

## 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 'Mr Pink the Enforcer'. When Miss Smith wants to have someone told off, Mr Pink, 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 expression money for old rope is often heard on the landings and in the lifts - although to my mind people should remember that old rope is firstly useful and then can be recycled.

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. *Ipsa 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.

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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 corraling 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.

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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 gastroenterostinally 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.

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## 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 SNOOZSNOT 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.