ANNEX B(2)

[Mr. Alfred Morris]

"How many disabled people, after being assessed for services under the . . . Act . . ., are now on waiting lists for the help that they need . . . how many local authorities at the latest date for which figures are available, had reduced or removed services in cases where there was no diminution in the disabled person's needs".

I also asked the Minister to comment on a case, of which I had informed the Secretary of State for Health

"where home help provision was withdrawn from an elderly couple both of whom are severely and progressively disabled?"—[*Official Report* 3 December 1991; Vol. 200, c. 138.]

Not one of my questions was answered by the Minister. I shall be grateful, therefore, if the Leader of the House will obtain the answers for me before the motion is approved.

Before he does so, I must tell the House that the legal advice given to me, when I was Minister for the Disabled, was that it was unlawful to keep disabled people who have been assessed for services on waiting lists for them. I was also unequivocally advised—as I know all my successors as Minister for the Disabled have been—that it was unlawful to reduce or withdraw a service provided under the Act unless the disabled person's need for it had diminished. Yet in the case about which I questioned the Minister for Health, on 3 December, home help provision was withdrawn from the elderly and severely and progressively disabled couple whose nearest relative lived over 180 miles away in Manchester.

They are not alone in having their legal rights trampled on. Arthritis Care and the Royal Association for Disability and Rehabilitation said in a recent statement that such cases could be found all over Britain and that

"widespread distress has been and continues to be caused among disabled people."

In a letter that I received from the Minister for Health before I questioned her in the House, she said, without any suggestion of criticism, that some local authorities had now withdrawn cleaning-only home help services altogether. If so, then *ipso facto* such services are no longer available to any disabled person in their areas, irrespective of need and the requirements of the law.

That is a very serious matter indeed about which there should not only be a statement to the House before the recess, but urgent ministerial action to end all misconceptions about the legal duties imposed by the Act. On behalf of many national organisations of and for disabled people, I implore the right hon. Gentleman to make a positive response to my plea to him to play his part in ending what their members see as law-breaking on an increasingly wide scale.

In pressing him to help, I emphasise that about 50 per cent. of the homeless in Britain this Christmas are expected to be disabled people, most of whom sleep rough due to the yawning gap between promise and performance in the Government's approach to community care. Thus, the two issues that I have raised are linked. Shelter says that there was a 92 per cent. increase in the number of homeless disabled people between 1980 and 1988, and the number has undoubtedly risen since then. That is sombre further proof of the need for a humane response from the Government before this debate concludes.

4.55 pm

Sir Michael McNair-Wilson (Newbury): In eight days' time the House will rise for the three-week Christmas recess. I have no doubt that we are all looking forward to that event, a time for rest, a time to be at home with our families, a very special time when we talk of good will towards all men and hope that the happiness to which we look forward will be shared by others.

However, I suspect that for 28 people at least—those who remain of the 50 or so people who received blood transfusions contaminated with the HIV virus from the national health service between 1982 and October 1985—Christmas will be overshadowed by the deadly nature of the virus and its awful consequences—its life-shortening consequences if it becomes AIDS. Now, of course, blood donations are screened to prevent such contamination happening again, but for those poor 28 people, unlike the 1,200 haemophiliacs who got the HIV virus from contaminated samples of the fact 8 blood product, no Macfarlane Trust exists for them, nor for those 22 who have already died from AIDS as a result of the vurus, nor for their dependents.

It is right to ask why that should be the case. According to a letter that I received from the Parliamentary Under-Secretary of State for Health in the other place, Baroness Hooper, on 19 October 1991, the Government

"decided to make special provision for HIV infected haemophiliacs because we accepted that they were a very special case. The haemophiliacs were doubly disadvantaged by their hereditary condition, which was compounded by the onset of HIV. The position of those others infected with HIV through blood transfusions is more difficult, since the Government does not consider that their case is different in principle from that of others seriously harmed through medical accident."

So the Minister seems to acknowledge that those people have been seriously harmed through a medical accident derived from their treatment at the hands of the NHS, but the Minister goes on to say that it was nobody's fault—and anyway, that the haemophiliacs got compensation because they were haemophiliacs, not simply because they had been given contaminated factor 8.

It is almost the identical defence originally submitted by the Department of Health when it first refused to pay compensation to haemophiliacs. Effectively, it said, "If you can prove we were negligent, we will pay. If not, you get nothing." Legally, I recognise that that is strong ground, because proving negligence is an expensive and long drawn-out process, perhaps taking six to seven years, and how many of those 28 people who are still alive and who had contaminated blood transfusions will be alive that far ahead?

There is another dimension to those cases in terms of what any of us expects from treatment under the NHS. Surely we expect to be made well or better than we were when we went for treatment. Also, I know of no patient who tells his doctor what treatment he should or should not receive. I know of no patient who has ever told his doctor that he needs a blood transfusion. The decision about the treatment is one for the medical staff. The patient does as he or she is told.

I do not complain about that; the doctor has the experience, but, if we place our lives in the hands of medical men, we presume that the course of treatment they prescribe will make us better, not give us a viral infection from which we will die. That is implicit in the contract, unwritten though it may be, between patient and doctor.

