

Chapter 15

Court cases and fluoride

Air Pollution

From the late 19th century on, in the USA, there have been many lawsuits pertaining to air emissions near phosphate fertiliser plants, aluminium plants and other metal smelters but it was not until about 1930 that the cause of harm was suspected to be fluoride. (1)

“Fluoride was among the worst pollutants of the US Steel industry, and the subject of millions of dollars in legal claims against the mills in the country,”

writes Christopher Bryson in his book, ‘Fluoride Deception’.

“And fluoride has the synergistic potential to worsen the toxicity of other pollutants.”

- One of the first health-damage suits was filed in 1918 by Marie Burkhardt against a Donora Zinc Works in the USA.
- Then in 1948 there was a tragic accident in Donora Town. A polluting smog developed for three days which resulted in very many more law suits, such that, 40 years later, the polluting plant, the Donora Zinc Works was closed down.
- In December 1930, 63 people were killed and several thousand injured in the Meuse Valley air pollution disaster in Belgium because of a fluoride smog sent out from the nearby local zinc, steel and phosphate industries. The polluting chemical had already been spilling out every day, etching windows, crippling cattle, damaging vegetation, making lawsuits in the Meuse Valley commonplace. Kaj Roholm, Danish scientist and the world’s authority on fluorine, determined that it was the fluorine gas from the nearby factories that was the killer.
- In 1943, those farmers in the ‘Garden State’ of Delaware, USA, downwind of the DuPont Chamber’s manufacturing plant in Kearney, New Jersey, began to report that their peach orchards were blighted. Something was burning up the peach crops, and workers who ate the peaches vomited all night. Poultry had died after an all-night thunderstorm, and sometimes fields were strewn with dead cattle, while other cattle were so crippled, they could not stand and grazed by crawling on their bellies. The farmers waited until after the war to sue DuPont for manufacturing new fluorocarbons for the Manhattan Project (development of the atomic bomb), and releasing toxic hydrogen fluoride into the atmosphere. They were quickly followed by numerous similar lawsuits, from around aluminium smelters, steel plants, fertiliser plants and oil refineries.
- On 16th September 1955, in the US, Paul and Verla Martin began a lawsuit against the aluminium company Reynolds Metals for having caused injuries from the emission of fluoride compounds. They were finally awarded \$48,000 for illness and medical expenses, and this was upheld on June 5th 1958. (2)

Water Pollution

“From 1957 to 1968, fluoride was responsible for more damage claims than all 20 other pollutants combined,” wrote N. Groth in the ‘Peninsula Observer’ of Jan/Feb1969. (3)

- In the US, water fluoridation has been the subject of many court cases whereby activists have sued water companies or municipalities, asserting that their rights to consent to medical treatment and due

process are infringed by mandatory water fluoridation. Individuals have also sued municipalities for a number of illnesses that they believe were caused by fluoridation of the water supply.

- To date, no Federal Appellate Court of State Court or Court of Last Resort (State Supreme Court) has found water fluoridation to be unlawful.

For more detailed information see, 'Highlights in North America - Litigation During the 20th Century on Artificial Fluoridation of Public Water Supplies', by John Remington Graham and Pierre-Jean Morin at FAN's website - www.fluoridealert.org.

- In 1965, when water fluoridation was proposed for Ireland, Gladys Ryan took a High Court action against the state to prevent the addition of fluoride to the national water supply. The action was backed by a loose federation of people with environmental and health concerns caused by adding fluoride to water supplies. The case lasted 65 days and, was fought robustly by the Government, supported by the dental profession.

Ryan was represented in court by Sean MacBride SC, who argued it was unconstitutional to interfere with the public water supply since people had no option but to drink it; it was, therefore, an infringement of human rights because it removed choice. It was argued that those who wanted fluoride could get it elsewhere in such products as toothpaste. Numerous international expert witnesses were presented before the court, maintaining that fluoride caused more damage than it was designed to cure. Finally, the Supreme Court of Ireland held that water fluoridation did not infringe the plaintiff's right to bodily integrity, so Gladys Ryan lost the case, it was dismissed.

The legal costs were enormous, calculated at £230,000, enormous when £2,500 would buy a good house at that time. The cost for the expert witnesses representing the plaintiff were paid for by fundraising. Disappointed and disillusioned with politics and the law, Gladys Ryan retired from such activities.

This case is interesting for two reasons, firstly because the Court found that 'a right to bodily integrity' did exist, despite the fact that it was not explicitly mentioned in the Constitution of Ireland. This established the doctrine of 're-enumerate rights' in Irish constitutional law. (The 'enumerated rights' or expressed rights in the Constitution include, among others, the right to freedom of expression, assembly and association.)

