

TRANSCRIPT OF INTERVIEW WITH SECRETARY OF STATE, THURSDAY 20 SEPTEMBER
"WORLD AT ONE"

Q. Were you hoping for a knock-out blow which you failed to achieve?

A. No - this is a procedural sort of hearing and we disclosed very many documents and there was a technical argument about whether this category of document should be disclosed; the judgement has now been given; the judge will look at the documents and in my opinion, as far as I am aware, those documents contain nothing which will help the haemophiliacs establish, what I believe to be their mistaken claim, this tragedy was the fault either of the health service or any of the doctors or the licensing agencies at the people against whom they brought the claim.

Q. Well it is fairly extraordinary if you say that the documents contain nothing that could possibly help the haemophiliacs that you held the documents back, made them go to court in this way and strung out the legal proceedings as you have?

A. We're certainly not stringing out the legal proceedings and our reaction to this tragedy to the haemophiliacs has been to pay each of them at least £20,000 with more in cases of hardship and we have spent a great deal of money in trying to alleviate all the suffering that has occurred. They are persisting on bringing a legal action trying to demonstrate that it was fault that gave rise to this tragedy, try to get much bigger sums of compensation and, we are not able to concede that...

Q. But it does appear that the Courts believe there is a prima facie case that you may be responsible because you asked them to say that there was no case to answer and they failed to do so?

A. Had they struck it out at this stage the result would have been all that protracted suffering and so on that will be caused if a long legal action results would of course have been saved. They are entitled to bring their claim. But on all the evidence and all the legal advice before me there is no negligence, it was nobody's fault and we cannot

pay up very large sums of money in such circumstances. It would have very grave effects to the National Health Service and for the practice of medicine in this country.

Q. Well, you say that they will string it out themselves by taking the case to court. Another way to prevent that happening would be, as in previous cases that have happened (thalidomide is one that comes to mind) that you could settle out of court in a way which would satisfy all legal arguments...

A. If anyone produces to me some evidence which makes probable that there was negligence on our part, if the legal advice is that we are likely to have fault established then the Government will pay, the Health Service will pay without hesitation - as we always do. There is a problem though if we just pay up when it isn't any-body's fault however harrowing the circumstances, as they obviously are, to all of us. In this case, in my opinion, the people concerned were given the best medical treatment available - the same treatment they would have got from any other part of the world. Their lives were prolonged by that treatment, but unfortunately, and tragically, a side effect ensued with the result that many of them are now HIV positive and suffering from AIDS..... If every time a patient is given the best medical treatment available and then that treatment goes wrong without anybody's fault after everybody has done their best then the National Health Service would become like the American system. Every doctor has a lawyer, everybody pays huge compensation every time the compensation fails. We cannot move to that it would have very unfortunate effects for the practice of medicine in this country and this tragic case would thereby pave the way for very very unfortunate consequences thereafter.

Q. The Department of Health delivered the treatment, the treatment turned out to be fatal, in some cases, and it seems to many people looking on that the legal niceties of which you speak, however correct they may turn out to be in court, are prolonging and extending the suffering of people who have already suffered enough.

A. They're not, with respect, legal niceties; they are common sense if you think it through. Obviously, we have very many patients die on the National Service after they have had all the best treatment, all the

best care that people can give. The Health Service cannot compensate those patients where the risk has been taken of surgery or whatever, that subsequently the patient dies. Because of the particular circumstances of this case, we pay each one at least £20,000, which is more generous than most other countries have done - because this happened everywhere throughout the developed world - we're spending already £29m, we've made it quite clear we will find more money if the Macfarlane Trust runs out - having financed it. What we can't do is say "where it is was nobody's fault that the best medical treatment produced a tragedy, the health service, the Government will always pay compensation". Although I'd like to do that for haemophiliacs, I can only tell you that in 10 years time the practice of medicine in this country will be deeply affected if we had to compensate every tragic death that occurs in the hospital.