

Catalogue of papers and correspondence of

Sir Richard Southwood FRS

(b. 1931)

Relating to the BSE Inquiry

By Jeannine Alton and Caroline Thibaud

NCUACS catalogue no. 108/7/02

Title: Catalogue of papers and correspondence of Sir Richard Southwood FRS (b. 1931) relating to the BSE Inquiry.

Compiled by: Jeannine Alton and Caroline Thibaud.

Date of material: 1988-2001.

Extent of material: ca 160 items.

Placed in: Department of Special Collections and Western Manuscripts, Bodleian Library, Oxford.

Reference code: GB 0161 TRE Southwood papers.

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GENERAL INTRODUCTION

PROVENANCE

The material was received from Sir Richard Southwood in 2001.

DESCRIPTION OF THE COLLECTION

The bulk of the material covers the period from 1996, when the first public announcement was made of a possible link between Bovine Spongiform Encephalopathy in cattle and CJD (Creutzfeld-Jacob Disease) in humans, to February 2001, but it is mainly concerned with Southwood's involvement in the official BSE Inquiry from December 1997 to October 2000. There are a few documents included relating to the Southwood Working Party and dating back to 1988 and 1989, sent as part of the work of the Inquiry.

The material supplements the papers previously catalogued as Section M of NCUACS catalogue no. 71/1/98, and is therefore numbered as a continuation of that sequence. The content comprises correspondence with colleagues, members of the Working Party, legal representatives and members of the general public, drafts and revisions of statements and evidence given to the Inquiry, and a little research material. The presentation is chronological as far as possible, with a brief indication of the contents of the folders. There is a short sub-section at M.135-M.142 dealing with research and publications. M.143-M.162 contains correspondence received from colleagues, officials, members of the farming community and the general public.

THE BSE INQUIRY

The Inquiry was announced in Parliament on 22 December 1997 and set up on 12 January 1998. It was headed by Lord Justice Phillips (later Lord Phillips of Worth Matravers); the other members were Mrs June Bridgeman CB and Professor Malcom Ferguson-Smith FRS.

The Inquiry's terms of reference were to establish and review the history of the emergence and identification of BSE and new variant CJD in the United Kingdom, and of the action taken in response to it up to 20 March 1996; to reach conclusions on the adequacy of that response, taking into account the state of knowledge at the time; and to report on these matters to the Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretaries of State for Scotland, Wales and Northern Ireland.

In his opening remarks, the Chairman outlined his intentions for the procedure of the Inquiry. Hearings were to be public, and transcripts of evidence, taken down as delivered by real time transmission, were posted regularly on the Inquiry's web site and also made available in documentary form. The first stage (Phase 1) was to be concerned with establishing factual evidence. Witnesses would submit written statements and give oral evidence to the Inquiry based on their statements, amplifying or explaining as required. It was repeatedly stressed that fact-finding was the sole purpose of this phase, no criticisms of witnesses being implied. After a review of all the evidence by members of the Inquiry, and the production of Draft Factual Accounts (DFAs) on the topics covered, Phase 2 would move to consider potential criticisms, which would be notified to witnesses by letter known as a Salmon letter. Recipients of such letters would prepare statements in response, would attend a further public hearing, and could if they wished make additional submissions. A final report would then be prepared and submitted.

This procedural plan was followed, but the intended time scale was not. The report of the Inquiry had been scheduled for 31 December 1998 after one year's work. In the event, Phase 1 hearings occupied from March to December 1998. Salmon letters were sent out in December 1998, and the hearings of Phase 2, described as 'clarification, conflict and potential criticisms', began in March 1999. On the opening day of the Inquiry, 9 March 1998, the Chairman had already asked for and been granted an extension of six months, to enable its report to be delivered to Ministers on 30 June 1999. Further extensions proved necessary and the report was eventually published on 26 October 2000, in 16 volumes, its evidence and documentation also being available on its web site and on a series of CD-ROMs held at the Public Record Office.

