

IRISH HAEMOPHILIA SOCIETY

TRIBUNAL NEWSLETTER

ISSUE 43

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28th February 2002

TRIBUNAL OF INQUIRY

**(Into the Infection with HIV and Hepatitis C of Persons
with Haemophilia and Related Matters)**

PROCEEDINGS: Monday 19th November 2001 - Day 189

The Irish Haemophilia Society delivered its Final Submission. Mr. Martin Hayden S.C. made the submission on behalf of the Society. The Society's submissions addressed the role of the BtSB; it set out a series of civil, constitutional and criminal standards by which the behaviour of those under investigation should be judged. The submission examined the BtSB's financial circumstances during the 1970s and 1980s and the issue of the BtSB's insolvency and how financial matters impinged upon its actions. The submission examined the role of the Department of Health and the National Drugs Advisory Board. It examined the role of Professor Temperley and Dr Cotter. It looked at the issue of medical treatment provided for persons with haemophilia. It examined the expert evidence adduced before the Tribunal. It looked at the role of the pharmaceutical companies and in particular Armour Pharmaceutical. The Society made a submission on its own role in the matters under investigation and set out its recommendations with regard to persons with haemophilia, medical practice, the Virus Reference Laboratory and the Department of Health.

TRIBUNAL OF INQUIRY

PROCEEDINGS: Tuesday 20th November 2001 - Day 190

Martin Hayden S.C. continued to closing submissions for the Irish Haemophilia Society. He said that Prof. Temperley had failed to inform patients of the risk of infection from commercial concentrates, and that he also failed to adhere to treatment protocols aimed at limiting the use of products which were potentially contaminated. Mr. Hayden criticised Prof. Temperley for taking a six month sabbatical in May 1985 without making arrangements for his patients to be informed or counselled for their HIV test results.

Mr. Hayden outlined a number of cases where failure by medical staff had led to unnecessary infection with Hepatitis C and HIV. Mr. Hayden concluded by saying that those responsible for infecting people with haemophilia should acknowledge their responsibility as a first step in a reconciliation process.

PROCEEDINGS: Wednesday 21st November 2001 - Day 191

Martin Giblin S.C. delivered the final part of the closing submissions for the Irish Haemophilia Society. He urged Judge Alison Lindsay to recommend the establishment of a new Tribunal to inquire into the actions of pharmaceutical companies who supplied the people with haemophilia in Ireland with infected products. He said if such an inquiry was not recommended it would allow the pharmaceutical companies to escape being brought to account for manufacturing highly dangerous factor concentrate products which infected 97 people with haemophilia with HIV.

Martin Hayden S.C. for the Irish Haemophilia Society completed the closing submissions by urging the BtSB to unreservedly apologise to the people with haemophilia for its role in their infection. He said that the response of senior management in the IBTS (formerly the BtSB) had resulted in further trauma for those who had lost loved ones. He said the IBTS had failed to learn from past mistakes.

Frank Clarke S.C. made final submissions for the BtSB. On behalf of the IBTS, he welcomed the Tribunal but did not make any apology on its behalf. He said it was a matter of great regret when a public body such as the BtSB charged with important duties in health care, fails to deal properly with the undoubtedly serious task given to it. He said that the BtSB fully understands and sincerely regretted the extremely serious consequences of any such failures for those who had suffered from them. He said that when the consequences of such failures are so tragic, they were doubly regrettable.

PROCEEDINGS: Thursday 22nd November 2001 - Day192

Mr. Clarke S.C. for the BTSB continued his closing submissions.

Mr. Clarke rejected any conspiracy charge against the BTSB and its Board members which had been made by the Irish Haemophilia Society in its closing submissions. Mr. Clarke went on to say that the Irish Haemophilia Society allegation that Dr. Emer Lawlor had sought to minimise the BTSB's culpability was untrue. He said that Dr. Lawlor had sought to assist the Tribunal and had legitimately sought to place events in a more benign light from the point of view of the BTSB. Mr. Clarke said her behaviour was never inappropriate or improper.

Mr. Clarke went on to describe the infection of more than 250 people with haemophilia with HIV and Hepatitis C from contaminated blood products as the greatest tragedy of its type to occur in this country in our lifetime. He said, however, that a great wrong had not been committed simply because a great tragedy had occurred, and that the BTSB's responsibility might not be proportionate to the scale of the tragedy.

PROCEEDINGS: Friday 23rd November 2001 - Day 193

Brian McGovern S.C. made final submissions on behalf of Prof. Temperley. Mr. McGovern accused Counsel for the Irish Haemophilia Society as having launched a cruel and unfair attack on his clients. He said that lawyers for the Irish Haemophilia Society had engaged in a character assassination of his client. Mr. McGovern also attacked the submissions made on behalf of the BTSB. He said the BTSB position that they relied on Prof. Temperley for advice on product selection was not accurate. If anything, he said, it should have been Prof. Temperley relying on the BTSB since the BTSB had a Scientific Committee and access to expertise on the manufacture of blood products. Mr. McGovern went on to say that every effort was made to deal with HIV diagnosis in a sensitive and confidential manner. If there were delays in informing people of test results he said they should be viewed in a context of an excessive workload placed on Prof. Temperley. Mr. McGovern said it should be remembered that Prof. Temperley had given a lifetime of service to public medicine and had suffered greatly from watching many of his patients suffer from HIV and Hepatitis C.

Angus O'Brolchain S.C. for Dr. Paule Cotter, also made his closing submissions. He said that he was appalled by the closing submissions made by lawyers for the Irish Haemophilia Society. He accused lawyers for the Irish Haemophilia Society of making cheap jibes and glib allegations against his client.

PROCEEDINGS: Monday 26th November 2001 - Day 194

Anthony Aston S.C. made closing submissions for the Irish Medicines Board. He described the allegations made by the Irish Haemophilia Society that the Irish Medicines Board was mainly a rubber-stamping operation, as unwarranted and unjust. However, he welcomed the Irish Haemophilia Society's recommendation for the establishment of a product testing laboratory in the State. He said that the National Drugs Advisory Board (as the IMB then was) never had sufficient resources or facilities to carry out all of the work which would have been appropriate. Mr. Aston went on to say that the NDAB's role should be seen in the context of its relationship between two State agencies. Mr. Aston described the licensing scheme adopted in Ireland in the late 1970s as a hands off approach. He pointed out that the NDAB was extremely under funded and he praised the work done by Dr. Scott, who had been the Director of the Board for many years.

PROCEEDINGS: Tuesday 27th November 2001 - Day 195

Today, Ian Brennan S.C. made his closing submissions on behalf of the Department of Health and the Minister. He said that they were deeply sorry that those people affected by the Hepatitis C/ HIV tragedy had been caused to suffer so much. He said it was an immense tragedy that had befallen citizens of this State and it should be profoundly regretted. However, he accused lawyers for the Irish Haemophilia Society of monstrous behaviour in accusing a former Civil Servant of being involved in a State sponsored cover-up. Mr. Brennan said the Department of Health was not aware that from 1986 there was evidence that seven people had been infected with HIV as a result of using BTSB product. He denied the allegations made by the Irish Haemophilia Society that the Board concealed this fact from the Minister for Health. He said there was no motivation and that it was therefore incredible that any member of the Board would not have informed the Department of Health about serious issues. Mr. Brennan's submissions ended the hearings of the Tribunal.

PROCEEDINGS: Wednesday 28th November 2001 - Day 196

The Tribunal Chairperson heard applications for costs.

The Tribunal's public hearings concluded.