

The campaign continues: mysterious faxes and the Oxford debate

THE COUNCIL OF THE ASSOCIATION MET ON 3 JANUARY 1990 AND condemned Kenneth Clarke's refusal to consider any alternative proposals to his 'reforms' and deprecated the decision to bring in a Bill as an enabling measure. Such a Bill gave Clarke autocratic powers to fill in the details by Regulation which he could amend how and when he wished.¹ We also had a debate on the ambulance drivers' dispute. Clarke had made another public relations gaffe, saying that ambulance crews without training as paramedics 'are professional drivers, a worthwhile job – but not an exceptional one'.¹ I told Council that 'the idea that moving an elderly lady from upstairs to go to hospital is something a taxi driver could do is an affront to ambulance personnel, and all caring professions'.²

The Council passed the appropriate resolution expressing grave concern at the prolonging of the dispute which was having a deleterious effect on patients.³

I also reported to the Council that we had lost 500 members in the autumn but we were so popular in the profession that overall our membership had risen by 3000.

At the press conference after the meeting I denied Mr Clarke's suggestions that the BMA had 'closed its tents and was going away'. 'Our opposition is not crumbling we are as opposed as we ever were', I said. I also denied rumours that more doctors were supporting the Government's plans, saying that there might be support by a minority of doctors but the majority were angry. I announced that we were planning a lobby of Parliament and expressed concern at the amount of money that was being spent on self-governing hospitals etc. without the necessary Parliamentary legislation.⁴

The Government received a further blow. A King's Fund Institute report said that in the United States the quality of care in the face of 'cost commitment containment pressures'[sic] depended on whether standards were regulated, and that reduced profit margins in private hospitals had resulted in patients who could not pay their bills being sent home.⁵

In Borehamwood at the weekend Dr Shirley Nathan presented the local ambulance crews with a cheque for £400, which had been collected by local supporters. Her picture with one of the ambulance men against the background of a large notice saying 'Borehamwood Ambulance Station – Emergencies Only Please' appeared above her remark 'I regret that the Secretary of State has not been able to make an acceptable offer to the ambulance crews'.⁶

Although the NHS reforms took precedence over everything else, I still had to continue with my other duties as Chairman of Council, and they were pretty extensive. I met Virginia Bottomley, the new Minister of Health, who had been a professional social worker, to discuss AIDS⁷ and at the weekend I had to travel to Manchester to attend the consecration of Benny Alexander's tombstone. He had been a great friend, and had worked ceaselessly on behalf of the Association and the health service and, by the tenor of the addresses, had been a loved and respected member of the local community. On 24 January I gave a dinner for the medical press. I had always had a good relationship with the medical correspondents of the national press and also with the specialist medical press and they were relationships I fostered. In all the years that I was involved in medical politics never once did a journalist betray a trust – that is not to say that they did not write nasty things about me, but that was what some of them were paid to do. The next day I had a meeting of the AIDS trustees, and then left for Edinburgh, where I gave the prestigious Richard Scott Lecture sponsored by the University of Edinburgh Department of General Practice.

On 30 January I met with Nigel Duncan and Pamela Taylor, the Head and Deputy Head of the BMA's Press Department. They, along with Sue Marks, the BMA's Parliamentary Officer, made up the professional team that advised others and me on how to manage our campaign. They were superb.

I went up to Wolverhampton to speak at the annual dinner of the BMA Division that was attended by 70 doctors, the MP for Wolverhampton South, and the Chairman of the Local Health Authority. I made two points – the changes would create 'a cascade of patronage from top to bottom' and [the changes were designed] so that the Government could avoid blame when parts of the health service failed through lack of money, as they most certainly would. The report in a local newspaper also revealed that one third of the 3000 staff at Guy's Hospital had voted by a ratio of nine to one against becoming a self-governing hospital.⁸

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I have already referred to our concern about the implementation of parts of Kenneth Clarke's proposals prior to parliamentary approval of the legislation at a time when clinical services were being restricted because of lack of resources. Subsequently we sought the advice of our lawyers on the advisability of seeking a judicial review, because the Secretary of State was undoubtedly setting up all sorts of shadow authorities without parliamentary approval. Our solicitors took counsel's opinion from Anthony Scrivener QC who said that in view of the huge parliamentary majority the Government enjoyed a judge may well rule, or probably would rule, that the Secretary of State was not acting unlawfully. We decided to take no action. Harry Keen, on the other hand, had advice from a different QC, James Goudie, and a writ for judicial review was issued and heard in early February. Unfortunately, Goudie's argument that Clarke did not have the power to spend the money was rejected by the judges and enormous costs were awarded against Harry's organisation.