The Southwood Working Party and its report of February 1989 were pivotal to the Inquiry; the first Draft Factual Account (DFA) to appear, in January 1999, and Volume 4 of the published report, were titled 'The Southwood Working Party 1988-1989.' References to it appear in every volume, particularly Volume 11 'Scientists after Southwood' and Volume 1 'Findings and Conclusions'.

The Working Party's statements and responses to the Inquiry were usually drafted in the first instance by Southwood, with comments and revisions by its other members (Sir Anthony Epstein, Dr. W.B. Martin and Lord Walton) and the oral evidence given on 11 March 1998 (Phase 1) and 21 July 1999 (Phase 2) was led by him. Draft Factual Accounts and transcripts of evidence submitted by other witnesses were also circulated for comment by the Working Party.

The opening of Phase 2, heralding a more confrontational process, led to arrangements for legal representation. The firm chosen to act for the Working Party was Macfarlanes; J.H.R. Manners and D. Lavender were those principally involved. From December 1998 they became the conduit of communication between the Secretariat of the Inquiry and the members of the Working Party,

transmitting and advising on statements and responses and also taking part in client meetings and attending Inquiry hearings as Counsel or representatives. William Norris QC was appointed as counsel for the Southwood Working Party. Sir Anthony Epstein and Lord Walton were also advised by the Medical Defence Union Ltd. The very intensive exchanges during 1999 are almost all channelled via Macfarlanes and often involve three- or four-cornered correspondence. Dr. Hilary Pickles, formerly a Principal Medical Officer at the Department of Health and a joint secretary of the Working Party, also contributed statements and letters to the Inquiry and to Southwood and these are included in the sequence.

ACKNOWLEDGEMENTS

Thanks are due to Sir Richard for making the material available and for his generous help in identifying and clarifying documents.

Mrs Belinda Wood, Sir Richard's secretary, has always been unfailingly helpful.

Jeannine B. Alton

Caroline F. Thibeaud

Oxford/Bath, 2002

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M.62-M.78	Establishment and Phase 1	1997-1998
M.62	Setting-up papers. Press release; invitation to give evidence, terms of reference of the Inquiry, Chairman's opening statement, procedures and timetable, note on lawyers.	1997-1998
M.63-M.78	Phase 1 The Inquiry hearing was on 11 March; all of the Working Party members attended and gave evidence. At this stage there was no legal representation. Southwood submitted a statement, with revision and additions by other Working Party members.	1998
M.63	February 1998. Drafts of Southwood's statement, with amendments and addenda from W.B. Martin.	
M.64	February 1998. Correspondence, drafts and addenda by other members of the Working Party.	
M.65	February 1998. Correspondence with Working Party members arranging a meeting on 10 March, before the Inquiry hearing.	
M.66	March 1998. Correspondence and comments on Southwood's statement from H. Pickles. Includes some documents from 1988.	
M.67	March 1998. Miscellaneous documents and minutes, on early meetings and on encephalopathy of mink, sent to Southwood for comment or consideration before the Inquiry hearing. Some manuscript notes by Southwood.	

- M.68 March 1998.

Attendance at the Inquiry 11 March.

Transcript of Working Party's evidence, draft of Southwood's introductory remarks, all with manuscript corrections or highlights.
- M.69 March 1998.

Corrections to transcript of evidence, and miscellaneous other comments arising from evidence.
- M.70 March-April 1998.

Correspondence with members of the Working Party, and with other colleagues, after appearance at Inquiry.
- M.71 July-September 1998.

Later correspondence with Inquiry on corrections and clarifications of evidence.
- M.72 July, November 1998.

Correspondence and papers on the evidence given to the Inquiry by Dr. Richard Kimberlin.

Correspondence and comments in July are by H.Pickles and A.J. Lawrence.

Correspondence and papers in November are by Southwood and members of the Working Party in response to a 'what if' question from the Inquiry secretariat asking whether their report might have differed had Kimberlin's papers on BSE and scrapie been available to them. Includes some correspondence from 1989.
- M.73-M.78 Comments on Witness Statements. Nd

As part of the Inquiry's objective of openness in its procedures, copies of witness statements were made available to those referred to in them, in order for any factual inaccuracy to be identified and notified to the Inquiry.

