. Barr refers to pressure from the MCA and the Department of Health to him from quoting from the Lancet in the Fact Sheet.5

Oddly, Horton responded to Barr in April 1997 denying him permission to use material from the Lancet in the Fact Sheet. Oddly, because this was a clear act of obstruction by Horton; in this slight matter he was evidently siding with the pharmaceutical company defendants in the case that Barr was building. On 16th April 1997 Barr responded by seeking an appeal to the Lancet's Ombudsman. Horton replied saying that he would be happy to refer the matter to the Lancet's Ombudsman.

Although Barr wrote to Horton on 29th April 1997 asking to be put in touch with the Ombudsman, Horton didn't answer until 12th June 1997. Barr subsequently corresponded with the Lancet's Ombudsman Professor Sherwood. Sherwood arbitrated in favour of Lancet tables being removed from the Fact Sheet but short quotes from the Lancet remaining.

This correspondence on these dates are proof of the fact that from March 1997 Horton was aware of the civil action being organised by Barr at Dawbarns, and that Dr Wakefield was involved. But of greater relevance than these things was the fact that Horton had then the case-review paper written by Wakefield and twelve other clinicians at the RFH and he must have known without any shadow of a doubt that this paper was not the result of a 'study' and that no legal aid funding, or any other kind of funding, except the personal time and the NHS salary and facilities of Dr Wakefield at the RFH had been needed to correlate the clinical presentation of the twelve children.

Very quickly after publication of the Lancet paper, the Lancet received a letter from a Dr Rouse. (30) The general tone of this was reminiscent yet

again of a pharmaceutical company strategy to destabilise Wakefield's paper. The original letter to the Lancet from Rouse was entitled: 'Vaccine adverse events: litigation bias might exist.' In the letter Rouse provides direct quotes from what is described as a 48 page: 'Vaccine Fact Sheet' prepared by Dawbarns solicitors. Dr Rouse repeats from the fact sheet the information that Dawbarns are working with Dr Andrew Wakefield of the Royal Free Hospital who is investigating 'Inflammatory Bowel Disease', and that a sheet is available from Dawbarns offices, written by Dr Wakefield if anyone needs information about persistent stomach problems (including pains, constipation or diarrhoea) following vaccination.

Dr Wakefield replied to this letter in the Lancet of May 2nd 1998. Rouse's use of the novel term ‘litigation bias’ again drew attention to Wakefield's work in light of the way it was being viewed by the pharmaceutical companies. In fact, the use of this term was the subtle beginning of what was to develop into the 'conflict of interest' strand of the prosecution case. More importantly Rouse's letter and Wakefield's response to it makes it crystal clear that immediately after publication of the Lancet paper, the issue of conflict of interest was aired in the Lancet.

* * *

Word got around, and from the 29th of February 2008, it was clear to everyone involved in the case that at the end of the defence case, Horton would be recalled and roasted over hot coals. The new evidence once aired would destroy a major support for the prosecution case. In fact, it was unlikely that the prosecution would survive in the matter of conflict of interest, because Horton was their major witness on the matter. When the issue of Horton's recall was mooted, I felt we were finally about to see some deft legal footwork that would end or at least diminish the whole charade. I wrote the following in my report:

Suddenly on Friday 14th November 2008, when everything was almost all over and people were wondering where they had left their macs and umbrellas, one of the hearings small subterranean volcanoes erupted. I almost missed its beginning when it went from criticism to what passes at the GMC for a full-blown row in about 90 seconds.

I was first conscious of the fact that Miss Smith was in her usual sotto voce style - as if she didn't really want anyone else to know what she was

saying - talking about Dr Horton being recalled to give rebuttal evidence.

Now Miss Smith was on her feet explaining in very sensitive and sympathetic terms why getting Dr Horton to Euston Road this century was a logistic feat similar to the one that faced Hannibal in 203BC during the second Punic War. In order to impress the Panel and assume the moral high ground, Miss Smith detailed Dr Horton's itinerary in the days after the hearing that was to resume on January 12 2009. Horton's diary included what Miss Smith seemed to think was a clincher. On one day, pride redolent in her voice, Dr Horton was in 'Palestine', 'launching a session in relation to health on the West Bank'. This was very laudable and it made me suddenly aware that the whole prosecution team must have always been constant supporters of the cause of the Palestinian people. I also wondered whether Dr Horton's visit to the West Bank had anything to do with his relationship with Mr Blair, who was then Middle East Envoy.

Anyway, it was quite apparent from Miss Smith's litany of Dr Horton's important political and humanitarian work, that fitting in to give evidence at the GMC hearing was not only small potatoes but indescribably difficult. Miss Smith attacked the problem as if all the parameters of it were settled and taken for granted; it was, undoubtedly the hearing that had to fit in with Dr Horton and not Dr Horton who could fit in with the hearing.

Miss Smith even had the length of Dr Horton's evidence decided and in one particular defence of him, she said something like: 'Well, Dr Horton's evidence will take about 50 minutes, he should be able to fit that in ...' To be honest, it might have seemed to the casual observer that Miss Smith wasn't trying very hard to get Dr Horton to the hearing. This idea was supported by a seemingly quite angry Kieran Coonan, who spluttered that it was obviously impossible for the defence to come to any conclusions about how long Horton's evidence would take because all they had so far produced - after having sight of the new evidence that utterly contradicted his first statement - was an unsigned statement i.e. a rough draft of what Horton might say but without the authority of his signature. 'We have', Mr Coonan said, 'been waiting since day 69 (it was then day 108) for a signed statement '. It occurred to me later that the last thing Horton would want to do was place a new signed statement in the public domain, especially when it became apparent that in the new statement, Horton was claiming total amnesia for everything, including the LAB funding, research at the RFH, the parents court case and Wakefield's role

as an expert witness, prior to the publication of the 1998 paper..

Mr Coonan's evident dissatisfaction was as nothing compared with that of the Legal Assessor, who when asked to contribute to a solution about the timing of Horton's appearance said quite dryly, 'I haven't even seen the unsigned statement, so it
is hard for me to make any decisions'. On this, Miss Smith did one of her little turns that so endeared her to us, a little aside that carries with it great natural humour and drollery. Holding up the two pages of the statement for the Legal Assessor, sitting twenty feet away, to 'see' she said, 'This is Dr Horton's statement', before returning it to her table.

Alas the whole firework display spluttered out when it was decided that behind the scenes talks would resolve the matter of recalling Dr Horton. These talks must have concluded in either an agreement or a stale-mate because Horton never appeared to be cross examined on his new amended statement and the hoi polloi were never any the wiser about this important conflict of evidence.

* * *

During the writing of this essay, every time I have typed his name, I have almost typed 'Sir Richard Horton'. Whether this is because the Richard is close to the name of one of Horton's heroes, Sir Richard Doll, a supreme exponent of interest conflict, or whether it is because Horton's Herculean work on behalf of pharmaceutical medicine in the Wakefield case will inevitably gain him a knighthood, I'm not sure.

At a time when every other concerned health care academic in the country was trying to find a way of prizing apart the drug companies from doctors and medical journals, the prospective 'Sir' Richard Horton had gained his next toe-hold on the slippery pole. It was announced in February 2008 that he had been chosen to chair a working party set up by The Royal College of Physicians (RCP) and the drug industry in an attempt to create a better relationship between doctors and the drug companies.

In a letter inviting submissions Dr Horton and Ian Gilmore, president of the RCP, said: 'There are barriers perceived to exist between the industry, the NHS and academic medicine that inhibit a truly dynamic and

productive relationship between the key players, working in the best interests of patients'. Perceived or real, perhaps Dr Horton might agree with the first and Dr Wakefield with the second.

Following the verdict of the GMC Fitness to Practice Panel in January 2010, Richard Horton claimed that the Lancet paper was completely compromised and rescinded it from the historical record. (31)

End Notes

(1) Wakefield AJ, Murch SH, Anthony A, Linnell J, Casson DM, Malik M, et al. Ileal-lymphoid-nodular hyperplasia, non-specific colitis, and pervasive developmental disorder in children. Lancet 1998;351:637-41.
(2) The prosecution argument that confused 162/95, the research ethics committee approval granted to Professor Walker-Smith at his previous hospital and which he took with him to the Royal Free, was deliberately conflated by the prosecution to cover a non-existent research project which they said had resulted in the Lancet paper of 1998. This was a very important aspect of the case, however, it was sprung on the defence by the prosecution at the hearing and had no real provenance except in the speculative imagination of Brian Deer who did not give evidence to the GMC hearing
(3) There were 13 authors of the Lancet paper. None of them declared any interests and yet the prosecution, aiming to discipline Wakefield alone - despite trying him with two other defendants - never once brought this matter up.
(4) This edition of the American Journal of Industrial Medicine is a good introduction to conflict of interest in industry and environmental legal cases .Egilman David, Tweedale Geoffrey, McCulloch Jock, Kovarik William, Castleman Barry, Longo William, Levin Stephen, Bohme Susanna Rankin. P.W.J. Bartrip's attack on Irving J. Selikoff. Am J Ind Med. 2004 Aug;46(2):151–155.
(5) http://tobaccoanalysis.blogspot.com/2009/01/conflict-of-interest-not.html
The blog of Professor Michael Siegel, a physician who specialized in preventive medicine and public health in Boston, Massachusetts, gives a good break down of the does and don'ts of conflict of interest rules.
(6) ibid

(7) Walker. M. J. Company Men Part Two: Sir Richard Doll: Death, Dioxin and PVC. 2005. http://www.medicalveritas.com/images/00208.pdf http://www3.interscience.wiley.com/journal/113451325/abstract?CRETRY=1&SRETRY=0

(8) For a run down on the Academy of Medical Science, See Counterfeit Law Part II http://www.ageofautism.com/dr-andrew-wakefield/

(9) The first patients had to be put on hold because Walker-Smith was working out his time at Guys Hospital. A few cases had to wait for a longish period until Walker-Smith came on post.

(10) During the GMC hearing, Zuckerman maintained that the use of the word 'monovalent' used twice in a letter to Wakefield, was a typing error made by his inefficient secretary. It should, he claimed in evidence have read, 'polyvalent'.

(11) See Counterfeit Law Part II. http://www.ageofautism.com/dr-andrew-wakefield/

(12) Deer had already begun to suggest in this long article that the whooping cough vaccine damage cases that were brought into court by the expert witness were shown either not to be ill or ill from other causes. In 1998, Deer was evidently already rehearsing the arguments that the GMC prosecution would use against Dr Wakefield's 12 Lancet paper children.