MYSTERIOUS FAXES

One evening at about 11 p.m., I received a telephone call from Clare Dover, who was at that time the health reporter for the *Daily Express*. She was the same journalist who sought to justify the right-wing newspapers ignoring of our campaign the previous year. She asked me to come to her home in East Ham that night, and would not say why, except that she had a document that I had to see. I put my clothes over my pyjamas and drove there. The documents she possessed were political dynamite, and how she got them was, to put it mildly, interesting. A lady who owned a local flower shop suddenly started receiving a large number of faxes, which she could not understand, and not knowing what to do with them she had contacted her local newspaper. The staff there also did not know what to make of them but suggested that Clare might. She recognised them as internal faxes between lawyers in the Department of Health and the Secretary of State's office. They showed that the lawyers feared that Clarke was overstepping the mark, and that if the Association applied for a judicial review there was a distinct chance we would win. Clare's then boyfriend said that whatever happened he would take them to the press.

The following morning I took the documents to Ian Field. Having read them he said 'John are you a British subject?', to which I replied in the affirmative. He then asked, 'Are you a loyal British subject?', and I confirmed that I was. He then said words to the effect that the faxes were Government documents, improperly acquired, and it was my duty to return them. I was quite shattered, but knowing that someone else was supposedly taking them to the press I agreed. (I was told that a small paragraph appeared in a medical journal somewhere but I never

saw it!) I think that was one of the great mistakes of my life. Although Harry Keen had lost his court case it had not attracted much attention, but the damage that widespread publication of the faxes in the press, and maybe even on the television, might have caused to Kenneth Clarke is a matter of conjecture.

THE OXFORD DEBATE

The Oxford Union Debating Society invited Kenneth Clarke, me and others to a debate on the 15 February 1989, the motion being ‘The house believes that the Government health reforms will not work for patients’. Apart from members of the university other invitees included Michael Meacher, the Labour Spokesperson on Social Security, and Charles Kennedy, speaking for the Liberal Democrats. Shortly before it was due to take place, the President of the Union, Edmund Lazarus, announced that Kenneth Clarke would not be available that night as he had to steer the Bill through its committee stage in the House of Commons, which had inexplicably been brought forward. However he did find time that same evening to appear on BBC TV’s *Question Time*.⁹ The *Oxford Times*, under the headline ‘Minister “scared off” by demo’, reported that a huge demonstration was being planned for the night of the debate in support of the ambulance workers by a pressure group called Oxfordshire Health Emergency who were confident of getting 5000 protesters.¹⁰

On the night of the meeting I visited the demonstration, which was very well attended in spite of the pouring rain, and I spoke with some of the ambulance men. In the debating hall, which was crammed to capacity, the motion was proposed by Michael Meacher and opposed by my friend Jerry Hayes, who was supported by Clive Froggatt. I supported Michael Meacher and we won the vote by 291 to 100.¹¹

THE BILL PROGRESSES

I continued attending meetings of the Standing Committee on the Bill, and although the opposition tabled 800 amendments, some of which we had drafted, and there were over a hundred hours of debating time, not one of them was passed. Harriet Harman attacked the government for failing to reassure critics about the reforms and I said there had been no changes apart from those the government wanted.¹² I announced that we would continue our campaigning and lobbying when the Bill went to the House of Lords, where I hoped we might achieve major changes. We had won a very minor victory – Kenneth Clarke stated that GPs who over-prescribed would not automatically be penalised.¹³ On 6 March under the heading ‘Health plans split Tories’ the newspaper *Today*

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reported that 71 percent of the 836 people questioned in a poll disapproved of the NHS ‘reforms’, and that of the Conservative voters 37 percent disapproved and the rest of them were undecided. The assumption could be made from that report that no Conservative voters positively supported the Government, but even I found that difficult to believe. What was important was that most of those asked said that the proposals should first be tested in a pilot scheme before going nationwide – BMA policy – and to most people a self-evident truth.¹⁴ On the last day of the committee stage Robin Cook stated categorically that if Labour won the next election they would reverse the changes. Outside Parliament, a computer study of proposed changes in the East Anglia region suggested that the system would collapse.¹⁵