Some witness statements received detailed comment from Southwood, others were dealt with more briefly. Some have no comment, or a note indicating they were answered by phone or fax; these are grouped together at M.78.

M.73	Statements of A.R. Cruickshank and A.J Lawrence. These were dealt with together with Southwood. The folder includes correspondence with Lawrence and with H. Pickles, and annotated pages of statements under discussion.	1997-1998
M.74	Statement of Richard Lacey.	
M.75	Statement of J. Macgregor.	
M.76	Statement of SEAC (Spongiform Encephalopathy Advisory Committee).	
M.77	Statement of John Wilesmith.	
M.78	Various Statements. Statements with no comments, or with agreement by Southwood. Donald Acheson, Derek Andrews, John Gummer, Introduction of the SBO (Specified Bovine Offal) Ban, Keith Meldrum, Slaughter and Compensation, Sir Donald Thompson, Tyrell Consultative Committee, Ailsa Wight.	
M.79-M.119	Phase 2 Phase 2, intended in the Inquiry's words to 'cover clarification and conflict of evidence as well as potential criticisms', was notified in October 1998. At first Southwood and his colleagues did not expect to be involved, but in December 1998 a Salmon letter and a Draft Factual Account were received, legal representation was arranged at Macfarlanes, and a period of intense activity began, conducted in meetings but principally by correspondence. Several objectives were being pursued concurrently: 1. Corrections, revisions and deletions to be made in the Working Party's Draft Factual Account and in its submission to the Inquiry; 2. Consideration and where appropriate replies to the Draft Factual Accounts of other witnesses, whose spokesmen could in turn contribute comments, favourable or otherwise, on the Working Party. 3. Preparation for the second hearing before the Inquiry, several times deferred and eventually held on 21 July 1999.	1998-1999

/...

- /... All the members of the Working Party contributed ideas and comments to Southwood or directly to Macfarlanes. Dealings with Inquiry officials were conducted via Macfarlanes, who were punctilious in sending copies and in following up their clients' interests: as an instance, four letters were sent out to the Inquiry on 11 March 1999.
- The Inquiry's Phase 2 team was led by Eliza de Wit to whom much of the correspondence is addressed.
- M.79 Notification of the opening of Phase 2. 1998
- Information on procedures, legal representation.
- Southwood's initial reply (23 October), after consultation with his colleagues on the Working Party, reads: 'To the best of our knowledge, there has not been any harsh criticism of our work to the Inquiry so far and therefore we see no purpose in our attending Phase 2.'
- M.80 Notification of Potential Criticisms (the Salmon letter). 1998
- The document (14 pages) is heavily annotated by Southwood.
- M.81 The Southwood Working Party Draft Factual Account (DFA). Nd
- 111 pages, with annotations and highlights by Southwood, and many pages flagged with 'Post-it' notes, yellow indicating supportive comments, blue for hostile remarks.
- This was the version used as a basis for the Working Party's replies.
- M.82 Request for clarification from the Inquiry, on risk and on medicinal products, in preparation for Phase 2. 1998-1999
- Includes two draft replies by Southwood and correspondence from colleagues.
- M.83 Appointment of legal advisers, Macfarlanes and correspondence. 1998-1999
- Also includes correspondence and comments by H.Pickles on the Southwood DFA. Southwood's letter of 3 February speaks feelingly of his distress at the selective and distorted nature of parts of the DFA as circulated.
- M.84-M.88 Correspondence. Also included are early reactions to Salmon letter, first meeting with lawyers (Oxford 17 December), comments on DFA etc, from colleagues. December 1998 to January 1999.

