

April 30, 1935

Dr. Graham Edgar
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My dear Edgar:

Thanks for sending me the transcript of the testimony in the Robinson case which I have looked over with considerable amount of interest. It would seem that I had gone a little ahead of the stenographer in some of my testimony and some of it apparently does not make very good sense. For that reason I am somewhat reserved in commenting upon the testimony of Drs. Grimes, Norris, and Gettler since it seems possible that their testimony may have been reported in a faulty manner. Nevertheless there are several points in the thing that seem to be sufficiently unequivocal to deserve comment.

It is quite apparent that none of the three men have any idea of the quantitative relationships of exposure to leaded gasoline as compared to the exposure at Bayway which resulted in the fatal cases which provided them with some experience in this question. This is the same confusion that we have met frequently and it seems inevitable that it will persist. It is also quite obvious that none of the men are familiar with the published information on the subject of Ethyl Gasoline. They apparently regard the investigations of the United States and British governments as white-washing excursions, and they apparently have not examined the evidence at all. This confusion, I think, accounts for the point of view of the pathologist Dr. Grimes who having found congestion and edema of the brain and viscera remembered that these findings were associated with acute fatal tetraethyl lead poisoning. These same findings are associated with death from a variety of causes. It would seem to me that the cross questioning had established fairly definitely the inconsequential nature of the evidence on which the pathologist arrived at a judgment. That is to say, it seems quite apparent that his judgment was not founded on any knowledge of the facts but on unsupported belief, and that he is not, therefore, entitled to go beyond the actual facts ascertained by his examination.

am Edgar

The testimony of Dr. Norris can clearly be dismissed as impertinent not only by reason of its lack of precise information, but more specifically because on cross questioning any value which it seemed to have was rather completely obliterated. It would seem to me that Dr. Norris demonstrated himself on the witness stand to be an authoritative and opinionated official person with no information to substantiate his position. I believe that any intelligent referee, and certainly the one in this instance, would tend to ignore his official position and judge the outcome without regard to his testimony.

The position of Dr. Gettler is somewhat different in that Gettler supplied chemical evidence which is open to more than one interpretation. He states that his findings indicate suggestive lead exposure, whereas I arrived at the opposite conclusion. On the other hand, it would seem to me that he has shown a lack of knowledge of the literature of the subject in that he has completely ignored our evidence of normal lead in food, tissues, etc. Despite the fact that this evidence is now quite generally accepted as valid, he dismisses it as the result of faulty methods of analysis. I think it is at this point that his testimony is the most damaging, and if any evidence were to be used in rebuttal, I should say that it would have to concern itself with the proof in the form of spectrographic analyses that the results which we have obtained are essentially correct but err slightly on the lower side. It may or may not be advisable to submit any such testimony in rebuttal. However, if this case were to be appealed and reviewed on the record, it seems to me that that is the point which has been attacked with most success. Obviously if a court must draw a conclusion from evidence which is apparently controversial from the testimony of experts, and if the case were to be decided on the basis of whether this man did or did not have demonstrable evidence of lead exposure in his tissues, then this would be an extremely important point. The opinions of Dr. Gettler on clinical matters can obviously be dismissed as insignificant since he does not and can not qualify as an expert in this field.

There is only one other point in the testimony at which I do not think the record is quite clear and I am afraid that Mr. Wilsdon has contributed something to the uncertainty by repeated reference in his questions to the absorption of tetraethyl lead without differentiating between tetraethyl lead itself and tetraethyl lead in dilute solution in gasoline. The record may not be exact but it did not seem to me that either direct or cross examination of these three witnesses resulted in making clear differentiation of these matters. I am quite confident that if I as a disinterested person unacquainted with the facts, were to review this testimony, I would not be at all clear on this question.

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I would be inclined to accept a certain justification for the conclusion that this man may have absorbed significant amounts of lead since it appeared quite certain that some years ago other men exposed to tetra-ethyl lead unquestionably absorbed a sufficient amount to cause their death. The differentiation of the two points was made clear to the referee in my testimony, but if this transcript is in any way typical of the sort of record that would be supplied to a court, my testimony would certainly be regarded with a fishy eye, if for no other reason than that I seem to have made any number of statements that have no sense to them at all. I examined the records with the specific purpose of establishing whether this question had been clearly elucidated, and I am led to the conclusion that it has not been. I know nothing of what is permissible in legal procedures in the way of correcting records to coincide with the statements of witnesses, but if nothing can be done in this direction, I think it will have to be accepted that much of my testimony is quite useless in the record as it now stands.

I believe I have commented adequately on my point of view and I leave it to you to transmit to Mr. Wilsdon such portion of my comment as may seem to be useful to him.

Very truly yours,

RAK:is

Robert A. Kehoe, M.D.

P.S. I wonder if it would be at all possible for me to obtain a copy of this transcript. If it is impossible or difficult, it makes very little difference but it would be interesting exhibit and I am particularly anxious to give Dr. Machle an opportunity to look it over. If it is impossible to provide me with a copy, perhaps Mr. Wilsdon could return it to me at a later date. RAK.

P.S. I have looked over Mr. Littlefield's report which you sent me yesterday. If I have any comments to make, I shall send them in a little later when I have had a chance to give a little more thought to the subject. RAK.

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