Secondly, Richie Ryan, the former Fine Gael Minister of Finance, many years later, recalled his involvement in this landmark case in an interview with Adrienne Murphy, saying:

"I recall being with a group of lawyers 10 or 15 years after the case," he said. "One of the Supreme Court judges involved (who dismissed the appeal) said to me, "If, at the time we considered it, I was aware of all that I've heard since about fluoride, I don't think I would have joined the dismissal of the case."

- A group of doctors, led by Dr Hans Moolenburg, went to Court to oppose the addition of fluoride to the country's water supply after it had been added to large parts of The Netherlands from 1960 to 1973. The Supreme Court of the Netherlands declared fluoridation of drinking water unauthorised. The Dutch Court decided that authorities had no legal basis for adding chemicals to drinking water if they did not also improve safety. It was also stated, as support, that consumers could not choose a different tap water provider. Drinking water has not been fluoridated in any part of the Netherlands since 1976.

- Dr Yiamouyiannis and Dr Dean Burk were taken to Court, in 1977, for producing a document, in 1975, that showed cancer death rates quickly increased by 10-25% after fluoride was added to peoples drinking water. The Congressional hearings were followed by a 21-day court trial in Pennsylvania in which, Yiamouyiannis and Burke were later vindicated. Judge Flaherty ruled that fluoridation had been proved to be a health hazard. More has been mentioned about this case in Chapter 14, under Intimidation. (4)

- In October 1978, in Scotland, Mrs Catherine McColl from Glasgow, applied for an interdict/court order to restrain Strathclyde Regional Council from implementing its decision to fluoridate the water supplies. The hearings, held in the Edinburgh Court of Session, commenced on 23rd September 1980 and continued until 26th July 1982. The court sat on 201 days, making it the longest and costliest case in Scottish legal history. Mrs McColl sought to establish that fluoridation would have a large number of adverse side effects, that it would be ineffective in reducing dental decay and that, in any event, Strathclyde Regional Council had no legal power to fluoridate. Lord Jauncey, the Judge, although in favour of water fluoridation, ruled that adding fluoride to drinking water did not give the 'wholesome' water which water companies were regulated

to provide. This judgement provided the legal powers to end water fluoridation in Scotland and brought it to an abrupt halt. Scotland remains fluoride free.

- The implication of this decision was not lost on campaigning groups in England, particularly the campaigning group in Newark, Nottinghamshire. This group duly served a writ on Severn Trent Water Company, in November 1984. (A writ is a legal document by a judge or other body with administrative or judicial jurisdiction, such as a court. The writ orders the person or entity to whom it is addressed to perform or cease performing a specified action). The writ was based on the precedent set by the Judge, Lord Jauncey, the year before.

The action, by the 'Newark campaigning group' ended in success, with costs paid. This caused general panic for Water Companies and the UK Government. The Government's solution was to create a new Water Fluoridation Act. The parliamentary debate, over this, was long and heated with Sir Ivan Lawrence, in an attempt to stop the bill and water fluoridation in England, making the longest speech ever made in Parliament. However, the Water Fluoridation Act of 1985 became Law even though 399 MPs abstained from voting.

- One clear issue was emerging – dental fluorosis, or damage to children's teeth from fluoride products and water fluoridation. As a result, the 'National Register of Children with Dental Fluorosis' which was launched in November 1991 in a Committee Room in Parliament, soon gathered a number of families with this problem. A law firm in Nottingham got a class action underway on behalf of these children but, despite two visits to the High Court seeking legal aid, this was refused. The group sought advice from a London Chambers – a two-hour meeting which cost over £6,000. The huge amounts of money needed to go to court and, hopefully, get compensation for the children on the 'dental fluorosis register' became an impossible burden, such that the attempt at a court case was finally abandoned. There were 300 names on the 'National Register of Children with Dental Fluorosis' at the time and, while the register still remains, it is not on-line or advertised in any way. (5)

- William Marcus, a Senior Advisor at the Environmental Protection Agency (EPA) in the US, was fired after pointing out in May 1990 that a study approved by the Office of Drinking Water was unsound. Marcus went to Court, which was a long and painful two-year battle but he prevailed on every count. However, the EPA continued to harass him in the work place so again he went to Court and was awarded additional damages and affirmative relief.