(13) ibid, Counterfeit Law Part II. http://www.ageofautism.com/dr-andrew-wakefield/

(14) See postings at the BMJ and on Age of Autism by John Stone and others.
http://www.bmj.com/cgi/eletters/340/feb02_4/c644. Professor Trisha Greenhalgh
February 23, 2010 Trisha Greenhalgh's Competing Interests in Wakefield Case.
http://www.ageofautism.com/2010/02/trisha-greenhalghs-competing-interests-in-wakefield-case.html

(15) In this last section of the essay I have drawn in part on the unpublished writing of Carmel Wakefield.

(16) See John Stone on AOA. March 03, 2010. Brian Deer Hired to "Find Something Big" on MMR

(17). The story of the Urabe strain mumps virus is a complicated story. MMR containing Urabe strain had been found to create serious adverse reactions in Canada, and withdrawn from the market even before it's introduction in Britain. See The Urabe Farrago by this author. http://www.wesupportandywakefield.com/documents/The%20Urabe%20Farrago.pdf)

(18) Later Deer was to threaten Horton with a civil action on the grounds that he broke their agreement to keep confidential the information in Deer's Sunday Times story until after it's publication.
(19) Richard Horton, MMR: Science and Fiction, exploring the vaccine crisis. Granta Books. London. 2004.
(20) ibid. MMR: Science and Fiction
(21) ibid. MMR: Science and Fiction
(22) ibid. MMR: Science and Fiction
(23) ibid. MMR: Science and Fiction
(24) ibid. MMR: Science and Fiction
(25) The Sunday Times, February 22 2004.
(26) See Horton’s evidence, Day 17 GMC hearing
(27) ibid GMC Hearing
(28) ibid GMC Hearing
(29) This fact sheet was an edition dated 16th July 1997.
(30) Original letter from Dr Rouse to Lancet of 9th March 1998.
(31) Another Wakefield authored papers from a journal also owned by Elservier, Neurotoxicology was also rescinded.

Return to the House of Lies

God gave me a mind that is my own,

a mind that has not been mortgaged to the opinion

of any man or set of men, a mind

that I was to use and not surrender.

Thomas Francis Meagher 1846. (1)

Chief Prosecutor Smith, yesterday asked for the most severe sanction to be levied against Dr Wakefield and Professor Walker-Smith, in the resumed second part of the GMC Fitness to Practice Hearing taking place in London.

The day was a quite outside the building. Where on previous first days there had been crowds of parents, there were now only two journalists self censured in a small railed paddock. Inside, the cavernous glass building there was no doubt that they were expecting trouble. Having seen the television film of the revolution in Kyrgyzstan and recognising the similarities in their corrupt judicial procedures, the GMC had employed security guards who sat guarding the door to the Hearing and public gallery.

As expected Miss Smith called for the 'erasure' of Dr Wakefield from the Medical Register due to the number and severity of the charges that accounted singularly and cumulatively as Serious Professional Misconduct. Despite the fact that Professor Walker-Smith has been retired for some years after having been one of the most respected European paediatric gastroenterologists and despite the fact that he had only seen children for clinical reasons and despite the fact that he carried no 'invasive procedures' on any of the children in the *Lancet* paper, Smith also called for his erasure from the Medical Register.

In her Machiavellian manner Smith suggested that to give Walker-Smith a lesser sentence would leave children at risk. She didn't state which children would be at risk, but as Walker-Smith is now retired from clinical medicine, we have to assume they would be ones that he came across in the park or the local high street. Smith stressed that Walker-Smith's erasure was important to assure the public that the medical profession take these charges seriously. What of course she didn't say but which was completely true, was that had the Panel only admonished Walker-Smith, the public and the lawyers would have been able to ask how Wakefield had been able to commit all the iniquities he was charged with single-handed. In order to win the day, Smith has always had to brand Wakefield and Walker-Smith with the same iron.

This is ironic considering that both defendants had many evident disagreements and some disliking for each other.

Smith suggested that Prof. Murch whilst subordinate to Prof. Walker-Smith might have used his consultant status to make his own decisions regarding the treatment of the children. However, Smith suggested that perhaps the panel might be more lenient with Professor Murch and simply suspend him for a period if he shows sufficient contrition. Again this is a bizarre and dark suggestion in light of the fact that it was Professor Murch who actually carried out the 'invasive' procedures which were at the heart of the case. In saying this, I am not being critical of Professor Murch, who all the parents know acted clinically, at all times, with ethical correctness.

In preparing her ground Smith repeatedly referred, with the coinage of hypocrisy that is her staple expression, to the damage done to Public Health by the defendants. She also kept afloat the lie - one of the main pillars of the prosecution case - that the children cited in the *Lancet* paper were not ill and did not arrive at the Royal Free Hospital with clinical symptoms. Those who know even a little about this faux trial will know that this prosecution assertion has been the seminal reason why their parents were never called to give evidence. In effect, Smith has spent two and a half years accusing the parents of vaccine damaged children, of ignorance about their children, of lying, of demanding useless invasive procedures, of having neurotic disorders, and of being gulled at the expense of their children by the charismatic Dr Wakefield.

The question of why no parents were called, however, hangs like a spectre equally over the defence council. Nothing that has happened, so far, has riled any of the defence council sufficiently to fight back on behalf

of their clients. Nothing, it seems, dampens their essentially cheery disposition while the lives and professional reputations of their three clients hang in the balance.

Brian Deer, the *Sunday Times* columnist, often referred to by parents as the 'little man', arrived soon after the start of proceedings, having presumably wanted to miss expected demonstrations. Deer, the main architect of the character assassination of Dr Wakefield, imagines that there will be pandemonium when the doctors are struck off. In this opinion he shows the usual low level of understanding of the parents and defendants, who have always behaved with courtesy and intelligence, despite being deprived of research hopes for the treatment of their desperately damaged children.

When Smith wound up the morning session at 11.45, Kieran Coonan proposed that the hearing should resume at 2.15, which would give him sufficient time to get through his brief submissions, about which he was going to seek advice from Dr Wakefield. After a two and half hour lunch break, Coonan confirmed that he had been instructed by Wakefield to make no submissions to the Hearing and that he had nothing to add to the stinking landfill Smith had put forward that morning.

The next sitting day will be next Tuesday when Mr Miller, counsel for Professor Walker-Smith, will have character witnesses arriving from America. Their evidence will take one to one and a half days (in Standard GMC Time [SGMCT] this converts into around two months including short post-Easter breaks and time off for participants to consult with other share-holders and stock-brokers). Prof. Murch's character witnesses will attend on the following Friday.

(1) Speeches from the dock. M. H. Gill and Son.1910.

Journalist with No Medical Training Solves Mystery of Enterocolitis!

FOURTEEN YEARS AFTER CHILDREN ARE DIAGNOSED; BRIAN DEER DISPOSES OF INFLAMMATORY BOWEL DISEASE, REGRESSIVE AUTISM AND ALL SIGNS OF VACCINE DAMAGE, JUST LIKE THAT!*

*** Warning, this post contains satire.**

THE JOURNALIST WHO WORKED MIRACLES

Tuesday and Wednesday of last week saw two days of the GMC Hearing during which evidence in mitigation was given on behalf of Professor Murch and Professor Walker-Smith. In January, after a two and a half year trial, the GMC Panel found Dr Wakefield and his colleagues guilty on almost every count of carrying out unethical research on autistic children and the prosecution recommended that Dr Wakefield and Professor Walker-Smith were 'erased' from the Medical Register while Professor Murch suffered a lesser sentence of suspension. Following the verdict, the Lancet case review paper of 1998 was expunged from the history of the journal. For the drug companies, however, the erasure of Dr Wakefield and his work is not enough, they have as well to obliterate any whiff of vaccine damage associated with MMR. Now the battle is intensifying to deny the clinical work and results of any findings by the Royal Free Hospital's Experimental Gastroenterology Unit in the mid 1990s.

Today the BMJ issued on line (1) a long article by Brian Deer, a reporter for the Sunday Times, the chief executive of which, James Murdoch, is on the board of the vaccine producing pharmaceutical corporation GSK (2). Although Deer's article appears to be an academic piece of writing resplendent with many references and end notes, it is basically a piece of regurgitated hackery, a more or less exact replication of an article for which Deer was taken to the Press Complaints Commission in 2009 (3). (See the BMJ article and Dr. Wakefield's response at AoA's post: **Brian Deer in BMJ and Dr. Andrew Wakefield's Response** .)

Deer, as he admits in the article, has a six-year history of supporting the

MMR vaccine and character-assassinating Dr Wakefield and other expert witnesses who have given evidence and carried out research on behalf of parents claiming that their children were vaccine damaged.

Deer was the journalist who presented himself to Rosemary Kessick - the first parent to take her child to the Royal Free Hospital - using a false name. Deer was the journalist who in the mid 1990s mercilessly satirized Dr John Wilson, the expert witness acting for parents who claimed against Wellcome's whooping cough vaccine in the 1980s. Deer is the journalist who claimed that none of the children cited in Wilson's case review paper were actually ill or they were ill from quite other causes (4). Deer is the journalist who wrote scathingly about Margaret Best, the only parent to win a vaccine damage case in Britain's court - had she told the complete truth? Deer asked (5). Deer is the journalist who wrote his 'scoop' that character-assassinated Dr Wakefield (6) with help from Medico-Legal Investigations, a private investigation agency wholly owned by the Association of British Pharmaceutical Industries. Deer is the journalist who prevailed upon Dr Wakefield, Professor Murch and Professor Walker-Smith to write long explanations of their clinical work and 'research' at the Royal Free Hospital and then gave the statement to the GMC prosecutors to use in evidence against the three doctors. Deer is the journalist who became the only person in the world to complain formally to a regulatory body about Dr Wakefield, when he offered his 'investigation' to the GMC. Deer is the journalist who has caused considerable consternation amongst some parents of vaccine-damaged children who believe that he has had access to their children's confidential medical case notes. But perhaps most important of all, Deer is the journalist without a smidgen of medical training who has continued to claim that the children cited in the Lancet case review paper were not suffering from Inflammatory Bowel Disease - were not in fact ill. Just as he vanished the children in Dr John Wilson's case review paper, he has attempted the same trick with the children cited in the Lancet paper, authored by thirteen highly qualified doctors and researchers (7).