- M.84 M.A. Epstein.
- M.85 A.J. Lawrence.
- M.86 W.B. Martin.
- M.87 H.Pickles.
- M.88 J.N. Walton.
- M.89 Southwood' s 'First Draft Response to Salmon letter' sent to colleagues. 11 Dec. 1998.
- M.90 'Updates' sent by Southwood to colleagues and lawyers.
The updates are numbered 1-6, 8 December 1998-7 January 1999.
Miscellaneous notes, quotations, etc, mainly relating to levels of risk.
- M.91 Later comments on DFA. 1999
Comments were made by Southwood and by M.A. Epstein.
- M.92 Revised version of DFA.
This version is dated 21 January 1999, flagged and annotated by Southwood.
- M.93 January 1999.
Correspondence, information, comments, on Southwood DFA, and on DFAs and criticisms referring to others.
- M.94 February 1999.

- M.95 1-8 March 1999.
- Replies and amendments to DFAs and Salmon letters issued by the Inquiry and referring to others (in particular MAFF and Department of Health officials); Report of the International Roundtable on BSE, favourable to the Working Party; note of withdrawn criticisms.
- M.96 9-24 March 1999.
- Note of re-scheduling of hearings to June-July, report of Roundtable.
- M.97 24-29 March 1999.
- Continuing amendments to DFA; report of European Parliament's Committee of Inquiry into BSE.
- M.98 March-8 April 1999.
- Drafts and comments on the Supplementary Response of the Working Party, drafted in March but sent in final form to the Inquiry on 8 April.
- M.99 March-July 1999.
- Correspondence on indemnity.
- M.100 Correspondence. Also includes press releases, information on extension of Inquiry, deferral of dates for second hearing of Working Party, finally arranged for 21 July 1999.
- M.101 April 1999.
- M.102 5-15 May 1999.
- Reply by the Inquiry to the Working Party's Responses; some criticisms were withdrawn but others were reformulated (Southwood refers to these documents as the second Salmon letter); replies, notes, arrangements for meeting by Working Party members, and for the date of giving evidence before the Inquiry. Also included is a draft response to Salmon letters by H.Pickles.

- M.103 17-31 May 1999.
- Further comments on new Salmon letter, agenda and notes for discussion in consultation with Counsel (William Norris QC), 21 May; notification of further revised and extended schedule for the Inquiry - oral hearings, June-December 1999, final report to be delivered by 31 March 2000.
- M.104 April-June 1999.
- Correspondence, information, current research on CJD, comments and supplementary statements by H.Pickles.
- M.105 1-18 June 1999.
- Further comments on Working Party's Response to second Salmon letter and on revised DFA; arrangements for discussion meeting with Counsel 18 June.
- M.106 15-29 June 1999.
- Copy of 'Revised Potential Criticisms' and Working Party's Response, with many annotations by Southwood; comments by Southwood on the Inquiry's account of BSE and medicines; correspondence with colleagues.
- M.107-M.113 Material relating to the Inquiry hearing on 21 July 1999.
- The Inquiry had before it statements and responses prepared by the Working Party (M.107-M.109). A transcript of the day's hearing is at M.110 and subsequent supplementary statements are at M.111-M.113.
- Much of the correspondence from July (M.114 et seq.) deals in some detail with draft statements, amendments to transcript etc.
- The Working Party gave evidence before the Inquiry on 21 July. All four members were present as were their legal representatives W. Norris QC and J.H.R Manners of Macfarlanes.
- M.107 Draft Joint Statement, 18 May 1999.
- The statement was flagged and annotated by Southwood.
- M.108 Supplementary Statement 1, 1 July 1999.
- Statement has a little highlighting by Southwood.

