Wednesday, 11 May 2011

(9.30 am)

DR PETER FOSTER (continued)

Questions by MS DUNLOP (continued)

THE CHAIRMAN: Good morning.

Ms Dunlop, Professor James has had a look at the Minor article and if you find it convenient at some time, he can let you know what he discovered about the results. Very briefly, the difference between the United Kingdom and the American samples does appear to be, in the first place, one or other of two, that the first generation test perhaps wasn't as sensitive to what was not then known as a genotype difference but as the sort of typing generally, and also there was a dilution factor because it emerged that when the American samples were diluted down, the measurements were roughly the same. But Professor James can give you the full detail if you wish to get it some time.

MS DUNLOP: I should say, sir, I did look at an abstract of this paper in my preparation but I decided that it was more for hepatitis-related issues.

THE CHAIRMAN: It is.

MS DUNLOP: Rather than getting into that at the moment, it might be best to defer it.

THE CHAIRMAN: That's why I'm not expanding on it at the

moment but just to tell you that Professor James does have the material.

PROFESSOR JAMES: It was just a loose end yesterday, so I thought I would tie it up.

MS DUNLOP: Thank you.

Good morning, Dr Foster. Could we go back to your statement, please, which is [PEN0150101]. If we turn on to the second page, perhaps even the third page, that's really where we left it yesterday, when we digressed to a large degree, but we went from the end of that first paragraph on page 3 to look at the paper that you had provided and we concluded that yesterday.

To return then to your statement and to take it from that section you have labelled A2, "The policy of the United Kingdom Government on self-sufficiency", you refer to the establishment of policy by the UK Government and you say that there is a mention of 1974 in the preliminary report. In fact we have also now looked at statements from Hansard in January and February 1975, which you also mention and you refer to in your paper.

You then go on to tell us about December 1980 and a proposal to privatise BPL, and you outline your involvement. That you have developed a little bit over the next few pages. Could we perhaps look at what you

have said. So can we scroll down. We note that you were assisting via the trade union, ASTMS, of which I take it you were at the time a member?

A. That's correct.

Q. Those of us over a certain age can probably remember the general secretary, Clive Jenkins. So that was the profile of the union if you like at that time, the public face of the union. I suppose this relates to some extent to there having been a change of government in 1979, does it?

A. I think the policy concerning the possibility of privatising certainly would have been due to the change of government.

Q. If we look on to the next page, we can see that what you are actually telling us about is not the World in Action programmes with which we are more familiar, but World in Action in 1980. So five years beyond the programmes we have watched. Taking it really short, there was an intention to show a World in Action documentary about the proposed privatisation, which seems to have been going to take the form of a sale of BPL to Beechams. You were involved in that but then, if we read down to what you say about November 1980, we can see that the sale did not go through. If you go on to the following page. That change of course seems to have

been described in the programme as a surprise U-turn.

Then in the section headed "Impact on Scotland", you have looked at what might have happened if that privatisation had gone ahead, but it's not my intention to ask you any questions about that, Dr Foster, because I think you will accept -- and indeed you say so yourself -- that this is hypothetical because the sale didn't go ahead.

A. Absolutely.

Q. Yes. Then can we move on to page 6 as well, please?

Can we go into section B and go through your chronological response to the matters raised. Before doing so, however, I did want to ask, I don't think you tell us about the 1975 World in Action programme. Did you see that at the time?

A. Yes, I did, we were well aware of it because John Watt took part in it and they filmed him on site. So we all knew something was going on and we all sat by the television and watched it.

Q. I can imagine. Do you remember it being quite a talking point for some time?

A. It probably was, yes.

Q. So that's less clear than the recollection of you all sitting round the television watching, is it?

A. We certainly would have all watched the programme and

talked about it. But it was a very long time ago, so I can't say anything more than that.

Q. Yes. Just noting what you have said from 1981 onwards --

THE CHAIRMAN: Sorry, can you remember what impact the programme made on you at the time?

A. It's really hard now, with so much hindsight, to really comment on that, but, I mean, I think we thought it was something that certainly supported what we were doing.

THE CHAIRMAN: Sorry, Ms Dunlop.

MS DUNLOP: Yes. I just wanted to note, I think really without questioning you, what you say, firstly about 1981 and then 1982, the congress in Budapest, and we have actually already looked at the section from your report in which you record Dr Aledort's reference to the problem in the treatment of haemophilia. You clarify that the copy of your report -- and now we are reading from the next page -- cited in the preliminary report is complete, and actually I think the footnote in the preliminary report is inaccurate in saying we didn't have a complete copy. It was written when we didn't but then we did and the footnote wasn't changed. So we recognise that we have a complete copy of your report, which is a very full one.

It's perhaps worth noting that you have given us

your own response to the information from Dr Aledort at the end of the first paragraph. You say:

"I assumed that these patients must have been homosexual men who were also haemophiliacs."

So not really a piece of information that had a big effect on you when you heard it?

A. I do remember the presentation and I do remember looking around the room and there was no response from anybody whatsoever, and my assumption was these must be gay men who are haemophiliacs, because I was aware that this was known as a gay-related immunodeficiency. That was the title that the illness was given.

Q. I suppose what you are saying about your assumption, your assumption that the patients must have been homosexual men who were also haemophiliacs, if that were so, then the mechanism, whatever it was, would be the same in these three people as it had been in the other people of homosexual orientation who had acquired the infection, and the fact that the people also had haemophilia would just be incidental?

A. Whatever the cause of the condition, that would be because of this sort of link with gay people. It would have been responsible.

Q. Yes. Then you say in relation to the MMWR, when you attended the congress, you hadn't read the account of

the cases -- that's the three people -- in the July 26th issue of MMWR:

"Although PFC subscribed to MMWR, delivery of the journal from the USA was slow."

Was this a journal that was circulated around PFC with a circulation list with certain names on it and people ticked their names off? Is that correct?

A. Quite the contrary.

Mr Watt, he actually wasn't very adept at reading many journals, but it was the one he always looked at and he actually insisted that as soon as it came in the librarian would give it to him and he would read it and mark whatever he thought anyone else should look at, and then those pages would be copied and circulated.

When he had finished with it, it might go to Dr Cuthbertson who would do something similar, then it would be filed in the library for anyone else to go and look at. I have to admit, because I had many other things to get on with, I would rely on Mr Watt's judgment as to what I should read and shouldn't read from this journal. We actually still have the original copies and we can go back and see which pages he marked and which ones he didn't.

Q. I was just thinking of what you said yesterday about your responsibilities for the library.

A. Normally you are right. The journals would come to the library and they would go on the stand and people would go and read them in the library. This was not the case with MMWR. It would go to Mr Watt into his office and it would almost be his personal copy that he would then annotate for people to circulate copies to.

Q. Although you had a great deal on your plate, would you pay attention to whatever he had marked?

A. Oh, certainly, yes. I relied on his judgment very much.

Q. So that was a must-read?

A. Yes.

Q. Right. Then you say -- and this is (iv) -- you saw another television programme on AIDS in late 1982 and in that programme a parallel was drawn with hepatitis, and that comment led you to believe that a blood-borne infectious agent was the most probable cause of the syndrome.

Then you take us to 1983. You were invited by Dr Ludlam to give a talk to his department on the progress towards the development of non-infective blood products. We are just going to have a quick look at the notes of your presentation, Dr Foster. That's [SNB0073503].

Dr Foster, can I just ask you, when I see this, it's a particular typeface. Nowadays I want to call it

a "font" but I think in the 1980s we probably called it a "typeface". What were the arrangements in the early 1980s for the preparation of typed documents? Did you and Dr Perry share somebody who always typed in this font?

A. We had a number of secretarial staff and I guess they used that style. I can't really say more than that.

Q. Right. It's just that from time to time we come across a document which is anonymous, it is not signed or named or anything, but this is quite a common typeface. So --

A. This was something Mr Watt was really quite fastidious about. So he may have had said, "Please, all use this same typeface". But I'm speculating.