Deer's argument that the children in the Lancet paper were autistic but not actually ill, is a hypothesis that fits perfectly into the UK government's concord with the pharmaceutical industry and the NHS proposition, and that of the vaccine industry, that no vaccines can possibly cause adverse reactions. In fact, Deer is just one of the adherents to the new medical authoritarianism in the UK which allows pharmaceutical companies to kill

and maim thousands without ever having to face the consequences. Legal aid, the funding system that has allowed claimants access to the British judicial system, has now all but collapsed and the courts are disallowing any claims against pharmaceutical companies.

Inevitably, one asks why has the BMJ published such an article by Deer at this time? Further perhaps, why is the BMJ, the house journal of Britain's hard working doctors, taking Deer seriously? Part of the answer to these questions, clearly lies in the state of play in the GMC Hearing. The prosecution, when they erase Dr Wakefield from the medical register in June or July, will need all the supporting arguments they can lay their hands on - Deer's 'idée fixe' that Wakefield is a crook who fixed research results is perfect non-evidence in their support. But beneath this bizarre discourse lies another more basic one liner - Public Health Policy.

I sat through every day of the GMC trial of Dr Wakefield, Professor Murch and Professor Walker-Smith. I remember clearly that day in the hearing when Smith, the senior prosecutor, pounded Wakefield relentlessly in cross-examination about the histology of the Lancet 12 cases. Her theme was the one, central to her case, that the children were not ill, but had been made to look ill by Wakefield for the sake of the case against the pharmaceutical companies. The case that she was worrying like a mangy terrier with a struggling rabbit was a case where the initial clinical tests and the biopsy had left the doctors in doubt over whether or not the child in question had Inflammatory Bowel Disease. Some cases were borderline, some were just developing, some showed confusing signs.

The discussion took place in the histology seminar, where quite a large group of concerned clinicians and researchers looked at biopsy samples and tried to draw clear pictures of the cases. The argument over this particular child went backwards and forwards, until, when the meeting had finished, Dr Wakefield had concluded that in was better to be diagnostically on the safe side. After all the whole point of clinically reviewing these children's cases, was not for any research purposes but to establish a diagnostic protocol to aid the treatment of the children. It was better to be safe than sorry, Wakefield thought, and taking all the other factors involved in the child's presentation, he decided that the case should fall within the IBD schema. Neither Smith nor Deer have ever shown the slightest degree of understanding of the way doctors or hospitals work when presented with undiagnosed illnesses. This utter and despicable ignorance was evident throughout Smith's prosecution and

Deer's writing - it can be difficult to divine honesty in propaganda.

It was the general case propagated by both Deer and Smith, perfect bedmates, that the Lancet children were not ill, just autistic, that they had no Bowel Disease just the occasion bout of toddler diahrroea. Surprising really when neither of these faux medics or their expert witnesses had observed any of the children cited in the Lancet paper and the only vaccine-damaged children that entered the hearing were quickly thrown out when it was said they disrupted the proceedings.

Regardless of this, on a Sunday following Smith's cross examination about the histology samples, Deer followed up in the Murdoch owned Sunday Times with his fantastic story that Dr Wakefield had 'fixed' the results of his research. One of the main problems with this line, was that there wasn't any 'research', as in 'research study', all that was happening was that the whole RFH team were reviewing all the test results and clinical examinations of 12 children; 12 children who had attended consecutively at the Royal Free Hospital, presenting with a whole series of closely observed signs and symptoms that indicated bowel disorders and in most cases regressive autism. The sole reason the cases of these children were being reviewed was so that doctors at the Royal Free and any other hospital coming across similar cases could be slightly closer to a treatment. At the GMC hearing in 2009 Richard Horton, editor of the Lancet and one of the main prosecution witnesses, made the case that the peer-reviewed Lancet paper was an excellent piece of science, one of the best case review papers he had seen.

Deer's mercenary hackery in the Sunday Times turned the heads of a good many people who had previously stood staunchly at Wakefield's side sneering at Deer. These lite-believers now gobbled up Deer's strap line 'MMR doctor fixed results' and used it as a means of salving their consciences. It was a good get-out, a piece of Philip Marlowe that gave a perfect rational to the GMC miscarriage. 'Hey, the guy fixed the results of the study, he's just another tip of the iceberg docs, taking money for fixing trial results, no wonder they've come down heavy on him. Big Pharma is doing its best to stop this shit'. Now Deer had explained it to them in pulp fiction, they could join cold hands with Smith and help fix the hash of this maverick.

* * *

Despite the findings on lack of fact, announced in January by the GMC Panel, chaired by a GSK shareholder, despite the constant air-headed support of the media for the GMC case, the last knot hasn't yet tied tight and the case still confused many people. Like the two young white working class guys I heard talking at a bus stop when I left the hearing one rainy afternoon.

'OK' ,said the first guy, slight and wet, with a tattoo on his neck, 'We can believe that the guy was doing unethical research on autistic kids - like it must happen all the time. But these kids were taken to the hospital by their parents ... Why would parents claim that their kids were sick and like explosively shitting all over the house, if they weren't?

The second guy, in a nylon fur-lined parka, looked at the damp pavement for a while: 'Well, they say', he wiped the raindrops off his nose, 'Smith tells it like this ... these parents, like had autistic kids and they couldn't cope with it, weighed too heavy on their mind like, so they start draggin' them round the hospitals till they get some doctor who'll say, "no it's not your fault your kid's autistic, this condition been caused by some environmental trigger, like a vaccine."'

There was a spark in the first guy's eyes as he looked at his friend. 'Ok, I'm with you, like this prosecutor is saying it's the parents and this Wakefield guy in this together, like rubbing each others backs. But say, man why would they do that?'

'Way I heard it from a lawyer friend of my brother, man'.

He assumed the air of someone in the know pushing his wet hair off his brow. 'It's like this, Smith's got a good answer to that, she says they both going up against the Man and Big Pharma to make a million'.

His friend pulled his parka around him and shook off the rain like a dog. 'I guess this is all just too complex for me bro. I just hope they get the guy who done it. Imagine all those sick children man, a couple of thousand of them at least!'

update.....**The Great Pretender** : Brian Deer's Wakefield Soap Opera

(1) **http://www.bmj.com/cgi/content/extract/340/apr15_2/c1127**
(2) For a brilliant analysis of Fox News, the US centre of Murdoch's empire and how it creates the news see 'Outfoxed: Rupert Murdoch's war on Journalism':
http://vids.rationalveracity.com/videos/140/outfoxed-rupert-murdochs-war-on-journalism
(3) MMR doctor Andrew Wakefield fixed data on autism. The Sunday Times, February 8th 2009. For Dr Wakefield's rebuttal of this article go to:
http://www.rescuepost.com/files/090313--original-ajw-complaint-to-pcc-re-deer---opr003a3.pdf
(4) The Vanishing Victims: Can whooping cough jabs cause brain damage in children? Sunday Times Magazine (London) November 1 1998.
(5) Ibid.
(6) Revealed: MMR Research Scandal. Brian Deer. The Sunday Times (London) February 22 2004.
(7) Although the GMC bogus trial of Dr Wakefield rested on the 12 children cited in the Lancet paper, clinical work and research at the Royal Free Hospital between 1996 and 2002 presented tens more cases, which have also been disappeared.

Martin J Walker is an investigative writer who has written several books about aspects of the medical industrial complex. He started focusing on conflict of interest, intervention by pharmaceutical companies in government and patient groups in 1993. Over the last three years he has been a campaign writer for the parents of MMR vaccine damaged children covering every day of the now two year hearing of the General Medical Council that is trying Dr Wakefield and two other doctors. His GMC accounts can be found atwww.cryshame.com, and his own website is, **www.slingshotpublications.com**. He is the publisher of Silenced Witnesses, Volumes I and II in which the parents of the GMC children speak out. Both books are available for purchase at the Slingshot site.

PLEASE GO TO THE FOLLOWING LINKS TO GET THE REAL STORY
Lancet 12 statement
http://www.youtube.com/watch?v=A3KW6IrAhxc
Brian Diagnoses outside the GMC

http://www.youtube.com/watch?v=cq5BuVHu4Uw
Selective Hearing
http://www.viddler.com/explore/ziggy/videos/1/
Can't Keep Calm and Carry On
http://www.youtube.com/watch?v=PzYREX0jrY4
Dr Wakefield in his own words
http://goldenhawkprojects.blogspot.com/
Silenced Witnesses Vol. 1 & II: The Parents' Stories
http://www.slingshotpublications.com
Complaint from Dr Andrew Wakefield about The Sunday Times article "MMR
Doctor Andrew Wakefield fixed data on autism" of February 8th 2009, by Brian
Deer. If you want to read Dr Wakefield's rebuttal to this article this link has to be copied in to your URL box:
http://www.rescuepost.com/files/090313--original-ajw-complaint-to-pcc-re-deer---opr003a3.pdf

The Bolted Horse

There is one consolation that I will bring to that house of misery

- a clear conscience, a heart whose still small voice

tells me that I have done no wrong to upbraid myself with.

This is the consolation that I have - that my conscience is clear.

Augustine E. Costello in1867
Speeches from the Dock, M.H.Gill & Sons

On Tuesday 13th April and Wednesday 14th April, its 200th day, the hearing sat in order to hear mitigation and assess 'sentencing' arguments on behalf of Professor Murch and Professor John Walker-Smith. Dr Wakefield, disgusted by the clearly biased 'findings on fact' in January, had decided to have no more to do with the hearing. Mr Miller, counsel for Professor John Walker-Smith, presented his case on Tuesday and on Wednesday, Mr Hopkins for Professor Murch presented evidence to their character and integrity while arguing the words 'serious', 'professional' and 'misconduct'.

So essentially, all parties having been found guilty on most if not all the charges, the tribunal was about to pick the carcass clean arguing politely about who received which internal organs. Although from the perspective of the legal profession, perhaps even from the perspective of the medical profession, one can understand the defence attesting to the good character of the defendants, over a single day after the prosecution has spent over two and a half years attesting to their dishonesty and unethical behaviour, from my perspective and perhaps that of other survivors of the nineteen sixties, this situation might have appeared absurd.

Frequently over the time of this trial, my mind has slipped back to the sixties and early seventies when a whole generation, or so it appeared, undermined the pastiche ritual and the theatrical authority of the

governing class, when a whole generation suddenly became their own people. It wasn't so much that they went head to head with authority; some of them slipped round the corners of it, almost ignoring it and began independent lives.

Unfortunately, governments and states, corporations and the ethos of shopping are now back in the driving seat and the first response of many in today's post-managerial society is to doff their hats and pay homage to the new ministerial class that now patrol our political and regulatory malls. So it comes as little surprise that the counsel presenting the defence of the three doctors at the GMC, continue to clack along the tin tracks like model trains on the drawing room floor, without a hint of disrupting the proceedings even by hooting their whistles.

