

**THE WRIT THAT WENT TO MY HEART** by David Powell  
The story of being sued during Pontypool's toxic waste troubles with ReChem

Introduction

ReChem's Pontypool chemical waste incinerator operated from 1974 to 2002. It was originally intended to serve a small region on the borders of England and Wales but became an magnet for some of the world's most toxic substances. The incinerator, with its global waste trade, was continually controversial and the company became renowned for resorting to libel actions when its reputation was threatened. A constant contention of ReChem's was that the Pontypool plant did not contaminate its surroundings with PCB's and dioxins. The claim was backed by the company's scientific data and reinforced by leading institutions, whilst at the same time as ReChem's importation of toxic waste was being officially approved of. Eventually, pioneering research by the University of East Anglia showed that PCBs and dioxins from ReChem's plant had entered the environment. Public protests thwarted some high-profile shipments to ReChem and finally the strengthening, of international controls ended Pontypool's part in toxic waste importation.

One of the most controversial episodes in toxic waste importation related to the removal of a stockpile in Canada, for shipment to Pontypool via Liverpool docks. In support of protestors from Pontypool, Liverpool dockers boycotted the waste and Russian vessels carrying Canadian chemicals were turned back across the Atlantic. That episode generated a new wave of libel actions from Rechem and placed me on the wrong end of a writ.

Originally, I intended to write a complete history of the controversy around ReChem's hazardous waste plant in Pontypool. Then I thought that the period of the history I knew most about was the period from 1984 onwards, which was after I began campaigning. Furthermore, I thought that my most intimate attachment occurred during the years from 1989 to 1993, which was when I was being sued by ReChem. Therefore I've written the book from a personal standpoint, looking into that shorter period and outwards from it, in a meandering way so as to indicate my thoughts and feelings during that time. It means I've selected aspects of the history that were most important to me when I was mounting the defence against the writ, so it also means that the book is not a comprehensive history. However, I hope my approach will provide much more than a snapshot.

I'd be glad to receive comments about any errors, typographical or otherwise. I can modify the book, but I'm not looking to add anything unless there's been an important oversight on my part. On the other hand I'm vitally interested in comments connected with any factual errors, misinterpretations, misleading impressions, or misrepresentations of the views of others.

Deep thanks to my wife Denise, daughter Nikki and son Christian, who put up with my pre-occupation when I was campaigning and particularly when I was being sued.

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## 1. At the High Court

I was wondering how it would begin, when the judge pierced the sombre silence of the court, in an imperiously indignant tone, with “Who is David Powell?!” The echo of his words in the voluminous but near-empty edifice seemed to convey some disappointment that, today; Mr Justice Otton had nobody more important than this David Powell before him. I listened attentively whilst seated between my children, Nikki and Christian, who were familiar with the Canadian toxic waste, the Russian ships and the BBC broadcast that had paved my way to the High Court. They also knew that the writ hanging over me threatened everything we owned. We sat very still.

I wasn't sure who needed to answer the judge, but I delicately raised a hand and looked towards him in the distance. I soon suspected that he thought my self-identification was facetious, as he patronisingly revealed that he already knew who I was and added that he was addressing not me, but my legal opponents. Nevertheless, perplexed about the point of his question, I couldn't help hearing it as an expression of surprise that it was just me, and not somebody more illustrious, who had been sent before him on that fateful day. Then I thought, “Perhaps he's on my side” and that his bemusement might not be an expression of disdain towards me, but a sarcastic rebuke for the people who had put me in that position. I'll never know the real motivation for the judge's opening exclamation, though any idea that I had been an unnecessary victim of Britain's libel laws would have matched the feeling that had consumed me during the past four years.

Nikki was 16, Christian 15, and it wasn't the first time they had accompanied me on a toxic waste trip. That particular morning, May 17th 1993, we had travelled to London slowly along the M4 from South Wales in our faded-red Volkswagen Polo. My wife, Denise, would have been with us too, but for her job in a special needs school in Pontypool. Since the summer of 1989 I'd been battling top legal firm Nabarro Nathanson, who staunchly represented hazardous waste company ReChem International Limited. Throughout those four years the passing of each day had been a victory in itself, as I sustained my challenge to the legal action whilst more prosperous targets of the toxic waste company crumbled and the company accrued more prowess. Now it was the day of reckoning for me, having being sued in 1989 over a BBC Radio 4 broadcast and an article in the London Evening Standard, both of which related to my part in combating the importation of toxic waste from Canada. The legal action against me had been initiated at the time that shipments of PCB waste from Montreal were heading towards Liverpool Docks. The ultimate destination of the dioxin-contaminated material was to be a smoky, smelly incinerator in Pontypool. The plant processed poisons from all over the world and spread its fumes through the Pontypool neighbourhood of New Inn. Local loathing of the incineration plant had escalated when the media's attention to the toxic shipments was repelled by a salvo of legal actions from the waste firm, which created panic in the press and which petrified broadcasters. The power exuded by ReChem's unblemished record of libel court conquests was complemented by the company's skill in fending off legal threats about its own behaviour. The combined characteristics of an invincible attack and an impenetrable defence meant that the ReChem was doubly despised in the local community for the way it rode the law. Amongst the widespread, but legally

unspeakable thoughts about Rechem, was the possibility that the plant was contaminating its surroundings with PCBs and dioxins. However, the company could repudiate any idea of wrongdoing by using its mass of monitoring data, with its authority supported by the scientific community.