Q. Right. But he didn't say to everybody that they must put their name on any document they authored?

A. I don't remember him saying that, no.

Q. I don't imagine that anybody, Dr Foster, ever imagined that here today we would be looking at these documents and puzzling over who wrote them. So it's not a point of any significance, it's just that it's quite helpful sometimes if you can work out who is behind a particular document.

Just to look at page 2 of this, please, why did you put Factor VIII and Factor IX in the high risk column?

A. Because, compared with albumin, they were regarded as

products that had a risk of transmission of hepatitis.

Q. Yes. And this is really hepatitis you are talking about, obviously?

A. That's correct.

Q. Yes. But if we look at page 5, I think this is the reference that you are meaning when you say you referred to the possibility that AIDS might be caused by a blood-borne infectious agent. Is that it?

A. That's right.

Q. And problems?

A. These are basically bullet points as an aide-memoire while I'm giving the talk. This is not the whole talk obviously. But the bullet point is there to remind me just to mention AIDS as a possible infectious agent.

Q. Thank you.

Can we go back to the statement, please, just to read on. You don't remember if you commented specifically on commercial products as opposed to UK-derived products. But you say:

"As commercial products were derived from USA donors and the epidemic of AIDS was much more advanced in the USA than elsewhere, I believe that this would have been self-evident."

So to you it wasn't a complicated puzzle?

A. I mean, it seemed to me at that time that AIDS was very

much the epicentre of that was in America and therefore you would almost certainly assume that, if there was a problem with blood products, then you would see that in the American products first.

Q. You wrote a memo to Mr Watt on 3 May, concerning the strategy on heat treatment, and that's something we are going to look at when we come to have our evidence on topic B3.

A. Can I just comment that I would regard that as what I would call scenario planning for the future. I wasn't by any means being definitive about that.

Q. Indeed, but it was in your mind that this was a risk that you were possibly, probably, going to have to take into account in your viral inactivation work.

A. Yes, looking into the future and planning out scenarios, this was a possible scenario, yes.

Q. I don't want to put words in your mouth. How would you like to put it? Was it sensible to plan for it or was it a possible risk, a probable risk? How would you pitch it?

A. Somewhere between possible and probable. It's maybe in between there but I don't know if there is a word that would fit it.

Q. Then you say you were not aware of Dr Galbraith's recommendation on 9 May 1983. You mention a letter that

you wrote on 9 June 1983 to the ASTMS divisional officer, Gordon Craig, again. And we are going to come back to that. May 1983, Dr Boulton's letter. Did you know of this letter at the time?

A. No, I didn't.

Q. Can we move on to the following page, please? You clarify for us the proceedings in Sweden. I don't think we fully understood until we had your explanation what the nature of the proceedings was -- that firstly, there was the congress of the World Federation of Haemophilia between 27 June and 1 July, that was at the Karolinska institute, which is, what, an university, teaching facility, or a medical research facility?

A. It's a university-type facility.

Q. Yes. Then secondly, there was the congress of the International Society of Thrombosis and Haemostasis, following immediately afterwards. Between 2 and 8 July 1983, not at Karolinska but at the conference centre in Stockholm. Is that right?

A. That's correct.

Q. Just if you could go back up, please. You gave a paper, invited by Dr Mannucci, which was actually about yield of Factor VIII but you also remember that at the congress Dr Evatt gave a very detailed account of the situation concerning AIDS and you were obviously at

that?

A. I did attend that, yes.

Q. Yes. I think it's one of these moments that those of us who have attended conferences will recognise, that people, speakers are asked to submit their papers in advance so they can be bound and issued to the delegates, and it looks as though Dr Evatt hadn't managed to do that?

A. That's correct. There was a book of abstracts handed out and his abstract was blank. Perhaps because the field was moving so quickly that he wanted to give us the most up-to-date information.

Q. You say the proceedings of the congress were published in the Scandinavian Journal of Haematology, and there is actually also quite a full account of it in Douglas Starr's book. No doubt a much more narrative account. You may be familiar with it?

A. I have seen his account, yes, I'm not sure I would recognise it, but I read it.

Q. Right. Can we move on then, please, to the following page. You talk about Mr Watt's membership of the biological subcommittee of the Committee On the Safety of Medicines.

Dr Foster, we need to show you a set of minutes of the meeting on 13 July 1983, which has been de-redacted.

That's [MIS0010291]. We can see that he was there. You say that he regarded these meetings and their proceedings as strictly confidential and never discussed them with you or, as far as you know, with anyone else.

A. That's correct.

Q. Yes. What was the reason for the confidentiality?

A. I think all of these committees were regarded as, it says at the top, "Commercial in confidence". And he followed that very strictly. He kept the papers in his office, locked away in a cupboard, and really didn't discuss it with anyone, and we didn't even know he was going to meetings. You would go to see him, he wouldn't be there and you would say to the secretary, "Where is he?" "Oh, he's in London at a meeting". That's all you would know about it.

So really he kept this very much to himself. I have been thinking about what would John's position have been at this meeting, and because he didn't discuss it with me, I can only speculate, but knowing the way that he worked -- and it has occurred to me that what he would have done, he would have picked up the telephone and called David Aronson at the FDA, because he was very friendly with him. And he had been to visit the FDA in January of that year, and spent a day with David Aronson talking about this topic. So I'm quite

convinced, knowing how he worked, he would have picked up the telephone to David Aronson, and that's probably how he would have informed himself.

So it would be worth trying to found out what the views would have been of the FDA, where David Aronson was the head of the coagulation factor group, what their views would have been. And I have found a note that does indicate that they regarded the risks as very low at that time. So that may well have been the position that Mr Watt would have adopted.

Q. Certainly, Dr Foster, the magnitude of the risk is something that featured in the discussions at the meeting and we have looked at various documents. There is a suggested agenda in advance. There is a note of main points, and then there are the minutes. But you have no doubt looked at them as well. It does also appear that considerations of supply were prominent in the debate at the meeting.

A. Yes, and I can understand that.

Q. Right. Could we go back to the statement, please.

You have in section C, which is just below what we are looking at, provided what you call a non-chronological response, and you have done that by firstly highlighting the specific questions that were contained in the Inquiry's schedule. So in fact most of

the ensuing pages represent your replication of our schedule. So if we could just look quickly through them. Page 11, 12, 13, 14 and in fact if we move to 16, we get C2, your response to the questions in the schedule. You mention again the talk that you were asked to give by Dr Ludlam. We have covered that.

On to the following page. I have to say that you are not the only person I think who slightly misunderstood the thrust of this question and that's my fault, but, "Why was there no discussion about the possible connection between AIDS and commercial blood products?" That was really meant to be at the meeting of 21 January 1983, but since you weren't at that meeting I don't think we can take that any further forward. But the question wasn't meant to imply that there was no discussion in general terms, just at that meeting of 21 January there didn't appear to have been a discussion?

A. That's the meeting with haemophilia directors.

Q. Yes.

A. I see.

Q. The joint meeting, as we would call it, of haemophilia directors and the Blood Transfusion Service directors and the government officials.

A. Yes. I missed that meeting.

Q. Yes. The next question has really been superseded because we now know that Dr Ludlam was present at the meeting of the reference centre directors in May 1983. Then 2(vi), you mention again ASTMS. And, as I have said before, we are going to come back to that. Then on to the following page, Dr Boulton's letter. We have covered that and then a number of questions to which, because of your particular job at the time, you can't provide an answer.

We have really covered all of the material in the next few pages.

What I do want to do now, and perhaps we can just let everyone have a look as we pass, at 19, 20, 21, just to make sure that we have really covered the material that's dealt with there or Dr Foster has no information in response to the particular questions.

Biological subcommittee, we can see. Again we have covered that.

The following page. If we could look on to 22, please. At this point, Dr Foster, I would like to ask you about the ASTMS correspondence. You have provided an appendix to your statement, appendix 6, which contains quite a lot of the correspondence to which I'm going to refer, but before we look at that, perhaps we could just look at a newspaper cutting, if it's in court

book. [DHF0014352].