What might have been the outcome of this case if, on the first day, counsel for the three doctors had said that they would first present the character evidence on behalf of the doctors and then withdraw from the hearing, forcing the GMC to continue alone or negotiate a wholly new ground plan? However, the law is like diplomacy, war by more civilised means and the lawyers were no more likely to disrupt the proceedings than they were to wear kaftans to court or light-up spliffs during the proceedings.

Yet there were times, when I could see that the presentation of the defence cases only obscured and confused to a much greater degree, the honesty, kindness and ethical principles of the three accused men. And another thought returns time and again: the lifetime's work, the good name and the public conscience of these three doctors, whatever the juridical process mutters, has now been almost completely razed, they lie still and bleeding in the gutter, carried there by the crash bars of a juggernaut as they idled across the road earnestly talking about how they might make safe the health of vaccine damaged children. Nothing will raise these doctors to their feet or to wholeness their dreams or careers.

Tuesday was a relatively quiet day at the GMC; there were no demonstrations outside the building in support of the doctors. Inside the long white hearing room, the alert charcoal clad figures watched Mr Miller as he began presenting a series of letters in support of Professor John Walker-Smith. Some of these are quoted, below. In the public seats, JWS had the support, as he has had on other occasions throughout the hearing of his wife, daughter, son and grandson.

The session began at 10.00 after the long practiced morning delay, with Mr Miller confirming that Professor Walker-Smith's submissions would be completed in one day. He mentioned that he would read some, but not all the testimonial letters, that the Panel had before them. It was Mr Miller's case that it was important that the Public should know that these letters underpinned their submissions.

The language of mitigation is a nightmare language; again, by definition diplomacy, a language that disguises intent rather than explaining it. How does counsel or indeed the innocent defendant who has been found guilty phrase his profound belief in the wrongness of the prosecution? How does a defendant found guilty of fifty odd charges, retain credibility enough to express his overwhelming contempt for the prosecution.

Does counsel read out and endorse testimonials that say, 'I think my friend was well fitted-up by you bastards, people who aren't good enough to hold his hat', or, 'To be honest I think that Big Pharma and Public Health power players are behind this charade and I don't believe for a second that my dear friend has done any of the things that you have accused him of, this whole trial was a get up during which the prosecution and their witnesses lied through their teeth'. Or do you depend upon friends and colleagues who want to throw you on the mercy of the court? 'I can see that my colleague has done something quite terrible, and I would like on his behalf to ask for your everlasting forgiveness', or 'terrible as the offences of my colleague are, I hope that you can find it within your hearts to forgive him'.

It was, however, on a safer very English side of the road that most of those testifying on behalf of professor Walker-Smith veered. The witnesses on behalf of Professor Walker-Smith and Professor Murch spoke mainly in euphemisms and an ancient coded language, containing expressions such as 'My colleague is one of the greatest gastroenterologists in Europe and what he has done seems completely out of character' or 'It is difficult for me to accept that my colleague did the things you say he did, however, having heard the evidence, you must be right'. How do you express complete faith in your colleagues' integrity while allowing that he must have committed at least 50 ethical blunders. The avoidance of the political and the personal at all costs, exhibits the practice of diplomacy at its highest.

But this semantic quagmire is, like most things created and governed by lawyers, a creature of the game introduced and played by the

prosecution. What a marvelous weapon, a mitigating statement, or testimonial could be in the hands of a truly radical lawyer; a real chance to go beyond the box. 'When you see my colleague and old friend Doctor Wakefield, you see before you a man who has fallen amongst thieves, callous and heartless people. Mercenary prosecutors who have turned the truth on its head and pursued three completely innocent, hard working doctors whose only interest were in their young patients. I will continue to use all the powers of my office to campaign for a public enquiry into this matter and to bring to justice those who planned and perpetrated this cruel conspiracy'.

Alas, in most of the testimonies Mr Miller read out prior to the mid morning break nothing came close to this radicalism. Although all the testimonies mentioned how confused, astonished, surprised even amazed were the witnesses, none of them were outraged or propelled to take up arms. One peculiar testimony even spent sentences claiming the writer's bourgeois heritage of rationality and civilized behaviour. In defence of her courteous testimonial, reassuring the GMC the witness wrote proudly 'I am not an activist'. To which my only heartfelt reaction was 'Well, you should be ashamed of yourself.'

* * *

Mr Miller read out 16 testimonials before the morning break and 17 following the morning break before the appearance in person of the two character witnesses for Professor Walker-Smith. I have quoted some of these testimonies, at the very least they show a striking solidarity from the medical profession with Professor Walker-Smith and at the most between the lines they message the hypocrisy and stupidity of the GMC's fraudulent prosecution.

> 'I am a Consultant Paediatric Gastroenterologist ... I was very soon impressed by Professor Walker-Smith's immense knowledge in the field of Paediatric Gastroenterology as well as by his kind and compassionate attitude towards his patients.'
>
> 'I am aware that Professor Walker-Smith has recently undergone a GMC hearing following allegations on his professional conduct. The above allegations came to me as a surprise, since I have always considered him as a model to emulate for integrity, honesty, skills and knowledge'.

* * *

'I am writing in deepest support and solidarity of Professor John Walker-Smith, who has been involved in the publication of the Wakefield et al *Lancet* paper in 1998.'

'He has an enviable international reputation with more than 300 published scientific and medical papers and publications in the field of paediatric gastroenterology.'

* * *

'I first met Professor Walker-Smith in 1978 when my daughter was in his care. He is a highly professional yet caring man, very gentle and reassuring.

I have the utmost respect for him and placed all my trust in him when it came to my daughter's treatment.'

* * *

'I have known John Walker-Smith for almost thirty years, having met him first in 1981, when I was embarking on my career as a paediatric gastroenterologist ... I have been dismayed to learn of the GMC's findings and distressed to see the effects of these and the very long and drawn out process that led up to them, on Professor Walker-Smith... While I am aware of, and accept, the findings of the Fitness to Practise Panel, the purpose of this testimonial letter is to state my belief that I have never seen evidence, nor do I believe, that John Walker-Smith acts, or has acted, without the highest professionalism, integrity, and clinical ability.'

* * *

'It is a mystery to me, on the basis of experience of relationship with scores of other colleagues, that someone as dedicated, honourable and highly regarded as Professor Walker-Smith has proved to be over the many years that I have known and worked with him should suddenly become a pariah in the eyes of others ... John Walker-Smith is to me, to all his immediate associates known to me and to the international medical fraternity, the very

embodiment of professional integrity and humanity, a saintly and truly honest person with the highest ideals.'

* * *

'I am a consultant paediatric gastroenterologist and work at Southampton General Hospital. I have known Professor Walker-Smith since the early 1980's ... He is, in my opinion, a man of the highest calibre in terms of his integrity, professionalism and clinical ability. During his distinguished career as an academic and practising clinician he was recognised nationally and internationally as a pioneer in paediatric gastroenterology. This included pioneering work in the recognition and management of inflammatory bowel disease in children, diagnosis and management of coeliac disease, recognition diagnosis and management of gastroenteritis including its complications. His work had a massive impact on the care of children with gut problems, including both awareness and clinical care nationally and internationally.'

* * *

'I am a consultant paediatric gastroenterologist and I was initially appointed to a consultant post in 1978 at Westminster Children's Hospital, London... I first came to know Prof Walker-Smith in 1978. He is a highly regarded colleague, a man of integrity and honesty... The allegations which have been the subject of the GMC hearing have created surprise and consternation amongst his peers.'

* * *

'We were patients of you and your team during the now infamous period on 1998/9. We had been under Great Ormond Street epilepsy team for the 5 years preceding and their view was 'just diarrhoea and no need to worry ... What we learnt from the investigations that followed with you and your team changed the course of our lives and especially the effect on [T]. Your work gave us a meaningful agenda from which to work. It also gave us the understanding of the extent of the damage to [T's] colon and bowel and the huge degree of impaction that followed. From this knowledge we could now at last begin to address these matters, for [T's] benefit ... we are forever grateful to you for helping us to

improve the abilities of our children through your work. You have changed our son's life beyond all our expectations.'

* * *

'I have been a Consultant Paediatric Gastroenterologist in Manchester for over 17 years ... I have been saddened to read the findings of the Fitness to Practise Panel but I remain convinced that Professor Walker-Smith would not subject any child to unnecessary investigations if he did not believe that there may be a potential benefit for that child.'

* * *

Although the testimonials above showed considerable support and some critical puzzlement with respect to Professor Walker-Smith, it was as is always the case, the parents of damaged children who addressed the question of how the professor had arrived before the tribunal and the injustice of it. The first testimonial below is from a number of the parents whose children were cited in the *Lancet* paper and the second from Isabella Thomas, an indefatigable campaigner on behalf of her children and the accused doctors:

'We are writing to you as parents of the children who, because of their symptoms of inflammatory bowel disease and associated autism, were seen at the Royal Free Hospital Paediatric Gastroenterology Unit by Professor Walker-Smith and Dr Simon Murch with the involvement of Dr Andrew Wakefield on the research side of their investigations. Our children became the subjects of a paper published in *The Lancet* in 1998.'

'We know these three doctors are being investigated by the General Medical Council (GMC) on the basis of allegations made to them by a freelance reporter. Among the many allegations made are the suggestions that the doctors acted inappropriately regarding our children, that Dr Wakefield 'solicited them for research purposes' and that our children had not been referred in the usual way by their own GPs. It is also claimed that our children were given unnecessary and invasive investigations for the purpose of research and not in their interest ... this was not so. All of our children were referred to Professor Walker-Smith in the proper way in order that their severe, longstanding and distressing gastroenterological

symptoms could be fully investigated and treated by the foremost paediatric gastroenterologists in the UK. Many of us had been to several other doctors in our quest to get help for our children but not until we saw Professor Walker-Smith and his colleagues were full investigations undertaken. We were all treated with the utmost professionalism and respect by all three of these doctors. Throughout our children's care at the Royal Free Hospital we were kept fully informed about the investigations recommended and the treatment plans which evolved. All of the investigations were carried out without distress to our children, many of whom made great improvements on treatment so that for the first time in years they were finally pain-free.'

'We have been following the GMC hearings with distress as we, the parents, have had no opportunity to refute the allegations. *For the most part we have been excluded from giving evidence to support these doctors whom we all hold in very high regard.* It is for this reason we are writing to the GMC and to all concerned to be absolutely clear that the complaint that is being brought against these three caring and compassionate physicians does not in any way reflect our perception of the treatment offered to our sick children at the Royal Free.'

