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Europe's HIV-contaminated blood

The origin of the blood and blood-products contaminated with HIV sold on the European market is more probably a mark of incompetence than of cupidity, but is none the less culpable on that account.

THE alarm that spread through Germany and much of the rest of Europe last week about the supply of potentially contaminated transfusion blood and other blood products raises awkward questions about the safety of the public health in circumstances in which biological materials of various kinds are traded internationally. The late Richard Titmuss, the professor at the London School of Economics who argued eloquently (in a book called *The Price of Blood*) that only freely volunteered donations can be trusted, appears to have been thoroughly vindicated. Although the company now recognized as the source of contaminated products in Germany and elsewhere in Europe appears routinely to have tested blood donations for HIV (among other contaminants), it did so in a way that could only have reduced the sensitivity of the assay. Like any other commercial organization, it was seeking to save time and trouble, and thus money. Titmuss's argument was that this is only to be expected.

The real trouble goes deeper, but it is not irrelevant that the French scandal over blood transfusions contaminated with HIV happened soon after the National Transfusion Service had been made commercially free-standing and instructed to balance its books by offsetting the costs of its domestic operations with the surpluses to be made from its monopoly on imported blood. That was the impetus for its director's infamous instruction that contaminated blood should continue to be supplied "while stocks last". But Michel Garretta is in jail, as is his once-colleague Jean-Pierre Allain on the flimsy charge that his warnings of disaster were not public enough. So does it not follow that the managers of the German company responsible for supplying contaminated blood should also end up in jail?

The difficulty is that the fault in Germany is more probably attributable to incompetence than to cupidity. If, as reported, a test for HIV was applied to pooled blood rather than to single donations separately, the person who devised that procedure must have been ignorant of the inevitable finite sensitivity of such tests. Otherwise, commercial considerations would have argued against cutting corners; when so much is known of the risks of transfusing HIV-contaminated blood, it would have been apparent that the cost of being found in the wrong must far exceed whatever might be saved by reducing the numbers of blood samples tested.

That is why the essence of the German case is whether incompetence is a crime and, if so, what kind of crime. As so often happens, the question is not novel, but its setting is. For is it not part of the tradition of professions such as engineering that people who give faulty advice in the construction of, say, a bridge are held culpable if, afterwards, the construction fails? More recently, accountants who are found to have audited incompetently the accounts of companies for which they are responsible are similarly liable to lawsuits from those injured in the process. Then motor-car manufacturers supplying dangerous products must expect to be sued for whatever damage is done to those who acquire them. Those who allow contaminated blood onto the market cannot therefore expect to be exempt from whatever penalties are prescribed for incompetence and carelessness.

But none of that will help when the consequences of incompetence may be as scary as they must be when even small amounts of contaminated blood and other biological products find their way into general use. Titmuss's argument that once there is a market in such materials the quality of the materials supplied is inherently untrustworthy has force, but is impractical. Even the best-run public health systems are under pressure to supply themselves with all the biological materials they could use. So the trick is not to do without a market, but to operate in such a way as to avoid the pitfalls of which Titmuss warned. And that can be done only if those who buy products in bulk from the market undertake their own testing of what they have paid for.

But double-checking along these lines cannot always be effective. The use of pituitary glands as a source of human growth hormone has, in the past decade, been recognized for the first time to be a possible agent of Creutzfeldt-Jakob disease in a number of patients, but even now there is no assay of the infectious entity. What the law appears to hold in such cases is that there is a distinction between involuntary and voluntary ignorance. When there are no means by which a person can know that some material is dangerous, he is not guilty of incompetence if later developments prove his confidence misplaced. But that does not apply to incompetence in a simple matter of measurement. □

An end to fraud?

The responsibilities of the US Office of Research Integrity should be returned to the research community.

THE decision last week of the Departmental Appeals Board of the US Department of Health and Human Services (see page 99) is welcome on two grounds: it exonerates an honest