

## “THE MEDICAL PUNDITS”: DOCTORS AND INDIRECT ADVERTISING IN THE LAY PRESS 1922–1927

by

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Is a practising medical man to be entitled to set out by means of modern publicity—newspapers, magazines, radio broadcast, and the cinema—the easily stated facts of health knowledge and disease prevention; or is the consulting room or surgery to be the sanctum sanctorum of such knowledge?<sup>1</sup>

For many years now the attention of the great British public had been focused upon [Sir Dudley Rumbold Blane]. It was Sir Rumbold who, a quarter of a century before, staggered humanity by the declaration that a certain portion of Man’s intestine was not only useless, but definitely harmful. . . . Since then he had kept well to the front, successfully introducing to the nation bran food, Youghourt, and the lactic acid bacillus . . . and now in addition . . . he wrote the menus for the famous Railey chain of restaurants: “Come, ladies and gentlemen, let Sir Rumbold Blane MD FRCP help you choose your calories!” Many were the muttered grumbles amongst more legitimate healers that Sir Rumbold should have been scored off the Register years ago: to which the answer manifestly was—what would the Register be without Sir Rumbold?<sup>2</sup>

This paper will examine a controversy argued out between 1922 and 1927 in the committee rooms of the British Medical Association (BMA) and the General Medical Council (GMC) and in the columns of the medical and lay press. It centred on the ethics of doctors signing articles in the lay press on general medical matters, diet and hygiene. This practice was considered by many doctors, including members of the GMC and officials of the BMA, to be a form of “indirect advertising”. Others, including those involved in producing such journalism, presented it as a form of health education, a vital part in the effort to improve the fitness of the people. The controversy reveals the way in which this journalistic role for doctors ran counter to an ethical code that referred mainly to the world of Victorian and Edwardian private practice. It also shows deep and general tensions between differing “sorts and conditions” of doctors, their aspirations and models of medical behaviour. Most explicitly, it reveals professional and lay criticisms of the GMC and the BMA during the mid 1920s.

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<sup>1</sup> Hugh Martin, ‘Should the doctors tell?’, *Daily News*, 4.1.26.

<sup>2</sup> A. J. Cronin, *The citadel*, London, Victor Gollancz, 1937, p. 266. The close rhyming of the pseudonym and the career details indicate that this passage was based on Sir William Arbuthnot Lane. (Lane did not personally promote yoghurt or lactic acid bacillus, but the New Health Society, which he set up, did.)

One of the protagonists in this controversy was Sir William Arbuthnot Lane, a prominent and wealthy London surgeon, who challenged the rules on advertising laid down by the BMA and the GMC. Its most dramatic focus was a case for libel brought by the BMA against the *Star* newspaper in 1926. The allegedly libellous article commented on a dispute between Lane and the BMA Central Ethical Committee (CEC), and on a widely reported incident involving a photograph of Lane which appeared on 40,000 Lyons Tea Rooms menu cards.<sup>3</sup> The reactions of the press to the incident and the reaction of the BMA to this wide and critical coverage, and indeed the way in which the BMA were to drop their case against the *Star*, are among the events that this paper seeks to describe and explain. The libel action generated a great deal of preparatory work, which forms much of the archive material on which this research is based.<sup>4</sup> From this, and BMA Archive sources,<sup>5</sup> an account is made of the work of the BMA and the GMC, the internal conflicts involved, and the CEC's problematic relationship with Lane. In order to construct the account of the public perception of the profession I have also drawn on newspaper sources, particularly *The Times*. These two areas will be considered before turning to the *Star* libel case.

#### CONTEXTS AND ACTORS

To explain the “indirect advertising” controversy reference must be made to two co-existing professional ideals: gentlemanliness, and public service. The former had its *locus classicus* in the Victorian profession, but persisted into the twentieth century, the latter became a steadily more important part of the professional ideal throughout this period. In these events they are seen to be inconsistent with, even opposed to, one another. Those defending the signed articles referred to the more modern position, whilst those who sought to limit them were drawing on the older pattern. The distinction between arguments deployed and beliefs articulated is, however, frequently unclear. This model of conflicting professional strategies and ideals has been adopted as much to explain the form and style of the debate over indirect advertising, as the events themselves. The terms “indirect advertising” and “indirect methods of advertising” (coined by BMA officials) might imply an underlying concern with commercial competition. This aspect of the matter was, however, rarely discussed by either side of the debate, although it was itself part of the process of professional self-definition. The actors in the controversy drew on ideals and strategies for professional life which, while radically different in many ways, shared a professed lack of interest in financial gain. The main question addressed here is not whether certain practitioners were exploiting an opportunity to make money, but why the GMC and the BMA found themselves in difficulties when they attempted to control these activities.

Peterson's account of the mid-Victorian profession has shown the importance of gentlemanly attributes and behaviour in promoting individual practice, and in forming and establishing the London medical élite.<sup>6</sup> Entry into this élite required a balance of

<sup>3</sup> Anon., ‘Doing Without It’, *Star*, 2.9.26.

<sup>4</sup> The material is now held by the Contemporary Medical Archives Centre, Wellcome Institute for the History of Medicine, London (CMAC). The core archive is SA/BMA/D.235, ‘Indirect methods of advertising’. The files pertaining to the libel action are SA/BMA/D.106–108, BMA v. *Daily News*. Other related files are: SA/BMA/D.111, New Health Society 1927–1935; and SA/BMA/D.214, Advertising.

<sup>5</sup> BMA Archive, BMA House, London. CEC and Council minutes were consulted.

<sup>6</sup> M. Jeanne Peterson, *The medical profession in mid-Victorian London*, Berkeley, California University Press, 1978.

voluntary hospital and academic position, patronage, both lay and medical, and a practice among well connected patients. It enabled a small number of medical men to secure “connection and sometimes influence with the upper orders of Society” and “a place of institutionalised corporate professional power”.<sup>7</sup> It also gave them power over the medical rank and file, their putative “professional brethren”, many of whom “struggled on without power, professional respect and often without the economic resources for survival”.<sup>8</sup> This use of elitism was an important method of raising the profession out of the medical marketplace, which placed on doctors the obligation to behave as if they were not concerned with the sordid struggle for income. Paradoxically, the only way in which a doctor could really gain such security was by skilfully exploiting the very marketplace he affected to ignore.

Texts on medical ethics, or on the profession in general, show that the appeal to the standards of gentlemanly conduct remained important between the mid-Victorian period and the 1920s. For example, Jukes de Styrup wrote in 1886, “let us by the impersonation of the scholar, the gentleman, and the christian be respected”.<sup>9</sup> Squire Sprigge argued in 1905 that medical men must “maintain a high code of honour”,<sup>10</sup> and defined “considerable success” in practice as “enjoy[ing] more than ordinary esteem and influence in society”.<sup>11</sup> As late as 1926 Sir Thomas Horder declared in a public address, “the unregistered practitioner enjoys perfect freedom, he need not even be a gentleman”.<sup>12</sup> Modern scholars have also described its influence on medical theory and practice in the early twentieth century.<sup>13</sup>

The pattern of élite practice and power also persisted into the inter-war period, as did much of the distance between the rank and file of medical men and those holding positions of power in the Royal Colleges, the GMC and, to an important extent, the BMA. However, the medical profession had also increasingly sought to promote itself in other ways. The ideal of public service, and the winning of state backing and funding are described by Perkin as central features of the rise of the professions from 1880.<sup>14</sup> As scientific public servants, doctors were able to win power, influence and security by co-operating in the formation and execution of state policy. Public service in this more modern form gave increasing numbers of doctors an increasingly secure practice, although, as is well documented, the profession was divided on its attitudes to state-salaried service.<sup>15</sup> Despite the split between the élite and the rank and file in the 1920s, it would be an over-simplification to represent these ideals as situated exclusively within two portions of

<sup>7</sup> *Ibid.*, p. 192.

<sup>8</sup> *Ibid.*

<sup>9</sup> Jukes de Styrup, *A code of medical ethics* (2nd ed.), London, J. & A. Churchill, 1886, p. 18.

<sup>10</sup> S. Squire Sprigge, *Medicine and the public*, London, Heinemann, 1905, p. 242.

<sup>11</sup> *Ibid.*, p. 30.

<sup>12</sup> Sir Thomas Horder, ‘The aims and methods of health education’, *Br. med. J.*, 1926, **ii**: supplement 16.10.26. The supplement was not bound with the main journal, but was sent out as a separate pamphlet at regular intervals. It had a separate pagination which serves poorly to locate material, thus dates only are quoted.

<sup>13</sup> C. Lawrence, ‘Moderns and Ancients: the “new cardiology” in Britain 1880–1930’, in W. F. Bynum, C. Lawrence, and V. Nutton (eds), *The emergence of modern cardiology*, *Med. Hist.*, Supplement No. 5, London, Wellcome Institute for the History of Medicine, 1985, pp. 1–33.

<sup>14</sup> H. Perkin, *The rise of professional society*, London and New York, Routledge, 1989, pp. 1–26.

<sup>15</sup> F. Honigsbaum, *The division in British medicine*, London, Kogan Page, 1979, pp. 79–89.

the profession.<sup>16</sup> The social and ideological rifts did not always coincide, but are interconnected explanations for the controversy over indirect methods of advertising.

This inconsistent and divided pattern of medical opinion can be seen mirrored in wider societal trends. José Harris's account of Edwardian Britain is one of "a ramshackle . . . society, characterised by a myriad contradictory trends and opinions",<sup>17</sup> one in which the population divided itself into innumerable groups and classes. Other commentators, including Hynes,<sup>18</sup> Perkin,<sup>19</sup> and the more contemporaneous Robert Graves<sup>20</sup> agree that the society of interwar Britain was in many ways continuous with that of the Edwardian era, both in features conserved and processes of change.

Other factors form part of the context. One was the body of opinion that advocated teaching the rules of healthy, hygienic living to individuals in order to promote the health of the nation.<sup>21</sup> Proponents of health education stressed that people had to learn certain natural, physiological patterns of behaviour, and that the medical profession was well placed to communicate this knowledge. Thus some doctors made it their concern to provide prescriptions of lifestyle and diet to the general public. In Lane's words,

widespread education and encouragement of the preservation of health is one of the greatest needs of the present day, and that unless the popular press is available for propaganda, any such effort will be deprived of the best avenue of approach to the bulk of the population.<sup>22</sup>

The newspaper editors for whom they wrote argued that it was important that the authors were not anonymous, and that their work was presented in an "attractive" way.<sup>23</sup> The press was active in soliciting much of the material discussed in this debate, and there was a clear overlap in interest and ideals between it and doctors like Lane. Doctors and journalists both referred to the ideal of liberal professionalism (hence the phrase "gentlemen of the press").<sup>24</sup> Indeed "newspapers show[ed] a tendency towards . . . writing as if their natural habitat was the chancelleries of Europe".<sup>25</sup> The conception of the press as "the Fourth Estate" was espoused by newspapermen of the period, articulated their

<sup>16</sup> For example, George Newman, through government office, gained more than just influence with government; by this period he was on the GMC and dined regularly with members of the London élite. (G. Newman, diaries, PRO, MH 139, 3, 4, 5.)