'We are appalled that these doctors have been the subject of this protracted enquiry in the absence of *any* complaint from *any* parent about *any* of the children who were reported in the*Lancet* paper.'

* * *

'I just wanted to tell you how dismayed I am that Professor Walker-Smith is in the position of being attacked over the care he gave to my boys. I believe all those tests were indicated, especially with the symptoms the boys had. He was one of the best doctors the boys had ... The problem with the GMC is that they have not asked how the children are now. Because of the GMC hearing doctors are afraid to treat our children and I had to take them for treatment to the USA.'

'... I would like to thank Professor Walker-Smith with all my heart. If he and the others had been allowed to continue treating our children then Michael and Terry may not be suffering so much

> pain now and their other problems would have been picked up much earlier.'
>
> I am saddened that I was not allowed to give evidence on behalf of my boys and was upset to hear the lies about my family from the other side. I felt we did not have a voice and my boys were not protected in this.'

The testimony above from the parents was to raise serious questions in the hearing later in the day, which goes to show that throwing stones does create ripples and that it is more effective sometimes to use strong words and shout rather than whisper your case.

Following the mid morning break, after everyone had filled back into the hearing room, Smith strode stern-faced up to Mr Miller's table and entered into a seemingly angry exchange with him. One observer in the public gallery with exceptional hearing said she definitely heard Mr Miller say 'I am not going to recant'. Clearly Smith wasn't happy about something and it seems more than probably that Isabella's statement, that including the word 'lies', could have offended Smith's professional sensibilities.

If it was this, one can't help but wonder at the preciousness with which these people see themselves, they legally assault three notable, hard working and honest doctors, ruining their reputation and careers; they infer that thousands of badly injured vaccine damaged children do not exist, while intimating that their parents have at the best misjudged their children's illnesses and at worst been untruthful to doctors in order that they might make money from a legal claim against pharmaceutical companies; then appear mortally hurt when someone says that they have lied. These marauding legal mercenaries carrying arms for corporations live in a mirror world where the right people are wrong and the wrong people are always right.

Later in the morning, seemingly after some matters had been brought to his attention, the Legal Assessor made a two-part intervention that grew out of the parents' testimonial. First he made the exacting grammatical point that when Mr Miller read out testimonials which disputed the 'carved in stone' factless facts endorsed by the panel in their findings, he should be careful to always qualify, as he had done in this case, testimonial statements with the word 'they say' - meaning the writer of the testimonial - in case the panel were of the opinion that Mr Miller himself

endorsed such a disagreement with the panel's findings. The assessor used this point to address the panel on the fact that as far as the hearing went, the panel's truth was an indisputable truth and no other truth held weight.

But it was the next part of his intervention that related directly to Isabella's letter and cast an interesting light on the enclosed way that the prosecution thinks.

'Mr Miller', the Legal Assessor said, 'before you move on ... I have been asked a question and I just want to indicate what I have said. One of the Panel members asked me where it says in the previous document, about which I made comment (the testimony of the parents of the *Lancet* paper children), "For the most part we have been excluded from giving evidence, whether the panel is entitled to know who excluded us." I have advised no. How witnesses come to be called is not a matter for the panel and who is or is not selected is not a matter for the panel.'

Of course, no one could argue with the Legal Assessor in his judgement of this matter. Why should the prosecution be made to explain to the panel why the parents were not called to talk about the health of their children? This would be as patently absurd as suggesting that the defence to explain why they didn't call the parents to support the case of the doctors. It would have been interesting to hear the Legal Assessor's proof of this ruling; perhaps he might have alluded to Smith's much earlier statement in the Hearing that what everyone was involved in was an 'enquiry' and not a trial.

But on the whole, one has to agree wholeheartedly with the Legal Assessor, no jury should be allowed under any circumstances to know or even question such things as: who made the initial complaint about the doctors to the GMC, this should always be hidden; why Brian Deer, whose hack writing provided the basis for the charges, was not called to give evidence; or why parents who appear in the prosecution case as being to some extent victims of the doctors unethical action were never called to give evidence. The answer to this last question should naturally be kept a complete secret. For the GMC to give any such information to the jury would be to clearly encourage a contempt that might lead the panel to make a wrong finding.

After the break, Mr Miller read out another eleven testimonials, including those from a Professor citing John Walker-Smith's skill and devotion.

Listening to all this praise heaped upon Walker - Smith one was forced to wonder who will write such testimony in favour of Ms Smith, come the day in the not too distant future of the Vaccine Truth and Reconciliation Hearings. If I had to hazard a guess I don't think even her milkman would find time to pen her praises.

* * *

The first character witness Mr Miller called was Professor Sir Christopher Booth, who had first got to know Professor Walker-Smith after Walker-Smith arrived in London from Australia. This was at the beginning of 1960's, 1962.

'At St Bartholomew's Hospital I knew from discussions with colleagues and friends how very highly he was regarded in respect of his work. He was, in my experience, a man of the highest integrity. He is a very committed Christian and utterly devoted to his church. He is a man I would trust completely with the treatment of my children, a man who I do not think would ever harm anybody. The idea that he should be in any way held guilty of anything of any sort which is discreditable is to me completely unbelievable.'

Sir Christopher mentioned Walker-Smith's writing; 'Writing a textbook is a hard job and he wrote his book on diseases of the small intestine some years ago. It has now gone through four editions. It has had a major impact on teaching of the subject internationally. It is the only book in the world to do with that particular area and it is beautifully written and an extremely good book.'

Surprisingly, Sir Christopher made it absolutely clear that he did not believe that Professor Walker-Smith had been conducting research and made a call for consultants to play the primary role in decisions about clinical work.

'I think the other problem that comes out of that is if you want to do, say, an endoscopy in a child, who makes the decision that it is appropriate? It should be the consultant physician in consultation with the parents themselves and that is how it should work. The idea that ethical committees interfere with that relationship is, I think, wrong.'

* * *

Dr Heuschkel from Cambridge was the next character witness and the hearing managed to squeeze him in before the lunch break so that he could return to an afternoon clinic. Dr Heuschkel is a member of the Royal College of Paediatricians and Child Health. Dr Heuschkel gave evidence to professor Walker-Smith's collective approach to work in a hospital. Although Heuschkel's evidence didn't appear to do that much for Walker-Smith, in terms of the case as a whole it was considerably pertinent. Between the lines he was casting doubt on the suggestion deeply embedded in the prosecution case that Wakefield, or Wakefield, Murch and Walker-Smith had sneakily conducted research in dark corners at the Royal Free. 'One of the striking things about John Walker-Smith was the importance that he put on running the unit within a team, within what we now take for granted, within paediatrics as part of a multidisciplinary team. Complicated patient decisions were discussed as a team, management decisions were carried out by a team. He interacted openly and fairly on a regular weekly basis with all members of the team, from the most junior to the most senior, in discussing research, in discussing patient care, and his approach to patients in clinic was one that I still follow now. We all see patients independently in the afternoon and we will come together after a clinic to share the decisions that we have made, to discuss those decisions, and to ensure that we all are making decisions in the best interests of the patients.'

Dr Heuschkel's single statement on behalf of Professor Walker-Smith was pointed. When asked if he could see Professor Walker-Smith putting the clinical interests of a patient, a child patient, secondary to research? He answered determinedly, 'In no way whatsoever.'

* * *

Following lunch, Mr Miller introduced Professor Allan Walker who suggested that Walker-Smith was considered an expert on a global basis. 'John is one of the most revered paediatric gastroenterologists in the world. Finally, and I believe you may already be aware of this because it was in the letters that you got, John has been given a distinguished achievement award by the European Society for Paediatric Gastroenterologist and Nutrition and, to my knowledge, this is the first time that it has ever been given, a lifetime achievement award, to a paediatric gastroenterologist. I think that underscores the view of John Walker-Smith as a paediatric gastroenterologist on a world-wide basis.'

* * *

Professor Sir Nicholas Wright, was the final witness to appear in person, the Chairman demoted Sir Nicholas into a common doctor and Mr Miller had to retrieve his reputation: 'It's Professor Sir Nicholas Wright, I think', Miller said to the Chairman. Perhaps it was the case that the chairman thought this devolution of Sir Nicholas's professional position would rub off on the Panel. But Mr Miller was quick to show that Sir Nicholas was right at the top of medical tree; Warden of The Barts and London School of Medicine and Dentistry after having been the Deputy Principal of Imperial College School of Medicine, and prior to that, Dean of the Royal Postgraduate Medical School at Hammersmith.

Sir Nicholas's evidence was straight to the point. 'I think Professor Walker-Smith has an extremely high reputation. He really is one of the founders of the paediatric gastroenterology specialty. He was held in the highest regard, and I think anybody who has known him will regard that as a privilege because he has a reputation of the highest standards, both of intellectual behaviour and integrity. He has been particularly praised by the European Society in them giving him a lifetime distinguished achievement award for his care of his patients and the care he takes with looking after them, so I have always regarded him as being an extremely worthy individual.'

* * *

Wednesday the 14 April 2010 was the 200th day of the hearing. Like that on behalf of Professor Walker-Smith, the pleading on behalf of Professor Murch was fairly short, beginning and ending on that day. As well as the reading of testimonials, Mr Hopkins called three character witnesses, who appeared in person, on behalf of Professor Murch: Edward Piele, Robert Green and Allison Rodgers.

The first testimonial read for Professor Murch came from Professor Carter, the former Dean of Warwick medical School where Professor Murch is now employed as Professor of Paediatrics and Child Health. Unfortunately, Professor Carter died not long after writing the testimony in September 2009. One was reminded of how short human life was, and how much damage the GMC prosecution had done to the three defendants lives and careers. Professor Carter's testimonial described Professor Murch as a man with 'a kind and gentle nature, ideally suited to working with students and teachers. Despite the intense pressure of the GMC proceedings, the time-commitment required and the effect on his self-

esteem, he remains conscientious about his patient lists and academic responsibilities'.

Professor Edward Basil Piele was next sworn in and examined by Mr Partridge, Mr Hopkins junior. Piele was a fellow of the Royal College of Physicians, a fellow of the Royal College of Paediatrics and Child Health, a fellow of the Royal College of General Practitioners, a fellow of the Higher Education Academy, a fellow of the Academy of Medical Educators and the former Associate Dean for teaching at Warwick Medical School. His current title was that of Professor Emeritus of Medical Education at University of Warwick.

