Lessons from the UK[a]

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The lesson that may be learned from the United Kingdom is that for establishing, developing, and maintaining programs for the promotion of occupational safety and health, the following features are required: (1) the appropriate political philosophy, will, and power; (2) effective legislation; (3) adequate resources and organization to be provided for its implementation; (4) the recruitment and support of persons of outstanding caliber with a variety of talents required for devising and operating the programs involved; (5) the collection of adequate data and their systematic analysis for evaluating the effectiveness of control measures and to determine areas for priority action; (6) periodic review of the adequacy of provisions for health and safety at work in the light of technologic change and expectations. In the process, revolution and evolution within the law were required.

In support of this thesis a brief summary of key political events over the past three centuries in the United Kingdom and stages in the development of occupational safety and health policy will be presented. It would be presumptuous to pretend to be offering new insights; however, some comfort and moral support are to be found from the observation that they do not necessarily do these things much better abroad and that the constraints on arriving at the birth of an occupational safety and health millenium are universal in nature.

In 1688 the Stuart dynasty was expelled, and James II, replaced by William and Mary, headhunted from the Netherlands. The Whig party then aimed onwards for the subordination of the power of the Crown to that of Parliament and the upper classes. The first attempt at reform by William Pitt in 1785 failed, as did the second by John Russell in 1831. The following year saw the successful passage of the Reform Bill under the Earl of Grey. One of the first actions of the Reform Parliament was to set up a Commission in April 1833 to report on the conditions of employment in textile factories. The Commission reported promptly and Government acted no less promptly to place on the statute book on August 29, 1833, "An Act to regulate labour of children and young persons in Mills and Factories of the United Kingdom." This included regulation of minimum age of employment, hours of work, and education. It marked the beginning of effective legislation for occupational safety and health. Prior to this, at the end of the 18th century, there had been a proliferation of factories producing textiles, mostly away from the center of government. The political and economic philosophy was that of laissez-faire: government intervention in conditions of employment was considered inexpedient in practice and wrong in principle. Poor Law, going back some 200 years to Queen Elizabeth I, still operated: young paupers who were a charge on the parishes in the South were transported to the North as "apprentices" in the textile mills. As a result of the itinerant investigative journalists of the late 18th

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century, the depraved conditions under which children worked and lived in the mills were revealed.

An Act was passed in 1802 to do something about their health and morals. It being recognized that legislation without means for reinforcement was ineffective, it was arranged for a magistrate and clergyman to make regular visits to factories. The ignorance or complacency of these visitors was considered responsible for the worthlessness of such visits that were made. Some attempts were made subsequently to improve the Law by extending its benefits to "free" children. It remained, however, for the political reform of 1832 and the will to action for a proper start to be made on an effective program of occupational safety and health legislation, the development of which still continues.

The 1833 Act was an enabling one that permitted the King to appoint four persons of equal status to be Inspectors of Factories and places where the labor of children and young persons under the age of 18 years of age may be employed. They had powers of entry at all hours, could require any person to give evidence under oath, and for a short period had powers of judging and sentencing.

The Civil Service at the time had still to undergo reform. It was small, and appointment was made by political influence: an independent body of Commissioners and entrance examinations were for the future.

Nevertheless, although loyal Whigs were appointed, they were of such outstanding caliber that they pitted themselves against the resistance of the manufacturers. (There were, of course, a few employers such as Robert Owen who demonstrated that humane conditions of employment were compatible with a prosperous enterprise.) When one of the original four found the pressure too great, he was promptly replaced by another Whig of impeccable loyalty: a James Stuart of truly outstanding character, whose curriculum vitae included killing a political rival in a duel (acquitted—"death by misadventure"), followed by a period of financial embarrassment, relieved by a stay of a few years in America, from whence he returned to the UK to edit a newspaper before being recruited as an Inspector. Of two of his colleagues no records remain, but they were believed to be men of substance and education who had held positions in the world before their appointment. The other was Leonard Horner, a gifted man of humble origins who was elected Fellow of the Royal Society for distinguished work in geology. A fervent Benthamite (the highest morality lay in the pursuit of the greatest happiness of the greatest number), he was chosen to be the first Warden of University College London, from which post he was recruited as Inspector. He continued as Inspector for 26 years, evolving into Chief Inspector in due course.

With no rules or precedents to guide them, the quadrumvirate first set out to contact the owners of all 3,000 textile factories to explain the new legislation. Many of the owners were surprisingly cooperative and eager to understand the interpretation of the Act. A system of Regional Superintendents and sub-Inspectors was set up to carry out the day-to-day inspections. Travel was hard and employers and workmen could be hostile: in 1836 one sub-Inspector sustained a broken leg in the course of inspection and another was mobbed by workmen en route. (The difference in reception between the various members of the hierarchy may have depended on differences in their social class. Effectiveness as an Inspector, whatever the social class, has always depended on the exceptional caliber of the individual. Slight young Inspectors of gentle nurture can be as persuasive and forceful and effective as older, more robust-appearing individuals.)