<sup>17</sup> José Harris, *Private lives, public spirit*, Oxford University Press, 1993, p. 3.

<sup>18</sup> Samuel Hynes, *A war imagined*, London, Pimlico, 1990.

<sup>19</sup> Perkin, op. cit., note 14 above.

<sup>20</sup> Robert Graves and Alan Hodge, *The long weekend*, London, Faber and Faber, 1940, pp. 187–90.

<sup>21</sup> An early statement of the need for education in implementing public health measures can be found in S. and B. Webb, *The state and the doctor*, London, Longmans, 1910, p. 100. "The very aim of the sanitarians is to train the people in better habits of life". George Newman consistently argued for health education, as in his lecture *Public opinion in preventative medicine*, London, HMSO, 1920. The 1925 Public Health Act made provision for Local Authority funding of health education. Following this, both the BMA and the Society of Medical Officers of Health (SMOH) looked at ways of organizing systematic public health education (see CMAC: SA/BMA/F.70). The SOHM published a magazine *Better Health*, from 1927. A large number of voluntary organizations were undertaking health education activities in the interwar period. Twenty-three are listed by Newman in his memorandum *Public education in health*, London, HMSO, 1925.

<sup>22</sup> W. Arbuthnot Lane, letter, *The Times*, 4.1.26, p. 8c.

<sup>23</sup> Horder summed up this situation very well in Horder, op. cit., note 12 above.

<sup>24</sup> Philip Elliot, 'Professional ideology', in G. Boyce, J. Curran, P. Wingate (eds), *Newspaper history from the 17th century to the present day*, London, Constable, 1978, p. 172.

<sup>25</sup> Lucy Brown, *Victorian news and newspapers*, Oxford University Press, 1985, p. 23.

interest in forming and informing public debate and policy.<sup>26</sup> This aspiration fitted neatly with the concerns of doctors interested in public health education. Indeed their ideas were framed as much in response to the arrival of the mass media<sup>27</sup> as to the better documented concerns over physical deterioration. The tone of the middle-class press, set by papers like the *Daily Mail*, was such that articles by medical men on health could form part of their effort to inform and entertain. Of course, less sympathetic interpretations of the collusion between doctors and journalists can be made and many of these are found in the statements of those who opposed it, as will be demonstrated later.

Advertising was a difficult issue for journalists interested in promoting their occupation as a profession. Newspapers derived half their revenue from, and gave roughly half their space to, advertisements. The practice of “puffing”, the insertion of copy advertising persons or products into news stories and editorial material, was widespread well into the twentieth century. Many papers including *The Times* and the *Daily Mail* strenuously resisted the aggressive tactics of advertising agents wanting to place puffs, in order to protect their reputations as independent professionals. “The disguised puff”, wrote one Edwardian commentator, “is one of the most prominent features of newspaper advertising today. The reader is beguiled into perusing what appears to be a piece of news, and finds he is artfully led into a laudation of somebody’s pills or soap”.<sup>28</sup> Indeed, patent medicines were amongst the most commonly advertised articles throughout the late nineteenth and early twentieth centuries. The BMA conducted a consistent campaign against these “Secret Remedies” between 1900 and 1920.<sup>29</sup>

The association between advertisements and quack medicine was one of the factors in the designation of any perceived advertising as unethical. De Styrap identified the many methods, some more subtle than others, whereby doctors advertised themselves in the press (he did not include signed articles of the type published in the 1920s), and described them as “the ordinary practices of charlatans, incompatible with the honour and dignity of the profession”. Abstention from advertising would also, he argued, serve to emphasize the distinction between the profession and trade.<sup>30</sup> Another reason for the injunction against advertising, and specifically canvassing, was that many Medical Aid Societies and Provident Dispensaries canvassed for patients, and by the Edwardian period the medical agitation against this lay control of medical work was at its height.<sup>31</sup> Robert Saundby (who was the first chairman of the BMA CEC) considered the only legitimate advertisements to be reputation, and a small plate bearing a name, but no details of speciality.<sup>32</sup> The naming of doctors in newspapers was spoken of disapprovingly as far back as the 1880s, forty years before the term “indirect advertising” was coined. Although the reasons were never stated explicitly, it seems to have been regarded as unethical largely because it smacked of

<sup>26</sup> George Boyce, ‘The fourth estate’, in Boyce, *et. al.*, op. cit., note 24 above, p. 16.

<sup>27</sup> P. Bratlinger, ‘Mass media and culture in fin-de-siècle Europe’, in M. Teich and Roy Porter (eds), *Fin de siècle and its legacy*, Cambridge University Press, 1990, pp. 98–114.

<sup>28</sup> C. Moran, *The business of advertising*, London, Methuen, 1905, p. 35.

<sup>29</sup> Peter Bartrip, *Mirror of medicine: the BMJ 1840–1990*, Oxford, BMJ and Clarendon Press, 1990, pp. 195–9. The *BMJ* ran articles exposing the “useless” or “harmful” compositions of many patent medicines, and published two volumes of these, *Secret remedies, and what they contain*, 1909, and *More secret remedies*, 1912.

<sup>30</sup> De Styrap, op. cit., note 9 above, p. 52.

<sup>31</sup> GMC, *Minutes*, xxvi, p. 64 (6.6.1899). See also CEC, *Minutes*, 1913–14, BMA Archive, B/63/1/2.

<sup>32</sup> Robert Saundby, *Medical ethics* (2nd ed.), London, Charles Griffin, 1907, p. 52.

“puffery” and quackery. The statement that it might attract patients unfairly was unusual, and the problem of medical overcrowding in towns and cities is never mentioned in this connection.

The ethical texts considered thus far, although written by members of the élite, were not formal professional codes, but informal attempts to raise the standards of medical behaviour. We shall now consider the GMC and the CEC of the BMA. It is worth bearing in mind that whilst the BMA and the GMC are obviously separate entities, many members of the GMC were prominent members of the BMA.<sup>33</sup> Furthermore the two organizations were often confused by contemporary figures, or criticized as if they were interchangeable.

### *The General Medical Council*

GMC developed its disciplinary machinery in the 1860s, and a critical account of this has been given by Russell Smith.<sup>34</sup> In the early 1920s, the council consisted of 36 members, all registered medical practitioners,<sup>35</sup> and all but six appointed by the Royal Colleges and the universities. The six other members were Privy Council appointees. Cases appearing before the GMC were not brought to trial by the Council itself, but were usually referred to it by either the Royal Colleges, the BMA, the medical defence organizations, or the courts, and fell into two categories. The first were doctors charged with criminal or civil offences originally dealt with by the courts, drunkenness or adultery for example. The second were cases of medical ethical offences, and it is with this group only that this discussion is concerned.

The GMC was described as a defective legislature and judiciary by many of the correspondents to *The Times* in 1925 and 1926, including George Bernard Shaw<sup>36</sup> and Sir Edward Marshall-Hall.<sup>37</sup> In his well-known fictionalized attack on the Council, Cronin characterized it as “a second-hand law court”.<sup>38</sup> Smith’s appraisal of its work is also legal in approach, so a comparison with the legal justice system will serve here to make some important points. There was only one charge available to the GMC, “infamous conduct in a professional respect”, and, admonition aside, the only “punishment” was erasure of the practitioner’s name from the Medical Register. The “jury” were not 12 of the defendant’s peers, but the 36 members of the Council, almost all élite men, who served in this capacity over long periods. Perhaps most importantly, the Council gave minimal written descriptions of exactly which forms of behaviour constituted “infamous conduct”. This was in the form of the Warning Notice,<sup>39</sup> which during the 1920s outlined only seven

<sup>33</sup> The most striking illustration of this was at the hearing of William Lloyd’s case (GMC, *Minutes*, LXII, p. 100 (28.11.28)) in which the BMA were complainants. Council members with BMA membership were asked to leave the proceedings to avoid a possible conflict of interests, leaving only 18 out of the 30 present to hear the case. This overlap included some prominent and active BMA members such as Sir Henry Brackenbury, Sir Robert Bolam and Sir Jenner Verrall, Presidents of the BMA. See GMC *Minutes*, LXII, p. 1 (26.5.25).

<sup>34</sup> R. G. Smith, ‘The ethical guidance of the GMC’, *Med. Hist.*, 1993, 37: 56–67.

<sup>35</sup> A lay member was appointed in 1925, see text and note 134 below.

<sup>36</sup> G. Bernard Shaw, letter, *The Times*, 23.10.25, p. 10a.

<sup>37</sup> See notes 118–21 and 123–7 below. Marshall-Hall was a Sessions Judge and had been Conservative MP for Southport 1900–1906.

<sup>38</sup> Cronin, *op. cit.*, note 2 above, p. 375.

<sup>39</sup> The first Warning Notice appeared in major medical journals in 1887. Formal Warning Notices were given to all newly qualified medical practitioners from the turn of the century. The combined Warning Notices, revised in

types of misconduct, and was explicitly not an exhaustive list of ethical offences.<sup>40</sup> It was possible therefore to be struck off the Register for an offence which had never been, and indeed might never be, identified in writing or officially communicated to the profession.

But to adopt this critique exclusively obscures other interpretations, for the GMC can be seen as working effectively on quite another model; that of the “gentleman’s club”. Indeed the organization of Edwardian (and thus to an extent inter-war) English society can be seen as consisting of a myriad clubs, many overlapping. Even Parliament “retained the atmosphere and habits of a West End Club”.<sup>41</sup> In disciplinary terms the “lever” is the approval (or disapproval) of the group, and the ultimate sanction is expulsion. Discipline is handled by demonstrating the unacceptable nature of the member’s behaviour; a hearing before the Council, and the member is either censured, or in severe cases, expelled from the club. This model requires some adaptation for, although the “club officials” were part of the élite, entry into ordinary membership was a matter of qualification. The right to remain, on the other hand, required genteel behaviour and the careful avoidance of working associations with healers who were not members.<sup>42</sup>

The existence of an unwritten code which if contravened could result in an all too real punishment, is one of the most important practical manifestations of the gentlemanly club ethos. Gentlemen were widely held to understand naturally the ways in which they should conduct themselves. Saundby did not concur with this view, and was in favour of a detailed code of ethics (though he does not suggest its adoption by the GMC in particular). His comments on the issue are a convenient summary,

apart from a few resolutions of the GMC, and the Royal College of Physicians, there are few rules. . . . It is not sufficient to say, as some people do that medical ethics may be summed up in the Golden Rule, or that a man has only to behave like a gentleman. . . . Moreover what was [once] regarded as customary and even proper . . . [may] come to be universally condemned.<sup>43</sup>

This last point is particularly pertinent, for the “lex non scripta”, like the British Constitution, is capable of radical adaptation whilst retaining the gravitas and authority of tradition. The GMC, of course, used a mix of written and unwritten rules.