Just of interest, given the contents of appendix 6? This is 6 May 1983. You have presumably seen this before, as well, Dr Foster, have you?

A. I have seen it, yes.

Q. Obviously a lot of this is to do with funding, investment, but it does go on to mention, just at the bottom of the left-hand column, that two haemophiliacs in London and Cardiff are reported to have contracted AIDS, Acquired Immune Deficiency Syndrome, from contaminated Factor VIII from the United States:

"The cases have not been confirmed but the Social Services Secretary, Mr Norman Fowler, will be asked by Labour MPs what steps he is taking to ban imports of contaminated blood."

"On the right-hand side:

"Backed by the Labour leader, Mr Michael Foot, ASTMS has launched a campaign to ban all imports of blood from paid donors because of the risks of infection. 'In the US people sell blood to buy food to make products, which is often contaminated,' said Mr Jenkins. 'You can only have effective controls if the blood is donated as an act of social responsibility. We want all trading in blood to be declared illegal'."

Did you see this at the time?

A. I can't be certain but I mean, I did tend to buy The Guardian so it's quite likely.

Q. Please can we look then at appendix 6, which is [PEN0131231]. This is to pick up the reference you make in your statement to a letter you sent of 9 June. That is page 2. That's your inventory, which you have very helpfully supplied for us. Then on the next page we can see your letter of 9 June, and I think we just need to take a moment and read it for ourselves, if we could.

(Pause)

We note that at the end of the second paragraph you say that:

"It should be recognised that the risk from UK unpaid donors may still represent a problem."

And that really in your view the answer to the risk is going to be a guarantee either by donor screening or treatment of the products to render them non-infective. So nothing else was really going to provide a complete solution in your view?

A. That's correct.

Q. Paragraph 4, you are making the point about PFC being underused. Then on to the next page, please. (Pause)

Can we deduce from the last sentence of the letter, Dr Foster, that if steps that you were suggesting had led to the demise of the commercial blood industry

internationally, you personally would not have mourned?

A. I personally very much favoured the not for profit sector.

Q. Can we look on to page 4, please? Sorry, your reference to the international congress is obviously Sweden?

A. That's correct.

Q. Yes. Page 4, thank you.

This is a letter from Sheila McKechnie back to you, dated 28 July, and she is interested because she is representing the Trades Union Congress on the Advisory Committee On Dangerous Pathogens. The focus of which, as I understand it, Dr Foster, was really on hazards to staff. Is that correct?

A. I think there was concern at this time about the safety of the Hepatitis B vaccine and that was her principal concern at that point in time.

Q. But also generally, risks about staff possibly contracting infection in the course of their work?

A. Yes, that would be correct. She was the National Health and Safety Officer for ASTMS at the time, so that would be her main preoccupation.

Q. She is asking, at the end of the penultimate paragraph:

"How would you check that the AIDS agent(?) was ineffective if you don't know what the agent is?"

Can we then look on to, I think it's page 5, just to

show that this is you writing back.

This is you writing back on 5 August. Some recommended reading for Ms McKechnie. Then if we look at the end of paragraph 1 on page 6, we can see that paragraph there about the critical question. You allude to the possibility that the incubation period is such that the disease is already with us:

"We should know the answer in the next six to 18 months."

So your take on the difficulties as at the beginning of August 1983. Just look through the rest of the letter, thank you:

"Safety of the Hepatitis B vaccine."

Why would the Hepatitis B vaccine have been risky?

A. It was prepared from material obtained from homosexual donors.

Q. You are inferring -- and we can see this from the bottom of the page -- from the fact that there have been no AIDS cases associated with albumin infusion, that the AIDS agent may be inactivated by the pasteurisation procedure thereto.

A. That's correct.

Q. If we go to the next page, please, appended to this letter, Dr Foster. You gave Sheila McKechnie some suggested contacts. We can see that one of them, if we

look on to the next page, please, was Dr Evatt. Was the meeting in Sweden the first time you had heard Dr Evatt speak?

A. It was, yes.

Q. I take it then that the fact that you were recommending him as the best person to contact, that you were quite impressed by his presentation, were you?

A. It was an excellent presentation and he explained a lot of things that I hadn't previously known about. So it was one of these moments, as you said earlier, that sticks in your memory. It was an excellent presentation. But you will note I also have on this list Dr Aronson at the FDA as a contact.

Q. And Dr Philip Mortimer at Colindale and Dr Craske.

Can we look on to 9, please? The paper included -- back to material we looked at yesterday -- but more figures about commercial products in the United Kingdom, 1981 to 1982. Really the same sort of picture, Armour are way out in front. Just read your handwritten annotation. Can you just read that out for us, please?

A. It says:

"A threefold increase at PFC (see my letter of 9 June 1983) would produce an extra 20 million units of Factor VIII."

So that was my projection if the option of using PFC

had been taken up.

Q. Then look at page 10. This is a letter that contains statements, I think we will recognise. This is Lord Glenarthur, who was the Joint Parliamentary Under-Secretary of State at the DHSS. Not every copy of this letter has a date on it but this one does and the date is 26 August 1983, which it seems reasonable to take as the date of the letter.

A. I think this might be the date it was received by --

Q. Well, possibly, yes. But anyway, if we assume it's around the end of August. Lord Glenarthur is thanking Clive Jenkins for his letter of 7 July about AIDS and Lord Glenarthur feels he should emphasise that there is no conclusive evidence that AIDS is transmitted through blood products. He mentions the preparation of a leaflet referring to steps that have been taken in the United States of America. Then the middle of that paragraph:

"We have to balance the risk of AIDS against the severe risks to haemophiliacs of withdrawing a major source of supply of Factor VIII, which cannot be made good from elsewhere in sufficient volume. The Haemophilia Society is aware of the situation and has in fact made known to me its opposition to any move to ban American Factor VIII."

Then on to page 11, please. Sheila McKechnie, having by this time realised that you would be able to offer scientific assistance to her, asked you to comment on this letter. We can see that if we look at the next page.

A. I think it's important just to point out that she was assisting Clive Jenkins in his correspondence.

Q. Yes. The second paragraph she says:

"I would be particularly grateful if you could comment on the letter that Clive Jenkins recently received from Lord Glenarthur. There is no great hurry to reply as, in my experience, such correspondence goes on for months, not weeks. I have also written to Dr Jones of The Haemophilia Society to try and establish if they have any principled objection to Britain being self-sufficient in Factor VIII."

He wasn't strictly Dr Jones of the Haemophilia Society but obviously a prominent figure among haemophilia clinicians in those days. She has ordered the book you suggest. This author, the Piet Hagen?

A. That's correct.

Q. He has continued to write in this area, has he not?

A. He did write another book after this. I only know of two books.

Q. I think he is involved in a Council of Europe book which

has a useful table about rates of infection in people with haemophilia, which we are hoping to obtain but haven't yet. You no doubt have it?

A. Might have it, yes.

Q. I think we have ordered it. So we don't have to ask to borrow your copy.

You did assist by commenting on the letter. This is jumping on quite a bit because a lot of papers were sent to you, which were background papers relating to the meeting of the Advisory Committee On Dangerous Pathogens. There are assorted papers enclosed including extracts from papers from MMWR and so on, which I don't propose to look at. But could we go on, please, to page 45 of this appendix, just to show that that was one of the papers that was included in the bundle and we recognise that letter. Then look at page 50. This is the letter in which you accepted Sheila McKechnie's invitation to comment on the letter from Lord Glenarthur. I think we should just read for ourselves what you said. (Pause)

On to the next page, if we could, please. You comment specifically on what Lord Glenarthur had said about the Haemophilia Society. You said:

"I'm not sure that the Haemophilia Society are fully aware of the UK situation and particularly the true

capacity of the Scottish fractionation centre and the reasons for its neglect. (In my opinion this is a scandal which deserves an inquiry in its own right."