While all this was going on we were preparing the groundwork for the debate in the House of Lords, following our established routine of sending out information packs to selected Lords, and arranging meetings with those we thought might be helpful. Lord Molloy of Ealing, a former Labour MP and Minister, made a very useful speech in criticising opted-out hospitals and expressed his belief that there was a danger in the two-tier system. He went on, ‘I believe there is a very serious risk of jettisoning the superb organisation we have for consultation between members of staff and officials in the National Health Service and indeed members of the government’, How right he was. He then mentioned the BMA and its opposition to the Government’s reforms and continued ‘the Chairman of the British Medical Council [*sic*], who may be a bad person in some people’s eyes but I do not believe that he is, said that the Government should recognise that those untried ideas were very unpopular. That is a moderate statement.’¹⁶

A few weeks later we published yet another poll, our fifth, timed to coincide with the start of the committee stage of the Bill in the House of Lords. That showed that the percentage of people opposed to the Government’s proposals had gone up yet again to 77 percent, while 79 percent of those polled opposed the idea of GPs having their own fixed budgets. I pointed out that even at this stage the government could accept the idea of regional experiments.¹⁷

At the height of all this intense medico-political activity there were two small events, which I found rather touching. My local newspaper, the *Borehamwood Times*, in its feature ‘25 years ago this week’ reported that two familiar faces had made an appearance [in the newspaper] – Dr John Marks and Dr Shirley Nathan from the Theobald Centre. ‘The two doctors had had their picture taken at the fourth annual dinner and dance of the Elstree and Borehamwood St John Ambulance Brigade (*see* Chapter 2)’.¹⁸ The same day *Health Services Journal* reported, with tongue in cheek, that I was clearly delighted with the gift of a video library from the director of the MSD Foundation Dr Marshall Marinker

– widely credited as one of the brains behind the NHS White Paper. It then stated that my smile would fade when I discovered that the entire collection consisted of the Department of Health’s video[s] launching the reforms.¹⁹

Just before Good Friday I received a phone call from the Foreign Office asking if I would meet two officials from the Polish embassy. They explained to me that the Polish Medical Association, a communist state organisation, was reforming itself as a liberal professional one, and they would be grateful if I would travel to Warsaw to offer them advice and assistance while I was still Chairman of the BMA. They would pay for Shirley and me to travel there and in addition they would arrange for the two of us have a day’s sightseeing in Krakow. I accepted their offer but told them I would rather go to Bialystok, a large industrial town. They asked me why I wanted to make such an odd choice, and they looked at me rather strangely when I told them that my paternal grandfather had come from that city. They agreed to my request and I agreed to go. When I got home that evening and told Shirley she said that under no circumstances was she going to Bialystok, and the following morning I sheepishly phoned the embassy and changed the itinerary. We arranged to go in early May, but within days I received another request from the Foreign Office, this time asking me to visit Budapest to meet the Hungarian Medical Association. In view of the fact that I was most certainly giving up office in July, and my diary was more than full, we had to arrange that trip for mid-April.

FOOTNOTES AND REFERENCES

- 1 Sherman J. BMA fight to curb ‘autocratic power’. *The Times*. 1990 Jan 4.
- 2 Quotes. *Sunday Correspondent*. 1990 Jan 7.
- 3 Cathcart B. Resolve dispute now. *Morning Star*. 1990 Jan 4.
- 4 Anaokar M. BMA plans reform lobby in Parliament. *Hospital Doctor*. 1990 Jan 11.
- 5 King’s Fund Institute. *Competition and Health Care: a comparative analysis of UK plans and US experience*. London: King’s Fund Institute; 1990.
- 6 Cash collected. *Borehamwood Times*. 1990 Jan 11.
- 7 Virginia Bottomley is married to Peter Bottomley MP. She went on to become the Secretary of State for Health, and was made a life peer in 2005.
- 8 Plans for the NHS come under fire. *Wolverhampton Express and Star*. 1990 Feb 9.
- 9 Clarke ducks heavyweight NHS debate. *General Practitioner*. 1990 Feb 16.
- 10 Minister ‘scared off’ by demo. *Oxford Times*. 1990 Feb 9.
- 11 Students snub health reforms. *Doctor*. 1990 Feb 22.
- 12 Anger as Bill leaves committee. *Health Serv J*. 1990 Mar 1.
- 13 BMA admits little has been done on NHS Bill. *Pulse*. 1990 Mar 3.
- 14 Health plans split Tories. *Today*. 1990 Mar 6.

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- 15 Office for Public Management. *The Rubber Windmill: contracting for health outcomes*. London: Office for Public Management; 1990.
- 16 *Hansard*. House of Lords. col.1223. 1990 Mar 7.
- 17 Prentice T. More against health reforms. *The Times*. 1990 Apr 18.
- 18 25 years ago this week. *Borehamwood Times*. 1990 Apr 19.
- 19 *Health Serv J*. 1990 Apr 19.