

UCAFAA CONFERENCE, 9TH NOVEMBER 2002

Mr Chairman, Ladies and Gentlemen, may I begin by thanking you very much for inviting me to speak to you today and for the warmth of your welcome. I am very pleased indeed to be here.

Why am I here? Well, two and a half years ago, as Opposition Health spokesman in the House of Lords, I received a letter out of the blue from a lady living in North London, and her letter told a disturbing story. Her son, who suffers from learning difficulties and various medical problems, had been taken a number of times to the family doctor without much positive result. All of a sudden, the family received a visit from the local social services department. Before they knew what was happening, social services were accusing the boy's mother of Munchausens Syndrome by Proxy and of perpetrating abuse on him by fabricating his illness. They threatened to put the boy on the child protection register. The boy's parents, who are highly educated professional people, got in touch with their local MP and with one of their local councillors. As a result of representations from those people, social services dropped their allegations against the mother. The boy has since been diagnosed as suffering from autism and assessed as being in need of special educational help.

That case opened up for me a parallel world of which I had previously no knowledge at all - namely the hundreds of people who are accused of child abuse in its many diverse forms and guises, and who are pursued and often hounded and persecuted by the authorities, but who steadfastly maintain their innocence. I have been an active member of the House of Lords for some twelve years, but never, prior to two years ago, had I become aware of false accusations of abuse as a major issue or as a cause for widespread concern. Those of you who are here today are here because, for your own individual reasons, this is a burning issue for you. But I think you will agree with me that even today, after all the widely reported cases of falsely accused people - Cleveland, the Orkneys and all the rest - most recently, of course, Shieldfield - this is not an issue that has imprinted itself more than fleetingly on the public consciousness.

That is hardly surprising. Most people, if you ask them, feel that child abuse is widespread. They feel it is such a ghastly thing that the main concern of the authorities should be to catch and punish child abusers. So long as that is done, or is being seen to be done, people are frankly not worried about much else. Horrific cases like those of Victoria Climbié convince them that if anything the pursuit of child abusers is not being expedited vigorously enough. And, I am sorry to say, for similar reasons you will not find many politicians evincing public concern for the phenomenon of false accusations. Sex abuse investigations are a significant issue, I have little doubt, in the postbags of most, if not all constituency MP's. But in a world in which paediatricians can be targeted by mobs because some people do not know the difference between paediatricians and paedophiles, it is not difficult to see why Members of Parliament tend to be wary of the whole subject. It is a short step from being reported as someone who is worried about people accused of child abuse to being reported as someone who sticks up for child abusers.

By the summer of last year, after a good deal of research, I had made up my mind to table a motion in the House of Lords on this whole issue; and some of you will know that that debate took place just over a year ago. It was the first debate of its kind, ever,

and I believe that it was extremely valuable in bringing directly to the notice of ministers a subject which they had not been called upon to address before. Then, almost at the same time as the debate took place, I learned to my astonishment that there was a Member of Parliament who, unbeknownst to me, had been working on a parallel track for a considerable length of time. Claire Curtis-Thomas, the Labour Member for Crosby, had become so passionately concerned about false accusations that she proposed the setting up an all-party group to examine the whole issue thoroughly and from scratch. With my help she succeeded in gathering the requisite number of signatures to achieve official recognition of the group. And so it was that almost exactly a year ago, she and I together with a number of others, including Tim Boswell MP, inaugurated what is now the All-Party Group for Abuse Investigations. The Group has about 60 members. Many do not attend our meetings, but their silent support is absolutely crucial to the executive team.

Now, it is important to make clear what this group is not. It is not a group which investigates or champions individual claims of innocence from people in prison or elsewhere. It is not a group that takes up the cudgels on behalf of Mr X or Mrs Y who may either have been convicted of child abuse or who may otherwise have suffered as a result of being falsely accused. There are several reasons why we cannot do that. The first is that there are not enough hours in the day for a small group, with many other duties and responsibilities, to pursue all these cases. The second is that we must at all costs retain our political credibility. We could get it wrong. The day on which we champion the cause of someone who claims to have been falsely accused, only for that person to turn out to be guilty, is the day when our credibility as a group is blown to smithereens. We would no longer be taken seriously. But the third and perhaps overriding reason is that investigating individual claims is not the best way for politicians to make their influence felt. Politicians are ideally placed to bring about changes in the system, and that is how I believe they can be used to best effect. To do that, they must spend their time looking at the broader picture and trying to identify the weaknesses that may be inherent in the underlying process. That is why the all-party group has set itself the task of examining the methods by which allegations of sexual abuse are investigated and handled by social services, by the police, by lawyers and by the judiciary. We are also focussing on the other main concern expressed by those affected by abuse allegations; the motivation of the accuser. We are doing all this with the aim of making recommendations as to how the system as a whole might be improved, so as to ensure that the guilty are caught but the innocent are not.