A. We did discuss that quite a bit yesterday and there was quite a bit of background there over the years.

Q. Yes. You say:

"In seeking the views of users of Factor VIII (eg clinicians and patients), one should be aware that many users are associated with commercial companies, eg clinicians who act as paid consultants to the companies."

Can we go on to the end of the letter, please.

Dr Foster, you expressed your reasoning and your views very clearly in this letter. There isn't much point in my asking you to express them again in different words but I just wanted to offer you the opportunity in case you wanted to take it, of adding to or explaining anything you said in the letter.

A. No, I think it's quite clear. That's what I wrote at the time.

Q. Thank you. Can we look then at page 53.

THE CHAIRMAN: Before you go on, I think that you are right, the letter is a very clear expression of your views. Did you discuss these views with anyone else in Scotland at the time?

A. This was, of course, trade union business if you like, and I did discuss it with Dr Perry because he was a member of the trade union so he was my closest colleague, so there was some discussion with him. Whether he remembers that or not, I don't know.

THE CHAIRMAN: That's not something you kept to yourself, you did share it at least with Dr Perry.

A. That's correct.

THE CHAIRMAN: Thank you very much.

MS DUNLOP: I should follow that, sir.

There is a reference, Dr Foster, later in the correspondence to a degree of confidentiality about your involvement, so I just wondered, was this something that perhaps wasn't widely known, that you were assisting, as it turned out, in the writing of these letters?

A. It wasn't known at all. It was private correspondence on trade union business. Obviously certain people within the trade union were aware of that but beyond people who were trade union members, no, that wasn't known.

Q. We are now at page 53. This is a letter which is dated 12 October, and you are making some additional comments on papers that you have been sent. These are really papers relating to the Advisory Committee On Dangerous Pathogens. You comment in paragraph 3 on

Professor Bloom's letter. Again, I think we should just read that for ourselves. (Pause)

Then on to the next page, please.

Mr Di Rollo is making a point about it not being in the transcript, but the document will be hyperlinked in, as I understand it, so people will be able to read the whole of the letter at home. As I said, and you have said as well, sir, it is a letter in which Dr Foster's views are expressed with great clarity.

THE CHAIRMAN: It is also very important information.

MS DUNLOP: I can read it out if you would prefer, sir, but these are quite long letters and it might be better, if people are interested, the facility will be there for them to read these letters themselves.

THE CHAIRMAN: I have a personal interest, of course, in having some of the material in the transcript since that's the only way I can cut and paste rather than retype substantial amounts of text. So perhaps the general interest will be served by the hyperlinking of it, but if there are particularly important passages, I think they should be read in. But Mr Di Rollo, I don't think that's going to help if we read all of the correspondence in. That will simply give a very extended passage that won't help us much.

If there is anything that you feel you want to have

read into the transcript, then take the opportunity when you get the chance to ask questions making sure that things are recorded for everybody to see. I'm sure that the interested public will be very interested in this correspondence.

MS DUNLOP: Yes.

Perhaps I should say, Dr Foster, that this appendix, appendix 6, was the answer to something that had struck members of the team, that the letters from Clive Jenkins were based on a considerable level of scientific expertise. And then, of course, we understood that a lot of the comment had been informed by your own input. We can see that if we look at page 55.

It's slightly puzzling when this letter was sent because if you read the following letters, it looks as though Mr Jenkins was drafting and redrafting the letter he wanted to send, and as at the beginning of November Ms McKechnie doesn't seem to think a letter has gone, but it does look from this letter, in particular the stamp on it, that the date, 27 October 1983, must be about right. I mean, this looks like the letter. Did you obtain this letter by other means?

A. Yes, I got this letter -- you can see in the top right-hand corner it has a number, 2834 -- that's the Department of Health freedom of information; that's

where I got that from.

Q. So notwithstanding the fact that later correspondence shows Ms McKechnie is under the impression the letter hasn't gone, it did go and this is it?

A. That's correct.

Q. Some of the wording in this we recognise, having looked at your letter. Paragraph 2 you say that:

"There is no conclusive evidence that AIDS is transmitted through blood products. I would argue that the evidence is very strong."

Then the end of that paragraph:

"I'm tempted to ask you what you would consider to be conclusive evidence, particularly in the circumstances where the agent or agents for AIDS are as yet unidentified."

THE CHAIRMAN: You have probably gathered that that's a question that I have been asking myself, Dr Foster.

MS DUNLOP: Then on to the next page someone has annotated paragraph 5. Dr Foster, we can never know but it does look rather like Lord Glenarthur's writing, if you compare it with the signature. Someone is querying the statement that:

"The Scottish fractionation plant is substantially underused and this seems to be being ignored by your department."

Is this so? I suppose we don't know whether the writer means is the plant underused or is this department ignoring that fact. It could be either. We can see that paragraph 6 seems to have been less informed by your comments -- is that right?

A. Yes, I would agree with that.

Q. Yes. It looks as though Mr Jenkins has himself been talking to members of a "haemophiliacs" group in ASTMS:

"They cannot be expected to support a ban on American blood products until we are self-sufficient."

Then on to page 58. This is the letter from Sheila McKechnie to you. Then 59. Did you meet Ms McKechnie in December?

A. No, I did not meet her in December.

Q. Then 61, please. There is an ASTMS AIDS working group and we see your name on it. The reference to the HSE, the Health and Safety Executive. The containment levels required would suggest that this is really again about hazards to members of staff.

A. Yes, that's correct.

Q. Can we look on to the next page, please. You sent the draft of the WHO report. Then the next page, please. This is the letter back. We can see from the date stamp at the top, it seems to have been received in January 1984.

There is another copy of this letter, Dr Foster, which has a handwritten date of 5 January on it. So again, not possible to be precise about the date of the letter but good enough, I think, to take it as January 1984. A letter back from Lord Glenarthur to Clive Jenkins. We can see from the first indented paragraph that the line, if we can call it that, seems to have changed slightly:

"It remains the case that there is no conclusive evidence of the transmission of AIDS through blood products, although the circumstantial evidence is strong. These two statements in no way contradict one another, as you will readily appreciate from an analysis of a similar argument which you use in paragraph 7. Whilst there is strong evidence to suppose [underlined] that the hepatitis vaccine will not transmit AIDS, the evidence is not conclusive [underlined] and cannot be so until a means of testing for AIDS has been devised. In both cases the conclusive evidence awaits the development of a test which can identify the AIDS agent (or agents)."

Then on to the following page, please. This seems to be another response to the suggestion of using PFC. More of a practical objection that:

"PFC would not have the storage filling and

packaging facilities to handle a substantial amount of extra plasma even if it were available."

Paragraph 6:

"The statements made by the Haemophilia Society are a matter of fact. It has been necessary to quote from them in order to illustrate to those who are ill-informed on these matters that to demand a total ban on the imports of US Factor VIII, so far from safeguarding the lives of haemophiliacs, would put them at greater risk."

Then the final page, please. The next page is your response on that. It's asking for your response. Then can we go to the following page, please. Your letter dated 23 January 1984. In relation to the no conclusive evidence point you said:

"I think Glenarthur is just being pedantic. The essential point is that a risk of contracting AIDS from blood and/or blood products, is recognised to the extent that many agencies (eg governments, transfusion services manufacturers) are all taking action. There are times when evidence is sufficiently strong that it is necessary to take action prior to scientific proof being absolute and certain. I'm sure this is commonplace in the world of health and safety."

Then can we just scroll through that letter, please.

Then on to the next. Obviously you made comment about what was being said in relation to the Protein Fractionation Centre. Just to complete this examination of appendix 6, can we look on to the next page, please.

Your information about PFC was relayed in February. Can we just go to the end of that letter, please? Then on to next page. We can see that the draft ACDP guidance was still under discussion. There is another Lord Glenarthur letter on page 71. This is a response to the letter of 14 February. Do you think that the detailed points you were making -- I understand that they were being made on behalf of ASTMS -- were matters for the Secretary of State for Scotland? That wasn't really the context of what you were saying, was it?

A. If PFC was going to be developed, then, yes, the Secretary of State for Scotland would have been involved in that decision.