Despite the tendency for the name “ReChem” to be a cue for caution when turning thoughts into words, in the years before my fateful BBC broadcast I had accumulated a degree of equity as a spokesman on the toxic waste controversy. I was trusted throughout the media to comment accurately on the complex subject and before my intervention in Canadian toxic waste in 1989 there were strong signs that the company disliked my increasing influence. And it wasn’t just the company. I also jarred with some pillars of establishment and, what’s more, by calling for controls on toxic waste movement, I was interfering with the politically idolised free market in Britain. Therefore, when I began my four-year journey to London’s High Court it was with the knowledge that I was on the wrong side of the British government, the regulatory authorities, some leading scientists, the chemical industry and some bastions of the broadsheet press.

Before arriving in London on that May morning, towards the end of our journey from Wales we had been stuck in traffic with the car’s engine overheating. When we eventually parked in Hammersmith, being late for The Strand seemed likely but we three were good runners and our sprints to and from underground stations meant that my solicitor, Sally Moore, came into sight under the High Court’s famous arch a few seconds before the ten-thirty time on the court summons. The tight timing was typical for me, since time had been in short supply over the whole nine years that I’d been on the toxic waste trail and especially during the period spent combating the writ. When gathering my breath on the steps of the iconic building, and taking in the size and splendour of the façade, I was relieved that the car hadn’t broken down, delighted by arriving on time and overjoyed at seeing Sally on the steps. When I crossed the threshold of the building, on a path frequently trodden by the famous, wealthy and powerful, I felt a further lift as the ambience of the building took me back to some special moments way back in my schooldays. The feeling lightened my step along the corridor. As the court assembled, the gravity of the occasion did begin to get to me, but only until the judge asked that opening question “Who is David Powell?” and from which my own curiosity was also triggered. When I peered into Judge Otton’s mind to pry into the reason for that question, the intonation in his “Who?” echoed in my head and I sought a deep explanation for my being where I was at that time. With a soothing sense of fate, it was in a flash that a window on my forty-five years of life opened and I glimpsed what may have predetermined that momentous morning in May 1993.

In my art lessons at Newport High School for Boys, one of my chosen topics was the history of architecture. For we pupils, who had been selected for academia through the eleven-plus tests, those lessons consisted mainly of copying illustrations from a book. Church doorways, windows, buttresses, roof structures and decorative features were our focus as we depicted their development through the ages. The book of churches was my sanctuary and the freedom I found in drawing from it was an escape from the crushing conformity of my school. I’d come from quite a poor background, though it took my entry to Newport High to make me recognise that. When I was approaching seven, my mother, father and I had moved from two rooms in a crumbling

Victorian house in the docks area of Newport to the comparative luxury of a new 1950's Council flat on the opposite end of the town. I liked my first school, the old stone-built St Michaels, despite the absence of vegetation around it, but when I saw the grass, trees, brick and glass of Malpas Court primary I didn't look back. Unfortunately, my next step to a prestigious Victorian grammar school was retrograde, and not just in appearance. I'd flourished in primary school but my joy in passing the Eleven-Plus results lasted only until I found out where I would be going next. My beloved Malpas Court primary had been built to serve the children of three Council estates plus a nearby group of Nissen hut families. Those estates were the steel houses, the four-bedroomed flatroof houses and the flats where I lived. At the age of eleven, without most of my friends from Malpas and feeling out of place at Newport High, the only ambition I acquired in the obtrusively ambitious school was to leave it.

Before I attended grammar school I'd not known children from other social backgrounds. Then I came face-to-face with elevated social classes, amongst both staff and pupils, in an ethos that was entirely alien to me. It wasn't just a clash of ideologies. The cultural differences stood out in attitude, mannerisms and in the spoken language. For a start I didn't sound my 'H's. Well, I could pronounce them properly but only with intense concentration. I recall the stress of being asked to take turns in the reading of novels, poetry and plays in class. When I spoke naturally, with the lazy Newport dialect, the letter H was silent. Vowels tended to be cut short or even eliminated and the *g* at the end of words such as *going* would be silent. In my own speech, all tenses tended to merge into the third person singular of the present and the word *year* doubled as the spoken form of both *ear* and *hear*. In my first English lesson at Newport High, one of the less haughty teachers, Mr. Lawrence, gave us some amusing examples of the wrongs in pronunciation. I remember seeing his chalk writing of *grofim* on the blackboard, instantly recognising it as how I would say "get off him". Mr. Lawrence said adding a verb to it could give *grofim fore I itsew*, containing the h-less third person singular of the verb "to hit", with the *y* missing from *you* to make it into a nasal *ew* and the beginning of "before" discarded. Again, he was demonstrating my language. Unable to compete in oral eloquence or even in the written form, I came to discover that the subject of Art was a great leveller, if only a fleeting distraction from my darker feelings about the school. Soon resigned to simply seeing-out my time for the sake of my parents' pride, I resolved to be immune to the scholarly ethos of the school and I counted the days going by as you would a prison sentence.

Despite my differences with Newport High, for most of the time I was not a conspicuously challenging pupil. Teachers would have thought me well-behaved and as someone who wouldn't talk out of turn in lessons, but they would have been wrong to consider my behaviour to be a sign of respect. It was simply that I'd decided where to draw the line on disobedience. I could suffer the stick or dapper in silence even though when such a thrashing occurred it usually did so because a few classmates had got us all into trouble, not because I had been difficult. Some teachers could strike forty bottoms in a couple of minutes and whilst I saw the injustice in that, I didn't complain. In fact, I probably helped the staff by occasionally exerting pressure on the misbehaving kids who brought those beatings on us all. It wasn't until there were fewer days left of my ordeal, than had passed, and when I was still conscious of the gulf between me and the school, that I eventually found something to narrow the gap.