- M.109 Supplementary Statement 2, 15 July 1999.
Annotations and highlighting by Southwood.
- M.110 Transcript of the hearing, 21 July 1999.
80 pages, extensively flagged by Southwood.
- M.111-M.113 Drafts of 'Further Statement of the Working Party'.
Drafts are dated 11 August, 10 September, 5 October 1999.
- M.111 11 August 1999.
Flagged and extensively annotated by Southwood.
- M.112 10 September 1999.
Annotated and with a list of page-references to corrections by Southwood.
- M.113 5 October 1999.
Indicating corrections and deletions.
- M.114 July 1999.
Preparation of Supplementary Statements, correspondence following the
hearings on 21 July, corrections to transcript.
- M.115 August 1999.
Corrections and comments on transcript and statements.
- M.116 September 1999.
Corrections to transcript and statement; discussion meeting on epidemiology
organised by the Inquiry (members of the Working Party did not attend but
sent comments, a copy of which is enclosed).

- M.117 5-18 October 1999.
- Amendments to statement; updates of Revised Factual Accounts (RFAs).
- M.118 18-25 October 1999.
- Revised Factual Account of Southwood Working Party.
Also includes detailed comments by J. Walton on 'Medicines and Medical Devices' document, and notes by H. Pickles prior to her appearance before the Inquiry about issues relating to the Working Party.
- M.119 November 1999.
- Correspondence, comments and evidence to the Inquiry by H. Pickles; Inquiry's 'Statement of Procedures for Additional Comments' sent to those notified of outstanding potential criticisms at the conclusion of Phase 2.
- M.120-M.129 'Round Three' 1999-2000**
- This was the name given by Southwood to the reception of the Inquiry's letter of 2 December 1999 and consequent events. In its letter the Inquiry withdrew several of the potential criticisms of the Working Party which had been notified in May 1999 (the 'second Salmon letter', see M.102), and reformulated others. Additional comments were invited from the Working Party, to be submitted by 23 December, a deadline extended, after legal representations, to 21 January 2000.
- Southwood rapidly drafted a 'possible framework for our reply', for his colleagues' comments. A meeting with Macfarlanes and with Working Party members was held in Oxford on 14 January 2000, followed by meetings of Counsel and negotiations for a further oral hearing, which was refused in June, or the submission of additional written representations which were sent in April.
- M.120 2-8 December 1999.
- Letter from Inquiry on outstanding potential criticisms of Working Party; updated RFA on Working Party; evidence by D. Acheson; Southwood's draft reply to Inquiry and comments by colleagues.
- M.121 10-23 December 1999.
- M.122 4-7 January 2000.
- Supplementary statements by H. Pickles, and related correspondence.

- M.123 11-31 January 2000.
- Agenda and notes for discussion at meeting with lawyers on 14 January; two drafts (both annotated) of the Working Party's response to the Inquiry's letter of 2 December; note of a discussion between barristers on possible courses of action by their clients.
- M.124 2-29 February 2000.
- Continuing correspondence on request for a further oral hearing and for a sight of relevant sections of the draft report; extension of Inquiry by six months (to 30 September); termination of publicly funded legal support after the publication of the report, which would have parliamentary privilege.
- M.125 3-28 March 2000.
- Note of meeting of Counsel 14 March; draft of further written representations (annotated by Southwood) and request for oral hearing, sent to Chairman of the Inquiry, 28 March.
- M.126 3-26 April 2000.
- Southwood's Supplementary Statement; correspondence from H. Pickles criticising the conduct of the Inquiry; continuation of legal representation.
- M.127 19-30 May 2000.
- M.128 12-23 June 2000.
- Letters from Inquiry refusing requests for a further oral hearing, for publication of additional comments and for the *Bolam* test to be applied to the members of the Working Party.
- M.129 3-26 July 2000.

M.130-M.134

Publication and after

2000- 2001

After its several postponements, the Phillips Report was published on 26 October 2000, simultaneously with a statement by the minister of Agriculture, Fisheries and Food at 12.30 in the House of Commons, followed by Press briefings and interviews. The event was closely supervised in order to prevent leaks to outside persons or to the media. No advance copies were made available, but 'early access', from 9.30 am on the day of publication, was granted under strict conditions and only to those criticised in the report.

The members of the Southwood Working Party did not take up the arrangements for early access, but a statement was issued on their behalf by their legal representatives.

The criticisms made of the Working Party, and the methods of the Inquiry, continued to be the subject of adverse reflections by several of the participants (M.133, M.134).

