

THE CASE OF JACK SMEATON (W&W bklt)

Jack Smeaton came from a very pro-life family. His son, John, is National Director of the Society for the Protection of Unborn Children, and Jack was himself involved in pro-life action. He had lobbied Parliament over many years, campaigning against the withdrawing or withholding food and fluids from people who are mentally incapacitated, and one of the last things he did, before himself becoming mentally incapacitated, was to write to Sir Edward Heath, his Member of Parliament, to oppose the Government's support for the British Medical Association's position on withholding and withdrawing food and fluids.



On May 13th 2003, when he was 90 years old, Jack had a major stroke which worsened the dementia he already had. He was paralysed down his right side, and was unable to sit up. He also had a weak cough, making it difficult for him to clear his chest, and he was unable to swallow, making it impossible for him to take in food unless it was given by tube. A scan showed that a very large area of his brain had been damaged, adding to the damage done by previous strokes. It was when this was realised that a suggestion was made to his family that Jack not be fed.

A doctor asked one of Jack's daughters about his condition, and how well he could communicate. He suggested that if Jack was fed by nasogastric tube (a tube going through the nose down into the stomach through which liquid food is provided) some of the liquid feed could go into his lungs, causing difficulty in breathing. The doctor also said that Jack could get chest and bladder infections and bedsores, although good nursing care should prevent bedsores from ever developing. The doctor suggested that if Jack were fed, his "quality of life" would be poor – "all pain, no gain" – and that he would not be able to speak, walk or swallow again.

This conversation between the doctor and Jack's daughter started at Jack's bedside, in his hearing, when he was clearly awake. His daughter insisted that they move away from the bedside to continue the conversation. It is a matter of simple good manners for a doctor to recognise the humanity of his or her patient, rather than talking as if the patient was not there. One can only imagine the effect on Jack of hearing it being discussed whether or not he should be fed. Jack's son John later complained about this.

Jack's family made it clear that they would not accept that he should not be fed because of an assessment that he had a "poor quality of life." They explained that "quality of life" is a subjective judgment which should have no place in ethical medicine, pointing out that people should be given medical treatment according to their clinical best interests, not assessed according to subjective judgments of their "worth" to receive treatment.

Jack's son, John, then spoke with a very senior doctor friend, who regularly has charge of patients like Jack, explaining Jack's condition, and that the hospital proposed not to feed him. The doctor said that in his view it was unreasonable not to try to fit a nasogastric (NG) tube. He explained that the risk of fitting this sort of tube was minimal, and spoke in some detail about how to fit NG tubes in such a way that people with dementia were much less able to tear them out.

The pro-life doctor suggested that the tube be taped to the side of Jack's face which was paralysed, so that it would be more difficult for him to reach to pull it out, ensuring that the tape was very flush against the cheek with no loops left with which he could prise it free and ensuring that the tube was taped against the small hairs at the back of his head, making it uncomfortable for him to tug it away. Such simple ideas could make a great difference to the comfort of a person being tube fed, and it is worrying that the doctor described this as "a dying art."

This doctor said it would be normal practice to insert the NG tube by 7-10 days following the stroke and that he personally would generally do so by about the 4th day. The tube could remain in place for about 6 weeks, by which time the patient's swallowing ability might well have returned. If it had not a PEG (Percutaneous Endoscopic Gastrostomy) would be inserted. This is a method of assisted feeding through a tube which is placed in the stomach while the patient is under local anaesthesia and sedation. It can remain in place indefinitely. There were minimal risks,

but John rightly felt that these must be weighed against the certainty of death by starvation if Jack was not fed.

The hospital doctor who had suggested withholding food and water from Jack made it clear that he was under no legal obligation to feed Jack. He expressed a view now quite commonly held that there was “no right or wrong” and that it was “a moral minefield.” He also said that if Jack died it would be because of his underlying condition caused by the stroke. This last suggestion was a direct reference to the case of Tony Bland in 1993.

