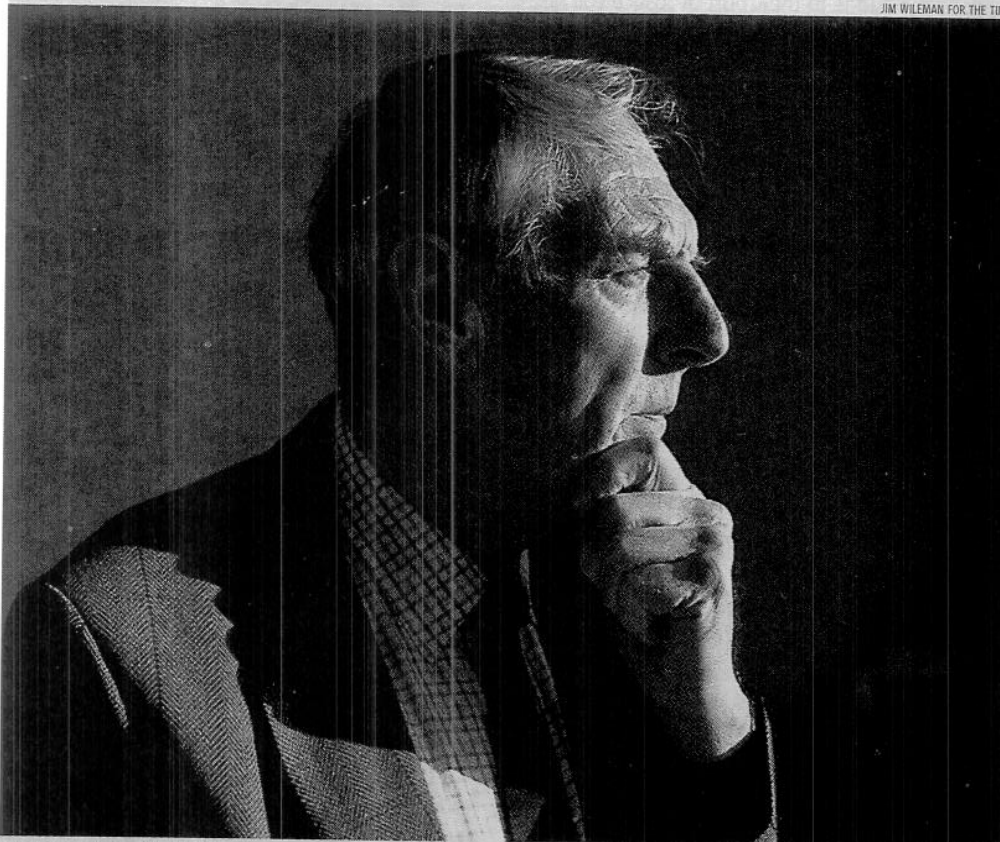


ies honour their
opposition in Monday's
ie Extradition Act 2003?

Todner, Gary
non's lawyer, on
hetimes.co.uk/law

Law



JIM WILEMAN FOR THE TIMES

biology of death. Yet he apparently chose a most uncertain method of suicide. It is inconceivable."

the case for an inquest

bb why he is
rly examined

knew the biology of
arently chose a most
of suicide. It is incon-
dence also "puts into
nd stated cause, over-
s with findings "un-
base any conclusions.
o now known as Dr
itling in the media),
e, Sue, in Devon. He
's Hospital, Padding-
a Fellow of the Royal
ons in 1969. He was
bay Hospital and the
1 Orthopaedic Hospi-
5. "I dealt with all the
en I was on duty," he
I had to repair the
ves in the wrists of
o had slit their wrists
elief that they would

of the Attorney-General not to exer-
cise his powers under Section 13 of the
Coroners Act 1988 to seek an order for
a new inquest is unlawful.

Mr Halpin added: "In opposition, Mr
Grieve indicated that he was minded to
order a full inquest into this suspicious
death. He wrote that he was aware of
our work and said: 'It seems to me that
they have been able to make an
impressive and cogent case'.

