

*Amicus Curiae* Statement

3 September 2009

1) I am not a legal practitioner. I do hold a Master's Degree in Law and have been recognised as an expert witness by a Royal Commission. I have organised campaigns for ministerial and judicial accountability since c 1992.

2) Because of this many people from all walks of life have confided their experiences to me and presented considerable evidence of wrongdoing by authorities at all levels, not least in provincial areas.

3) That Crown immunity protects those in public office is widely known. However, few are aware that royal charters 'pre-excuse' improper conduct, including "non-recital" (concealment) and "mis-recital" (deception). Until recently, Mr Kirk had no idea that in any dispute with the Royal College of Veterinary Surgeons, the deck would be stacked against him.

4) Because of Crown immunity, royal charters and lack of protection for whistleblowers, decent and honest persons in public life are disadvantaged, discouraged from conducting themselves properly for fear of retaliation, loss and damage.

5) I am uneasy that Dr Tegwyn Williams, Clinical Director of the Casswell Clinic, both made the assessment and received Mr Kirk as a patient. I have read his interim report with care.

6) Dr Williams states:

*The situation surrounding Maurice Kirk appears to be becoming increasingly bizarre and the account contained on his website suggest attempts to rationalise and minimise his behaviour and presents him as a victim of persecution. The explanation for this is unclear. One hypothesis would be that this is a function of mental disorder, either mental illness or personality disorder or, an alternative hypothesis would be that he has been treated unfairly and his behaviour is a legitimate response to this. In view of the increasingly bizarre nature of his behaviour and content of his letters, I believe the former is the most likely explanation. (p 3)*

7) *The situation surrounding Maurice Kirk appears to be becoming increasingly bizarre...*

This part of the report suggests that Mr Kirk is at the centre of strikingly unconventional and far-fetched events. From my own observations, I would not characterise events such as wrongful arrest and false imprisonment as uncommon but as very much underreported by the press. The understandable desire for publicity would explain Mr Kirk's Winston Churchill-type photograph<sup>1</sup> and his subsequent hunger strike.

<sup>1</sup> A well-known photograph of Churchill shows him posing with a Lewis Machine Gun, the WWI weapon which is the very questionable basis for the criminal charges. Mr Kirk's pose may have been an unconscious parody or imitation of Churchill's.

8) *...and the account on his website suggests attempts to rationalise...his behaviour*

In psychology, a person is said to rationalise when s/he gives a self-satisfying or self-justifying account of behaviour which is incorrect. The report does not give any particulars to support the assertion despite the extensive amount of material on the website. Either the evidence of Mr Kirk's 'rationalising' is not there or the specialist has failed to devote sufficient time and attention to the task.

9) *...and the account on his website suggests attempts to...minimisehis behaviour*

This is a second unsupported assertion. As with the first, why has no evidence been produced? This is about as authoritative as phrenology (claiming bumps on the head as evidence of criminality).

10) *The account on his website...presentsim as a victim of persecution. The explanation for this is unclear. One hypothesis would be that this is a function of mental disorder, either mental illness...*

It is prejudicial to state the negative hypothesis first. In a paper on juror decision making, I cited a study which showed that the prosecution has an unfair advantage due to its ability to precede the defence with negative suppositions. I am not suggesting that Dr Williams was conscious of this bias in his report.

11) *... or personality disorder*

The only 'personality disorder' which might be applied to Mr Kirk is his tendency to act as though he could live like a free man and rely upon the rule of law. Subsequent 'bizarre' behaviour was a reasonable tactic to elicit support from the public and press. In any event, personality disorder is neither a crime or a basis for sectioning.

12) *[A]n alternative hypothesis would be that he has been treated unfairly and his behaviour is a legitimate response*

The report does not specify the 'persecution' cited on Mr Kirk's website. The website itself cites two primary sources: police misconduct (not exclusive to South Wales) as part of a vendetta and the self-serving actions of the Royal College of Veterinary Surgeons and the Privy Council over a substantial period of time.

13) *In view of the increasingly bizarre nature of his behaviour and content of his letters, I believe the former [mental illness or personality disorder] is the most likely explanation.*

No particulars and no evidence substantiate this conclusion.

14) My own Google searches (c August 2009) for 'police brutality uk' produced 'about' 2,700,000 matches. Even if 90% can be discounted for duplication,

fabrication and other reasons, there is substantial evidence of police brutality in the UK. A number of video tapes on the internet show police abusing their powers in public places. Perhaps the most well-known instance is the killing of John Charles de Menzes on a London train. The Metropolitan Police shot an innocent man and went on to misled the public about several elements of the the actual circumstances. Complaints of police wrongdoing can be delusional, but complaints about the police and other authorities should not be the sole basis for arrest denial of bail, sectioning or any other punitive measures.

15) In regard to Mr Kirk's complaints about being victimised by the Royal College of Veterinary Surgeons, the college's 1967 charter contains this proviso:

And we do hereby, for Us, Our Heirs and Successors, further grant unto the College that these Our Letters, or the enrolment or exemplification thereof, shall be taken, construed and adjudged in the most favourable and beneficial sense for the best advantage of the College in Our Courts as elsewhere by all Judges, Justices, Officers, Ministers and other subjects whatsoever of Us, Our Heirs and Successors, any non-recital or other omission or thing to the contrary notwithstanding.

16) The 1996 charter of the BBC goes further and states (like a number of other royal charters) that that the corporation should be favoured despite:

...non-recital, m is-recital or any other omission, imperfection, defect, matter, cause, or anything whatsoever to the contrary thereof in anywise notwithstanding.

17) Interestingly, I found that the BBC's 2006 charter replaced this proviso with the following:

This charter shall be interpreted objectively. The presumption that a grant by the Crown is to be interpreted most beneficially for the Crown and against the subject shall not apply.

18) Whatever the details of Mr Kirk's many clashes with the RCVS, going back a number of years, he was clearly discriminated against and victimised by the College and by the Privy Council to whom he repeatedly appealed.

19) The actions of the South Wales Constabulary, the RCVS and the Privy Council may be best understood in the tradition of 'Keeping the King's (or Queen's) Peace' by means of non-recital, mis-recital, omission, imperfection, defect and so on. This violates Mr Kirk's human rights and is contrary to international law.

20) The South Wales police seem to have blundered in bringing a charge which carries a minimum sentence of five years. Mr Kirk has a record of being victorious in jury trials and it is highly unlikely that, if tried by a jury on these charges, the outcome would be any different. A trial clearly would have been an 'own goal' for the constabulary.

21) One way out of this dilemma would be for Mr Kirk to be sectioned as mentally ill. His hunger strike became an excuse to question his sanity. His website was determined to be further evidence against him, though no particulars were cited.

Many would say that Mr Kirk has been 'railroaded'--at public expense.

22) The unwarranted protections and privileges granted through Crown immunity and royal charters are untenable. Those who rely upon them should proceed with caution in the age of video cameras and the internet. It is in everyone's best interest for authorities to act as though they might be brought to account for themselves in the not too distant future. It might be useful to have earned mitigation.

23) It is my firm view, supported by substantial evidence, that the criminal charges should be dropped and Mr Kirk should be released from the clinic without delay.

Suzon Forscey-Moore, BA, LLM  
53 Abbey Road  
Cambridge CB5 8HH