Tony was in the inappropriately named “Persistent Vegetative State” after being injured in the crush at the Hillsborough Football Stadium disaster. After successive Court rulings the Law Lords ruled that his food and fluids could be withdrawn, and he died as a direct result of this decision.¹ The Coroner, however, ruled that the cause of his death had been “traumatic asphyxiation” at Hillsborough and the Editor of the Bulletin of Medical Ethics, Dr. Richard Nicholson commented that “This seems to be an entirely helpful and accurate verdict...”² The fact that Tony would not have died had his food and fluids not be withdrawn, and that he actually died of dehydration and starvation was ignored.

John indicated that he was aware that the British Medical Association issued guidelines in 1999 which indicated that British doctors were taking the law into their own hands with withdrawing food and fluids when elderly patients have profound and irreversible dementia or have had a stroke which left them similarly irreversibly brain damaged.³ John pointed out that he did not agree with the doctor’s view that this was a “very complex ethical area.” He said the situation was in fact very simple – Jack should not be starved because of an assessment that he had a “poor quality of life” which no one could judge. He also mentioned that Jack himself had been active in lobbying parliament about this very issue, and that he had feared that it would happen to him.

¹ *Airedale NHS Trust v Anthony Bland* [1993] AC 789

² “Hillsborough fan’s death ‘accidental’” by Colin Wright & David Millward. *The Daily Telegraph* 22 December 1993. James Turnbull, the West Yorkshire Coroner ruled that Tony Bland had died from “kidney failure and bronchopneumonia due to anoxic brain damage caused by traumatic asphyxia when he was involved in a crush at the stadium”

³ *Withholding or Withdrawing Life-prolonging Medical Treatment: Guidance for decision making*. BMA BMJ Books 1999, p. 56 The Guidelines state that the BMA can see no reason to differentiate between decisions of Persistent Vegetative State and those for patients with other serious conditions where artificial nutrition and hydration is not considered a benefit... a body of medical opinion has developed that such action would be appropriate in some cases (such as patients who have suffered a serious stroke or have severe dementia)”

The doctor then spoke again about the risks of fitting a nasogastric tube or a PEG, indicating that medical staff might refuse to do it because of these risks. John told him of his conversation with the pro-life doctor, who had said that in his experience the risks were minimal, and explained his techniques for fitting NG tubes so a person with dementia would be unable to pull it out.

After mention of this senior doctor's opinion suddenly the hospital doctor's whole attitude changed. No longer was he focussing on the risks – he said that he would fit an NG tube the same day, and that there would be no problem in fitting a PEG should the NG tube not prove appropriate. *He did, however, say that in the case of another patient in Jack's condition, who did not have a supportive family, he would not feed that patient.*

In the event Jack resisted the fitting of an NG tube, so it was arranged for a PEG to be fitted, the doctor repeating that there was (now) no problem and minimal risk in doing so. He now even admitted that starvation was not “treatment” for people who have had strokes. There was some unavoidable delay in fitting the PEG so intravenous tube feeding (through a needle inserted into a vein) was arranged in the interim. A PEG was fitted, but Jack died two days later on Friday 30th May 2003.

In a later conversation with the senior pro-life doctor who had advised John throughout the discussions about Jack's treatment, the doctor said that it was wrong for doctors, like the one treating Jack, to try to get family members to make decisions when there were no decisions to be made. Jack had had a stroke and had dementia. He needed hospital treatment, and should have been automatically cared for and fed, his family being kept informed as far as possible, and being prepared for whatever future developments might arise.

Jack's family had been asked to make decisions which should never have been in question. Unless it is in a person's clinical best interests not to be fed (which would usually be the case only at the very end of life when feeding would be unnecessarily intrusive and burdensome, with no clear benefit to the person), every person should be offered food and fluids. It is completely unethical to make value judgements based on subjective decisions such as projected “quality of life” and to use them to decide who should be fed, and who should be starved and dehydrated to death.

Jack died peacefully and well, with his family around him. He had had the best possible treatment, and his family knew that his death was

entirely natural. However, Jack's case points up a very worrying trend, summarised by the hospital doctor's statement. In the case of a patient in Jack's condition whose family did not object to his proposed action, he would not feed that patient. This is a warning bell to all who care about the right to life of vulnerable people.