Piele was one of the people who interviewed Professor Murch for his present job at Warwick, but despite have an interesting name, Piele said perhaps slightly less than your average family Labrador would say in favour of its master.

> 'I think the things that impressed me most were the degree of rigour and care that Professor Murch gave to appraising the appointment coming to the Medical School. At that level it is usual for candidates to make preliminary visits but I think Simon Murch stood out because he had prepared his questions very searchingly'.

Mr Partridge then read the testimony of Dr Diana Rutter, consultant paediatrician:

> 'I have known Simon Murch for more than 10 years as a respected paediatric gastroenterologist. He has been a speaker at many meetings both national and international on clinical and academic topics associated with gastroenterology ... I have also undertaken some of his out-patient clinics when he was unavoidably absent with the requirement that he attend the GMC hearings. At these clinics I, of course, saw patients that he was already managing. Many of these families were able to make quite long journeys to ensure that their child remains under Professor Murch's management.'

The next witness in person to be examined by Mr Partridge was Dr Michael Robert Green. Green, a consultant paediatrician and gastroenterologist at the Children's Hospital, Leicester Royal Infirmary, for almost twenty years, said that Professor Murch was clearly a very committed clinician ... 'I have certainly never had any concerns. In fact, the very opposite: he is clearly hugely committed. What is very clear from

seeing his patients is that he listens to the histories that are being given to him and tries to interpret them, I think in a much more careful way, I think I could honestly say, than I have ever come across before ... Professor Murch, I think – and you see this when you do his clinic – has a hugely analytical mind and will try and find causes for symptoms that others might ignore.'

It was always the case throughout the hearing that medically lay observers could learn a great deal from those who gave evidence. Although Smith and the lay individuals on the panel are unlikely to have been listening hard enough to pick up the intonations in Green's evidence, what he was saying was of great concern to this case. While the likes of Smith and Deer and a whole army of pragmatic material skeptics dismissed the defendants as quacks, here was an uninvolved consultant bringing to the fore the post-modern concept of 'interpretation' of signs, symptoms and the patient narrative. Dr Wakefield had mentioned this with the discussion of the histology samples, but it had never been explored. Yet it was in some respects the key to the defendants' complete innocence of the charges.

Parts of two testimonials were then read out on behalf of Professor Murch, from Professor Levin, the Professor of International Child Health at the Imperial College in London.

> 'I am aware of the findings of fact from the Fitness to Practise Panel concerning Professor Simon Murch. I am writing to convey to the panel the extent to which their findings in relation to Professor Murch’s participation in the investigation of patients included in the discredited Wakefield research, contrasts with his professional activities in both care of patients, research and teaching in the rest of his career.'
>
> 'I have the highest regard for Professor Murch’s integrity, honesty, long-term commitment to providing the highest professional standards to the patients under his care as well as to their families and the medical and nursing staff with whom he works. From my long familiarity with Professor Murch’s work I am happy to confirm that his interactions with both professional colleagues and patients are conducted with the highest degree of kindness, sensitivity and decency. His care of patients is always administered with compassion, sensitivity and commitment to the patients and their

> families. I believe his scientific work has been conducted with a commitment to research being used for the benefits of patients.'
>
> 'Having read the findings of fact from Fitness to Practise Panel, it seems clear that the conclusions of the panel in relation to Professor Murch's involvement in the investigation of patients included in the Wakefield study, stands in complete contrast to his dedicated and committed care of patients and commitment to ethical conduct of research which has characterised the remainder of his clinical career.'

Good for Murch but gratuitously bad for Dr Wakefield. During my twenty years of para-legal work, especially on behalf of those wrongfully arrested and wrongfully imprisoned, I learned to take very exacting statements. In fact, statements - the defendants or witnesses narrative are at the very heart of the judicial idea. During these years I learnt that statements were always taken and never given, in case the untutored mind of the witness or defendant might inadvertently say something that was true but contextually detrimental. I would never have let Professor Levin state that, 'Professor Murch's participation in the investigation of patients included in *the discredited Wakefield research*'. Clever as it is might be to kick Wakefield under that table, the statement was not true from the defence perspective and anyway it blew back on Murch as well.

One of the things which comes across very clearly about Professor Murch is his kindness and his liking for his patients and their children. 'Professor Murch upheld high ethical standards and always dealt kindly and compassionately with patients and staff.' The following is a good example of the semantic gymnastics employed by colleagues of Professor Murch:

> 'I have read the findings of the GMC decisions on Professor Murch and I am aware that he has been found guilty of performing a number of colonoscopies on children for research purposes, without ethical permission. I would regard these findings as an unfortunate departure from a career, which in my observation, has been exemplified by a character of highest ethical standards, together with the highest academic standards.'

One's answer to all the testimonials read on behalf of Professor Murch was the same and very straightforward, at least in my case. If this man was as principled and as ethically correct, as gentle and kind as everyone said he was and from my observations and contact with him, he clearly

was, why did he allow his lawyers to inveigle him into this gross and ugly process of apologia?

After lunch Mr Partridge examined Alison Jane Rodgers, a senior lecturer in infectious diseases at University College London, who had taken her son to see Professor Murch when he was a baby.

> 'It was an astonishing relief for both my husband and I, even from the first consultation with Simon. He took a very careful history, he examined my son, he listened to our concerns and he said immediately, “Your son has severe food allergies which are probably causing inflammation within his intestine”. The difference in my son’s health within a matter of weeks was truly astonishing.'

* * *

In his closing submission, on Tuesday, Mr Miller went back over the areas of charges against Professor Walker-Smith. Although there was some shifting of blame to Dr Wakefield, it did tend to be in areas where there had been a real disagreement between the two doctors, such as over the Press Briefing, that Professor Walker-Smith refused to attend. However, one could not but be struck in the case of Walker-Smith and that of Simon Murch that it often appeared convenient for both men to shift blame onto Dr Wakefield. It would seem important to me that we put both their cases in context and understand that for a couple of years after the *Lancet* paper, all three doctors were continuing to work clinically on cases which came to the Royal Free. Only when Brian Deer hit the fan in 2004 and the GMC began preparing charges, did everyone appear to turn on Dr Wakefield.

Mr Miller made the point that when the Panel announced their findings in January, most people would have been hard pressed to find any mention of Professor Walker-Smith or Professor Murch in the report of the proceedings. He made the point that the Panel must not bracket all or any of the doctors together when you consider the seriousness of the findings that have been made.

As Mr Hopkins was later to do on behalf of Professor Murch, Mr Miller began with a couple of points that severed connections between Wakefield and Walker-Smith. Professor Walker-Smith was first and foremost a clinician. 'His motivation – and again what you have heard this morning testifies to this – was to alleviate the suffering of children

suffering from bowel problems, and that has been his concern virtually for the whole of his medical career.'

Secondly Miller asked the Panel to dismiss from their minds the implied suggestion that Professor Walker-Smith became involved in investigating the Lancet children because he wanted to prove that MMR caused autism and bowel disease. Mr Miller made it clear, as again Mr Hopkins was to do, that Professor Walker-Smith was an old school paediatrician who was absolutely in favour of vaccination in general and MMR in particular. He constantly shied away from publicly raising any alarm about the role of MMR.

It was while listening to mitigation for Professor Murch and Professor Walker-Smith with Dr Wakefield missing, that one realised just how deep was the divide between the two professors and Dr Wakefield. And both counsel and the other defedants seemed to play on these differences, almost as it were, blaming Dr Wakefield for having pulled the case down on everyone.

Mr Miller drew attention to the “press briefing”, and suggested that it was then, not with the publication of the *Lancet* paper that 'everything went wrong'. The real damage was caused when Dr Wakefield took it upon himself to promote the adoption of monovalent vaccines, which was nothing to do with the paper. While this was an accurate reading of the situation that separated his client from Dr Wakefield, it went no way to reiterating the fact that the chain started with Zuckerman, who had set Wakefield up to pronounce on the single vaccine and actually farmed out a journalist's question to him.

Mr Miller moved on to the point that there has been no formal complaint made to Walker-Smith by any patient or his or her family (not only from the original *Lancet* parents but also from the tens or hundreds that followed them). He mentioned the one *Lancet* parent that had been called yet still referred to her as Mrs 12. Other parents might have wondered why he didn't tell the panel that she had been duped by the prosecution to attend the hearing, after being told that she would be giving evidence for the defence. And, of course, he could have chosen this time tell the panel why the defence themselves had not called the parents.

Mr Miller shed a sudden light on a matter that, I have to admit, I had missed. He told the hearing that the reason the prosecution had given for not calling the parents was that it was the child who was the patient and

not the parent. Not only is this a growing trend in Britain of state loco parentis - the state assuming rights over the child while depriving the parent of those same rights - but fortunately for the GMC the cited in the *Lancet* paper were either non-verbal or anyway too young to be able to give evidence. From the point at which the law took responsibility for the children, everyone was expected to believe that Smith and the GMC had a greater concern for their welfare than did their parents.

When it came to criticising expert witnesses, Mr Miller's submission also served Dr Wakefield. Of Professor Booth Mr Miller suggested that it was wholly inappropriate to rely on Booth's evidence that parents may lose objectivity when the panel had not seen or heard the parents. It was clearly the case, said Mr Miller, that parents of damaged children knew those children better than anyone.

Not only had none of the parents of the hundreds of children who had passed through the hospital complained, but there had been no complaints either from Professor Walker-Smith's employers or colleagues that he behaved unethically, with duplicity or contrary to the interests of his patients.

If Professor Walker-Smith had 'jumped the gun' in starting a research project without ethical approval, said Mr Miller, then so did everyone else, all the authors of the paper and anyone who had examined the children. Mr Miller stressed not only this but the point that what he had then begun to call 'a research project' - despite it not actually existing - was not secret and did not take place behind closed doors.

> 'We say that the correspondence reflects Professor Walker-Smith's genuinely held view that the only investigations which would be carried out in his department would be those which would offer some clinical benefit of whatever type to the children.'
>
> 'Second, there is no evidence to suggest that any other clinician within the Royal Free believed that Professor Walker-Smith's department was not offering normal clinical care: quite the contrary.'
>
> 'Fourth, the testimonials demonstrate that it would have been wholly out of character for Professor Walker-Smith to subordinate the interests of one of his patients to a simple research agenda. When I asked that question of Dr Heuschkel, he said he could not see it happening.'