Russell Smith has compiled a table of the time taken for an ethical issue to pass from being the subject of hearing before the GMC, to its appearing in written guidelines.<sup>44</sup> The

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1914, were printed in the front of the *Medical Register* from 1920–1958. See Smith, op. cit., note 34 above, pp. 60–2.

<sup>40</sup> GMC, Warning Notice, June 1923. “The instances . . . given . . . do not constitute, and are not intended to constitute a complete list of the offences which may be punished by erasure from the Register”. The offences listed were: “(1) [issuing misleading or improper] Certificates, Notifications or Reports . . . (2) Covering for Unqualified Assistants . . . (3) Sale of Poisons . . . (4) Dangerous Drugs . . . (5) Association with [specifically giving anaesthetics for] Unqualified Practitioners . . . (6) Advertising and Canvassing . . . (7) Association with Uncertified Women Practising as Midwives”. GMC *Minutes*, LX, pp. 36–8 (1.6.23).

<sup>41</sup> Harris, op. cit., note 17 above, p. 188.

<sup>42</sup> See note 40 above.

<sup>43</sup> Robert Saundby, *Medical ethics* (1st edn), Bristol, John Wright, 1902, p. 2.

<sup>44</sup> Smith, op. cit., note 34 above, p. 63.

longest lapse between first inquiry and guidance was the 101 years that it took for guidelines on confidentiality to appear. Advertising in the lay press or elsewhere was not proscribed in the “written law” of the Warning Notice until 1905.<sup>45</sup> However, only twelve years previously the Council had ruled that it was not in itself an offence.<sup>46</sup> The issue of indirect advertising had an even swifter rise to prominence. It was formally brought to the attention of the GMC by the BMA in 1922 and included in the Notice in 1923. These comparatively rapid responses give an indication of the urgency of these issues. This may be explained by the general overcrowding of the profession, and perhaps also by the additional pressure on medical competition consequent on the demobilization of large numbers of doctors following the Great War.<sup>47</sup>

### *The BMA and the Central Ethical Committee*

Despite the overlap in membership between the GMC and the BMA outlined earlier there were large differences between them.<sup>48</sup> The GMC was a statutory body which regulated all doctors and consisted of only 36 largely élite members. The BMA on the other hand was a private corporation, an organization that existed to “promote the interests and honour of the medical profession”, and thus represented its 24,000 members, in the sense that any professional association or trades union would.<sup>49</sup> These members were from all medical walks of life, including a large number of GPs. It consisted of a central organization in London, which was in constant communication with local Branches and Divisions, an arrangement which combined “the advantages of a local medical society with those of an imperial organisation”.<sup>50</sup> Its rhetoric and structure aimed to promote a united profession, but, as we shall see, it suffered from significant internal divisions.

The BMA formally took on a role in modulating medical behaviour in 1902, setting up the CEC with Robert Saundby as its first chairman. It consisted of 6 members nominated by the Council of the BMA and 6 nominated by the Annual Representative Meeting (ARM). The BMA’s President, the Chairmen of the Council and ARM, and Treasurer were also ex-officio members. Its main role was to advise Council on, and supervise the ethical rules of the local Divisions of the BMA, to report to Council on the behaviour of individual practitioners for whom expulsion from the Association was considered, and to arbitrate disputes between individual members.<sup>51</sup> In effect, it handled ethical matters that local Divisions were unable or unwilling to adjudicate. In 1920 a standing sub-committee was set up which could meet at short notice and frequent intervals, and much of the CEC’s business was handled by it.<sup>52</sup> Many CEC members served on the committee for ten years

<sup>45</sup> GMC, *Minutes*, xxxvi, p. 138 (1.12.1905), see note 64 below.

<sup>46</sup> GMC, *Minutes*, xxx, p. 266 (27.11.1893).

<sup>47</sup> Every meeting of the CEC for 1919–20 considered cases involving this problem, BMA Archive, B/63/1/7.

<sup>48</sup> See note 33 above.

<sup>49</sup> BMA membership, having fallen from 1912 to 1918, was in fact rising steeply during the period addressed here, and was to double between 1919 and 1939; it stood at 22,282 in 1922, and had reached 33,625 by 1927. See Bartrip, *op. cit.*, note 29 above, p. 217. This rise in membership was typical of professional associations and trades unions in the interwar period. See Perkin, *op. cit.*, note 14 above, pp. 218–85.

<sup>50</sup> Sprigge, *op. cit.*, note 10 above, p. 236.

<sup>51</sup> BMA Council Minutes, July 1903, p. 11, BMA Archive, B/54/2/11.

<sup>52</sup> CEC, Minutes, 15.10.20, BMA Archive, B/63/3/7. I have made no distinction between CEC and CEC sub-committee in the account below.



or more.<sup>53</sup> A great deal of the CEC's policy documents and correspondence were written by the BMA's Medical Secretary and his Deputy.<sup>54</sup>

Can the CEC be included in the disciplinary model of the gentlemanly club? Some features suggest not. CEC members were partly elected by the representatives of ordinary doctors (themselves locally elected). The CEC, in keeping with Saundby's views, made more written rules, and more explicitly, for the profession than the GMC.<sup>55</sup> However, the committee's sanctions were not dissimilar to those of the GMC. It could censure a BMA member at a special meeting, recommend expulsion from the Association by the Council, and uphold locally made decisions to ostracize a practitioner. It could only expel a doctor from the profession by bringing his case before the GMC. The basic formula under which these sanctions were brought to bear were as vague and all-embracing as the "infamous conduct" clause of the GMC. A practitioner could be found guilty of "conduct detrimental to the honour and interests of the medical profession". Its ethical rulings incorporated the ethos of gentlemanliness. In its work to promote the profession and modulate the market in medical care, it accepted, articulated, and enforced many of the values of the élite.

### *Sir William Arbuthnot Lane, and the New Health Society*

This is not the place for a detailed account of Lane's formal career, which lasted from 1884 to 1925, and was remarkable, but also typical of the times.<sup>56</sup> His most important consultancy was at Guy's Hospital, where he had been a student. Lane preferred to work out his own ideas and methods rather than accept standard theory and practice. He was a controversial surgeon, at the centre of two major areas of clinical debate. The first was the operative fixation of simple fractures, the second was the use of colectomy (excision of the large intestine) to treat "chronic intestinal stasis". His reasoning in both areas of practice drew on a general patho-anatomical framework that he claimed to have developed early in his career.

Lane was one of the foremost innovators in aseptic and "no-touch" surgical technique. His operations were, by the standards of the day, remarkably safe.<sup>57</sup> This was a large factor in the success of Lane's private practice, which was generating an annual income of £20,000 per annum by the early 1920s. Contemporary newspaper cuttings describe him as "Famous Surgeon"<sup>58</sup> or "The Best Known Surgeon in Britain".<sup>59</sup> He was awarded a baronetcy in 1913 for an abdominal operation on one of the royal princesses, and with title,

<sup>53</sup> Reginald Langdon Down was chairman from 1919 to 1925, when Arnold Lyndon took over. Other "long servers" include James Neal (Secretary of the MDU), C. O. Hawthorne, and N. Bishop Harman.

<sup>54</sup> Alfred Cox was Medical Secretary of the BMA from 1912 to 1932, when he was replaced by the serving Deputy Medical Secretary, George C. Anderson. Anderson died in office in 1944.

<sup>55</sup> For instance the Association's report on indirect advertising ran to two pages of fine print (*Br. med. J.*, 1925, ii; supplement, 11.4.25) and had been carefully refined over a period of two years, whilst the GMC's Warning Notice was a paragraph (see note 64 below).

<sup>56</sup> There are two biographies of Lane, by men who knew him personally, W. E. Tanner, *Sir William Arbuthnot Lane, Bart.*, London, Ballière, Tindall and Cox, 1946, and T. B. Layton, *Sir William Arbuthnot Lane, Bt.*, Edinburgh, Livingstone, 1956. Lane left an unpublished autobiography (1936) which is now in the Wellcome CMAC (GC/127/A1-2). Lane's career forms the basis of Ann Dally's MD thesis, 'Fantasy surgery', University of London, 1993.

<sup>57</sup> In the case of bone operations, he rarely caused osteomyelitis, at that time fatal to either limb or patient. He was said to be "the only man in London who could open the abdomen safely." (H. W. Bruce, quoted in Layton, *op. cit.*, note 56 above, p. 105.)

<sup>58</sup> This phrase was used by almost all the papers covering the Lyons' story, see notes 136-40 below.

<sup>59</sup> Anon., *Boston Sunday Post*, 12.9.26.

income, West End address, and large country estate at Glendalough, had risen from a relatively humble military background to become a member of the élite of medical men, a medical aristocrat.

Lane gained a high social position, as distinct from institutional influence.<sup>60</sup> This position enabled him, in retirement, to launch his campaign to educate the general public in the principles of healthy living and disease prevention. The New Health Society was a private charity, inaugurated in 1925, and active between 1926 and 1937. The dispute between Lane and the BMA CEC on the issue of indirect advertising provided much of the impetus to set up the Society. The purpose of the Society was to improve the health of the population by providing information on diet, hygiene and the prevention of disease. It reflected Lane's preoccupation with bowel habit to a certain extent, and seems to have been aimed as much at the middle classes as the urban poor. However, the Society was in membership, and in broad concern with national fitness and the habits of life, typical of the many voluntary organizations working to improve the fitness of the population.<sup>61</sup> Many of those involved in the Society were involved in other similar organizations.<sup>62</sup> Its founders and members included a wide range of political, medical and commercial figures, and formed an impressive selection of the élite of society. For example, members included both Lloyd George and Asquith (the former Liberal Prime Ministers), Alfred Mond (1st Baron Melchett, a former Minister of Health and founder of ICI), George Lansbury (a notorious Labour MP), William Willcox (toxicologist famous for solving the Crippen case), and Henry Wellcome (pharmaceutical entrepreneur and philanthropist).

