

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 Croatia 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 lumbar 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 inexperienced 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.
- Lumbar 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.

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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.