LETTER FROM WESTMINSTER

Defending 19 deaths from food poisoning

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The government is facing virtually irresistible political pressure to remove the crown immunity enjoyed by National Health Service hospitals. The scandal uncovered by the inquiry into the food poisoning outbreak at the Stanley Royd psychiatric hospital in Wakefield (p 348) has added new momentum to a campaign that was already in full swing at Westminster.

Ironically, the inspectors, who took more than a year to complete their report, are adamant that in the case of Stanley Royd the evidence did not support the need for the abolition of crown immunity. All the environmental health officers questioned by the inquiry team agreed that the conditions at the hospital, though sometimes far from ideal, at no time would have justified a prosecution under the food and drugs legislation. Nevertheless, in the months to come, members of parliament will cite the tragedy in Wakefield as proof of the urgent need to abolish crown immunity.

Conservative backbencher Mr Richard Shepherd, the member for Hereford, is soon to launch a private Bill in the Commons, which would make those employed in kitchens on crown premises subject to the health and safety laws. His supporters acknowledge the inquiry team's opinion that crown immunity did not contribute to the food poisoning at Stanley Royd hospital; but they believe strongly that this does not affect the principle of the matter.

Indeed, the Wakefield outbreak, in which 19 people died and a total of 355 patients and 106 members of staff were affected, was the most extreme consequence of a general level of hygiene in NHS hospital kitchens that seems to be nothing short of scandalous. The inquiry team referred to "comments made frequently to us that the Institute of Environmental Health Officers regarded many hospital kitchens throughout the country as being unsatisfactory, a view publicly reiterated many times since our hearings concluded." Stripped of the ultimate sanction of bringing criminal charges against crown servants, the health officers regard themselves as visitors and advisers.

The government, not wishing to abolish crown immunity for a variety of reasons, wants hospitals to act on this advice to bring their kitchens up to acceptable hygiene standards without recourse to the law. The report, however, seems to question this approach; the inquiry team uncovered a difference between the way that health inspectors carry out their duties on hospital premises compared with other establishments.

"This difference is difficult to define but was appreciated by all the officers who gave evidence before us. The only reason that we were able to discern for this difference was that the environmental health officers felt themselves to be in a different position in dealing with hospitals."

The factors contributing to this somewhat worrying difference in approach were threefold: the existence of crown immunity; the feeling that a hospital should be well able to ensure hygienic practices; and, in the case of Stanley Royd, a prevailing belief that lack of money meant that nothing much could be done. These

findings would suggest certain flaws in the government's contention that persuading, cajoling, and advising hospitals on the cleanliness standards required will do the trick. It would seem that the very existence of crown immunity acts as a disincentive to officers to carry out the thorough checks expected of them.

"Urgent review" of crown immunity

The government, it is true, is conducting what the Secretary of State, Norman Fowler, insisted was "an urgent review" of crown immunity for hospital kitchens. There are doubts, however, whether immunity can be lifted for NHS premises alone. All Whitehall departments, under the auspices of the Manpower and Personnel Office, are included in the review, which could have widespread repercussions.

The government's main worry where hospitals are concerned is that if the kitchens were found to be in breach of the law they would have to be closed immediately, leaving patients without any catering facilities whatsoever. It is an argument that begs a major question: why should NHS patients, a captive clientele for the delights of the hospital catering service, enjoy less protection under the law than their counterparts in a BUPA hospital?

The government is anxious to find a way out of this quandary. Mr Fowler is looking closely at the suggestion that a "crown notice" form of procedure should be adopted, whereby hospitals are warned that the level of hygiene could lead to a risk of serious illness and must be improved. Failure to comply would result in a complaint to a higher authority, the regional health authority, or even the minister.

This is unlikely to satisfy members of parliament who will debate Mr Shepherd's private members' Bill next month. They will not take kindly to government efforts to block the Bill, which is the likely course of events should the Whitehall review of crown immunity still be going on. In view of the sensitive and tragic nature of the whole issue, Mr Fowler may well find further resistance to the demands to be politically untenable.

Public awareness of the problem has been heightened by a recent television investigation as well as by the Stanley Royd affair. Michael Meacher, the opposition's chief social services spokesman, is insisting that the government should publish a list held by the Department of Health and Social Security of 97 hospitals which would be prosecuted were it not for crown immunity. "The public are entitled to know," he told the Commons last week. And with 281 deaths from food poisoning in NHS hospitals over the past six years, who is to disagree with him?

You will recall that Mr Enoch Powell's attempt to ban experiments on human embryos fell by the wayside last year. With a new sponsor, Mr Kenneth Hargreaves, Conservative MP for Hyndburn, the Unborn Children (Protection) Bill was introduced again this session. On 24 January the opponents to the Bill successfully blocked the second reading debate by prolonging the discussion on the Obscene Publications (Protection of Children) (Amendment) Bill. Mr Hargreaves's Bill has now slipped further down the parliamentary timetable and the chances of it becoming law this session have been reduced.