We could have embarked upon this ocean of a subject at any of several points of departure. What we chose to do was to start looking at criminal convictions for child abuse where the alleged offences were supposed to have taken place in the distant past, often decades before any initial allegations were made. Typically, an allegation of this sort comes from a number of adults who, when much younger, were residents of a care home, and will centre upon an individual who worked in the care home at the relevant time. It seemed to us that this type of case presented a number of particularly disturbing features, not the least of which was the total lack of any objective evidence for the crime other than the statements of the accusers. Now, there is an obvious, golden principle that should apply if you want to see justice done in that kind of situation. The principle is that the manner in which statements are taken from witnesses should be completely fair, transparent and beyond reproach. Let me describe, if I may, what we have found out during the course of the last year.

The police receive the initial allegation either directly or through a solicitor. Let us say that it relates to a Mr Smith who worked in a particular care home twenty-five years ago. What do the police do? They ask the accuser whether he can think of anyone else who was present at the time. A list is assembled. The police then make efforts to contact all the individuals who lived in the care home during the period in question asking them to help with their enquiries. They urge them to make contact if they suffered any problem whilst living in that home. Very frequently the individuals concerned are in prison or on parole. The police go to prisons, often unannounced, and sit down with a complainant. They say "We have come to see you today because we hope that you can help us with our enquiries in connection with Mr Smith. Here is a photograph of him. He has been accused of very serious sex offences against other people. Is there anything you can say to help us, because the one statement we have got is not enough to convict him. We need more. Oh, and by the way, if you were harmed by Mr Smith, there would be compensation available." And so it goes, until finally the individual is led towards making a statement which is all of a piece with the first one.

For some witnesses who are serving time in prison, money is not the issue. To these people the police can say "You know, when you come up for parole, it might help your case if you have established that you were abused as a child." And with all this, subconsciously, comes the realisation on the part of witnesses that they are suddenly important. They may receive several visits from the police. They become the centre of attention. To their delight they are not the baddy any more but the goody.

In one real case that came to court this year, the police had been to see an individual in prison. At the interview, the man said that he had nothing to tell them. As far as he was concerned Mr Smith had done nothing. The police went away. They then came back and interviewed him again. Still nothing. They came back to interview the man no fewer than 15 times in 10 different prisons. At the end of the fifteenth interview they got their statement.

This process is frequently repeated and repeated with a number of witnesses. At the end of it the police may have accumulated as many as twenty statements. They need that many to get to court, because they know that some of the statements will inevitably fall by the wayside and that on average they need at least eight to secure a conviction. If a jury is presented with eight statements, each of them saying much the same thing, it is very difficult indeed for their validity to be challenged successfully. The natural reaction of anyone listening to them is to suppose that there can be no smoke without fire. These people cannot all be telling lies.

Sometimes of course they may not be telling lies. But sometimes they most certainly are. This summer a man went to court facing ten complainants. One of the complainants was vigorously cross-questioned in the witness box and admitted that he had applied for compensation prior to the court case. The defence lawyer then said "You might as well admit it. You're doing all this for the compensation, aren't you?" to which the answer came "Yes, I am. And everything I have said in evidence is a complete pack of lies." The next witness, summonsed to the court on the following day, did not turn up but instead sent a letter to the judge which said "I am not coming

to court because all the statements I have given to the police are untrue." After receiving that letter the judge discharged and exonerated the accused man.

This kind of situation is by no means uncommon, but several people who have spoken to me have said that the only difference between those who are acquitted and those who are convicted is luck. Luck and the calibre, or lack of it, of the defence team. But that is not the end of the story. Even those who have been acquitted and exonerated find that their life is in ruins. Teachers and social workers find that they are the subject of internal enquiries. At the end of the enquiry, which can go on for a considerable time, they may lose their job, because their employers are reluctant to re-engage them in the shadow of lingering suspicion. And often this marks the end of long professional careers dedicated to the care of the young and vulnerable. Many hundreds of such cases have been documented. One cannot see how such people, or their families and friends, will ever recover from the allegations.