Q. But it in terms of reaching a decision to use PFC to fractionate English plasma?

A. It still would have been a joint decision between the two departments.

Q. Just to look at the next page, if we could, please. That's really all I want to look at from appendix 6, Dr Foster.

Can we go back to Dr Foster's statement, please? That is [PEN0150101]. We are now on page 22, which is on the screen. You go on to say on this page, Dr Foster, that you are aware of additional documents in which the position of the Haemophilia Society is described. And you quote from a letter to Baroness Masham of Ilton, dated 30 August 1983, not saying anything that we haven't seen elsewhere, I don't think.

Then the fact sheet, dated 22 September 1983. We have looked at that already but just for the notes, that's [DHF0014767]. We should remind ourselves that all of this is an answer to a question that was posed by the Inquiry about an impression. I'll just read out the question so that we are not losing the focus. It wasn't posed as a specific question but it was suggested that the impression had been that cessation of use of American products in 1983 attracted a lot of opposition. I think I need to take a minute and find the question so that I'm not doing it from memory. (Pause)

The question is:

"In relation to the UKHCDO meeting and various communications from or relating to the Haemophilia Society around this time, the emphasis appears to have been strongly on maintaining the use of commercial

concentrates. Is this an accurate impression?"

So just to remind ourselves that this is the focus in this section of your statement, Dr Foster, your answer is that the impression is accurate. One of the documents you referred us to in support of that view was this fact sheet of 22 September 1983. So that's the document [DHF0014767].

If we look at the second page, please, it's obviously a leaflet and it has been copied, the back and the front, A4 size, but we can see the extract that you have quoted is on the right-hand side.

Can we go back to Dr Foster's statement, please? There then followed a succession of questions that aren't directly relevant to you, Dr Foster. If we look at page 23, we can see your answers.

Finally on to page 24. You were asked about heat-treated commercial concentrate and you have helpfully listed various licence applications made to the Committee On the Safety of Medicines and we can see that chronicled on page 24.

We notice that a number of heat-treated commercial concentrates were approved for use in the UK during February 1985. Actually we looked last week at a statement in Hansard from Kenneth Clarke from around that time in which he confirms that that is happening.

You say:

"According to the medical literature, patient samples from the clinical trial of Hemofil T were tested for HIV in late 1984 and found to be negative. A comparison with results from patients who had been treated with unheated commercial concentrate suggested that the heat treatment employed in the manufacture of Hemofil T was effective against HIV. These results were published on 2 February 1985."

That's a reference to the Lancet, which Dr McClelland provided to us and which we took him to when he was here on Friday and which is going to be in our court book. So if people want to read that for themselves, again that will appear and when it is, we will be able to give the court book reference.

Lastly, Dr Foster, I just wanted to make reference to another article that you have provided for us. I think it came from you. It's by Herbert Perkins and Michael Busch. Is that correct? Did you provide the article entitled "Transfusion-associated infections: fifty years of relentless challenges and remarkable progress."

A. Yes, that's a recent publication.

Q. Yes, it is October 2010.

A. Yes.
Q. I'm not going to take you through it, Dr Foster, for two reasons. One, much of the material is now reasonably familiar to us and two, it is not yet in court book but we do have hard copies and we endeavoured to circulate those yesterday. Just to say, we will be putting it into court book, so that will be available for people to read as well. As you say, it is noteworthy because of how recent the publication was. Was there anything specific you wanted to draw to our attention in this article?
A. I think perhaps what's interesting is that Dr Perkins was head of the blood bank in San Francisco where the child that was reported in 1982 as been infected with AIDS, he was actually director of that blood bank. So he has that historical background.
Q. I suppose one of the striking things with this article -- I'll just allude to this, sir, having said I'm not going to go through it. On page 2085 of the article -- it is an article from "Transfusion" -- the authors say:

"The most startling fact in the San Francisco analysis ..."

This is the San Francisco analysis once screening was available:

"... was that more than 1 per cent of the blood distributed by that blood bank was infected with AIDS by the end of December 1982. This rate of infected units was vastly different from the estimate of risk given out at the time: 1 in 1 million, an estimate that appeared in the PHS publication, "Facts about AIDS", as late as April 1984. The huge underestimate of the risk at the time transfusion-associated AIDS became a possibility is the main reason the public lost confidence in blood banks."

Obviously that's a comment made about American blood banks?

A. That's correct.

Q. "At the beginning of 1983 there was a possibility that AIDS was transmitted by blood transfusions. By the end of 1983 the possibility had become a probability."

Then I'm cutting out a bit but:

"The probability became a certainty with the publication of four papers by Robert Gallo's group in 'Science' in May 1984."

Thank you, Dr Foster, that, sir, would seem a natural point at which to break.

(11.01 am)

(Short break)

(11.30 am)

MS DUNLOP: Sir, just before passing over to Mr Di Rollo, can I narrate for the transcript that the document Dr Foster has provided today is a memorandum, dated 21 July 1983, from Dennis Donohue in the Department of Health and Human Services and we will put that into court book as well.

THE CHAIRMAN: Mr Di Rollo?

Questions by MR DI ROLLO

MR DI ROLLO: Dr Foster, I just want to ask you a number of questions really relating to the issue of self-sufficiency or otherwise.

If we start with your curriculum vitae, which is [WIT0030389], and go to the third page of that, we see at the top you are going through your career and the second entry is 1976 to 1981, and you say:

"Developed methods and technology to increase Factor VIII yield and process capacity enabling Scotland to achieve self-sufficiency in Factor VIII supply."

Do you see that?

A. I do, yes.

Q. I mean, is it right then that as far as you are concerned -- and I realise that people's definition of self-sufficiency will vary -- but in terms of your understanding and your definition of self-sufficiency, that had been achieved as far as you are concerned by

1981?

A. No, what this refers to are the discoveries that I made in that period, that then were applied -- that assisted the manufacturing process. So actually the outcome, if you like, the end result might not have been seen until a little bit later.

Q. When you say a little bit later -- I know we discussed it in detail yesterday --

A. I was asked this question by the Scottish Executive in 2000, and I went through the same kind of discussion then and my figure then was some time in 1983, which is again reflected in the paper that you saw yesterday.

Q. Yes. It does appear that notwithstanding that achievement, if you like, there doesn't seem to have been a conscious or definite decision made by anybody that as from that moment Factor VIII from elsewhere should not be used. Am I right about that?

A. I'm not aware of any decisions of that type, no.

Q. I mean, it does appear that there was knowledge as at that time, in 1983, that it would be safer to use home grown or home produced Factor VIII or Factor VIII from plasma obtained in Scotland. There was that awareness.

A. That would have been my view but I can't speak for other people.

Q. Well, it certainly seems to have been the view of

a number of clinicians and we have heard evidence from some of them. In the correspondence we have seen, for example this morning, much of the discussion seems to be based on the idea that there is no alternative but to use imported material. But what I'm trying to get at is in Scotland there does seem to have been an alternative in the period that we are talking about. Do you agree with that?

A. Yes, I would agree with that.

Q. If we look at your letter or the correspondence that we saw this morning, some of the material we see this morning as well, it does appear that you at the time held fairly strong views about the need to use Scottish product rather than importing commercial product. You had strong views at the time and those are views that remain today. Is that right?

A. Exactly. It's clear in the correspondence at the time, yes.

Q. You did give evidence to the Archer Inquiry and I'm not going to go over that with you but can I take it that the evidence that you gave to the Archer Inquiry you would still stand by? There is nothing in that that you would want to alter or change in any way?