#### CONCERNS OF THE CENTRAL ETHICAL COMMITTEE, 1922–1926

In February 1922, the CEC considered what it regarded as a significant disciplinary problem that had appeared in the previous two or three years. "The CEC", stated a memorandum to the Council of the BMA,

frequently receives letters adversely commenting on notices, articles, books, pamphlets, photographs, etc. which direct public attention to particular medical practitioners, and are likely to have the effect of attracting practice to them even though they are not in the ordinary guise of an advertisement.

Journalism for its own ends is always eager to get copy or pictures in which the personal element is strong . . . newer journalistic methods are even more insidious and more objectionable. An article on some indifferent subject may introduce without any obvious point a casual laudatory allusion to someone's professional work.<sup>63</sup>

<sup>60</sup> Lane did not hold position in the GMC, Royal Colleges, BMA, or medical defence organizations.

<sup>61</sup> There were 23 voluntary bodies involved in health education listed by Newman, the most recent of which was the New Health Society, (see note 21 above). See also, G. Jones, *Social hygiene in twentieth century Britain*, London, Croom Helm, 1986. Jones categorizes these as "social hygiene" organizations and the population on whom their efforts focused as the "social problem group".

<sup>62</sup> Examples are Caleb Saleeby and Elizabeth Sloan Chesser. Saleeby was an Edinburgh graduate, and was extensively involved in voluntary organizations, including, amongst many, the World League against Alcoholism, the Divorce Law Reform Union, the Eugenics Education Society, and was a founder member of the Sunshine League, which campaigned for access to sunlight, heliotherapy and outdoor physical culture. See *Medical Directory*, London, J. & A. Churchill, 1924.

Elizabeth M. Sloan Chesser was a Glasgow graduate, with a Harley Street practice specializing in the diseases of women and children. She was a lecturer for the National Council for Combatting Venereal Disease, and the British Red Cross Society. She edited *Health and Psychology of the Child* and published a popular book *Women, marriage and motherhood*. See *Medical Directory*, 1924.

<sup>63</sup> CEC, Minutes, 15.2.22, Memorandum to BMA Council, unnumbered folio, CMAC: SA/BMA/D.235.

### *Doctors and indirect advertising in the lay press*

The memo also alluded to the difficulty of dealing with cases “which sometimes involve men of high standing”. The Committee wanted the BMA to approach the GMC for a more explicit ruling than that of the existing Warning Notice of May 1905.<sup>64</sup> Although this rule did not make any comment on the appearance of practitioners’ names with newspaper articles, the CEC had been concerned with the ethics of doctors publishing their names since its earliest days. They had discouraged the publication of named interviews,<sup>65</sup> named articles,<sup>66</sup> addresses, and photographs.<sup>67</sup> Books on medical matters could give the author’s name, but not address, and advertising for these books could make no claims on behalf of the book or its author.<sup>68</sup> More explicit forms of advertising had been censured, including the placing of change of address notices in papers.<sup>69</sup> They regarded their rulings as upholding the principle of the Warning Notice, but none of the activities was explicitly forbidden.

The committee objected as much to the description of the doctor, as to the use of his name, especially if the doctor was presented as offering superior treatment, or described as a “specialist”.<sup>70</sup> Their documents describe the matter as a subtle one, for “things which are innocent in themselves may by the manner and frequency of their doing gravely contravene the principle that medical practitioners should not advertise”.<sup>71</sup> A document produced by George Anderson (then Deputy Medical Secretary) described the problem in terms of social and occupational distinctions,

[These] journalistic developments . . . seem . . . likely . . . to undermine some of the most cherished traditions associated with the Medical Profession in this country and to lower its reputation among the more thoughtful sections of the community. . . . Means of personal advancement . . . legitimate in Politics or the stage . . . have, in the past, been shunned as undignified to say the least by the Medical Profession.<sup>72</sup>

Despite the obvious implications for medical competition, the matter was largely described as a contravention of “form”, tradition or dignity. For instance Anderson stated that many of these questions might be “settled by an appeal to good taste”.<sup>73</sup> The BMA looked partly to gentlemanly behaviour to modulate potential rivalry between doctors, as is clear in a handbook in preparation at the same time. Describing a doctor’s duties to his “professional brethren” it said,

<sup>64</sup> GMC, Warning Notice, 1905. “The practice of (a) advertising by a registered medical practitioner with a view to his own gain, particularly if depreciatory of other practitioners, or of sanctioning such advertising, of (b) employing or sanctioning the employment of agents or canvassers for the purpose of procuring patients and of (c) associating with or accepting employment under any Association which practises canvassing or advertising for the purpose of procuring patients are . . . contrary to the public interest and discreditable to the profession of medicine and any registered medical practitioner resorting to any such practices renders himself liable . . . to have his name erased from the Medical Register.” GMC, *Minutes*, xxxvi, p. 138 (1.12.1905).

<sup>65</sup> CEC, *Minutes*, min. 19, 1904, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>66</sup> CEC, *Minutes*, min. 89, 1910, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>67</sup> CEC, *Minutes*, min. 29, 1918, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>68</sup> CEC, *Minutes*, min. 29, 1908, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>69</sup> CEC, *Minutes*, min. 29, 1918, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>70</sup> CEC, *Minutes*, 26.9.22, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>71</sup> CEC, *Minutes*, 6.12.22, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

Under a condition of matters now happily disappearing, members of the profession regarded themselves simply and solely as rivals. [We are] now learning [that] there is amply [*sic*] room and necessity for friendly co-operation. Men who 'play the game' can nearly always depend on the same treatment from others.<sup>74</sup>

The committee judged that such an approach needed to be supported by definite statements. The BMA Council on the recommendation of the CEC asked the GMC for a new Warning Notice. They were turned down, the GMC preferred instead to have the BMA bring a "flagrant case of any new offence" to them.<sup>75</sup> The CEC considered taking the initiative, by issuing a statement of their own that signed articles on medical matters in the lay press were "incompatible with membership of the BMA".<sup>76</sup> This was considered "inexpedient", and instead the committee resolved to "maintain an attitude of watchfulness . . . [and to] intervene on any occasion when it [seemed] wise to do so". Press cuttings agencies were subsequently employed to monitor such articles.<sup>77</sup> This was a departure from the usual role of the CEC to await complaints from members or Divisions. Although there is no direct evidence that any prosecutions resulted, at least two cases discussed later, which resulted in erasures from the Register, were "discovered" in this way.

The Council of the BMA repeated their request to the GMC, this time expressing one of the major concerns of the CEC: that unless firm steps were taken it would "be increasingly difficult to maintain the discipline of the profession without producing a feeling of injustice".<sup>78</sup> This second approach was successful. The Warning Notice of June 1923 was reworded to include advertising "indirectly" and the concept of acquiescing to publication.<sup>79</sup>

The Committee then worked on a detailed set of guidelines to communicate to BMA members just how they were to behave in this area, and to make the new Warning Notice a workable tool for control. The final form of the BMA report on indirect methods of advertising did not forbid the signing of articles, but allowed no "editorial extravagances" in connection with the name of the doctor concerned (see footnote 100). However, in 1924, before the CEC had decided whether or not articles had to be entirely anonymous, they considered a number of newspaper articles by doctors, apparently to find a good test case for themselves and the GMC.<sup>80</sup>

<sup>74</sup> Draft, 'BMA handbook for newly qualified medical practitioners', 1922, p. 10, CMAC: SA/BMA/A.17.

<sup>75</sup> Annual report of Council, *Br. med. J.*, 1922, i: supplement, 6.5.22.

<sup>76</sup> CEC, Minutes, 20.5.22, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>77</sup> This may have become a confused rumour since later in 1925 an anonymous letter to *The Times* (5.12.25, p. 8c) alleged that the GMC employed such a method of monitoring the press, an allegation that was subsequently denied (Norman King, letter, 16.12.25, p. 10c.).

<sup>78</sup> BMA Council minute, 6.5.22, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>79</sup> GMC, Warning Notice, June 1923 (extract). "The practices by a registered medical practitioner (a) of advertising, whether directly, or indirectly for the purpose of obtaining patients, or promoting his own professional advantage, or for any such purpose, of procuring or sanctioning, or acquiescing in the publication of notices commending or directing attention to the practitioner's professional skill, knowledge, services or qualifications or depreciating those of others; or of being associated with or employed by those who procure or sanction such advertisements or publication or (b) of canvassing or employing any agent or canvasser for the purpose of obtaining patients; or of sanctioning or of being associated with or employed by those who sanction such employment; are . . . [remaining wording unchanged, see note 64 above].

<sup>80</sup> CEC, Minutes, 14.7.24 and 23.9.24, unnumbered folio, CMAC: SA/BMA/D.235.

Six articles were considered, but two were thought “not clearly advertisements” by Hempsons, the BMA’s solicitors. The outcomes of the remaining four cases demonstrate some of the difficulties faced by the CEC in dealing with members of the élite or those connected with them. That of Sir Bruce Bruce Porter<sup>81</sup> was felt to be the right sort for prosecution, but was dropped following discussions with the GMC, with whom Bruce Porter had already corresponded. A subsequent article was also excused, despite its carrying his photograph and qualifications.<sup>82</sup> Two more cases were referred to the Marylebone Branch of the BMA, who attempted twice to pass the cases back to the CEC, who were eventually to deal with both. One of these, an article about W. Hayden Brown entitled ‘Childbirth: Amazing New Discovery’,<sup>83</sup> went to the GMC and Hayden Brown was struck off the Register.<sup>84</sup> The second was that of A. White Robinson, who had published an article, ‘Keeping Cancer Away’.<sup>85</sup> This case demonstrated what CEC member C. O. Hawthorne described as a conflict between the “judicial” and “parental” modes of enquiry. Here Robinson was asked in the “informal”, “parental” way to account for the article. It transpired that the *Weekly Dispatch* had asked Robinson’s friend, William Arbuthnot Lane, for an article, owing to public interest in the publication of a book on the prevention of cancer,<sup>86</sup> and Lane had recommended Robinson. Robinson expressed surprise and contrition at the turn of events, claiming not to have known his actions were wrong, and his case was taken no further.<sup>87</sup> Hawthorne considered that an initial “parental” approach made a switch to “judicial proceedings . . . manifestly unfair”.<sup>88</sup> The last case, sent to the Surrey Branch of the BMA, was Cecil Webb Johnson.<sup>89</sup> The Council of this branch had already written to the CEC concerning a previous case, having been

<sup>81</sup> B. Bruce Porter, ‘Publicity and the medical profession’, *Sunday Express*, 6.7.24. Bruce Porter had trained in London, Brussels, and Vienna, and at various hospitals including Netley (in 1893). In 1916 he commanded the 40th British General Hospital Expeditionary Force. He also had been Consultant Physician to the King Edward VII Hospital, and President of the Hunterian Society. He was later closely involved with Lane in writing and lecturing on behalf of the New Health Society. See *Medical Directory*, 1925.