M.130

September 2000.

Advance preliminary notification of arrangements for publication of the Inquiry Report, possible civil action, legal proceedings and representation.

M.131

September 2000.

Draft of Food Standards Agency Review of BSE controls, with comments by Southwood, sent to the Director (J. Krebs).

M.132

October 2000.

Arrangements for publication and for legal assistance if required, drafts for press release by the Working Party in response to the Report, correspondence.

M.133

November 2000.

Reflections on the Report and its implications for membership of scientific advisory committees.

M.134

December 2000, February 2001.

Continuing reflections on the Report, on the Inquiry, public service and advisory committees.

M.135-M.142	RESEARCH AND PUBLICATIONS	1996-1998, nd
M.135	<p>Proposals for collaborative research to be undertaken at the Department of Zoology, Oxford.</p> <p>The proposals followed a meeting with J. Wilesmith, Central Veterinary Laboratory and others, May 1996.</p> <p>Includes Southwood's notes taken at the meeting, follow-up letters by R.M. Anderson and other miscellaneous research ideas, requests for information, etc.</p>	1996
M.136	<p>'The Epidemiology of BSE and Scrapie in Europe', conference held at the Wellcome Building, London on 25 Nov. 1996.</p> <p>Conference programme, delegates' list, heavily annotated by Southwood.</p>	1996
M.137-M.141	Papers and publications on BSE.	1996-1998, nd
M.137	<p>'Prediction of Future BSE Spread' [with D.J. Stekel, M.A. Novak], <i>Nature</i>, vol.381, (9 May 1996). (<i>Bibliog.</i>212),</p> <p>Letter to collaborators by Southwood, data, paper as published as letter to <i>Nature</i>.</p>	
M.138	<p>Correspondence and drafts variously titled 'Prion Perplexities', 'Prion Polymorphisms', related to 'Phylogenesis of Prion Protein', [with D.C. Krakauer, M.Pagel and P.M. Zanotto], <i>Nature</i>, vol. 380, (<i>Bibliog.</i> 210).</p>	c. 1996
M.139	<p>'Transmission Dynamics and Epidemiology of BSE in British Cattle' [with lead author R.M Anderson], <i>Nature</i>, Vol. 382, (29 August 1996). (<i>Bibliog.</i> 215).</p> <p>Correspondence, copy of paper as published and of draft (not identical).</p>	
M.140	<p>'BSE - Reflections', (final title "Prion Taming"), <i>Parliamentary Review</i>, (April 1997). (<i>Bibliog.</i> 219).</p> <p>Draft and proofs all with manuscript corrections.</p>	
M.141	<p>Correspondence and drafts for a contribution to coverage of the BSE crisis in <i>The Times Higher Education Supplement</i>, (8 May 1998).</p>	

M.142 Miscellaneous shorter correspondence, requests to 1996-1998
appear on television programmes, lecture or write on BSE.

M.143-M.162 CORRESPONDENCE 1996-1999

The material, presented alphabetically, covers the period 1996-1999, and includes correspondence with scientific colleagues and institutions and with members of the public, some directly involved with farming or agriculture, arising from public information about the developing BSE crisis. Several put forward theories and documentation purporting to explain the origin of the disease, or to attribute blame for its spread.

M.143-M.161 comprise exchanges with replies by Southwood. M.162 contains his replies to letters of similar content whose originals have not survived.

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M.145 F.

M.146 G.

M.147 H. (1).

M.148 H. (2).

M.149 K.

M.150 L.

M.151 Martin, W.B.

M.152 M.

- M.153 National Radiological Protection Board.
- M.154 P.
- M.155 Royal Society.
- M.156 S.
- M.157 T.
- M.158 W (1).
- M.159 W (2).
- M.160 W (3).
- M.161 W (4).
Anonymous or unsigned letters.
- M.162 Southwood's replies to letters which have not survived.
Some brief exchanges only, other more extended, similar in content to material at M.143-M.161.

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