More has been mentioned on this particular case in Chapter 14, Intimidation. (6)

- In November 2005, in the town of Corby, Northamptonshire, UK, mothers of 30 children submitted expert evidence to the High Court in London claiming that, during their pregnancies, they had been exposed to toxic waste during the dismantling of the largest steel works in Western Europe. The work had taken place between 1984 and 1999 when open-backed lorries had transported 'wet waste' containing dioxins and heavy metals such as cadmium, lead and chromium. Dust was everywhere and described as an 'atmospheric soup of toxic materials'. Although not mentioned in the case, fluoride chemicals would have been part of this mix. The children born to these mothers suffered birth defects, including underdeveloped fingers and deformities of their feet. The case was heard at the High Court in 2009 and, on 16th April 2010, a financial settlement was reached.

- Earl Tennant in Parkersburg, USA, tried to get justice in 1998, for his cattle dying with deformities and blackened teeth because the nearby factory, DuPont, was polluting the air and waterways, with toxic waste. The DuPont factory, making Teflon, was knowingly discharging its toxic waste, containing fluoride, as C8, into the Ohio river in West Virginia. Residents of Ohio, were also drinking this toxic waste in their water supply and breathing it in from the factory chimneys and were ill. Earl Tennant had no success at obtaining justice at first but with persistence, determination, loads of discriminating evidence, and a brave lawyer, on 15th September, 2015, the trial began in the US between Carla Marie Barlett and the Dupont factory. The lawyer who took on the case, Bob Bilott, noticed that many children in the town also had blackened teeth

Teflon is essential to modern industry and space flight but is best known for its use in non-stick cookware. The fluoride coating is also widely used in soft furnishings and clothing because it's stain, water and oil-resistant. The chemical involved is PFOA, perfluorooctanoate or C-8, ('flu' in the word means that fluoride is in the chemical). It is now known that if there is more than 1 part per billion of C-8 in drinking water, (one drop

in the largest tanker trunk or an Olympic size pool), do not drink the water. Concerns in Parkersburg were first raised when cattle around the Ohio river in West Virginia, died. They had black teeth. Birds, fish and wild animals also died. Many DuPont workers died, and nearby residents had disabling cancer operations, particularly colon cancer, and there were birth defects. Dupont tried to stop the damaging information from getting out but eventually agreed to settle a Class Action Lawsuit with the residents of Ohio River Valley for \$343million. Victims refused to accept the money for themselves and instead put it towards research. (7)

- Then, on 13th February, 2017, Dupont and Chemours Co agreed to pay another \$671 million in cash to settle thousands of lawsuits involved in the leak of these same toxic chemicals used to make Teflon.

- On 4th October 2018, Robert Bilott, (lawyer for the Parkersburg case), filed another Class Action Claim. This time the case was against eight chemical companies on behalf of the PFAS and PFOAs -contaminated American People. It took place in the United States District Court for the Southern District of Ohio with Judge Sargus presiding, and it continues. Bilott took on this case because scientists could hardly find anyone without these 'fluoride based chemicals', in their blood. They found that 99.7% of Americans, and most people in the world, now have Teflon chemicals in their blood. The only blood they could find without was old blood from 1952, Army recruits.

- A documentary film, detailing the facts of the Parkersburg case, was released in 2019. The film is called 'Dark Waters'.

- In May 2019, at the Stockholm Convention, PFOAs (the most prolific polyfluoroalkyl), was banned globally. This was ten years after Rob Bilott first proved the toxicity of PFOAs.

- In 2022, President Biden announced a plan 'to prevent PFAS from being released into the air, drinking systems and food supply' and set aside \$10bn just to deal with PFAS in drinking water. However, Rob Bilott said that such promises have been made before and had come to nothing, adding,

"So, it sounds great, - telling the public that we're moving forward, we are going to actually start cleaning this stuff up, we're going to allocate billions and billions of dollars to do that. But the money should not be coming from us, the exposed people. The taxpayers should not have to fund cleaning this up. We shouldn't have the federal government essentially bail out these chemicals companies by allocating billions that the companies should be spending to clean this up". (8)

The Parkersburg court case revealed that no-one should drink water which contains more than 1 part per billion of C8.

(1 part per billion or 1 ppb, is the tiniest amount and is equivalent to one drop of ink in one of the largest tanker trucks used to haul gasoline or one drop in an Olympic-sized-pool). For more on Teflon see Appendix 6.

It is worth noting here, that the UK banned Teflon, non-stick cookware in 2005. Europe banned it in 2008 and the USA banned it in 2014. Globally PFOAs were banned in 2019. However, Teflon cookware is still being sold because Dupont replaced C8 with a slightly modified version of the original PFOA chemical, called Gen-X. This is also toxic, contains fluoride, and is completely unregulated.