At this stage, Mr Miller began to argue a second hand case, that the only investigations that had taken place were clinical and for diagnostic reasons. But what can you do when the jury has been led to the fuzzy end of the lollipop and are determined to believe a completely unevidenced prosecution case? Mr Miller pointed out the fallacy in the fact that children seen clinically also had biopsy material taken under Professor Walker-Smiths ethics committee approval 162/95.

> 'Finally, we note that you found many of the *Lancet* children were investigated under 172-96 despite the fact that they did not meet the inclusion criteria for that project. Such inclusion criteria would include the manifestation of disintegrative disorder or the fact that they had been vaccinated with MR rather than MMR vaccine. However, sir, we fail to understand the real gravity of this allegation.'

Following the afternoon break, Mr Miller found himself arguing the relative safety of the processes carried out or instructed to be carried out by Walker-Smith. On colonoscopy he said, 'we ask you to bear in mind the abundance of evidence that you have heard concerning the safety of colonoscopy. It is clear from the literature and the oral evidence, first that the objective risk of complications is extremely low; secondly, in this unit, the complication rate was zero in 1996 to 1997 when the colonoscopies took place; thirdly, the most important factor, is the skill and experience of the endoscopist who carries out the endoscopy.'

Finally, said Mr Miller, Professor Walker-Smith had in Dr Murch and Dr Thompson two of the most highly skilled paediatric colonoscopists in the country. On the issue of lumbar puncture, Mr Miller repeated to the Panel another of their absurd decisions. 'You have found that Professor Walker-Smith caused two of the children to have a lumbar puncture which was not indicated. Again, we invite you to bear in mind the evidence of Dr Thomas, the only paediatrician neurologist called in these proceedings on the safety of lumbar punctures. He said: 'Yes, I think it is considered to be a safe procedure.'

Mr Miller again addressed the question of transfer factor that appeared to have been given to child 10 with the full permission of his parents as an experimental treatment. 'It is difficult', Mr Miller said, 'to see how this could be a serious allegation laid at Professor Walker-Smith's door, because the treatment was not given by him and he was unaware of the circumstances in which the child got it'.

Mr Miller ended with a run-down of professor Walker-Smith's career.

'It is striking to see quite how influential he has been. I say that because you see – and to some extent I have seen – a modest man giving evidence before you – and in my case he is my client but I say a modest man – and yet from what we have heard this morning it is a truly astonishing set of reminiscences and kind words from so many people from so many different parts of the world.'

I do think if the choice had been mine that I would never have subjected myself to this almost humiliating excusing of the role that I had played in the heroic diagnostic work done at the Royal Free. It isn't simply that the whole chimaeras case is a creation of Big Pharma, it is also the fact that I would know that I and the other defendants were public spirited National Health Service workers and our careers, even our lives had been ruined by mercenary profligate prosecutors whose interest in the case was driven by meanly motivated private interests.

* * *

The rumour around town is that Brian Deer is going through considerable mental turmoil at the moment. Certainly when he appeared at the Hearing briefly on Tuesday looking like a trailer park resident in grey jogging bottoms and trainers, it did look as if the three year Hearing had taken it's toll on any sense of the sartorial, he might originally have had. When he jogged out of the glass building, it was rumoured that he was just about to launch other possible three year cases against other doctors and he was in training for this, others said that listening to the wonderful testimonials given to JWS by great medical figures, had finally tipped him into insanity as he tried to deal with immense damage he had done to a great physician.

* * *

The introduction to Mr Hopkins concluding submission on behalf of Professor Murch on Wednesday was strong and determined yet completely undermined by the fact that the stable door had been open for almost three years and the horse had already bolted and the thought upermost in my mind, was that Mr Hopkins should have been out on the fells looking for it and supporting evidence rather than excusing his client in this tomb of a hearing room.

It was clear from the beginning of the day, that Pofessor Murch being the youngest and least advantaged of the defendants, would not be able to draw upon the same stature of character witnesses as had Professor Walker-Smith. It was relatively clear also, that Professor Murch would even more be enticed into a scratch-face defence.

Mr Hopkins, began his submission by going through all the areas within which Professor Murch had been found guilty, he then argued each area outlining general reasons why and how these findings might be explained and in some ways excused. Mr Hopkins went over much of the defence case again, presenting it this time as a mistake, that did not come within the realm of 'serious' or 'professional misconduct'

For example, he argued that if the Panel had found that errors were made by the defendant, those errors were shared ones across the team - even across the whole hospital staff - working on the children's cases. There was a sharing of advice, a sharing of clinical work, even a sharing of decision making on the diagnostic research and consequently there had to be a shared responsibility. Wrestling with this argument for a moment, I was tempted to believe that Mr Hopkins was suggesting that all the authors of the Lancet paper should perhaps have been brought before the GMC to be pronounced guilty.

'So we say', Mr Hopkins said, 'In these circumstances it is understandable that Dr Murch was reassured by and acted on the advice of his peers and more experience colleagues.' So, professor Murch was led astray by his elder and more experienced colleagues. I must admit to very slightly tearing-up at this point.

And, as silly as this seems, it has undoubtedly been one of the GMC's major problems throughout this protracted trial, that the Experimental Gastroenterological Unit at the Royal Free Hospital, was staffed by a large number of medics and during their clinical work, especially the diagnostic work they called on many specialists in surrounding departments of the hospital. The question of whether these professionals, camoflaged the wrong doing of Dr Wakefield, Professor Murch and Professor Walker-Smith or whether either openly or subliminally they struck deals with the GMC prosecution, not to be charged themselves, has to be raised.

'Even if you conclude that Dr Murch made an error of judgment' hammered on Mr Hopkins, 'about the clinical rationale for the colonoscopies on five out of the six children referred to him for this

procedure, the context for his decision-making was a department that made frequent use of this investigation to enable a secure tissue-based diagnosis to be reached for the benefit of the individual patient.'

This is of course what is so hateful about the bogus legal procedure at the GMC, in order to get back to work, or to be able to work ever again in the face of a Big Pharma get-up, the defendants have to agree with the ruling of the Panel, however grossly wrong it might be, however criminal might have been the ignorance with which it was informed.

Mr Hopkins defended Professor Murch as a large bosomed woman at a blood- doners-charity cake stall might have defended her hyperactive grandchild. 'If', he said, 'You find this was an error of judgment by him, then you may think it is understandable how it arose.' Covered quickly with the fact that 'any such misjudgement is not in the ballpark of serious professional misconduct.' Mr Hopkins presented professor Murch's case as part mistake, part ethical stumble, part poor boy naiveté.

Some of the excuses offered by Mr Hopkins on professor Murch's behalf were as they say, almost 'cringe-making'. Professor Murch, as Professor Walker-Smith had, raised the matter of Professor Murch's heroic defence of MMR and public health policy following the publication of the Lancet paper. 'Dr Murch took a responsible position in public to support the continued use of MMR. Mr Hopkins drew our attention to Professor Zuckerman's evidence in relation to Dr Murch's statements at the press briefing :

> Q: And you have told us that he strongly supported the continued use of MMR; is that right?
>
> A: Yes, very strongly; indeed, vigorously.

Of course it might be that any man would have another stand up in front of him and slip him out of a hanging, but isn't 'strongly supporting the continued use of MMR' selling ones soul, even in mitigation, at slightly too high a price.

* * *

It has to be realised, inevitable that this two day scramble for sainthood, is in a sense a virtual and not a real matter, a little like having 'friends' on facebook. On the other hand I couldn't help but be reminded of the beaten faced professional criminals I had watched at Old Bailey trials as

they sat in the dock listening to their local vicar speak in their favour, 'And I remember the occasion when Billy was much younger and he helped Mrs Arbuthnot across the road outside the church and I can't help but feel that it is quite unbelievable that he should more recently, have threatened to throw acid in the face of the three security guards and then set one on fire with lighter fuel, sadly failing to put him out even when he did open up the security van'. Not that these cases were in any manner similar, just that the dissembling indulged in defeat, though all a part of the Grand-Guignol, is somehow demeaning when adopted on behalf of professional men who have done great work, and who should not only have not been found guilty in the first place but should in the second have refused arguments in mitigation on the grounds that their consciences were clear.

Mr Hopkins went on at some length about the nature of Professor Murch and then veered into the argument that the hearing had gone on for far too long and how this was relevant to any discussion over 'sanctions'. I am pondering whether to send him a request that he donate at least half of his earnings from the case, to Cry Shame the parent's organisation.

It wasn't long, before Mr Hopkins arguments in this final submission, slipped into the maudlin. He told the panel how much the farrago had cost Professor Murch and then segued into the toll that the hearing had had on his family life and was clearly going to have on his professional commitment and his identity. Then Mr Hopkins threw another log of sentiment on the fire with his own anecdote about Professor Murch's condition.

> 'I want to give you another quote of something he said to me when I asked him to reflect on what impact this case had had. He told me: “I am not the same person I used to be. It is going to take me years to pick up my life again. I feel the prime years of life have been robbed from me'.

For a moment I thought I heard the strains of a violin rising from the pavement below where a one armed violinist was busking. A small cardboard notice at his feet told his sad story in a hardly readable scrawl 'doctor left for destitute by the GMC'.

But why didn't Mr Hopkins on the instructions of Professor Murch state clearly that his lamentable psychological condition was caused entirely by unprincipled people who had conspired against him, in a cruel and unjust

world where Big Pharma and politicians covert money more than they feel for life.

* * *

The Legal Assessor addressed the Fitness to Practise Panel, sitting as the Professional Conduct Committee, saying that they were now required to:

> 'consider and determine whether, in relation to the facts proved in proceedings under rule 27, and having regard to any evidence adduced and arguments or pleas addressed to you under rule 28, you find the practitioner to have been guilty of serious professional misconduct.'

He reminded the Panel that no evidence has been adduced and no arguments or pleas in mitigation have been addressed on behalf of Dr Wakefield,. 'In fact' he told the Panel, Mr Coonan specifically said to you:

'... we call no evidence and we make no substantive submissions on behalf of Dr Wakefield at this stage." "... I am instructed to make no further observations in this case'

Clearly, whether or not this 'turning his back on the court' has affected in any way the already determined path of the GMC, Brian Deer, the government or the pharmaceutical companies, to totally destroy Dr Wakefield, is a very mute point, however it is entirely clear that this was the most principled thing that a defendant in such a trial might do.

The Panel will next sit on Monday 24 May 2010 at 9.30 a.m. although it was completely unclear as to whether this was a public session or one in camera.