It was competitive athletics that provided a lifeline, though not soon enough to stop shoots of subversive, secret protest emerging from an otherwise compliant individual.

In contradiction to the common ground I found in athletics, and without ever vocalising dissent, my boycott of school rugby was my first and most enduring achievement in school. From beginning to end, I played a calculated game of avoiding participation in the school's venerated alternative to soccer. It wasn't that I didn't like rugby, but because of the game's importance to the ethos of the school, I felt good about continually getting out of it. After leaving school it was another decade before I separated rugby from the bad vibrations of grammar school and I suppose I signed a mental truce when I then switched from the round to the oval ball and played rugby for twenty enjoyable years. Another protest that began further into my five years at the school, and which was even more significant in my survival, was my betting on horse racing at the bookmaker's. As well as being another comforting act of non-conformity, my calculations with gambling odds provided a wonderful distraction during lessons. There were a number of us who, at lunchtime, with our caps and jackets removed and school ties in our pockets, looked old enough to get into Eddie Lyon's betting shop in a cobbled Newport back-alley, I would bet in tiny amounts, purely for interest and never expecting to get rich. Anyway, by the time I was betting I'd actually come into money, as the highest paid paper-boy in Malpas. In that job, whilst delivering papers in the morning before school, I devoured the horse-racing form, the betting odds and the recommendations of every tipster. During the morning, in lessons, my head would be full of horses, courses, jockeys and trainers. Many heavy hours were enlightened by mental calculations of potential income from doubles, trebles, accumulators and Yankees and a great sense of liberation came from knowing that my mind wasn't doing what the school wanted it to.

The old, imposing school building, set on a hill behind the town's train station, was late Victorian but it lacked any of the mock-gothic attractions of the High Court. I found the architecture foreboding on the outside and far worse on the inside. It was dark and depressing with its windows above head height to match the austerity of the whole interior. However, as bad as life was inside the school, even that was better than the thought of the school extending its hold on me with homework. I quickly made up my mind to cut my connection with education as soon as the bell went at the end of the day and I achieved this by doing my homework between lessons and in any scraps of time I could find. I wasn't concerned about the standard of the work, only about being able to say it was done. My success in eliminating homework from home was marred on only one occasion when I was caught doing it during morning break – and I was told that I was cheating. It was the only time I ever vocally questioned punishment – before typically taking it politely on the backside. The incident only reinforced my view that doing the work at home was a sanction that I would not self-administer. That meant I could always run the fastest down into town to catch the bus home, because my satchel was never burdened with books.

In my rugby boycott, then through my anti-homework tactics and also in the betting, my conspiracies remained unnoticed. However, towards the slowing end of those long five years at Newport High, a more conspicuous, but still silent, form of protesting became part of my daily life. Blazers, caps, grey shirts, grey trousers and sensible black shoes were compulsory, with instant punishment for transgressions. In my mid-teens I somehow beat the system, by creeping up on it gradually until my tie was the

only remnant of school uniform left. One day when parading out of assembly with shoulder length hair, in a blue mohair suit, white shirt, brown winkle pickers and brightly coloured socks, the headmaster summoned me to his office at the top of the dark, stone stairway. I thought this could spell the end of my run. Dr. David Parry-Michael possibly wouldn't have known my name and he didn't ask for it. Instead, he just looked me up and down purposefully before casually remarking "Not quite what we expect is it?" I quietly agreed with his comment and with that he seemed to be satisfied. He sent me away without further admonishment. The encounter didn't change my style of dress, or the other dissenting positions I had adopted, but the unexpected empathy I felt running in both directions was probably the making of me, as, after going back down the stairs, I began to take an interest in what was left of my school education.

After breaking my tradition of secrecy with that challenge to uniform, the next protest was both visually and audibly noticeable. Approaching sixteen and being a highly paid paper-boy, I'd saved enough money for the deposit on a top-class motor bike. With hopes of a life in professional football fading, motor cycle racing appeared to be an exciting alternative, so I sent off to Kings of Oxford for a raceable Ducati Elite. On my way to school, I twice-daily checked the platform at the station until I saw it wrapped in corrugated cardboard and leaning against a cast iron pillar. The cardboard came off to reveal a blaze of Italian racing red. I wouldn't read school books at home, but before I decided on the Ducati I had devoured all the books on car and motor-cycle engineering that I could find in Newport library.

Even in today's more liberal times I can't imagine a pupil doing what I did with that bike. There were no rules for motorbikes in school because there weren't any motorbikes, so I rode it in through the gate, along the footpath past the gym and the full length of the rugby pitch, down into the play area near the entrance to the main building and then, with the galvanised roof resonating, into the cycle shed adjacent to the toilets. When shutting the throttle from high revs, the sound of the Ducati was music to my ears and I played tunes on the engine under the corrugated canopy. The noise must have been noticed by the staff in their nearby room, but nobody ever complained. My dress and the Ducati were both protests, but not wholly so, as they were manifestations of personal taste that also happened to serve my anti-school attitude. My ultimate school protest had quite a different character. It was far more symbolic, pre-meditated and even coordinated. As a last-ditch dig at the school, I targeted the subject of English Literature because I felt that there was a social class bias in the material we studied. To release my frustration I instigated an action in which I teamed up with two other boys prior to the subject's GCE examination. I proposed a threepenny bit from each of us to form a kitty payable to the one who could last longest before putting pen to paper during the exam.