<sup>82</sup> B. Bruce Porter, ‘Sunshine Better than Physic’, *Reynolds Newspaper*, 31.8.24.

<sup>83</sup> Anon., *John Bull*, 19.7.24, this article reported on Brown’s “neuroinduction” technique for banishing the debilitating effects of fear in childbirth. William Hempson considered it “an unadulterated advertisement . . . for personal self-advancement”, CEC, Minutes, 23.9.24, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>84</sup> GMC *Minutes*, LXI, pp. 65–6 (25.11.24). No complainant is mentioned in the *Minutes*. My conjecture is that this case was either instigated or brought by the BMA, as a result of their monitoring of the press.

<sup>85</sup> *Weekly Dispatch*, 6.7.24. Unaccountably “A. White Robinson” does not even appear in the *Medical Directory*, all that can be said about him is that he had a Harley Street practice and was described in the headline for this article as “A Specialist in Diseases of the Blood” (a designation that offended the CEC).

<sup>86</sup> J. Ellis Barker, *Cancer: how it is caused and how it can be prevented*, London, John Murray, 1924, with a foreword by Lane. Lane had also helped with the main text of the book which argued for dietary reform and the elimination of toxins from the body. Barker (originally named Otto Julius Eltzbacher) wrote widely on homeopathy and healing as well as political economy and international affairs, and became a member of the New Health Society.

<sup>87</sup> CEC, Minutes, 6.1.25, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>88</sup> Letter from C. O. Hawthorne to Anderson, 17.7.29. Unnumbered folio, CMAC SA/BMA/D.151. Several elite doctors had given their names, photos and testimonials to a advertising campaign for a proprietary yeast, Fleischmann’s. There was evidence that the men were handsomely paid, but because the CEC approached them first asking simply for an explanation, they were frequently able to state that the adverts had appeared without their full consent.

<sup>89</sup> Webb Johnson had come to the CEC’s attention in 1922 over a letter giving dietary advice in *The Times*, 16.5.22. The article considered in 1924 was ‘Games that make for Beauty’ in the *Weekly Dispatch*, 6.7.24.

much impressed with the large number of cases brought to [our] notice by Dr X in which prominent members of the profession appeared to be guilty of the same offence as that with which he was charged. [We] hope that the Committee may find it possible to take action against the more eminent offenders in order that a charge so often made that the Association penalises the more humble G. P. and allows the Consultant to go free may be refuted.<sup>90</sup>

The Surrey Branch did not punish Webb Johnson. These examples demonstrate the many ways in which supposedly similar cases could be resolved, and that the Association appeared to be making unfair social distinctions in its disciplinary rulings. Despite their efforts to avoid “a feeling of injustice”, including the seeking of written guidelines from the GMC, they were creating one nevertheless.

#### THE CEC AND SIR WILLIAM ARBUTHNOT LANE

Webb Johnson himself wrote to the committee on New Year’s Day 1925 to point out this “unfairness” (this was not his first or last letter of complaint to the CEC, but is representative of them). There had been a flurry of publicity surrounding an article by Lane which appeared in a medical journal in December 1924, entitled ‘Cancer: its origin’.<sup>91</sup> Johnson sent cuttings mentioning Lane from three newspapers, as well as an article by Elizabeth Sloan Chesser.<sup>92</sup> The following will give some idea of the style of the interviews Lane gave, and of the way they were often reported:

DOCTOR CRITIC OF MODERN WOMEN  
POOR CREATURES SHEATHED IN RUBBER  
HOW TO LIVE PROPERLY

SIR W. A. LANE’S COMMITTEE TO TEACH NATURE’S LAWS

“Women reared on natural food and in accordance with nature’s laws would not barter their sex in a mistaken attempt to attract the admiration of men in a ballroom.”

“The time is not ripe for any definite announcement but I will say that a number of important people are forming themselves into a committee. Their object is to educate public opinion on the subject of proper feeding and attention to natural laws.”<sup>93</sup>

(This latter comment is the earliest reference to the idea of the New Health Society.) Webb Johnson challenged the CEC to discipline Lane, and wrote a more revealing letter to Dr Lyndon, who was Secretary of the Surrey Branch, but also (Webb Johnson clearly did not know this) Chairman of the CEC. In this second letter Webb Johnson said of the cuttings he had sent in,

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Johnson was a Harley Street GP, with an interest in women and children. BMA officials described such practitioners rather disparagingly as “fashionable GPs” and “specialists” in private communications, of which good examples are found in CMAC: SA/BMA/D.151. He had served with the RAMC in India, and was a proponent of the fashionable “Twilight Sleep” method of obstetric analgesia. He published several books on diet and one on women’s health and beauty in the early 1920s. See *Medical Directory*, 1924.

<sup>90</sup> Surrey Branch Council of the BMA, resolution 16.1.24, unnumbered folio, CMAC SA/BMA/D.235.

<sup>91</sup> *The Franco-British medical Review*, 1924, 1(3): 56–9.

<sup>92</sup> See note 62 above.

<sup>93</sup> *Sunday Pictorial*, 28.12.24.

## *Doctors and indirect advertising in the lay press*

Had I or any other GP<sup>94</sup> been guilty of this there would have been an investigation, but of course Sir Arbuthnot making his £20,000 a year dare not be touched. There is nothing personal in this letter as Sir William is a friend of mine and dined with me last Sunday. My objection is a matter of principle and justice . . . men like Lord Dawson, Sir Arbuthnot Lane, Sir Bruce Bruce Porter and many others [are] being allowed to do what they like while GPs guilty of smaller offences are victimized.

He further alluded to the “indignity” of his earlier enquiry in 1924, and put his acquittal down to the members of the Surrey ethical committee being “gentlemen and sportsmen out for justice and fair play”,<sup>95</sup> the (rather unfortunate) implication being that the CEC were not.

Webb Johnson’s was not the only voice raised in such accusations. A letter in the *BMJ* a few weeks previously, from Harry Roberts, a prominent socialist East End GP, had called for the profession

to express itself with some approach to definiteness on the question of medical publicity. . . . Small men are haled [*sic*] before the [GMC] and either patronizingly censured or removed from the ranks of the profession for two guinea contributions to the weekly press, whilst the hundred guinea contributions of their big brothers to the daily press are tolerated without comment.<sup>96</sup>

He went on to describe an example involving Sir Thomas Horder<sup>97</sup> and concluded,

Sauce for the gosling should be sauce for the gander. Whatever laws we lay down should be . . . defined and expressed in words . . . imposed with genuine impartiality on royal physicians and the humblest medical journeymen alike.<sup>98</sup>

The CEC then had before it these challenges, and the cases of Lane, Chesser, and Horder. They took no action against Horder, and wrote to Chesser and Lane. The correspondence between Anderson, on behalf of the Committee, and Lane was to be lengthy, and later considered important in connection with the libel case. Anderson’s first letter<sup>99</sup> drew Lane’s attention to the articles, and stated the (as yet unfinalized) ruling on indirect advertising,<sup>100</sup> and expressed confidence that Lane “as a member of the Association” would help “to maintain a proper standard of medical ethics . . . by conforming to the policy stated”. Lane replied thanking the committee for their “letter or

<sup>94</sup> Webb Johnson’s practice address was in Harley Street, placing him somewhat above the “ordinary”.

<sup>95</sup> C. Webb Johnson, letter 1.1.25, unnumbered folio, CMAC: SA/BMA/D.235.

<sup>96</sup> H. Roberts, ‘Sauce for Goslings’, letter, 8.12.24, *Br. med. J.*, 1924, ii: 1178.

<sup>97</sup> The book *How is your heart?* by Calvin Smith advertised on its dust jacket “With an introduction by Sir Thomas Horder, Bart, MD FRCP”.

<sup>98</sup> Roberts, *op. cit.*, note 96 above.

<sup>99</sup> G. Anderson, letter 10.1.25, CMAC: SA/BMA/D.106. The correspondence between the CEC and Lane is reproduced over and over again in various documents, including BMA Council Minutes.

<sup>100</sup> “(12) From time to time there are discussed in the lay papers topics which have relation both to medical science and policy and to the health and welfare of the public, and it may be legitimate or even advisable that medical practitioners . . . should contribute to such discussions. But [they] ought to make it a condition of publication that laudatory editorial comments or headlines relating either to the contributor’s professional status or experience shall not be permitted; that his address or photograph shall not be published; and that there shall be

circular” and asked, perhaps mischievously “what [do] you suggest one should do when one finds one’s name being used without permission . . . Must one take legal action or will the B.M.A. act if applied to?”<sup>101</sup> Anderson replied that the articles in question had evidently been published with Lane’s approval, that similar articles had been cited as a plea of justification in another case, and that it was a practitioner’s own responsibility to ensure that his articles were presented without “editorial extravagances”.<sup>102</sup>

Lane wrote no letter in reply but made his thoughts clear in a public speech, given on 5 June 1925.<sup>103</sup> His comments were reported widely the next day. He said that “the future of the medical profession lay in the prevention of disease” and discussed his plans for the New Health Society, which might be described as “a suicide club for doctors . . . because as the public became educated in matters of health there would be less disease for doctors to cure”. However, he went on, those engaged in this work were obstructed because,

if a doctor wrote to the newspapers and signed his name some branch of what was called the Ethical and Medical Committee [*sic*] was down on him at once and he received a rude and insulting letter. He was asked what right he had to write to the papers. . . . the Public . . . [had] to insist on their right to hear what was the truth. The Ethical Committee of the B.M.A. was a self-constituted body which had no business to exist. The conditions here [in contrast with those in the USA] were perfectly absurd and wicked. The whole of the medical profession was at fault for putting up with this sort of thing and it was the fault of the lay Press too because they had only to speak out to alter the conditions. (Cheers.)<sup>104</sup>

Anderson wrote to Lane and pointed out that these comments had been made in a setting where no reply was possible, and requested permission to publish their previous correspondence in the *BMJ*.<sup>105</sup> Lane replied that it had not been his intention to “suggest that the letters in question were rude”, but that he “could not agree with the action taken by the Committee”, and that if “such expression of opinion is forbidden to members, I can only express regret and tender my resignation”.<sup>106</sup>

Anderson then wrote asking for clarification of Lane’s reasons for resigning from the BMA, but received no reply. A reminder prompted Lane to apologize, for he had

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no unnecessary display of his medical qualifications and appointments. Discussions in the lay press on disputed points of pathology or treatment should be avoided, [these] find their appropriate opportunity in the professional societies and the medical journals.”