The UK GMC Panel: A Sinister and Tawdry Hearing

January 13, 2010

On or around January 29th 2010, the GMC Fitness to Practice Panel, sitting for the last two and a half years in the case of Dr Andrew Wakefield, Professor Simon Murch and Professor Walker Smith, will end the first part of the hearing by pronouncing its 'finding on fact'. This hearing, originally scheduled for three months, is undoubtedly one of the most sinister and tawdry quasi-judicial hearings in the history of British law or medical regulation.

It is slightly surprising that the panel will have taken almost six months to reach their verdicts. I have sat through almost two and a half years of the hearing yet heard no facts that haven't been agreed by both defence and prosecution. Over and above these non-damaging issues, the whole two and a half years has consisted of evasion, obfuscation, delay, confusion, innuendo, obscurantism and plain untruth.

After the findings on fact, the GMC will probably begin a second part of the hearing in April to decide how to 'dispose' of the three notable doctors. The complainant in this case, was, as most of you know, a journalist, who has never appeared as a witness and has remained a 'secret' accuser; his interests, funding and the reasons for his previous writing in support of the vaccine manufacturers has remained concealed. During the hearing, the parents of vaccine damaged children have been ignored; the government and medical establishment position now in Britain being one of complete vaccine damage denial.

A guilty verdict, against any of the doctors, in relation to any of the many charges, will not just be a verdict against the three doctors on trial but against the parents whose children the GMC deny were ever ill with IBD, it will also be a verdict against those few journalists and members of the media with integrity who have continued to write about the children, the parents and the doctors with a semblance of truthfulness. Finally any guilty verdict will be a verdict against the children, who will never again be observed, treated or diagnosed for Inflammatory Bowel Disease. A

guilty verdict will be the most massive blow to science because it will suggest that a body of lay and medical individuals can draw conclusions about correct scientific procedures on the basis, not of carefully replicated research published in a peer reviewed journal but upon the blustering gobbledygook of a prosecutor paid a large amount of money to argue ineptitude, unethical and dishonest procedures said to have taken place at least twelve years ago.

On the up-side, a guilty verdict on any of the many charges will be a victory for Brian Deer and the Sunday Times who will then claim that the decisions of the GMC has vindicated press freedom and Deer's 'award winning' investigative writing. A guilty verdict will be a vindication for the dark forces of the industrial lobby groups such as Sense About Science and the Science Media Centre. A guilty verdict will be a victory for GlaxoSmithKline, it will have wiped away the spectre of vaccine adverse reaction in Britain and shown this company and others, to have a 100% vaccine safety record. A guilty verdict will vindicate the life wasting 'abuse of process' indulged in by the GMC and will continue to shroud the venerable institutions hidden ties with Big Pharma.

In fact the GMC and the pharmaceutical companies are seemingly the main parties in this farrago that stands to win whatever the verdicts. If the doctors are found guilty then, the GMC will argue, this shows that the hundreds of charges were rightly brought by the GMC. If by some miracle all three doctors were to be found not guilty on all charges, the GMC could say that after a very difficult case the impartiality of the GMC prosecutorial process had been proved transparent. There would only be the ultimate three year time scale to explain away.

The pharmaceutical companies also seem to be in a win-win situation because regardless of a verdict of guilt or innocent they have undoubtedly smeared and destroyed the name of one of the most consistent, socially minded medical researchers of his generation and because of the unearthly duration of the trial have had considerable time to introduce other unsafe vaccinations. Oddly enough the whole Wakefield frame-up has run it's course right into the buffers of the Swine-Flu swindle, the last card played in the vaccine programme. Nothing could be more illustrative of the power now wielded by pharmaceutical companies and their criminal intent to make billions acting against the public health, than the swine flu vaccine con.

Unfortunately there is little sign that this collapsed strategy will percolate into the public or political consciousness and save the three doctors who have been tried for the two and a half years at the GMC. So effective has government and big pharma's propaganda been that even at this stage with the governopharma strategy over vaccines shown up for what it is, a great many people still believe that Dr Wakefield was a man on the make, intent on damaging the governments vaccine strategy for his own base reasons. As an investigative writer I am often faced with the question of what glues together social consensus and for the life of me, I can't in this case find the answer. If I had to guess, I would hazard that most people want a quiet life and wish to avoid difficult questions that might lead to arguments with their doctors and neighbours.

In Wakefield's case, the public have clearly been lacking the information to make an informed decisions. Most people do not know for instance that a number of GMC prosecutions are organised by and arrive at the GMC via Medico-Legal Investigations, a company solely financed by the Association of the British Pharmaceutical Industries that sometimes uses journalists to report their cases. Nor do most people understand that in Dr Wakefield's case, the complainant was journalist Brian Deer, the only person in the world to lodge a formal complaint against Dr Wakefield. Deer is published by the Sunday Times, and what do the public know about the secret ties of researchers, journalists and newspapers with the vaccine industry or any other industry. In 2009, the owner of the Sunday Times, James Murdoch was given a place as a non-executive Director on the board of GlaxoSmithKline the MMR vaccine manufacturers.

As for judicial proceedings, your average Mary or Joe, sometimes failes to think beyond the fact that if it's the law or the regulation, then it must be right and if a person is brought before a court or a hearing then the probability is that they have done something wrong. They rarely think of the fact that in this case, the GMC brought the prosecution, hired and paid the prosecuting counsel, the jury and the jury chairman (a one time holder of shares in GlaxoSmithKline) and the legal advisor to the panel, that they administered the trial and held it on their own premises. The GMC - a little state within a state, but with far greater vested interests than any but the odd remaining Stalinist enclaves.

Charges were first muted in 2004, the year that the claim of over 1,000 parents against three vaccine manufacturers, that had been proceeding over ten years, was suddenly denied legal aid. The Appeal against the withdrawal of legal aid was heard by a judge whose brother was a non-

executive director of GlaxoSmithKline and the managing director of Elsevier, publishers of the Lancet. Dr Horton the editor of the Lancet gave heavily disputed evidence at the hearing and was allowed not to appear a second time to answer serious questions about this evidence. Dr Wakefield was to have been an expert witness for the parents at trial, the GMC hearing has meant that he will no longer be countenanced as an expert witness in Britain and will find it impossible to get funding for further research.

Both the government and the pharmaceutical companies in Britain deny any possibility of vaccine damage. In order to carry through the prosecution the GMC argued that the children Dr Wakefield, Professor Murch and Professor Walker Smith saw at the Royal Free Hospital, were not ill or suffering from Inflammatory Bowel Disease. This massive campaign to distort the truth has left thousands of parents bereft of medical and other help for an array of illnesses brought on by the MMR vaccination.

* * *

I began attending the General Medical Council Fitness to Practice hearing in 2007. By then I had been looking at the case of Dr Wakefield and the predicament of the parents of vaccine damaged children for three years. During the first months of the hearing it was clear that the voice of the very particular group of parents whose children had been adversely affected in different ways by the MMR and MR vaccination was not going to be heard. In fact the GMC prosecutors rather than arguing the case in defence of injured parents, frequently used the parents against the doctors, claiming that wilful, and they implied, neurotic mothers, had pushed their children who were not ill, into the care of Dr Wakefield and others in a vain search for their own answer to their children's autism or to gain compensation.

Of course the truth was plain to see outside the hearing where parents demonstrated on ehalf of the doctors at the start of each new session. The media, with a few notable exceptions, however, like both the prosecution and defence counsel failed to report the voice of these parents.

It was a few months into the hearing in 2007, that I decided it would be a good idea to produce a series of books written by parents about the

predicament of having children who had Inflammatory Bowel Disease and regressive autism brought about by vaccination. This was clearly a most appropriate way of using lay people's writing - something I had long been interested in - to give voice to those who had been denied it.

I was not the only person to realise the importance of making public the parents' voice. At the same time as I began publishing the first 'parents' voice' book, later to be called Silenced Witnesses, the television film maker Alan Golding began making a series of short films which presented the voices of parents. These films culminated early in 2009 in Golding's brilliant, Selective Hearing: Brian Deer and the GMC. In this film, a select group of parents told the camera exactly what happened to their children after vaccination and how this conflicted with both Brian Deer's story and the GMC's view that their children were never ill.

The kind of publishing that I embarked upon is not without its problems. Perhaps the first and most obvious one is that the majority of the parents did not believe that they could write and the thought of producing a 12,000-word chapter initially overawed many of them.

The first Silenced Witnesses book took about eight months to produce and while all the writers seemed to learn quickly and easily how to tell their stories, there is no doubt in my mind that I was the main beneficiary of the exercise. I didn't learn so much from the editing process that I was anyway familiar with, but I learnt enormously from having to talk through writing difficulties with committed first-time writers.

In Silenced Witnesses Volume II: The Parents' Story, another eight parents tell the story of their children's regression into autism after suffering IBD that occurred after vaccination. Only the doctors on trial and a few independently minded journalists, have told the parent's stories intermittently over the last 5 years. Silenced Witnesses volumes one and two published in 2008 and 2009, have tried to rectify this. It is these stories and these lives that must be borne in mind as the GMC gets ready to pronounce its 'finding on facts'.

The first and most important thing that I learnt was that whatever my view was as a 'professional', the parents of vaccine damaged children had a very clear idea of what they wanted to say; they just needed help in saying it. This meant, however, that most contributors were quite dogmatic about what they wanted to include in their chapters and, of course, it wasn't style or aesthetics that were important, but the raw edge

of their experience in having to deal with their vaccine damaged children in a world that denied their existence.

Following the 'findings on fact', parents of vaccine damaged autistic children, whose children have given their sensibilities and even their lives for the country's unsafe vaccine programme, will have an even greater struggle to convince the world that they need compassionate help and funding to care for their children.

Volume II of Silenced Witnesses, out on the 23rd. January 2010, took over a year to produce and the final product is an attractive book of 300 pages accompanied by a free copy of Alan Golding's DVD. In this book and the first one, the parents have been freely able to recount their stories. Inevitably, my own one great regret is that without the power of mainstream book publishers and the marketing drive of retailers and the 'industry', the book will not have the impact that it should have and ensure the parents voice is heard over that of the vaccine producers, the paediatric establishment and the GMC.

he parents need all the help they can get, at this time, in publicising their circumstances and those of their children. One of the ways in which you can show support for the parents is by supporting these two volumes, trying to find buyers and helping to fund the printing and publication, as yet not completely accounted for. This book has to reach people. Buy these books, and help us make them a success. Read and then raise the parents' voices that have so far been stifled. If there is anyway that you can help with the distribution or re-printing of the books, make a donation or buy the books in bulk, don't hesitate to contact me through www.slingshotpublications.com.