In the school's Gym, which doubled as a theatre, we three were seated on the stage amongst a small group, in view of all those down on the floor of the gym. It was a perfect platform. My own aims were measured and I set out to answer questions only on Thomas Hardy and Shakespeare, as they offended me less than the set novels or the more contemporary plays. It meant I would need less than half of the time provided for the exam. With invigilators walking the boards with increasingly irate mannerisms, Fred Smith cracked and started to write after 50 minutes. It was an hour into the exam before I began writing and I was very happy with beating Fred and

coming second in the competition, in which Ian Thomas coasted to victory and took the money. The protest meant that I was bound to fail English Literature, but I reckoned that I would have failed anyway and the way I failed was my form of success. The refusal to write was a well planned and successfully executed protest which, again, achieved nothing more than personal satisfaction, since nobody of importance got to know the motive behind it. Beforehand, it had occurred to me that it would be useful to communicate the reason for my action, but I doubted that I was capable of doing that. A five year decline in my expressive abilities had meant that not only English literature was dislikeable but that I had difficulties with the English language. After my final fling, I promised myself that if I was ever to protest again then words would be as important as deeds. That was to be a life-changing decision.

Teacher “Arty” Evans had once suggested that a monastery was my destiny because of my work on church architecture and manuscript lettering. He explained that the tall, slender features of Gothic buildings were intended to evoke a proximity to heaven. I did find something sublime about elongated windows, arched doorways and pinnacles on high but I was equally interested in the science and engineering employed in the structures, so I ended up in industry rather than theology. Yet, when at the High Court thirty years after leaving school, the spirituality of my Art lessons returned amidst the mock Gothic splendour of George Edmund Street’s 19<sup>th</sup> Century design. Familiar with the building’s much photographed façade through TV and newspapers, and always knowing it as “The High Court”, I was puzzled just before setting off for London, as I checked the time and place. For the first time, I spotted that the address I due to be at was “The Royal Courts of Justice”. Not knowing then what I know now, I had anxious moments about my true destination before I concluded that “The Royal Courts of Justice” was indeed the name on the building, whilst the title I was familiar with was a collective term for both the High Court and the Court of Appeal. Ostensibly, my journey began when the writ was served on me four years earlier in 1985, but the real road to that writ was possibly pencilled-in during my industrial alternative to the monastic mission predicted by my Art teacher. My uncommunicated protest about English literature in school had taught me that protest without persuasion is pointless, so after my miss-spent schooldays, I grabbed every opportunity to bring my communication skills up from basement level and I acquired plenty of experience in persuasion along the road toward the ultimate war of words that awaited me.

The legal action against me arose from Radio 4’s “The World Tonight” broadcast on 9th August 1989, in which I was interviewed by the BBC’s Michael Woodhead when I led a campaigning network known as the “Stop Toxic Emissions Action Movement” (STEAM). The campaign was centred on the local incinerator, on my side of Pontypool, which imported the most detested chemical waste from all over the world - and notably from Canada. The media often called upon me to comment on events and I was kept busy on the day of my Radio 4 interview following action by Greenpeace at Tilbury docks. The *Khudozhnik Saryan* was carrying a small consignment of six tonnes of Canadian PCB waste in a freight container and the docks management had already intimated that the container would not be offloaded, but Greenpeace set out to ensure that the official position was maintained. Breakfast TV pictured the dawn raid where the environmental activists, in one of their high speed inflatable dinghies,



buzzed the incoming Balt-Orient Lines ship and draped a skull and crossbones on the side of the container vessel. The toxic waste duly remained on board.

Before that waste container encountered Greenpeace, Canadian waste was already in the public eye, with a 1500 tonne stockpile poised for the Pontypool incinerator via Liverpool docks. I'd been working closely with Greenpeace, keeping them in touch with our own efforts to thwart the arrival of the 1500 tonnes, whose origin was independent of the Tilbury cargo. Greenpeace's action aimed to draw attention to our larger target, which was scheduled to come across the Atlantic in a series of 15 weekly shipments. With Pontypool as the planned destination, there was uproar in the local community and when Tilbury's forerunner sailed into the news it sparked the emergence of a new Pontypool campaigning group that refreshed the opposition to the shipments. The group arose out of the concerns of local mothers and their command of the issue provided a new focus for the media and a headache for the regulatory authorities. They soon gathered the support of many generations of families, conveying an image that helped embed the protest intravenously in our region of South Wales. Greenpeace's action at Tilbury would ensure considerable media coverage of the forthcoming clash between the Pontypool protestors and the formidable forces in favour of the imports. Six tonnes at Tilbury was a skirmish. Fifteen hundred tonnes on an Atlantic shuttle service could amount to a large and lengthy battle. With an aim of changing the course of events, my comments on BBC radio, on the night of the *Khudozhnik Saryan's* fanfare in Tilbury, were important opening shots in that battle and unsurprisingly resulted in the writ from Rechem