The guidelines continued with a further comment, which, for obvious reasons, was not sent to Lane: “(13) Speaking generally, it may be said that the medical men most often quoted in the Press are not those whose opinions carry most weight with the medical profession or with the educated public. It is natural that those whom the Press representatives most eagerly seek to draw into their service and utilise for their own advantage are those who have some recognised position or well-sounding address or title. It is, therefore, especially important that a stand should be made by such practitioners, who perhaps do not realise that the example set by them may well be pleaded in justification by those in a less prominent position.” “Indirect methods of advertising”, *Br. med. J.*, 1925, ii: supplement, 11.4.25.

<sup>101</sup> W. Arbuthnot Lane, letter, 12.1.25, CMAC: SA/BMA/D.106.

<sup>102</sup> G. Anderson, letter, 7.4.25, CMAC: SA/BMA/D.106. The long delay, and the appearance of several drafts of this letter in the file suggest the Committee was proceeding with some caution.

<sup>103</sup> The occasion was a luncheon for the Inter-State Post-Graduate Assembly of America at the English Speaking Union.

<sup>104</sup> *Daily Telegraph*, 6.6.25.

<sup>105</sup> G. Anderson, letter, 26.6.25, CMAC: SA/BMA/D.106.

<sup>106</sup> W. Arbuthnot Lane, letter, 1.7.25, CMAC: SA/BMA/D.106.



“unfortunately mislaid” the first letter, of which he had “no distinct recollection” and to say that he did not “want to be a party to any more correspondence”.<sup>107</sup> Anderson then reminded Lane of “The Code” which was “not peculiar to members of the medical profession” and which prescribed only two alternatives, substantiation or retraction of his comments.<sup>108</sup> Lane made no reply.

Although the CEC had been publicly slandered, and had written in such strong tones to Lane, even at this point they chose not to pursue him directly by taking him either to the GMC, for indirect advertising, or to court, for slander. They decided instead to publish a ‘Current Note’ in the *BMJ*,<sup>109</sup> stating that Lane had “attack[ed] the status, the policy and the proceedings of the CEC” and had refused publication of his correspondence with them. Furthermore they took legal advice on the contents of the Note from their lawyers.<sup>110</sup>

Meanwhile on 11 December, the month in which Lane’s membership of the BMA expired, the New Health Society was launched at a luncheon at the Aldwych Club. Speeches being made by Lord Oxford and Asquith (the former Prime Minister), and Philip Snowden MP. The objects of the Society were “to teach people the simple laws of health”, encourage the supply of fresh fruit and vegetables, and “to put the people back on the land”.<sup>111</sup> The main method whereby information on hygiene and diet was to be put across to the people was through the medium of lectures and articles by medical men. Not only did the Society expressly ignore the ethical ruling of the GMC and the BMA, but it also had amongst its members many doctors familiar to the CEC.<sup>112</sup>

Press sympathy with the aims and methods of the organization and disapproval of the BMA and the GMC are clearly expressed in an article in the *Daily News*.

SHOULD DOCTORS TELL?  
POINTING THE ROAD TO HEALTH  
BAN MUST END  
CHALLENGE TO THE GENERAL MEDICAL COUNCIL  
“to make the medical profession more of a lighthouse than a  
lifeboat.” Mr. Philip Snowden M.P.  
THE FIGHT FOR PUBLICITY

The BMA was described as “frankly out to protect the incomes of doctors, . . . its battle with the Government . . . over the Health Insurance Act is too fresh in the public memory to admit of that fact being obscured”. The article went on to describe the rulings of the

<sup>107</sup> W. Arbuthnot Lane, letter, 5.8.25, CMAC: SA/BMA/D.106.

<sup>108</sup> G. Anderson, letter, 25.8.25, CMAC: SA/BMA/D.106.

<sup>109</sup> *Br. Med. J.*, 1925, ii: supplement, 5.12.25.

<sup>110</sup> In a letter to Anderson, C. O. Hawthorne complained, “I cannot say that Mr Hempson is very helpful. Indeed he seems to have a strong opinion that we should do nothing at all.” Unnumbered folio, CMAC: SA/BMA/D.106.

<sup>111</sup> W. Arbuthnot Lane, autobiography, 1936, p. 42a, CMAC: GC/127/A.1–2.

<sup>112</sup> The “founders of the New Health Society” are listed in *New Health* (Oct. 1927 for example), and the BMA files. Those known to have come to the attention of the CEC for indirect advertising are Sir Bruce Bruce Porter, A. White Robinson, Leonard Williams, and Elizabeth Sloan Chesser. (Leonard Williams was the editor of the MPU journal *Medical World* and controlling editor of *Medical Press and Circular*; he also wrote popular health books including *The science and art of living*. See *Medical Directory*, 1925, and Honigsbaum, op. cit, note 15 above, p. 275.) Others known to have been brought to the attention of the Committee who do not appear to have joined the Society were: William Lloyd, Octavia Lewin, Bernard Hollander, John Bland Sutton, Sir Thomas Horder, R. F. E. Austin, W. Hayden Brown.

GMC and the BMA, and the difficulties faced by the Society. In order to protect the medical authors of articles published under its auspices, the Society was planning to attach a note to such articles to demonstrate “that a number of [the author’s] colleagues do not consider that it convicts [him] of ‘infamous’ professional conduct”. Newspapers however did not like the note which “diminished[d] the attractiveness of the feature by stamping it as health propaganda. People”, the article said, “suspect what they know is intended to do them good”.<sup>113</sup>

The BMA took no direct action against the Society but a *BMJ* leader by Dawson Williams, the editor, entitled ‘The Medical Pundits’<sup>114</sup> was disdainful not only of the medical men involved, but also of their audiences and the press.

One of the curious phenomena of our present-day social life . . . is the amount of space the newspapers give to medical pronouncements on everyday matters. Why do they do this? The explanation must be that their readers like it. And why do some of our eminent colleagues scatter these gems of wisdom at public and semi-public meetings and in the course of interviews with reporters? It must be from a high sense of duty. . . . In their hearts they hate publicity; but they know the truth about such things as rubber corsets, shingled hair, high heels, cocktails and (like brave fellows) they are determined to speak out for England’s sake. . . . if highly decorative members of our profession are so obliging as to furnish good copy, why not make the most of it with the aid of headlines and portraits? Thus lip-service is paid to Hygeia, and a million blameless citizens are entertained at small cost, as they go to and fro in trams and trains.<sup>115</sup>

The article continued with unflattering accounts of interviews, articles and lectures by Lane and Bruce Porter, though neither man was named in the published editorial, the cuttings included in the files make this identification possible. It is not clear how easily a contemporary reader could have identified them. Their names may have been omitted in order to avoid libel, or perhaps as a gesture of admonishment.

We have seen how the CEC found difficulty in dealing with ethical offences by titled doctors. Why was this? Cronin’s dry observation quoted at the head of this paper expresses the answer with great directness. If medicine is a gentlemanly institution, it is not a simple thing to expel members who are, in all respects other than their offence, demonstrably gentlemen. What indeed would the Register be without Lane, Bruce Porter, Horder, Dawson, Bland Sutton and the rest? There would appear to have been a threshold of status beyond which a practitioner could, if he chose, ignore the rules in favour of another set, which Lane had evidently crossed. Members of the élite who disobeyed rules made by the élite were in an ambiguous position, whereas non-élite offenders were simply that. There were problematic class issues in a supposedly united profession. GPs looked to the BMA to champion their cause, but found that its project for the profession was not always pitched at their level, “Humble medical journeymen” might find themselves, whilst being

<sup>113</sup> *Daily News*, 4.1.26.

<sup>114</sup> The term “medical pundit” was being used around the BMA months before this. A rare handwritten note survives dated November 1925 from Gerald Horner (editor of the *BMJ*) to Anderson about an open letter by Lane promoting *The Practitioner*, “Thanks. I will bear Lane’s outrageous puff in mind, but it is outside the scope of medical punditry I think.” Unnumbered folio, CMAC: SA/BMA/D.106.

<sup>115</sup> *Br. med. J.*, 1926, i: 387.

expected to attain a certain level of professional gentility, penalized for acts that were ignored when carried out by “medical baronets”.

To challenge the authority of the club Lane had not only used the rhetoric of health education and public service, he had also gathered about him a large group of men, whose collective authority as gentlemen (medical and otherwise) was sufficient to protect themselves and the humbler practitioners allied to them from prosecution by the original club. In looking to the wider public perception of the profession we find the BMA and the GMC relying too much on their traditional elitist authority and failing to demonstrate a commitment to the public interest.

ATTITUDES TO THE BMA AND THE GMC AS EVIDENT IN *THE TIMES*, 1925–1927

A consistent focus of debate in late 1925 was the GMC’s refusal to reinstate on the Register Dr F. W. Axham, who had been struck off in 1911. Axham had acted as anaesthetist to Herbert Barker, the famous lay manipulative healer. The GMC found him guilty of “covering an unqualified practitioner” and his name was removed from the Register.<sup>116</sup> Barker was knighted in 1925 following a petition from four (registered) surgeons.<sup>117</sup> The question then arose as to whether Axham could really be held to have acted wrongly in making Barker’s treatment less painful. Letters to *The Times* argued for the restoration of Axham’s name to the Register, because, amongst other reasons, the public regarded his work as a service,<sup>118</sup> and because this was necessary to restore the honour of the GMC, as much as Axham’s.<sup>119</sup>

The most prominent contributor to the debate was George Bernard Shaw who argued, hyperbolically, that the GMC must hold that the four surgeons, in associating themselves with an unqualified practitioner were “guilty of infamous professional conduct in which they were aided and abetted by the King”. He claimed that the Council was “victimising” Axham because it could not act against “the King and his advisors”. Furthermore, in his opinion the GMC had “become a Trade Union of the worst type—in which the entry to the trade and the right to remain are at the mercy of the Union”, and that it was “at the crude stage of preoccupation with earnings and sullen defiance of public opinion”. He went on to call for the replacement of the Council membership with representatives of the public and the “disinterested hygienic sciences”.<sup>120</sup>

A leader writer largely agreed with Shaw, and bringing in the advertising issue, went on to say,

recent decisions made by the GMC on the subject of communication by medical men in the press have furnished those who hold this view with arguments which . . . are at least plausible. . . . the Council appears unduly anxious lest any physician may by the gift of exposition obtain what is called an indirect advertisement. It is a short step from [this] to a censorship of opinion.<sup>121</sup>

<sup>116</sup> GMC, *Minutes*, lxxviii, pp. 52–4 (24.5.11).