Amendment to the 1833 Act was soon under discussion. The 1844 Act required the fencing of dangerous machinery and the reporting of dangerous accidents. With the expansion of legislative provisions, the organization of the Inspectorate

also developed. In 1879 a new Factories Act gave comprehensive cover to some 110,000 factories and workshops with 44 Inspectors, and set the seal on an organization based on divisions and districts that lasted into the 1970s when 379,000 factories were served by 564 Inspectors. Apart from relatively minor changes in organization and the enlargement of the scope of the Factories Acts which were carried out piecemeal, with the provision of special controls for certain specific industrial activities, and a great proliferation of statutory instruments, for some years consolidation was the order of the day. Study of the Annual Reports of HM Chief Inspector of Factories gives a fascinating view of the problems and successes of a remarkable band of men and women, increasingly including engineering, scientific, and medical specialists to deal with the complexities of industry, safety, and health.

Although considerable progress had been made, discontent with the level of persisting accidents and disease led in May 1970 to a further Commission being established (Robens) to review the provision made for health and safety at work and to consider whether changes were needed in the scope or nature of the legal requirements, and the nature and extent of voluntary action. They also considered whether any further steps were required to protect the public from hazards arising from activities in industrial and commercial premises and construction sites, other than from environmental pollution. They consulted widely and investigated the situation abroad. They concluded that there was too much law, too much of which was intrinsically unsatisfactory and which now comprised nine main groups of statutes, some 500 subordinate instruments containing in detail provisions of varying length and complexity, growing at the rate of 100 a year. The elaboration, detail, and complexity, coupled with the language and style, rendered it repellent and unintelligible to those it was intended to influence. Many provisions were out of date with modern technology and knowledge. Interpretation was presenting problems even to Inspectors and industrial experts.

People became conditioned to look on health and safety at work as being effected by developing detailed rules imposed by outside agencies with higher standards to be achieved by more frequent factory inspections. The Commissioners held that the primary responsibility for doing something about current occupational accidents and disease lay with those who created the risk and those who worked with them: they recommended that less reliance be placed on state regulation and more on personal responsibility and personal effort.

They also considered that the fragmentation of administrative jurisdiction, with nine separate groups of statutes (factories; commercial premises; mines and quarries; agriculture; explosives; petroleum; nuclear installations; radioactive waste disposal; alkali emissions), divided among five government departments and seven separate Inspectorates, was inefficient.

The Commissioners concluded that a more unified and integrated system was required for the State's contribution to health and safety at work, but more fundamentally they stressed the severely practical limits to the effectiveness of negative regulation by external agencies and the desirability for a more effective self-regulating system.

Among the various recommendations made were the following critical ones:

1. The establishment of an autonomous National Authority for Health and Safety at Work unifying the current separate inspectorates.

2. New statutory arrangements should be made to increase the effectiveness of the State's contribution and to provide a framework for better self-regulation in the form of a new enabling Act, giving a clear statement of the basic principles of responsibility, supported by regulations and greater reliance on nonstatutory codes of practice.

3. Industry level organization linking management and union, with each devoting more resources to safety and health.

4. The National Authority to be composed of people drawn from the relevant fields of experience and interest.

The report was presented to Parliament in July 1972, and within a relatively short period the Health and Safety at Work Act of 1974 came into being. In view of the extent and complexity of the perceived problem, the execution was in no way inferior to the 1832 reform. The Act clearly stated that it should be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety, and welfare at work of all his employees. That duty extended to include: provision of plant and systems of work; safe handling, storage, and transport of articles and substances; and provision of appropriate information, instruction, training, and supervision. Employers were to be required to prepare a written statement of general policy on health and safety at work and the organization and arrangements for carrying out that policy and bringing it and any reasons to the notice of all employees. Provisions were made for employees to be represented on safety committees. A requirement to conform to the Act was also placed on self-employed persons. Persons designing, manufacturing, importing, or supplying any article for use at work were required to make it safe, to test it, and to provide adequate information about use and maintenance.

There was also a duty placed on employees to take care of themselves and others. A standing Health and Safety Commission was established by the Secretary of State for Employment, to comprise no less than six and no more than nine commissioners that he would appoint, three from employers' organizations, three from employees' organizations, and others as appropriate. A three-man executive was created to exercise, on behalf of the Commission, its functions as directed. Under the Executive were gathered together a group of Inspectorates from the various Ministries. The Commission was empowered to set up advisory committees. It has established 7 subject advisory committees, including 1 on toxic substances and another on medical matters, and 11 industry committees. All of these are tripartite with membership agreed by both sides of industry.

This latest initiative on Safety and Health at Work was developed in the heady days of the 1970s. Its success depends on the extent to which the six features listed at the start of this paper are implemented. In providing for the 1990s, as for the 1830s and 1970s, a review of the shortcomings of the current system and proposals for their remedy is called for, supported by the political will for their remedy, the provision of the appropriate resources for tackling the problems, and the recruitment of outstanding persons to devise and operate the system.