Medicolegal

The Gee case: judge rules on meanings of words

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In an attempt to narrow the issues and save court time in the long running libel case between Dr Sidney Gee and the BBC Lord Justice Croom-Johnson last week ruled on the meanings of the words used in the broadcast, on the occasion of the BBC team's visit to Dr Gee's surgery, and in the letters and statements of Dr Mitchell and Dr Blackwood, the two doctors sued by Dr Gee over their part in the broadcast.

Dr Gee contends that the following words, spoken at his Rochester surgery by Gavin Campbell, assistant presenter of *That's Life*, were slanderous: "Dr Gee, you are prescribing a controlled drug without marking it properly . . . and without informing the patient's GP, and refusing to furnish the patient's own GP with information as to what drugs you are providing her with." His Lordship said that the words carried the imputation of improper professional conduct on Dr Gee's part but did not mean that Dr Gee was unfit to practise medicine.

The opening words of the broadcast, said the judge, had clearly indicated that Dr Gee was a bad doctor of a kind who could do much harm. The whole manner of the presentation was calculated to make the viewer sit up and take notice. The first point at issue was whether the broadcast meant that Dr Gee was "an unscrupulous profiteering quack." The judge ruled that the words and expressions used in the broadcast did mean that.

His lordship said that a reasonable viewer, looking at the broadcast, would have been left with the impression that Mrs Day, Dr Gee's patient, was lucky to be alive and had only been saved by the fact that she had got into the hands of Dr Mitchell and Dr Blackwood in time. He concluded that the words meant that Dr Gee had nearly killed Mrs Day.

Did he do so by prescribing dangerous amounts of dangerous drugs? That was the ordinary, sensible conclusion to be drawn from what was said and what was seen. The words used in the broadcast also meant that the prescribing was illegal. Did the words mean to the ordinary reasonable viewer that Dr Gee was guilty of criminal negligence? Professor Pilkington was quoted as saying: "It is murderous to prescribe thyroid to someone with potential heart trouble because it places extra strain on the heart. It is outrageous to hand out amphetamines like dexedrine for obesity. Her GP should complain to the General Medical Council about this doctor. To fail to inform the doctors exactly what these drugs are, to delay divulging that even for one hour, is terribly dangerous. The same drug could be prescribed and she could suffer an overdose."

If mere negligence at the common law level had been intended it would have been easy to use that word. The implication of the broadcast as a whole was that not only had Dr Gee been negligent but he had been negligent to such a degree as would have passed the test of gross negligence, so as to make him guilty of manslaughter if Mrs Day had died. The use of the word murderous was the highlight in the picture the broadcast painted. If it was not to import such a degree of negligence it was difficult to see what the word was doing

in the programme. The broadcast was importing a criminal degree of negligence.

Dr Mitchell, his Lordship went on, was sued over three letters, two to Dr Gee and one to Dr Sparrow (former honorary secretary of the East Berkshire division of the BMA), and over extracts from the letters that were quoted in the broadcast. She was also sued over an alleged slander spoken to a journalist from the *Reading Evening Post* and for libel as a result of the article that subsequently appeared.

The judge said he did not read Dr Mitchell's first letter to Dr Gee as suggesting that he had endangered Mrs Day, or that in prescribing without identification he had acted unlawfully or irresponsibly. But it did say he had acted improperly. The second letter went no further. But the letter to Dr Sparrow amounted to an assertion that Dr Gee had been prescribing dangerous drugs for patients without any proper evaluation of their cases or any communication with their general practitioners, and that letter was saying that Dr Gee had endangered Mrs Day. It did not state that Dr Gee had acted unlawfully or in breach of the rules of his profession, but it did state that he had acted irresponsibly.

The words alleged to have been used in the interview with the *Reading Evening Post*, his Lordship continued, were not hedged about with the caution with which Dr Mitchell had expressed herself in the letters. There were straightforward statements that Dr Gee had made inappropriate use of dangerous drugs for Dr Mitchell's patient without telling her. And the reference to reporting Dr Gee to the BMA and the GMC rather than referring or initiating a complaint carried with it the implication that breaches of professional rules had been committed and that Dr Gee was unfit to remain in practice.

Referring to Dr Blackwood's two letters to Dr Gee, his Lordship said that he did not read the letters as meaning that Mrs Day had been exposed to grave danger. The effect of the two letters was no more than that Dr Gee was said to have prescribed inappropriate drugs.

The next thing that had happened was that Dr Blackwood spoke to the BBC, said the judge. Much of what he said was used in the programme. There were three references to the possibility of death or the endangering of life. Perhaps the most important was the statement: "In my opinion if she carried on with the pills she might have died." In suggesting that the treatment might have created Mrs Day's heart disease directly or made existing heart disease worse Dr Blackwood was saying that in his view she had heart disease.

Did this mean that Dr Blackwood was stating that Dr Gee had been making Mrs Day take dangerous amounts of dangerous drugs that were not appropriate for her condition? His Lordship said he thought that that clearly followed from what Dr Blackwood had said in the whole of that spoken passage. The statement "In my opinion if she carried on with the pills she might have died" meant that Dr Gee had nearly killed Mrs Day as a result of his treatment.

If (which is disputed) Dr Blackwood spoke the final sentence—"I am going to report this case to the General Medical Council"—then, taking this sentence in connection with the immediately preceding sentence—"He may be endangering her life"—he was saying that Dr Gee was unfit to remain in medical practice.