<sup>117</sup> It is perhaps unsurprising that Lane was one of the four, the others being Sir Henry Morris, Sir Alfred Fripp, and Sir Bruce Bruce Porter. They had petitioned the Prime Minister in a letter dated 5.11.21. CEC, *Minutes*, B/63/3/10, 31.10.22.

<sup>118</sup> Basil Peto, letter, *The Times*, 13.10.25, p. 12c.

<sup>119</sup> Cecil Jennings, letter, *The Times*, 20.10.25, p. 10e.

<sup>120</sup> G. Bernard Shaw, letter, *The Times*, 23.10.25, p. 10a.

<sup>121</sup> Leader, *The Times*, 26.10.25, p. 15c.

The debate continued for several months, and concerned not only the details and principles of the dying Dr Axham's plight, but many related issues.<sup>122</sup> These included the registration of osteopaths;<sup>123</sup> the lack of freedom of expression of opinion in the medical press;<sup>124</sup> the question of whether public or profession should decide the merits of therapy;<sup>125</sup> the lack of appeal structure in the GMC;<sup>126</sup> and the unrepresentative membership of the Council.<sup>127</sup> This debate did nothing less than question the right to power of the organized profession of medicine. Despite this, the GMC, *per se*, made little response except to make technical points, and the BMA made none at all.

In December 1925, William Lloyd was struck off the Register on the grounds of indirect advertising.<sup>128</sup> He had been the subject of an article recommending his naturopathic treatment of hay fever, which had not named him, but had given his clinic's address and times. Lloyd claimed the article was the spontaneous response of a grateful journalist patient. The BMA, who brought the case, stressed that it recommended a treatment the value of which the public were ill placed to judge. (There is a large overlap in the cases discussed in P. S. Brown's study of medically qualified naturopaths and the GMC, and the cases of indirect advertising during this period.<sup>129</sup>)

*The Times* commented on Lloyd's erasure in a leader entitled 'Doctors and Advertising', which stated,

The BMA . . . is a doctors' club concerned primarily with the interests of its members. Its contention that 'the public is ill placed to judge the true worth of scientific opinions' is not therefore surprising, though the medical profession itself, through its attitude to Harvey, Pasteur and Lister and to a host of lesser discoveries, has shown itself sometimes less well qualified in this respect even than the public.

Turning to the GMC, the leader referred to its having been set up "as a statutory body by Parliament to preserve the public interest", and asked,

Has the GMC lost the ability to discriminate between the professional and the public interests? The Council consists entirely of doctors though Parliament intended it should be composed in large part of laymen. It has . . . lost touch with that public opinion which it serves. The moment is certainly opportune for a reconsideration of its powers.<sup>130</sup>

The most extraordinary denouncement of the GMC came in a letter from Gordon Ward,<sup>131</sup> a GP in Sevenoaks, calling for a parliamentary inquiry,

<sup>122</sup> When Axham died in April 1926 his name was still off the Register.

<sup>123</sup> E. T. Pheib, letter, *The Times*, 6.11.25, p. 10e. These references are to one particularly clear example of a point. Many were made often, in different ways and in different contexts.

<sup>124</sup> "Cantab", letter, *The Times*, 4.12.24, p. 15e.

<sup>125</sup> Leader, 'Dr Axham once more', *The Times*, 1.1.25, p. 13e.

<sup>126</sup> Anon., letter, *The Times*, 2.11.25, p. 15e.

<sup>127</sup> Leader, *The Times*, 26.10.25, p. 15e.

<sup>128</sup> GMC, *Minutes*, LXII, pp. 99–101 (28.11.25). This case was also "discovered" by the BMA's monitoring programme. This is clear, since they were formal complainants. See note 33 above.

<sup>129</sup> P. S. Brown, 'Medically qualified naturopaths and the General Medical Council', *Med. Hist.*, 1991, 35: 50–77. These include William Lloyd (1925), Hayden Brown (1924), and R. F. E. Austin (1928). Both Lloyd and Hayden Brown were cases brought by the BMA as part of their campaign on indirect advertising. A possible explanation for this association is given later in the main text.

<sup>130</sup> Leader, *The Times*, 1.11.25, p. 15e.

<sup>131</sup> Ward, despite conservative political sympathies, was a prominent supporter of a salaried medical service. See Honigsbaum, *op. cit.*, note 15 above, pp. 183–4.

## *Doctors and indirect advertising in the lay press*

Most [members of the GMC] hold scholastic posts and have never experienced the difficulties of actual practice. Of these not a few find . . . a trial somewhat tedious and . . . fill in the time by attending to private correspondence. . . . The authorities . . . have thoughtfully provided a post box in the trial room itself. Thus the defendant, already penalised by having to address a jury of 40 is further disconcerted by the occasional rising of one of the 40 for the . . . posting of a letter.<sup>132</sup>

Questions were asked in the House of Commons about the GMC's membership, disciplinary style and lack of appeal structure on 3, 8 and 14 of December.<sup>133</sup> On this latter occasion a full inquiry was refused on the grounds that no doctor had applied to the Privy Council for one. A lay member was however appointed to the GMC in May 1926,<sup>134</sup> but it was denied in Parliament that this was in response to the Axham case.<sup>135</sup>

The BMA and the GMC entered the year of the General Strike frequently described in the press as trades unions. This is an intriguing insult. The Strike marked the expression of tensions between the many classes and interest groups in society as class distinctions were gradually eclipsed by the rising occupational groupings of professional societies and unions. Among the "threats" to the social order were those of organized occupational groups exerting power and control to the detriment of the perceived greater public good. The attacks on the institutions of the medical profession centred on the perception that they were self-serving rather than performing a public service, and these motives were seen as those of a trades union. The GMC and the BMA did nothing to attempt to change this perception. Indeed a *Times* leader in June 1926 referred to the president of the GMC's remarks that the Council had stood firm to its critics in the way that the Government had resisted the General Strike as "A Startling Claim". Even in the columns of *The Times* it is clear that the BMA and the GMC were seen by some doctors and laity as wielding too much control over therapy and access to medical knowledge. In addition they were seen to deal with these in ways that were restrictive, high-handed, unreasonable, and even ungentlemanly.

The themes that have been examined so far came together in the *Star* libel case. The article 'Doing Without It' was in many ways simply a less subtle replaying of these arguments, triggered by the activities of Lane and the New Health Society.

### THE LYONS TEA ROOM AFFAIR, AUGUST 1926

The New Health Society was collaborating with Lyons in at least two ways in 1926. Lyons were opening a Vita-Sun Café at which health foods would be available and their vitamin content rated on the menu, and the Society also provided articles on healthy eating for the menus of their chain of restaurants. A photograph of Lane was obtained by Lyons and reproduced next to an article by him on 'The Athlete's Diet' on 40,000 menu cards throughout London. The Society requested that the photo be withdrawn, anxious to avoid further conflict with the BMA. As we know, Lyons staff removed the menus from the

<sup>132</sup> G. Ward, letter, *The Times*, 3.12.25, p. 15c.

<sup>133</sup> See *The Times*, 15.12.25, 9c.

<sup>134</sup> Sir Edward Hilton Young, later Lord Kennett.

<sup>135</sup> *The Times*, 9.7.26, p. 10b.

tables during the lunchtime rush on 26 August, and then returned them having covered Lane's portrait with slips of gummed paper. Several newspapers<sup>136</sup> ran the inaccurate story that the BMA had censored the menu and that Lane had in consequence resigned from the Association. Typical headlines were 'CENSOR IN THE TEASHOP'<sup>137</sup>, and 'SURGEON BARONET RESIGNS'<sup>138</sup> and 'FAMOUS SURGEON FLOUTS BMA / LIBERTY TO CONDUCT A HEALTH CRUSADE / MENU COMEDY'.<sup>139</sup> Anderson wrote to most of the papers concerned to correct this on the 2nd and his letter of course prompted a further round of articles on the 3rd.<sup>140</sup> However, two articles published on the 2nd attracted the particular attention of the BMA. The first, in the *Daily Mirror*, commented that "the BMA are . . . ready as ever to prevent the public from getting free advice about health from those who realise that there are more effective pulpits than the consulting room".<sup>141</sup> The *Star's* piece went closer to the bone:

[the] expressive figure of speech about the man who 'bites off more than he can chew' [*sic*] . . . might be applied with justice to the BMA. While it confined its oppressive activities to bone setters and other unregistered practitioners who could be dubbed quacks without fear of legal reprisals it was able to get away with it. . . . When however it tried to discipline distinguished members of its own body it did in fact bite off more than it could chew. Sir William Arbuthnot Lane the President of the New Health Society is the case in point at the moment. The BMA does not like the Society for its motto is 'Prevention rather than Cure'. To preach 'Health without Doctors' is the unforgivable sin to the medical monopolists. . . . Sir William . . . had the courage to defy these out of date conventions and contemptuous of the BMA's power to strike him off its register is reported to have struck himself off. The BMA can do—just nothing.<sup>142</sup>

Hempsons, the BMA's lawyers, regarded these both as "grave libel" upon the Association, and the newspapers were asked for "an ample apology and expression of regret coupled with a complete retraction of the insinuations contained in the [articles]" or face proceedings. The *Mirror* published an apology on the 7th.<sup>143</sup> The *Star* did not, and so the BMA's lawyers issued a writ against them, and work began preparing the Association's case.

That Lane "struck himself off" requires some clarification. The BMA of course had no "Register"; the *Star* journalist had in mind the GMC's Register, and confused the two organizations. Sadly the confusion did not end there. Both Lane's biographers state that Lane removed himself from the true Register in order to carry out his work for the Society unhindered.<sup>144</sup> Lane himself said that he removed his name from the Register, and implied

<sup>136</sup> 26.8.26: *Daily Sketch*, *Daily News*; 1.9.26: *Evening Standard*; 2.9.26: *Morning Post*, *Daily News*, *Daily Express*, *Daily Herald*.

<sup>137</sup> *Daily News*, 26.8.26.

<sup>138</sup> *Evening Standard*, 1.9.26.

<sup>139</sup> *Daily Express*, 2.9.26.

<sup>140</sup> 3.9.26: *The Times*, *Morning Post*, *Daily Mail*, *Daily Chronicle*, *Daily Express*, *Daily Herald*, *Daily Mirror*, *Daily Sketch*, *Daily Telegraph*, *Daily Graphic*, *Star*.

<sup>141</sup> *Daily Mirror*, 2.9.26.

<sup>142</sup> *Star*, 2.9.26.

<sup>143</sup> There are several versions of this apology altered successively in what appears to be the hand of William Hempson. Unnumbered folios, CMAC: SA/BMA/D.107.