A. I would have to review it and reflect on it but I can't think of anything.

Q. I appreciate that and I don't want to take time going over that, but with the caveat that you haven't reviewed it or reflected upon it, there is nothing that you can think now that you have said then that you would want to alter or change?
A. I can't think of anything now, no.
Q. Right. If we look at the letter then, which is [PEN0131231]. If we go to page 50, this is the letter dated 29 September 1983 that you wrote to Sheila McKechnie, who was then Health and Safety Officer with the white collar union which you were also a member of. Is that right?
A. That's correct.
Q. Obviously this correspondence that we have had our attention drawn to is in the context of you making certain feelings about PFC known to your union, and the union had a position about that in terms of the role of PFC in the crisis that was ongoing at that time. Is that right?
A. I'm not sure I can speak for the trade union. All I was doing was trying to assist in some of this correspondence and also, when I initiated the correspondence, from my point of view it was just to point out this situation in Scotland, that I didn't think the facility was being used to its full potential.

Q. Yes. This is obviously in the context again of correspondence that we have seen, that there was no alternative to using commercial material, that you were pointing out that in England as well there was a possibility of using more Scottish product if PFC was used to its full potential?

A. The whole point was really about how to help England obtain more local, ie UK-derived product. Looking at the UK as a whole, rather than England and Scotland, I felt that PFC could make a stronger contribution if it was further developed.

Q. This is plainly in the context and understanding that British plasma would be safer than imported material?

A. That's right. I think that was the general view, certainly in terms of hepatitis and a growing view in terms of AIDS.

Q. There are various comments made about The Haemophilia Society and I appreciate that you are obviously, in this particular letter, making certain comments about certain assertions that have been made by, I think it is the Minister of State, Lord Glenarthur, and you are making your comments known in relation to what he has stated.

The Haemophilia Society plainly would be dependent on scientists -- either doctors, clinicians, possibly other scientists -- in order to get information. The

Haemophilia Society in and of itself would have no information of its own as to the safety or otherwise of any material that its members might be using. Would you be aware of that at that time?

A. No. I did not know how The Haemophilia Society obtained its advice.

Q. We have --

A. Other than the Dr Bloom letter, of course.

Q. I beg your pardon?

A. Other than the letter that quotes Dr Bloom.

Q. The Dr Bloom letter, which I won't put up on the screen, we have already seen that. We have heard evidence that that contained inaccurate information or information that would be apt to mislead, I think. But The Haemophilia Society, I'm suggesting to you, would not be in a position to know any better -- it doesn't have any expert evidence or expert material other than from people that give it advice, such as the UK haemophilia centre directors or other medical people or scientists who are in the field. The Haemophilia Society itself doesn't have any information other than from that source?

A. I am afraid I have no knowledge of the workings of that society. So I would have to defer to whatever you might suggest.

Q. What Glenarthur is quoted as saying is that:

"The Haemophilia Society is aware of the situation and has in fact made known to me its opposition to any move to ban American Factor VIII."

Then you comment:

"I'm not sure that The Haemophilia Society are fully aware of the UK situation and particularly the true capacity of the Scottish fractionation centre and the reasons for its neglect. In my opinion this is a scandal which deserves an Inquiry in its own right."

Then you go on to say:

"In seeking the views of users of Factor VIII, for example clinicians and patients, one should be aware that many users are associated with commercial companies, for example clinicians who act as paid consultants to the companies."

Do you see that?

A. Sorry, what's your question?

Q. The question I was going to ask you was: what information did you have as to clinicians who acted as paid consultants to the companies?

A. At that time I had information from Mr Watt about one person in particular.

Q. Right.

A. But there seemed to be the notion that there was more

than one person, but I can't say that I had evidence of that.

Q. I beg your pardon?

A. I cannot say that I personally had evidence of that but I had been told this by Mr Watt.

Q. Right. I think we do know that at least one consultant did indicate that at a meeting; he declared an interest at one stage --

A. That's correct.

Q. -- that he was a paid consultant. That was Dr Jones?

A. That's correct.

Q. So we know of at least one. Obviously you are referring in the plural, to clinicians who act as paid consultants but was that your understanding at the time?

A. That was my understanding at the time from conversations with Mr Watt, and I am afraid I can't verify that.

Q. Right. You are obviously expressing a concern here that the views of clinicians might have been affected by a relationship that they may have had with the commercial companies. Is that right or not?

A. I'm certainly wondering if that's a possibility, yes.

Q. Yes. Whether that is or is not the case, whether they did have any paid relationship, it does appear that clinicians -- or some clinicians in the UK -- have been quite strongly of the view that commercial material

should continue to be used. Is that right?
A. Sorry, I wasn't party to those sort of discussions. So I can only look at the documents that you have seen.
Q. Right. But what I'm suggesting to you is that as far as The Haemophilia Society itself is concerned, it did not have any relationship with any of these commercial companies and was entirely dependent on, as I say, medical and scientific advice that it obtained from the clinicians. You are not in a position to dispute that?
A. I am afraid I can't answer that one because I do not know enough about The Haemophilia Society to know what its relations were with whatever organisation.
Q. It does appear -- and I think you have already agreed with this -- that the situation seems to have been that notwithstanding the ability in Scotland to avoid using commercial material, commercial material continued to be used, albeit less of it, even after 1983, the time when self-sufficiency was achieved. Is that right?
A. Sorry, are you asking me what I knew at the time or what I know now?
Q. What you know now.
A. Certainly what I know now from the information that has been gathered by this Inquiry, yes.
Q. Are you able to give us any explanation as to why that might have been?

A. No, I cannot.
Q. Can you, for your part, with the information that you have, offer any justification for the continued use in Scotland of commercial material after self-sufficiency was achieved?
A. It's very difficult because you are talking about medical doctors taking decisions on how to treat patients. I'm not medically qualified and it's not my position to question medical judgment. I'm sorry, I really don't feel it's appropriate for me to try to do that.
Q. Thank you, Mr Chairman, that's all I have to ask.
THE CHAIRMAN: Mr Anderson?
MR ANDERSON: I have no questions, sir.
THE CHAIRMAN: Mr Sheldon?
MR SHELDON: No question, sir. Thank you.
THE CHAIRMAN: Dr Foster, inevitably in an Inquiry like this, there will be other sources of evidence that won't quite coincide with yours and there may be scope for conflict, so a final view on your evidence will have to await the completion of the Inquiry, but it is clear that you have done an enormous amount of work and I'm very, very grateful for the effort that you have put in and for the way you have given your evidence. Thank you very much.

A. Thank you very much.

THE CHAIRMAN: Ms Dunlop?

Presentation of statements of non-attending witnesses

MS DUNLOP: Yes, sir. It is only ten to 12 and there are no other witnesses cited for today. However, I thought it would be a good opportunity just briefly to mention the statements from those witnesses who are not coming to give evidence on this topic. It just seemed like an opportunity to do that and, as it were, clear that piece of work out of the way, and certainly I can do that before lunchtime.

THE CHAIRMAN: Very good. Do we need Dr Foster here or would I benefit from having him here to listen?

MS DUNLOP: No. Certainly Dr Foster is free to go, I think.

THE CHAIRMAN: Thank you very much.

Yes?

MS DUNLOP: Sir, there are five witnesses to whose statements I wanted to draw attention. I should say that these are five witnesses who are not coming to give evidence on this topic, either because they didn't appear to have anything really to contribute or for reasons of health.

THE CHAIRMAN: Right.

MS DUNLOP: The first of those individuals is Dr George McDonald and we should look at two documents

that Dr McDonald has provided to the Inquiry. The first is [NHS0010150]. From this, we can see that Dr McDonald was the co-director of the haemophilia centre at Glasgow Royal Infirmary between 1968 and 1990. And this particular document was provided in June 2010 in response to some questions about systems concerning the use of blood products.

This is obviously interesting material. Dr McDonald narrates the supply of blood units and blood products to the department of haematology at Glasgow Royal Infirmary from the centre at Law:

"Stock was delivered each morning and not infrequently also in the afternoon ... The Consultant in clinical charge of the patient ordered the blood units or blood product required."

I think there is a slight difficulty with this document, in that sometimes it seems to move between blood products and blood, and no doubt there will have been slightly different arrangements for the two, but he sets out the use of the form. Then, when the product arrived in the blood transfusion section, the information on the request form was checked along with the information on the label of the blood sample.