Mr Chairman, this situation is one which any right thinking person must find deeply, deeply worrying. It is not necessary to arrive at an opinion on whether this or that person is guilty or innocent of the crimes alleged. The key point is a much broader one. It cannot be right that the only evidence used to convict a man is evidence obtained by the police from a witness in private, with no independent observer present. The processes that are being followed by the police in cases of this kind are wide open to abuse. I do not say that the police are corrupt. I do say that very often the police wish to get a result, and they will go to enormous lengths to succeed in that aim. And when a case collapses in court, such as the one I have just described, when witness statements are totally discredited, is there any come-back on the police officers who extracted those statements? There is not.

During the course of our work in the all-party group, we have spoken to judges, ministers, compensation authorities, social workers, barristers, solicitors, prison governors, the Criminal Cases Review Commission, the British False Memory Society, and of course many victims of false allegations. Claire Curtis-Thomas has personally undertaken a considerable number of visits to people in prison. That work is still continuing, and the group has not yet published a report on the evidence it has taken. But let me tell you one particular thing that we believe ought to be done. We believe that when a witness comes forward making allegations of sexual abuse, the interview in which he or she makes those allegations should be videotaped. We believe that any subsequent interview with that witness or with other potential witnesses should also be videoed. There is already provision in statute for video cameras to be used to record statements. We think they should be used as a matter of routine in cases of this kind. It is a system that would protect both the witness and the police. This idea is not a flight of fancy. Our view has been supported vigorously and, I may say, without hesitation by a number of senior judges in private meetings. Indeed, there does not seem to us to be any other way of demonstrating beyond peradventure that the police have not persuaded, cajoled or otherwise induced individuals to make allegations, nor any other way of showing that the witnesses have made statements of their own free will. By no other means than a video can one show conclusively that the process of investigation has not been corrupted. A video would be clear proof of the subtler things which never come out at a trial - the demeanour of the witness, the expression on his face during silences, and generally how convincing he was when making the original allegations.

For what we have seen in many of these cases are allegations being made by people who are mentally unstable; people who are themselves child abusers; people who are convicted criminals; and people who may have an improper motive for saying what they do about their former carers. I do not say that such individuals can never tell the truth; but they have to be treated, a priori, with some caution. More importantly perhaps, the consequences that can flow from allegations of this nature are so serious, so devastating for the person accused that we need to make 100% sure that the process of evidence-gathering is totally beyond reproach.

My friend and colleague in the House of Commons Edward Garnier has said that police trawling, which in recent years has mushroomed, has become a public danger in itself; different from the danger of child abuse, but every bit as corrosive to our justice system as child abuse is to the public care system. I believe that observation is as wise as it is true; but alongside the danger Edward Garnier has alluded to, I also believe that the presumption of innocence, which has always been integral to our system of criminal justice, is being submerged - in fact for all practical purposes it is non-existent - under the sorts of circumstances I have described.

If we look at the larger backdrop of the criminal justice system we see that it offers much weaker safeguards than it did twenty years ago for someone accused of historic sex abuse crimes. Since 1991, the Crown Prosecution Service has been able to join similar allegations together in one indictment; and since 1994 it has not been open to the trial judge to direct a jury that similar fact evidence corroborates the allegation in question or that it is prejudicial. Since 1994, judges have not been warning juries in sex cases about the danger of convicting on uncorroborated evidence. Since 1999 there has been no requirement for evidence to be sworn. All these changes, designed to respond to the public's wish to ensure that those guilty of crimes are convicted, have at the same time made it easier for the innocent to be convicted as well. And it seems that we are about to carry this slowly shifting process still further. Under the proposed criminal justice reforms announced in the summer, previous convictions would be disclosed to juries, and hearsay evidence would be admitted in court. It is an uncomfortable truth, but a truth all the same, that the spirit and direction of the times we live in is out of tune with the spirit and direction of this conference. When I hear, as I do, from professionals in the field that we should be more concerned about the guilty people who get away than about the innocent people who may be convicted, I get very worried indeed. But that is not by any means an unusual sentiment to hear being voiced.

It is against that dark and somewhat pessimistic background that last week's report from the Home Affairs Select Committee came as a sudden and brilliant shaft of light. Claire Curtis-Thomas gave extensive evidence to that committee, and sparing her blushes as she is not here, I believe that we have her to thank for many of the recommendations that the report contains. Those recommendations resonate fully with the aspirations and the work of the all-party group. It is no exaggeration to say that the select committee report has changed the political landscape; the subject of false accusations, and the issues surrounding it, are now well and truly on the parliamentary map. It is without doubt a huge step forward.