(It is also worth remembering that cars, aircraft, ships and space rockets will also be using PFAS', C8 or Gen-X to lubricate moving parts to eliminate the need for oil. Therefore, we must all be breathing in these toxic fumes to some degree. Those people living in towns or along busy road must be suffering the most.)
Authors comment in parentheses.

- In 2018, the New Zealand Supreme Court ruled, that fluoridation was compulsory medical treatment, in violation of Section 11 of the NZ Bill of Rights Act (BORA), so was unlawful.

- On the 8th June, 2020, a trial began in the US Federal Court for the Northern District of California, San Francisco. The Environmental Protection Agency (EPA) was being sued by the Fluoride Action Network, Food and Water Watch, Moms Against Fluoridation and three individuals; Audrey Adams, Kristin Lavelle and Brenda Staudenmaier; over whether water fluoridation violates the Toxic Substances Control Act (TSCA). The TSCA provisions prohibit the 'particular use' of a chemical which has been found to present an unreasonable risk to the general population – in this case, the risk being that water fluoridation has the potential to lower the IQ of children. Leading scientists gave evidence for the plaintiffs, and four of these, Phillippe Grandjean MD, PhD; Howard Hu MD, MPH, ScD; Bruce Lanphear MD, MPH; and Kathleen Thiessen PhD, have extensive, impeccable credentials and are known world-wide for their excellent work. It is also important to note that even the EPA had previously retained all four as expert consultants on other issues.

Judge Edward Chen said that: “There is serious evidence here,” and asked the EPA “to take a second look” at the practice (of WF) and so paused the trial, and his ruling, until August. At the August hearing, the Judge requested even more time and deferred his ruling until November 2020. After nearly three years of delay by the EPA and the National Toxicology Program (NTP), and only because of numerous legal victories by the plaintiff’s attorneys to move the case forward, the final phase of this federal lawsuit against the EPA over the neurotoxicity of fluoridation chemicals has been scheduled for 29th January 2024. One reason for the delay was the need to get - ‘suppressed information’ released to the court, even if it was not released to the public. This ‘suppressed information’ was the National Toxicology Program’s (NTP) 6-year systemic review of fluoride’s neurotoxicity. This document was finally released to the Court in 2023. The 2024 trial is expected to take two weeks and will hear testimony and cross examine expert witnesses focused on this new evidence and science. For an update go to www.fluoridealert.org.

● In 2021, an amendment in New Zealand’s Health Act, took the decision to fluoridate away from local councils and gave it to the Director General of Health. This meant that councils could be ordered to fluoridate and without consulting their communities. On 27th July 2022, the Director of Health of NZ , Ashley Bloomfield, announced and ‘ordered’, 14 water systems serving 19 communities, to fluoridate their water supply. This order would bring those receiving water fluoridation in NZ up to 60%. The councils concerned were given a deadline to start fluoridating, and would be subject to hefty fines should they fail to comply. Councils that chose not to comply faced an initial \$200,000 fine for not fluoridating and further fines of \$10,000 a day. A group called ‘New Health New Zealand’, took this ‘order’ to the High Court for a review, and on Friday 10th November, 2023, one year and 4 months after Mr Bloomfields announced his ‘order’, the High Court ruled, that this ‘order to fluoridate’, was unlawful, because it failed to consider the NZ Bill of Rights Act (BORA) - people had the right to refuse medical treatment.

There will be another hearing on the broader issues next year, 2024. In the meantime people have become very active in attending council meetings to alerting council members of fluoridation facts, particularly regarding IQ studies. Some communities have paused their plans to implement fluoridation while others are continuing to push forward with fluoridation while they seek clarification on the ruling from the Ministry of Health. (9)

Chapter 15 References

(1) (Ref: ‘The Case Against Fluoride’ by Paul Connett, Page 69).

(2) (Ref: Christopher Bryson’s book, Chapter 13, Page 183).

(3) (Ref: Chapter 9 of Chris Bryson’s book).

(4) (Ref: Tohru Murakami, DDS, PhD Editor, Japanese Journal of Fluoride Research 1–5–16 Kamikoide–machi Maebashi-shi Gunma-ken, 371 0037, Japan).

(5) (Source: Margaret Cooper, June 2020, email).

(6) (Source: National WhistleBlowers Centre – NWC).

(7) (Source: BBC4 documentary “Poisoning America: The Devil We Know” shown 8.9.2019).

(8) (Ref: article by Carey Gillan, in The Guardian newspaper, UK. Sunday 1st May 2022).

(9) (Source: Fluoride Action Network – www.fluoridealert.org - 3rd Dec 2023)