THE CHAIRMAN: The blood sample would be a sample from the patient who was to be treated -- for matching or for

what?
MS DUNLOP: That's how I read it, sir, yes.
THE CHAIRMAN: I see the reference to the matching laboratory down there.
MS DUNLOP: Yes.
THE CHAIRMAN: Yes.
MS DUNLOP: That all the wards had blood transfusion storage refrigerators. This does read more as though it would relate to inpatients than people who were on home treatment but ...

Then on the following page there is a succession of questions and answers. He says in answer to a question: What type of product would they receive?

"SNBTS products were always used. Commercial products were only used when SNBTS were not available."
THE CHAIRMAN: But if one looks at the material we had yesterday, it might indicate that SNBTS products were very frequently not available, given the volume of usage of commercial.
MS DUNLOP: It's very difficult to know. I suppose, sir, it is also rather difficult to know what's meant by "not available"; not in the fridge, in the ward or not at Law?

We also have a statement from Dr McDonald.
THE CHAIRMAN: Yes. The next answer, before you go to the

statement:

"For patients receiving commercial, the decision as to which commercial product should be used was made following a full review of the current medical literature and also following full discussion with the directors of the Scottish National Blood Transfusion Service."

MS DUNLOP: Yes.

THE CHAIRMAN: Have we any documentary evidence that relates to that topic?

MS DUNLOP: Well, sir, there isn't anything to suggest that that happened in individual cases but I infer that Dr McDonald is really thinking in the generality, that if there was a particular choice of a supplier at any one time, people would look at medical literature and discuss the matter with the directors of SNBTS.

I'm not aware from the minutes we have looked at, of any particular discussion about whether Armour was to be preferred to Hyland or anything of that nature, but Dr McDonald does make the point that -- he himself has been retired for over 21 years and it's no doubt not very easy to remember what happened in practice.

THE CHAIRMAN: I have seen somewhere a reference to the practice of rotating commercial products to ensure that no one manufacturer appeared to be preferred and that

was, I suggest, a fairly frequent review.

MS DUNLOP: That would be a different kind of exercise, obviously, from thinking: what's the state of play in the literature, what's the best?

THE CHAIRMAN: Dr McDonald is one of those who is not well?

MS DUNLOP: Yes, Dr McDonald is not really able --

THE CHAIRMAN: Yes.

MS DUNLOP: It would have been, I think, a huge ordeal for him.

His statement is [PEN0150489]. I should say also, sir that, a considerable journey would have been required, which wouldn't have helped.

The first paragraph contains an important statement, sir, in that he says his clinical duties did not involve the clinical care of patients with haemophilia.

THE CHAIRMAN: Yes, I see it.

MS DUNLOP: Yes, sorry.

THE CHAIRMAN: So quite a lot of his experience would be with whole blood or other blood components.

MS DUNLOP: Yes. He was not involved in home treatment. Then he refers back to the earlier document. He vaguely remembers the World in Action programme and otherwise makes no comment.

He has no idea why there was no representative from Glasgow at the meeting of 13 May 1983, not strictly

speaking just a UKHCDO meeting but meeting of the reference centre directors which Dr Ludlam attended. But there was no mention of Glasgow.

THE CHAIRMAN: Could we go down a little bit, please? (Pause) Paragraph 13 in the middle, Dr McDonald is indicating that if the clinicians wanted a particular commercial product, they ordered it through the hospital pharmacy.

MS DUNLOP: Yes.

THE CHAIRMAN: There is no reference to the Blood Transfusion Service being an intermediary at that point.

MS DUNLOP: No. I don't know whether this would be patients with particular difficulties perhaps, for whom a specialist commercial product would be the only suitable material.

THE CHAIRMAN: Of course, he doesn't acknowledge that possibility in the earlier part of the statement. Commercial products are treated by him as simply plugging a gap.

MS DUNLOP: Yes.

THE CHAIRMAN: The same in paragraph 14 that follows.

MS DUNLOP: Then on the last page, in connection with self-sufficiency, he draws a distinction between capacity and actual supply.

THE CHAIRMAN: Yes, we will have to wait and see what to

make of it, I think.

MS DUNLOP: Yes. The second statement, sir, was Professor Prentice and this is [PEN0150045]. We can see that he gives information about the period between 1974 and 1983. He was co-director with Dr McDonald, one assumes, between 1974 and 1983. He in fact left Glasgow Royal Infirmary at the end of February 1983. He says in the third paragraph that at the joint meeting of 21 January 1983 it was the MMWR weekly report of 16 July 1982.

I'm not myself sure how he knows that, sir, because I have tried to work out which MMWR extract it was. I don't think it matters but he may be supposing that it will have been that one.

THE CHAIRMAN: In a sense it may not be terribly important. What's important is that this shows that MMWR data was in circulation at that time, disclosing some information about the AIDS problem.

MS DUNLOP: Yes.

THE CHAIRMAN: Of course, he says it was an article that dealt with haemophiliacs.

MS DUNLOP: Yes. I'm not sure. I suppose he has looked at this now through the means of the preliminary report and whether in fact that was the one that was circulated. There was also the one in the December 1982 MMWR about

the infant.

THE CHAIRMAN: Does he deal with it later?

MS DUNLOP: No. I was just thinking, we can ask Professor Cash if he remembers what MMWR it was but I suspect, sir, it doesn't really matter. It is the fact that it was the nature of the problem that was being identified, rather than which particular text was being used to vouch it.

THE CHAIRMAN: Of course, if we had access to the hard copies that Dr Foster tells us still exist in the library, we would get, in the first place, John Cash's instructions and perhaps a wider range of information about what was circulated.

MS DUNLOP: Well. We have certainly done quite a lot of searching to find out what was circulated in relation to this particular meeting.

THE CHAIRMAN: Yes.

MS DUNLOP: We know the Observer was.

THE CHAIRMAN: Yes.

MS DUNLOP: On the second page he gives us a little bit of the history of his own involvement in the care of patients with haemophilia. He started in 1964 at Glasgow Royal Infirmary with Professor Douglas and Dr McNicol. He refers to Factor VIII concentrate as mandatory treatment for haemophilia patients.

If we go on to the next page, please, where he has a section on Hepatitis C and liver disease. (Pause)

THE CHAIRMAN: Yes.

MS DUNLOP: Then on to the next page, please. (Pause)

A reference to freeze-dried cryoprecipitate in the West of Scotland.

THE CHAIRMAN: Yes.

MS DUNLOP: The next page, please. (Pause)

That's Professor Prentice's contribution, sir.

THE CHAIRMAN: Not much there that's particularly novel.

MS DUNLOP: Indeed, sir. Perhaps just slightly different ways of expressing things.

We also contacted Dr Brenda Gibson because of mention of her at Yorkhill. There are two statements. The first one is from November 2010 and I think it's [PEN0150040].

Yes. Dr Gibson was appointed a consultant paediatric haematologist at Yorkhill in July 1984 and she says that from then onwards, her involvement with haemophilia care related mainly to emergency out-of-hours cover, until August 1988 when Professor Hann left and she became director of the haemophilia unit.

You may remember, sir, there is a bit of debate about whether Professor Hann left, in 1987 or 1988.

I can't at the moment see that anything will turn on that.

Can we go on to the next page, please? (Pause)

THE CHAIRMAN: It reads as if it has been written by a lawyer, Ms Dunlop, this part.

MR ANDERSON: I'm told it hasn't.

THE CHAIRMAN: It hasn't?

MR ANDERSON: It hasn't been --

THE CHAIRMAN: Goodness, then I worry about her involvement in litigation. She must have extensive experience of it.

MS DUNLOP: She obviously mentions Dr Pettigrew as well. It's not surprising. Then on to the next page. Perhaps just for purposes of forward reference, if we note the statement that she did not attend any meetings of haemophilia directors:

"... either Scottish or UK or meetings of SNBTS directors, either as a trainee or as a consultant, prior to 1988. Neither was I involved in or a part of any discussion about the appropriate and safe use of blood products for the management of haemophilia."