<sup>144</sup> See Layton, *op. cit.*, note 56 above, pp. 123–4, and Tanner *op. cit.*, note 56 above, p. 147. Layton also records some confusion over whether such a voluntary removal was permissible.

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that it was at the time when the Society was started up.<sup>145</sup> In fact Lane remained in practice<sup>146</sup> and was registered until 1932. GMC minutes for November 1932 record that Lane had requested “the removal of his name . . . on the ground that he had ceased to practise”, and that the request was allowed.<sup>147</sup> Perhaps Lane used this confusion to his advantage (that is, if he did not instigate it); given the public’s perceptions of the GMC it would have added to his popularity in some quarters.

#### *The outcome of the Star case, September 1926—November 1927*

BMA staff compiled material pertaining to the issue of indirect advertising, and in particular the dispute with Lane. They also gathered evidence of the BMA’s interest in preventative medicine. In this connection they included every committee report that even tangentially involved prevention of disease, one particularly disingenuous example being the Association’s report on simple fractures.<sup>148</sup> This was not only clearly a curative area, but was also one of Lane’s main contributions to surgical practice. The Association assumed that a “close and inseparable relationship . . . exists between the interests of the medical profession and [those] of the General Public”, and regarded this as “fact” not requiring proof.<sup>149</sup>

Hempsons sought the advice of a barrister on their evidence.<sup>150</sup> He regarded as most serious the allegation that “the BMA does not like the New Health Society for the reason that the latter’s motto is ‘Prevention rather than Cure’. Indeed, in the absence of this allegation the Plaintiffs might have hardly thought it worthwhile to bring this action”. He advised calling Sir George Newman as a key witness, stating that he could say how the BMA had worked along the principles set out in his *Outline of the practice of preventative medicine*.<sup>151</sup>

Both legal opinions available to the BMA stated that they had a good case. Despite this, it fell apart over the next few weeks. The plan had been to call on a number of eminent men to give evidence for the BMA. One, Lord Dawson, telephoned Alfred Cox on 27 October, saying,

I have come to the conclusion that the bringing of this Action to court . . . will damage the BMA *whatever the verdict may be* and damage the profession. I do beg of [the BMA] to think long and wisely before they go further.<sup>152</sup>

Dawson wanted “go-betweens” appointed to “induce . . . the *Star* . . . to do the honourable amend”. Newman wrote to Cox on the same day explaining that,

<sup>145</sup> W. Arbuthnot Lane, autobiography, CMAC: GC/127/A.1–2 p. 43.

<sup>146</sup> Sir Thomas Horder, letter to Alfred Cox, 15.7.29, unnumbered folio, CMAC: SA/BMA/D.151).

<sup>147</sup> GMC, *Minutes*, LXIX, p. 160 and p. 64.

<sup>148</sup> ‘Report of committee on fractures 1910–12’, *Br. med. J.*, 1912, ii: 599, supplement, 30.11.12.

<sup>149</sup> Information for Council, document “A”, p. 4, CMAC: SA/BMA/D.106.

<sup>150</sup> Henry C. Dickens, ‘BMA v. *Daily News*, advice on evidence’, unnumbered folio, CMAC: SA/BMA/D.108. This was not the Sir Henry Dickens who had been the GMC’s first Legal Assessor in 1881.

<sup>151</sup> G. Newman, *Outline of the practice of preventive medicine*, London, HMSO, 1926.

<sup>152</sup> Transcript of telephone message, from Lord Dawson to Alfred Cox (Secretary of the BMA), 27.10.27, unnumbered folio, CMAC: SA/BMA/D.108.

the Minister is quite definitely of the opinion that it would be most undesirable in the public interest for the Chief Medical Officer of the Ministry of Health to intervene in your litigation with the *STAR* newspaper. He sees very grave objection to my giving evidence . . . I trust you will not subpoena me against [his] wishes.<sup>153</sup>

Soon thereafter Sir Donald MacAlister declined to give evidence on the grounds that as President of the GMC, he dealt with the BMA on judicial grounds and this would prejudice his statements. (It seems he was referring to the BMA being a complainant to the Council.) Following this, Sir Humphry Rolleston and Sir Norman Walker, both GMC members, also declined to give evidence.

The Association took up Dawson's recommendation, and allowed him to negotiate with the *Star*. He soon secured an agreement, and the *Star* published a statement of apology and retraction.<sup>154</sup> The case was dropped and both sides waived any question of costs, which totalled £225 for the BMA. Although the BMA can be seen as acting to uphold gentlemanly behaviour in the profession it seems that members of the medical aristocracy were instrumental in preventing them from creating too much public fuss, seemingly "collapsing" the case against the *Star*. Perhaps their instinct was to conceal the divided nature of not only the élite, but also of the whole profession, preferring honourable private agreement to public conflict. Several of these men also made public or official moves which tended towards creating a consensus on the issue.

Lord Dawson appealed for accuracy of content and dignity of style in signed articles.<sup>155</sup> Thomas Horder spoke to the St Pancras Division of the BMA in October 1927, a meeting to which representatives of the New Health Society and the press were invited.<sup>156</sup> In this address he steered a skilful rhetorical path, appearing enthusiastic about health education and generous about the New Health Society, whilst roundly condemning the practice of indirect advertising. George Newman helped stimulate BMA involvement in health education, through his 1925 Memorandum on the subject.<sup>157</sup> In September 1926 the BMA had set up a special sub-Committee to determine how the BMA could contribute to public health education.<sup>158</sup> Like Horder, the BMA tried to dissociate health education from the particular style of article associated with Lane.

Only one further case of indirect advertising survives in the BMA archive sources. R. F. E. Austin was referred to the GMC by the CEC in 1928<sup>159</sup> for publishing an article in *Health and Efficiency*.<sup>160</sup> This is not to say that the issue had been resolved. Lane's example along with those of his associates continued to be cited in defence of newspaper articles. He was never brought before the GMC by either the BMA, medical defence

<sup>153</sup> G. Newman, letter, 27.10.27, unnumbered folio, CMAC: SA/BMA/D.108.

<sup>154</sup> CEC, Minutes, 9.11.27, unnumbered folio, CMAC: SA/BMA/D.106.

<sup>155</sup> Lord Dawson, letter, *The Times*, 4.1.26.

<sup>156</sup> *Star*, 1.10.26.

<sup>157</sup> Newman, op. cit., note 21 above.

<sup>158</sup> See CMAC: SA/BMA/D.151.

<sup>159</sup> The case was heard twice; at the first hearing (GMC, *Minutes*, LXV, pp. 52–3 (28.5.28)) it was adjourned for 12 months, and on resumption he was cautioned. (GMC, *Minutes*, LXVI, pp. 11–12 (28.5.29)).

<sup>160</sup> R. F. E. Austin, 'Nature cure explained, the truth about appendix operations', *Health and Efficiency*, 26: 321–2. This piece damned the practice of appendicectomy and favoured naturopathy, and was connected in an editorial column with the death of actress Florence Mills after an appendicectomy. Austin was a retired RAMC officer.



organizations, or the Royal Colleges. In the BMA's case, the previous bad publicity and Lane's continuing popularity with the press were the reasons for this.<sup>161</sup> In this light it is not insignificant that erasures from the Register involving indirect advertising were almost invariably associated with unorthodox therapy or theory, usually naturopathy.<sup>162</sup> Although the association between cases heard before the GMC and unorthodox medical views persists,<sup>163</sup> one need not rely exclusively on an account of competing cosmologies, or of a concerted campaign here. Lane's example may have meant that more than a simple case of indirect advertisement was needed to make the charge stick.

#### CONCLUSIONS

During the 1920s the BMA and GMC were frequently criticized by doctors and lay people in connection with the issue of "indirect methods of advertising". The origin of these criticisms and the way in which the BMA and the GMC responded to them can be understood in the context of the shift from the Victorian emphasis on gentlemanliness, to a more modern ideal of scientific public service. This outburst of discontent was not, in itself, a particularly important event, or turning point, but rather a point of tension during a long process of change.

The whole idea of a gentlemanly profession can be seen as increasingly problematic. Doctors might be members of the profession but not full members of the "club". "Rank and file" doctors looked to the BMA in particular to represent their interests and aspirations, and were often offended by the way in which the Association behaved towards them. The inconsistencies and contradictions in the BMA's position were consequent on its attempt to represent a body of practitioners that was in reality deeply divided, and divided in increasingly complex ways. Perkin describes modern professional society as having vertical "professional hierarchies", whilst the former social order had been based on the "horizontal solidarities" of class.<sup>164</sup> Here we see the problems of persisting horizontal class divisions within a profession that was modelling itself increasingly on a vertical unity.

The élite seem to have thought of the protection and promotion of the profession as being, of itself, in the public interest. The public, through the press, called for reform (particularly of the GMC) to break the medical monopoly on decisions and rules that were thought to influence public health. Although gentlemanliness was still an important quality in public life, a convincing demonstration of commitment to the ethos of public service seems to have been the key to winning public and government approval. The depth of criticism of the medical profession we have seen in the advertising controversy stemmed, in part, from the failure of the BMA and GMC to understand the importance of participating in this process publicly.

Doctors who were able to use the media for their own ends, be they altruistic or mercenary, were in a better position to set rhetorical arguments, and to avoid disciplinary proceedings, especially if they were either members of the "medical aristocracy", or enjoyed their protection. Conversely, having failed to understand and secure public

<sup>161</sup> See CMAC: SA/BMA/D.151.

<sup>162</sup> See Brown, *op. cit.*, note 129 above.

<sup>163</sup> Ann Dally, *A doctor's story*, London, Macmillan, 1990, pp. 106–26.

<sup>164</sup> Perkin, *op. cit.*, note 14 above, pp. 2–9.

approval, the BMA on the one hand found itself unable to act against either Lane or the *Star*, and the GMC on the other underwent a change in the purely medical membership it had enjoyed for seventy years. Both organizations were seen to be failing to “serve the people”, be they humbler medical practitioners or the general populace. Their strategies for upholding the status of the profession were counter-productive because they were based on a pattern of power and behaviour that was being eclipsed. In other ways the echo of larger events is discernable in this controversy. Whilst the end of the Great War brought for many a return to “business as usual”, there was a significant tendency to distrust “The Old Men”, who were blamed for creating a holocaust for the sake of their pride and power, a distrust that was to become integral to modern thinking.<sup>165</sup>

The medical profession in the 1920s was held in fragile esteem. It maintained a façade of dignity and unity which hid not only deep divisions and contradictions, but also the contorted effort to keep it standing.

<sup>165</sup> Hynes, *op. cit.*, note 18 above, pp. 383–404.