In what I saw of the waste trade at the time, I often needed to do a reality check of my perceptions. What went on seemed too silly to be true. After leaving Newport High School, at the earliest opportunity I embarked on a long programme of alternative education, beginning with 'A'-levels at night school and eventually a couple of university degrees. In parallel with becoming better-educated, along the way I accrued experience of chemical process control, furnace management, international commerce and the regulation of industry. I believed I could justify my criticisms of Rechem's hazardous chemical waste incinerator in Pontypool and of the global business it was in. One of my first night-school classes was in Economics, at the former Bell-Vue primary school down towards the docks district in Newport and near my early home in Price Street. The school had become a centre for further education and although my own primary school had been St. Michaels, I got to know Bell Vue through my Liverpudlian mother, who worked in that school as a cleaner in the evenings. In one classroom, whose floor we had once swept and polished, I went on to learn about international trade organisations and their purposes. When, in 1984, almost two decades after that phase of education, I discovered foreign toxic waste arriving on my doorstep, I was suspicious about the rules governing the trade. When I thought about where waste fitted into theories of value, commercial principles and international regulation, I wasn't impressed. With its negative value I wondered why waste had ever become something for trading under normal rules. There seemed to have been an oversight and I suspected that toxic waste disguised in euphemistic terminology was taking advantage of it. It was haemorrhaging from places that had plenty but didn't want it, to places that couldn't stop it coming in. Relative affluence was part of that, as were national differences in environmental awareness. That's how I saw it when I first got involved; naively believing that it was just a matter of regulation needing to catch

up with modern materials and processes. However, I soon found other forces that acted as deterrents to progress, by working to conserve confusion so as to smooth the passage of waste along linguistically lubricated, legally defensible trails that defied logic.

Amongst the illogical idiosyncrasies of waste was an undeveloped idea of ownership. With normal goods, suppliers retain ownership until the goods are securely delivered to their destination. If goods can't be delivered they go back to the supplier and because most goods have some value, there's no incentive for ownership to be relinquished. It's more likely that normal goods would attract theft rather than become lost. With waste the incentives are reversed. Toxic waste is a large liability, with no incentives for it to be stolen whilst the loss of ownership can be very lucrative. In another quirk, just as waste had the potential to change its description as it passed over borders, toxic waste had a tendency to change its toxicity when moving from one country to another. I would joke that we hardy Brits should be proud of our ability to officially withstand concentrations of chemicals that would cause the people of weaker nations to fall ill.

Ironically, this slippery business was proudly defended by some great powers because the trade was said to be an indicator of economic progress and an essential feature of a free market. My expectations of strange goings on in the waste trade meant it was not entirely surprising for me to learn, in 1987, of the undeclared toxic waste that had hindered recovery operations in the Herald of Free Enterprise ferry disaster, or in 1988, of toxic waste consignments for Pontypool travelling legally on passenger planes from Canada to Heathrow. These were natural consequences of a system which could take advantage of varying national standards and irregular regulation. Some advanced countries were delighted to export toxic waste but hypocritically stifled imports. Ironically, many less developed countries with no home-made chemicals to export, didn't want imports but they lacked the power to prevent the unwelcome entry of waste.

Under the spell of free market ideologues, the British government strongly supported the global trade in waste and Britain's stance meant that the world's worst waste came to Pontypool, a relatively poor and powerless victim. Renowned for its role in the industrial revolution, a role that brought mixed blessings, and for its Chartist politics, the Eastern Valley of Gwent was no longer an economic or political stronghold. Perhaps those were the fertile conditions needed for the region's return to prominence, in the late 20<sup>th</sup> century, as an international toxic waste centre. Viewing it like this, on the receiving end of the waste and with the local incinerator's filthy emissions providing frequent reminders of the fallacious concept of waste disposal, I was highly motivated during the BBC interview on 9<sup>th</sup> August 1989. The coming of Canadian waste was a great opportunity for me to tell the world about Britain's so-called "solution" to the problems of other countries, even if it was difficult to do that legally. The difficulties became increasingly apparent as I later ran out of fingers, counting newspapers and broadcasters who yielded to the same chemical company, the same solicitors and the same legal processes that wanted me to submit in the same way.

## 2. Wandering Waste

When some of the heavily exploited less-developed countries took a firm stance against unwanted waste imports in the 1980's, I was happy – but not just for those countries. It was hard to envisage our own position in Pontypool improving until their problems had been addressed. Unfortunately, as the less-developed world began to repel toxic waste, the shortage of countries then willing to take it bad news for the public in Pontypool.

During my early years of campaigning I'd noticed the amazing journey of the *Khian Sea*, which set out from Philadelphia on August 31<sup>st</sup> 1986 with 13,000 tonnes of dioxin contaminated ash from a huge pile produced by the city's municipal incinerators. Philadelphia had gone big on burning, but didn't want to keep its toxic residue. The sub-contracted ship carrying the ash was first ejected from its expected destination of Ocean Cay in the Bahamas. It then wandered through the Caribbean and along the Central American coast as it approached at least seven countries as prospective recipients of the waste. A bungled attempt to find a consenting destination ended with some 3,000 tonnes of Philadelphian incinerator ash being left onshore in Gonaives, Haiti, where the waste acquired a suspicious identity as fertiliser. The vessel hastily sailed off in defiance when the Haitian government ordered it to reload the landed ash. Now on the run, the *Khian Sea* turned back towards Philadelphia after nearly two years at sea, still carrying most of its cargo. The return of the vessel to US waters illuminated the irregularities in waste ownership when Philadelphia disowned the ash and banned it. The encumbered *Khian Sea* slipped away again, into the night, with the waste that had been legally removed from USA responsibility. That particular cargo was never a prospect for Pontypool, particularly as it wasn't really toxic enough for our local plant, but it was an alarm bell for us. In a different time and context we were to experience the operation of the same non-return valve for American chemicals but back then, after leaving the US waters for the second time the desperate vessel undertook a longer and even more infamous voyage. A detailed Greenpeace account tells of the wandering waste ship re-appearing, now renamed the *Pelicano*, off the Singapore coast some 27 months after it first left Philadelphia. It had unsuccessfully tried 15 countries in five continents, under three different names. By that time, the vessel's holds were mysteriously empty, despite its failure to find an accommodating country.