"Sadly, and for reasons best known
to himself, he went the other way as

Dr Kelly's two arteries would have quickly shut down and clotted

soon as he gained office. We know that
in every case of unnatural death a
coroner must pronounce on that death.
But here, the inquest, such as it was,
was subsumed within the Hutton
inquiry and, in our opinion, was a
subversion of the legal process."

Dr Kelly was reported to have com-
mitted suicide after being named as the
prime source of a BBC news report that
accused Tony Blair's Government of
misleading the public to take Britain
into the Iraq war. An inquest was
opened but adjourned when the Hutton
inquiry was announced by Lord Falcon-
er of Thoroton, the day Dr Kelly's body
was discovered. After Lord Hutton re-

ported, Lord Falconer accepted the con-
clusions and asked the Oxfordshire Cor-
oner to see if there was an exceptional
reason not to resume the inquest. The
coroner, Nicholas Gardiner, concluded
in March 2004 that there was not.

Among points to be made by Mr
Halpin's legal team are that the deci-
sion to set up the Hutton inquiry was
made with "undue haste" and involved
Lord Falconer blurring his political and
judicial responsibilities, in breach of
the separation-of-powers doctrine;
that an ad hoc inquiry was exceptional
for a case involving just one death; and
that the Attorney "acted unlawfully"
when he refused to seek an inquest in
that he undertook his own personal in-
vestigation into Dr Kelly's death.

Mr Grieve himself described this
investigation as a "very unusual step".
But, lawyers say, he should only have
considered if a new inquest might
result in a different verdict and, even if
not, whether one should still be
ordered. The likelihood of the same out-
come does not debar a fresh inquest.

While the other doctors support his
legal action he will be on his own in
court: the others have concerns about
costs and one has pulled out for family
reasons. Mr Halpin has set up a Dr
David Kelly Inquest Fund and raised
nearly £50,000 to cover the legal fees
from about 800 donors worldwide. He
and his wife have contributed £5,000.

"What has motivated me in soldiering

Collaboration that knocks divorcing heads together

If a divorce lawyer fails to get a husband
and wife to agree amicably, he or she
can usually relish the prospect of a
lucrative courtroom battle (*Frances
Gibb writes*).

Not with collaborative law. And that,
Lord Wilson of Culworth said this week,
is one of the key things about it. If the
lawyers fail to knock heads together,
they are off the case and new lawyers
are instructed for the court proceedings.
All parties sign a written agreement to
that effect.

"The solicitors are therefore seen to
have no interest in the continuation of
the dispute," Lord Wilson said. "The
parties have every interest in not being
obliged to dis-instruct solicitors in whom
they have confidence; and, in the
dialogue, each can respond freely to the
other's solicitor, without suspecting that
he is collecting ammunition for use in
court."

Lord Wilson, the newest Supreme
Court justice, was speaking at the
Reform Club in London for the launch
of the rebranded Collaborative Family
Law, the association of lawyers trained
in and who promote this non-combat-
ive form of resolving family disputes.

The idea came to the UK from the
United States about eight years ago and
now has all the leading family law firms
on board.

And its popularity can only grow,
with no more legal aid for divorce-
related disputes and couples to be
required to consider mediation. This
week Professor Rosemary Hunter, of
the University of Kent, gave early find-
ings from her research into out-of-court
family dispute resolution. Of 2,974
people contacted who had undergone
divorce since 1996, 292 had been offered
collaborative law. The number is small
but it is still relatively early days. Of
those, though, 80 per cent took up the
offer and 66 per cent who did so were
either satisfied or very satisfied with the
outcome.

Lord Wilson warned that there will al-
ways be a hard core of disputes that go
to court. He gave five main reasons: lack
of legal advice (and without legal aid, he
predicted even more disputes ending up
before a judge); "wrong" legal advice;
lack of clarity in the law; a refusal by hus-
band or wife to deal honestly with the
other and emotions such as fear, mis-
trust, anger or revenge infecting a per-
son's ability to accept advice and settle.

Going to court, he said, had five main
disadvantages: cost, delay, publicity,
uncertainty and the emotional burden.
But his message was chiefly one of "un-
alloyed support". In the end, it was vital
that all cases that can be settled [out of
court] should be settled.

www.collaborativefamilylaw.org.uk