I think it would be fair to say that Dr Gibson's position, if one were trying to sum it up, is that she wasn't really involved and that because, even when she became a consultant in 1984, her involvement was

restricted to out-of-hours cover, she didn't become the haemophilia centre director until 1988.

THE CHAIRMAN: Yes.

MS DUNLOP: Can we look at the next page, please.

She was a trainee, she says, which I think, we can take from page 2 of her statement, corresponds to being a senior registrar. Then the final page, please.

THE CHAIRMAN: It's a terrible comment on her seniors at the time that a trainee was kept in such abysmal ignorance of anything that was relevant to haemophilia care. Perhaps we should ask the people responsible why they didn't share information and knowledge with her.

MS DUNLOP: We did notice, sir, that the meeting that took place in Edinburgh on 29 November 1984, which was to discuss the discovery that patients in Scotland appeared to have been infected with the virus, HTLV-III, that it was Dr Gibson who represented Yorkhill at that meeting in 1984.

So we asked her, in view of the statement to which I drew attention, that she didn't attend any discussions or wasn't part of any discussions of any significance before 1988, and she has provided a further document, which is [PEN0120284].

THE CHAIRMAN: Yes.

MS DUNLOP: Then on to next page, please.

THE CHAIRMAN: Yes.
MS DUNLOP: So that's Dr Brenda Gibson's comments, sir.
THE CHAIRMAN: Yes, thank you.
MS DUNLOP: We have also a statement from Dr McIntyre, formerly of SHHD. I think it's appropriate to indicate, sir, that Dr McIntyre had every intention of coming but he has had health difficulties recently and certainly his medical advisers didn't think it would be a good idea. So I think it's appropriate to put that on the record.
THE CHAIRMAN: Yes.
MS DUNLOP: His statement is [PEN0150330]. He gives us on the first page some background to his own career.
THE CHAIRMAN: I like the idea of someone being a civil servant in various guises.
MS DUNLOP: Certainly for a long time.
THE CHAIRMAN: Yes.
MS DUNLOP: From paragraph 4 we can see that when he became a principal medical officer in 1977, he covered blood policy, among many subjects. He says:

"Our areas of responsibility included communicable diseases and environmental health. This covered food poisoning, water supply, sewage disposal, epidemiology of leukaemia in relation to radiation hazards, Chernobyl disaster and the aftermath."

Paragraph 6 he reported to Dr Scott and to the CMO. He refers to action being taken on the administrative side; that is recommendations and formal advice would be generated by our administrative colleagues and that they, the doctors, fed into that process.

THE CHAIRMAN: The beginning of paragraph 7 is quite interesting and perhaps does reflect an impression that one had, that in general blood transfusion wouldn't be at the top of the agenda for the officials generally, unless and until problems emerged.

MS DUNLOP: Certainly quite a portfolio, the list of different subject matters that he narrated in paragraph 4.

If we read on to the next page, please. He doesn't remember any of the detailed discussion from the meeting on 21 January 1983. That's paragraph 12. On the following page, the question now largely superseded, about the reference centre directors' meeting on 13 May 1983.

I should explain, sir, in relation to paragraph 14 that the Inquiry team in its research has followed various trains of thought, including the possibility that Dr Galbraith's letter -- and its contents -- might have been known among certain circles of people, but I think it would be accurate to say we have really drawn

a blank on that. There doesn't appear to be any reliable evidence that the fact that Dr Galbraith had sent this letter, and what his paper said was in any sense well-known, even in medical circles.

THE CHAIRMAN: Would Dr Bell be the person most likely to know?

MS DUNLOP: Possibly, yes, sir. We did ask also about Dr Bell because we were interested in finding out how the different doctors in SHHD related to each other and Dr McIntyre has addressed that in paragraph 15.

THE CHAIRMAN: Yes.

MS DUNLOP: Go to the next page. Thank you. (Pause)

Then the second last page, please. Largely questions to which Dr McIntyre doesn't really know the answer.

THE CHAIRMAN: Yes.

MS DUNLOP: Many of them obviously relating to treatment.

(Pause)

THE CHAIRMAN: Yes.

MS DUNLOP: The last page, please. (Pause)

THE CHAIRMAN: Yes.

MS DUNLOP: I think if we can just go to the end of the statement. We have a signed copy.

THE CHAIRMAN: Yes.

MS DUNLOP: The last one, sir, is a statement from

Dr Mitchell. It's [PEN0150004]. Dr Mitchell I think has really just written generally on the topic without addressing the individual question, no doubt dealing with the same subject matter.

THE CHAIRMAN: There is no possibility of seeing Dr Mitchell?

MS DUNLOP: It is in my mind, sir, that we may have some questions about the organisation of supply and so on, on which we were not focused when we contacted Dr Mitchell last summer, and it may be necessary perhaps in the first instance perhaps to write to him and pose some specific questions. I was going to review that after we heard from Professor Cash.

THE CHAIRMAN: Right, yes. I would be happy if you did that.

MS DUNLOP: Yes. I think just that sentence at the end of the first paragraph, the reference to joint meetings in the preliminary report, refer in the main to meetings of haemophilia directors and not involving regional transfusion directors. Just to record that there were, of course, joint meetings between the Scottish haemophilia directors and the blood transfusion directors. We have looked, I think most often, at the one from 1983 but also the one in 1981.

There is some reference in this to our topic B1

about exclusion of particular donors. We see on the second page particularly, if we look to it, the first paragraph covers that area.

Just for the record, sir, at the end of that paragraph at the top of the page, the reference to the 24 June. That's a reference to a letter, not a meeting, and it's the letter which appears to have followed the reference centre directors' meeting on 13 May at St Thomas' Hospital.

(Pause)

I suspect that the reference in the penultimate paragraph to the application to the High Court of Scotland for the removal of the anonymity of donors would leap out at a number of us, and we did make some attempts to get some more information about this, although it's fair to say not a sustained effort. We may return to that enterprise.

THE CHAIRMAN: Yes.

MS DUNLOP: So that's the conclusion of Dr Mitchell's statement. There are other pieces of correspondence and so on that I will need to refer to also, just to complete the topic. It formally is the case that we can't really complete the topic in this block anyway, because we have to have Professor Hann and Dr McClelland to complete their evidence, which they will do in block

3, but I will try before the end of block 2 to draw attention to certain pieces of correspondence. So they are as complete as possible.

THE CHAIRMAN: Having had this exercise, it does seem to me that one would wish to ask Professor Hann about the organisation of his department that left Dr Brenda Gibson in such a terrible state of ignorance.

MS DUNLOP: I entirely appreciate the point you make but the only observation might be that insofar as we can detect when the infection at Yorkhill occurred, it does seem to have been before Dr Gibson arrived.

THE CHAIRMAN: Yes. Does that make it less likely that it would have been a topic for discussion with a senior registrar? I don't think so.

MS DUNLOP: Well, it's more a question of investigating the aetiology of what had occurred, sir.

So there aren't any other statements to which I need to draw attention at this point, sir. That would really conclude the business for today, all the business we can usefully transact.

THE CHAIRMAN: I hope you will review this because it does seem fairly clear that taking these statements as we have is less satisfactory than actually hearing some of the people give evidence, but one must have regard to the realities of the situation.

Gentlemen, I have not asked you whether you had any points to make on this. I think that comment isn't appropriate at the moment and can be reserved until such time as you think it's appropriate to make comments. We just simply take note of the statements as they stand.

MR ANDERSON: There is only one matter, sir. I think you made reference earlier to Dr Cash annotating the MMWR. I think you probably meant to say Dr Watt.

THE CHAIRMAN: Mr Watt. You are absolutely right.

MR ANDERSON: Just for the purposes of the transcript.

THE CHAIRMAN: Yes, thank you, that's correct. It was John Watt who was said to have done it.

And now?

MS DUNLOP: Yes, sir, I don't think there is any other business we can usefully transact at the moment.

(12.34 pm)

(The Inquiry adjourned until 9.30 am the following day)

I N D E X