Closer to home, and during the time of the voyage of the *Khian Sea*, Italy was involved in some major waste scandals that did eventually impinge on Pontypool. It wasn't uncommon for waste brokers to collect unwanted chemicals from different sources, in the hope of somehow finding a home for them, but with welcomes wearing thin the lucrative business was becoming increasingly risky. One cargo that helped sensitise the European public to the dark underbelly of the waste trade was the collection of cast-off chemicals on another vessel, the *Zanoobia*. When, in humiliation, the vessel took its wandering waste back home to Italy in April 1988, it was denied permission to offload the array of chemicals at the very port from which the Italian authorities had waved it goodbye some fourteen months earlier. Like the Philadelphian's, they wanted their 'goodbye' to be forever. The waste's return to Italian waters had followed an unfruitful excursion to Greece when approaching the end of its meandering cruise on several vessels and with two visits ashore for the

waste. First loaded onto the *Lynx* in Italy, the 2,200 tonne toxic cargo had been assembled by a company with the nice name of *Jelly Wax*. The cargo was originally intended for the desert but it was repelled from the tiny nation of Djibouti on the horn of Africa. On a different continent, Venezuela was initially more accommodating and the Italian collection of waste resided in Puerto Cabello for six months, whilst attitudes changed. Concern arose over leaking barrels, ailing residents and the death of a young boy prompted the Venezuelan government to order the waste to be sent back home. The material was then transferred to the *Makiri* but, predictably, it didn't go home to Italy. Along with a good deal of money, the cargo found itself on land again, in Tartous, Syria. That was before Syria's uncompromising government stepped in.

Enter the *Zanoobia*, a vessel whose origin, ownership and track-record were disputed. The *Zanoobia* removed the waste from Syria and tried to land it in Greece before the vessel's desperate, chemically debilitated crew finally turned the boat back to its port of origin in Italy. When the waste originally left Marina di Carrara in February 1987, it did so with inadequate documentation. It was now refused entry to the same port for the same reason. As the condition of the crew deteriorated amidst the leaking chemicals, the captain pleaded for mercy and the authorities allowed anchorage in Genoa, though not without a dock-workers' dispute about the condition of the waste and the predictable arguments about ownership of both the waste and the vessel. In pass-the-parcel style, Captain Tabalo of the *Zanoobia* declared *Jelly Wax* the owners, whilst *Jelly Wax* claimed that the Syrian company *Samin* were the new owners. The cargo's negative value had multiplied and when it was eventually off-loaded at arms-length from the population, onto a floating dock, I suspected that it would not be staying in Italy. The grapevine went quiet, until in October 1990 ReChem's external affairs manager acknowledged that some of the *Zanoobia's* waste had resumed its epic journey to end up in Britain, with the company I had pencilled-in for it two years earlier.

In the same era, another wandering waste ship temporarily came closer to home before its cargo also acquired a permanent Pontypool connection. Widely publicised in Western Europe because of another Italian debacle, was the name *Karin B*. Britain had already played a bit-part in the *Karin B's* long running drama well before ReChem's eventual involvement. The waste scheme at the centre of the drama was masterminded by two Italian broking companies: *Jelly Wax* again, together with a company bearing the even more superficially attractive title, *Ecomar*. Unbelievably, between late 1987 and May 1988, eight thousand barrels of toxic waste accumulated on rented property in the small port of Koko, Nigeria. The official importers went under the title of a construction company and one description disguised the chemicals as "Substances related to the building trade". When the truth surfaced, the Nigerian government acted. Mass jailings, threats of execution, the recall of the Nigerian Ambassador from Italy, the seizing of an Italian ship and the demand for one million dollars in compensation were amongst the repercussions. This episode served to unite African nations in opposing their treatment as chemical dumping grounds and it also disrupted plans for projects to use Africa for radioactive waste.

Along with its sister ship the *Deepsea Carrier*; the *Karin B* was commissioned to remove the waste from Koko, Nigeria. The vessels left for Ravenna, Italy, but changed course after Italian officials characteristically objected to the return of Italy's own waste. In the glare of the world's media the *Karin B* was then banned from

docking in France, the Netherlands, Spain and Germany. In the light of the UK's lenient policy on waste imports, British waste company Leigh Environmental offered to take the cargo, until, under the pressure of publicity, our government's Virginia Bottomley famously found a technical reason to turn it away. There was no U-turn on policy and the refusal wasn't a point of principle for the government – it was simply said that the waste needed better packaging. On September 2<sup>nd</sup> 1988, the Italian government finally ordered the two wretched vessels to bring the waste back home. The homecoming plan crumbled as three prospective ports of entry experienced protests and blockades. The deadlock was partially broken when, with chemicals now leaking, some crew members of the *Karin B* fell ill and were allowed ashore. The vessels remained at anchor in different locations before beginning to offload the wave-weary material in December 1988. I again assumed, that with this cargo being so hot to handle, ReChem would one day feature in its obituary and as usual I kept my ear to the ground to detect any movement. Official information was usually hard to come by, since companies and regulatory bodies would rely on commercial confidentiality to prevent disclosure. After several rumours, followed by a two-year silence, one morning I had an anonymous phone call from Cardiff, which I judged to be from an employee of a transportation company connected with rail transport. He gave me details of 800 tonnes of waste now on the move to Britain and thought to be from the *Karin B*. Official sources denied that it was happening and there was little time for me to do anything about it but the storyline was ultimately confirmed by an official admission that Pontypool did become a final destination for some of that infamous, wandering toxic waste, albeit better packaged, from the notorious *Karin B*.