It adds up to a moral obligation which the service takes on when it describes itself as the national health service. Of course, the chance of our being made well depends on what we are suffering from when we enter hospital, but few, if any, of us expect to die from the treatment that we are given. Yet that is what is happening to the haemophiliacs and to those who have had tainted-blood transfusions.

Those people are now living in the twilight existence outlined to me by a haemophiliac constituent who had received contaminated factor 8. He asked me to go and see him at night so that his neighbour would not ask why the Member of Parliament was visiting him. He told me how fearful he was that his children's friends might find out about his condition and refuse to come to the house or to continue to be his children's friends. He told me of his financial worries for his wife and his family if he could no longer work and if he subsequently died from AIDS; about the problem of keeping up mortgage payments that pressed on his mind; about the impossibility of obtaining any insurance and about that permanent worry as to whether his HIV positive condition would in the course of time turn to full-blown AIDS. Lastly, he explained that because of what had happened to him he had ceased to have any sexual relationship with his wife owing to the risk of infecting her. Effectively, that side of his marriage is over—as, probably, is his life.

Thank goodness, the Government softened their attitude and their heart towards the haemophiliacs and gave them a sum, through the Macfarlane Trust, which relieved the financial worries of people like my constituent; they gave a sum of £42 million. If they can give it to that group, why not to this much smaller group of transfusion-damaged people? All the problems that apply to the haemophiliacs apply equally to them. And to give all 50 the same compensation would cost only £1,750,000.

I find the Department's argument that haemophiliacs are a very special case a very difficult one to follow. All these people are human beings. They have been given this dreadful virus, not because they asked for it, but because of something that happened within the Department. The same faith in the NHS that persuaded the haemophiliac to accept factor 8 from the NHS persuaded the 50 to accept blood transfusions from the NHS. But for the grace of God, I might have been one of them. I was receiving blood transfusions at that time from the NHS because of kidney failure. That is why I stand in the House tonight conscious that it is the grace of God that has preserved me and aware that I at least have a voice through which to make this House think again about the plight of the now only 28 people whose lives have been so blighted.

I put this appeal to the Leader of the House: a measure of compensation should be provided for these unhappy people. I know that I am not the only Member who feels strongly about this matter. I know that hon. Members on both sides of the House have made a number of appeals and put many questions to Ministers. In my opinion the good name of the Government, the Department of Health and the National Health Service is somehow besmirched by the failure to recognise the dreadful blight that has come to these people at the hands of the NHS.

When a Minister admits in a letter to me that a medical accident has killed 22 people and looks likely to kill a good many more, leaving families without financial support and ruining marriages, natural justice—and I submit that there is such a thing—demands compassion demonstrated by financial assistance.

I have already referred to the Macfarlane Trust, which disburses Government funds to the haemophiliacs. I wrote to its chairman, the Rev. Prebendary Alan Tanner, asking if the trust had any discretion as to who it helped with funds. In his reply Mr. Tanner said:

> "The Macfarlane Trust Deed was written very specifically for the haemophiliac community . . . I am sorry to say that I do not think that your enquiry reveals a viable option. We hope that you and like-minded colleagues of all parties will be able to provide a separate and additional solution for other afflicted groups."

So do I. After all, only as recently as last Tuesday the French Government decided to change its mind and bring forward a compensation package which included both haemophiliacs who had contracted HIV from contaminated blood products and those who had received blood transfusions also containing the virus. So why not us?

Baroness Hooper, in her letter, argues:

> "The more that is spent on making payments to those who, through nobody's fault, have been harmed as a result of a medical accident, the less there is available for treating patients who have become ill."

That is quite right, but is her statement borne out by what we know of spending on AIDS, to take an example linked to the case that I am arguing? I fear not.

Only this week, on 10 December, *The Daily Telegraph* reported under the heading

> "MPs attack NHS over AIDS money",

as follows:

> "Government health officials were strongly criticised by MPs yesterday for their handling of health authorities who 'pinched' money earmarked to treat Aids for other purposes. Mr. Duncan Nichol, chief executive of the health service, was closely questioned by the Commons public accounts committee about the lack of disciplinary action against those responsible for significant lapses in Aids spending uncovered by the National Audit Office.
>
> In a report in the summer, the Office found more than £15 million granted by the Government to combat Aids remained unspent or had been diverted to other work."

I suggest to my right hon. Friend that the Government need not stumble over the £1,750,000 which would give the same compensation to the 50 who received contaminated-blood transfusions as was given to the haemophiliacs. The money is really there in terms of this £15 million, which I gather is now being sought from the local authorities that have misspent it and some of which, apparently, is unspent.

If I am right, providing that compensation would effectively cost the NHS nothing, but it would end one of the unhappiest and most tragic incidents to afflict the health service in my lifetime. While I know that my right hon. Friend, in winding up this debate, may not feel that he can comment in detail on what I have said, I ask him to convey my comments to the Secretary of State for Health and that, as a distinguished former Treasury Minister, he will consider what I have said about payment of compensation and, perhaps, before we resume in the new year, will have been able to make a statement that will give comfort to the 28 people who are still alive and to the dependants of the 22 who have already died from AIDS.

5.8 pm

Mr. David Alton (Liverpool, Mossley Hill): Eloquently and at times movingly hon. Members have used the Adjournment debate to raise distressing situations and to take the opportunity to remind us, as we approach the Christmas festivities, that many find themselves in very distressing circumstances. I take the opportunity to press