What do we see in the report? We see a public declaration of something that I personally believe without equivocation; that there are very many innocent people locked up in prison for sex abuse crimes which they did not commit. We see strong criticisms of police procedure. We see a whole raft of sensible recommendations; for the videoing of witness interviews; for the need to get the permission of the court before a prosecution of historic child abuse cases is able to proceed; for a review of the rules of similar fact evidence; and for a change in the remit of the Criminal Cases Review Commission. All these are issues which we in the all-party group have been pursuing. The Government have now got three months in which to respond to the report. During that time, we in the all-party group will aim to submit our own report to the Home Office, to buttress and back up what the select committee have recommended. Indeed the main focus of our activity over the next three months will be to maintain pressure on the Home Office to accept the select committee's recommendations (which they will almost certainly be reluctant to do) and simultaneously to work with the CCRC in reviewing the validity of the processes employed in about 30 historic abuse cases.

Now, we are going to have a question session in a minute, and I believe I know what is going through your minds - some of you will be thinking 'But he hasn't talked about me!' So let me in the final few minutes touch upon some of the issues I haven't yet covered and which the all-party group intend to look at during the months ahead. Next year, I hope, we will be turning our attention to the so-called domestic, one-on-one cases of alleged abuse. If you are someone who has been accused falsely of sexual abuse within your own family; or perhaps in a school; and you may have been to prison; or perhaps not have been to prison, but have seen your life fall apart as a result of what has happened to you; you may not at first sight regard the kinds of historic cases that I have been talking about as relevant to you. If so, I think that is a mistaken view. There are factors which in my opinion unite all cases of false abuse accusations. The main factor, to which I have already referred, is the climate of the times we live in; where child abuse, above all other offences, is regarded as so horrendous, and the mere suggestion of it so appalling, that the normal conventions of unbiased investigation can go by the board. That, to me, is the single biggest problem; getting the police, social services and the courts to acknowledge that the possibility of someone being falsely accused, and what follows from a false accusation, is as serious a matter as the need to bring the guilty to justice. I have heard it said that the start of an investigation is like initiating the movement of a juggernaut. Common sense and reasoned argument are abandoned. And quite often those who find themselves accused do not initially realise how difficult it is to stop the juggernaut from careering on. Many people, for example, turn for legal advice to the solicitor who handled the conveyancing of their house. There is a naïve belief that in the end 'the truth will out'. There is a naïve belief in the inherent professionalism of the investigating authorities. There is often a belief that defence witnesses who come forward to attest to a lifetime of upstanding, honourable conduct on the part of the accused person will somehow serve to blow the evidence of the prosecution witnesses out of the water.

All these are issues which our group will be examining. I am in no doubt at all that the so-called one-on-one or 'domestic' cases of alleged abuse are not only numerically far greater than the historic, institutional cases; but they also present a particularly difficult and wide ranging set of issues. For example, we need to look closely at the role of social services and ask whether it is appropriate that social workers should take

on the mantle of crime investigators, when an accusation is made. We need to look at the extent of professional dumbing down within social services; the culture of blame and fear under which social workers operate; their lack of real accountability; their tendency, come what may, to err on the side of caution and to discount what may be contrary evidence; their tendency, if I can be blunt about it, to look for ways of justifying their own continued existence. We need to look at the training of social workers and the training of the police. We must look at the prevalence of untested theories such as Munchausens Syndrome by Proxy and 'recovered' memory. At a practical level we need to look at how defendants can access effective legal advice, not from generalist high-street solicitors but from those practitioners with a true understanding of the subject. These are only a few of the tasks ahead of us.

All this represents by any standards a challenging agenda for the remainder of the current parliament. Speaking for myself, it is some of the most important and worthwhile work I have ever undertaken. If you ask most politicians what brought them into politics in the first instance most will say that it was to try to make the world a better and happier place. One of the obstacles to that end is the incidence of injustice. Injustice is an offence to any civilised society; and where it is found it needs to be stopped. I could therefore not be more pleased that the particular facet of injustice that has brought us all together today should now be the focus of serious attention in Westminster. The mission of the all-party group is to roll back the frontiers of this hitherto taboo subject; to expose what we find; and thereby to set in motion what we hope will be another unstoppable juggernaut - but this time in the cause of British justice.

HOWE

November 2002