Environment Minister Virginia Bottomley had had gained popularity with her temporary diversion of the *Karin B*'s waste, but any hopes that it reflected an enlightened attitude to the waste trade were ill-founded. Britain was up to its neck in the booming business and Dennis Thatcher, husband of the Prime Minister, was sitting on the board of the major waste company *Atwoods*. Waste imports into the country had shot up through the 1980s, and the toxic proportion of those imports more than matched the general growth in the waste trade. Even then, official figures that flagged-up a massive increase in the trade were most likely understated due to inconsistencies in classifying the categories of waste. For example, on paper, Austria exported far more hazardous waste to Britain than Britain imported from Austria - because some waste classified as hazardous in Austria could be classified as harmless in Britain. Whilst less-developed nations were beginning to act aggressively against the world's waste trade and some developed countries developed imaginative excuses to support toxic waste's exportation but not importation, in Britain the importation of waste steadfastly remained a proud manifestation of the government's ego.

I had long been accustomed to the tendency of the global waste market to contradict common sense and to evade the application of fundamental environmental principles. In 1972 the United Nations Stockholm Declaration said that one state shouldn't cause environmental damage in another state - but that principle didn't to stop the flow of toxic waste across national boundaries in the 1980's. The EEC Waste Framework of 1975 had also established the principle of regional self-sufficiency in waste disposal, but the European Transfrontier Shipment of Waste Regulations seemed to subvert the EEC's own principles by using a tick-box system that effectively legitimised waste movement. Coupled with the quickening pace of environmental regulation in some

countries in the mid '80s, the European administrative process for hazardous waste actually drove more of the stuff to Pontypool, because more environmentally concerned countries could sanitise their waste exports by ensuring that the packaging and paperwork was in order.

On the surface, by 1989 when Pontypool's prominent place in the global waste business was beamed around the world during the Canadian PCBs controversy, many European countries were content with their dirty washing being out of sight in Wales and officially in compliance with the Stockholm Declaration. After all, in the 1984 EC Directive on transfrontier shipments of hazardous waste, Europe seemed very strong on principles. Contemporaneous OECD edicts could be taken as another sign that tight controls were in hand. However, evidence that the words in use were woeful came with the wandering waste ship scandals of the late 1980's and the accompanying international attention catalysed calls for tougher controls. Some countries didn't wait for the bureaucratic wheels to turn and unilaterally banned hazardous waste imports. Under pressure from African states in particular, The United Nations Environment Programme was enlisted. There were high hopes that it would prevail but the outcome wasn't what most waste victims wanted. The early OECD waste controls had formed the foundation for a multilateral treaty with principles which superficially discouraged the export of hazardous waste from industrialised to developing countries but which, in practice, sanctioned the trade. It was in Basel, on 22<sup>nd</sup> March 1989, that a politically influenced agreement emerged from the new deliberations, with some of us viewing the outcome it as years of work torn up in tatters. Up-front in "The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal" was, indeed, a principle which we campaigners had been trying to impress on officialdom. It was to reduce the movement of the waste by dealing with it as close to the source as possible, thereby reflecting the proximity principle of the 1975 European Waste Framework Directive. However, this laudable aim was not in keeping with international free-trade and it was destroyed by the devil in the detail.

Only one-third of over a hundred countries who were present in Basel signed the treaty, whilst many were dismayed by there being no outright ban on the toxic shipments from rich to poor. The list of those who did sign-up was well-populated by powerful industrialised nations. African, Latin American, Asian, Pacific and Middle Eastern ministers refused to agree to a system that could actually lubricate the wheels of the waste trade and which also provided scope for hazardous waste to be fast-tracked under the guise of materials for recycling. With the Basel Convention reinforcing the false fair-trade status of toxic waste, I envisaged a long road ahead. Keeping the international waste under the same umbrella as normal trade had never been a solution for me and, just like the Treaty of Rome, the Basel Convention appeared to give the continued trade in toxics its blessing as it, perhaps unwittingly, reinforced waste globalisation. The idea that the Basel outcome resulted from a clique of vested interests was supported by a *New Scientist* article saying: "In a classic ploy . . . the governments of the rich nations, led by the US, Britain and Japan, introduced new points in the last minutes of the negotiations and this resulted in losing nearly all the safeguards sought by the developing countries." When the treaty was signed, Greenpeace summarised events in Basel even more concisely, with a banner mounted on Basel's Plaza Hotel reading "Basel Convention legalises toxic terror".

As European and global bureaucrats were sanitising the toxic waste trade in the late 1980's, campaigning despair continued to deepen as the ideological march towards a single European market gathered pace. The future could see waste tourism enshrined permanently and the conventional wisdom behind that idea was one of the targets of my own words on BBC Radio's "The World Tonight".

