

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 chiaroscuro 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.

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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 basis 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 16th, 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.