### 3. The Warning after “The World Tonight”

When Pontypool’s value to the toxic waste trade was escalating in the late 1980’s, the everyday presence of foreign waste consignments on local roads increasingly attracted my attention. Since most details of the waste shipments were kept as a commercial secret, inspecting the arrivals up-close was the best way for me to learn more about the material. By following vehicles with unusually marked containers or chemical tanks, I learned of lay-bys and side roads where they would sometimes park-up. Typically, at dusk, I’d stop my car out of sight and then tiptoe around a resting vehicle whilst rapidly noting down the haulier, the shipping company, any foreign markings I could find and the code for the type of substance. Occasionally I could quickly deduce the specific chemical and the source of the material but more often the jottings from my evening investigations were only pieces in a jigsaw. That’s when I began my fruitful association with the local authority. It was Torfaen Borough Council’s job to process the paperwork for incoming waste and to ensure the information was kept under wraps. One day I questioned an environmental health officer more than usual, about a particularly interesting looking consignment. He said: “I suppose if you ask me a direct question I’ll have to answer it” and I did so, using the information I’d already obtained to extract a series of yes/no answers. The breakthrough in methodology helped me discover the worldwide web of waste of which Pontypool was the hub.

As time went by I progressed from sneaking around lay-bys in dim light and surreptitiously soliciting information, to asking foreign governments’ point-blank questions about their long-term plans for toxic waste. By various means I discovered locations abroad where nasty chemicals and the public living near them were becoming jittery, as their politicians grew desperate for solutions. One notorious stockpile of PCB waste in Quebec was a potential Pontypool payload, though in January 1989 the Canadian government assured me that it would not be exported. Then in the summer of that year I was shocked to learn that the Quebec waste was beginning to leave Montreal for Pontypool, and the ensuing controversy stemmed from the breaking of the Government’s promise to me. The interview for *The World Tonight* was recorded remotely in the local Cwmbran studio of BBC’s Radio Gwent on 9<sup>th</sup> August. In the afternoon of the day the *Khudozhnik Saryan* had been hassled by Greenpeace on its arrival at Tilbury docks, I sat wearing headphones in Cwmbran and speaking to Michael Woodhead in London. In the broadcast of the recording at 10 pm, anchor-man Alexander MacLeod introduced the interview and set the scene by stating that toxic waste imports to the UK had increased twenty-fold in the last eight years. Then Woodhead began the long interview by asking me about events at Tilbury, before he turned his attention to our local push to prevent the 1500 tonnes of dioxin contaminated Canadian PCB waste coming to Pontypool.

By then I’d become accustomed to anticipating media questions and planning answers which would convey the key campaigning points. Not only that, I was confident that I could do it with an accuracy that would make it difficult for Rechem’s legal hawks to get me, even if it drove hell into them. I also knew that my comments simply wouldn’t be broadcast if I said anything considered risky by the ultra-sensitive BBC, who had already given in to one ReChem writ. As always, my dilemma was that



whilst it was easy to be legal, it wasn't easy to tell the whole truth and still be legal, so I'd become accustomed to sailing close to the wind. For that crucial interview, which I knew would go world-wide, I needed to make a number of points that the BBC would see fit to broadcast but which would still have a strong impact on international opinions. With no room for error, I crafted every point I wanted to convey before I went into the studio and I kept the words in my head waiting for an appropriate trigger from the interviewer. Most importantly, whilst some theoretical aspects of the issue could have provided a safe platform to speak on endlessly, here I wanted to emphasise the reality of living with the incinerator, so as to kill Canadian presumptions that Pontypool provided a perfect solution to their problems. I also wanted the Canadian and British governments to know what they were up against if the movement of the waste continued.

ReChem had proved invincible in the legal arena but the company had steadily been losing the popularity contest. For five years, I'd helped educate the media about the chemistry, toxicology, technology, law and the politics of the toxic waste management. In the beginning it was hard work, cold-calling journalists and trying to interest them in this new subject until, by 1989, there was growing enlightenment in the media and the telephone traffic was now in my direction. The subject could be complex but the issues covered on *The World Tonight* were quite simple. Neither the BBC nor I wanted to talk about chemistry, toxicology, intricacies of incinerator design or the small print of international regulation. The spotlight was on our campaign, its motivations and our intentions in relation to incoming Canadian waste. My main aim was to counter the propaganda from industry and government which portrayed Britain as having the answer to the prayers of overseas politicians who were looking for a quick fix. After the interview I was happy that my comments were a fair reflection of the way we saw things, whilst local, litigious, incineration company took issue with both the BBC and me.

Personalised legal approaches from ReChem weren't entirely new to me, as I'd first been threatened with court action soon after I started campaigning. ReChem was then part of the huge British Electric Traction group and the company clearly had top-drawer legal assistance. As early as November 1985, B.E.T.'s lawyers, Nabarro Nathanson, wanted me make an undertaking to "... forthwith cease attacks on our client or its subsidiaries" or else face legal proceedings. I didn't make the undertaking, I didn't cease attacks and though no further legal action followed at the time, I knew I was a marked man. A couple of mistaken enquiries from the police in connection with criminal activities suspected of being linked to the campaign also helped keep me on my toes. However, I always felt secure in the belief that my criticisms were justified and I also enjoyed the thought that, in not having as much as a speeding fine or a parking ticket against my name, I had far less to feel guilty about than the incinerator company had. Whilst I can't pretend that the feeling of being under constant scrutiny was pleasant, the upside was that the attention served to sharpen my senses.

The image of ReChem's incinerator burning waste from all over the world, in the hollow of a valley and surrounded by thousands of homes, had been widely publicised locally and nationally. Sometimes public concern over birth defects in the locality was reported. A first phase of Rechem's litigation, that which occurred shortly after I became involved in the campaign, had already succeeded in making much of the media painfully timorous. With the coming of the Canadian waste in 1989 the legal action

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