

Notes and miscellanea

Safety and health at work: The Robens Report

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The Committee on Safety and Health at Work was small, and its report is authoritative and laced with that massive common sense which only Lord Robens can dispense. Anybody who has seen him or listened to him on television or radio, or met him in the flesh, will have been impressed by this power. The medical member of the committee was Sir Brian W. Windeyer, a medical statesman in his own right, with very special knowledge of the environmental effects of ionizing radiations, recently supplemented by those of lead in his investigations of the Avonmouth Smelter (1972).

The report itself consists of approximately 80 000 words and the separate volume of selected written evidence 343 000 words. The Committee on Safety and Health at Work was appointed on 29 May 1970 'to review the provision made for the Safety and Health of persons in the course of their employment, other than transport workers, and to consider whether any changes are needed in the scope or nature of the major relevant enactments, or the nature and extent of voluntary action'. It was to consider, moreover, whether any future steps were required to safeguard members of the public from hazards which might arise from industrial or commercial activities and construction sites.

When a committee is set up, and particularly if it is an important committee like this one, it looks carefully at its terms of reference. Many committees are quite purposely kept to the straight and narrow because it seems inexpedient to let them stray in pastures which are too lush. Not, however, in this case, and the main thing to be noticed about these terms of reference is that they are broad. They cover the law, voluntary action, and damage to the public from things going on in industry.

Although there have been a number of committees which have studied segments of the subject, there has never, until Robens, been a comprehensive review by a single body.

The heading of the first chapter gives us the clue to the refreshingly cool intellectual breeze which blows through the whole document. This heading simply asks 'What is wrong with the system?' Here it is pointed out that about 1 000 people are killed per year in industry in the United Kingdom. But one reflects rather wryly that at least seven times as many are killed on the roads. British industry is probably the safest in the world, in so far as the figures may be considered comparable and within the limitations of their selection. This illustrates the paradox of the whole international field, in that the countries which are doing best are striving hard to do better still. As early as the bottom of the first page the committee hits its first nail on the head. It states frankly that the subject of safety is one which produces an apathetic response, and that many practical implications flow from this. The committee must therefore have realized what every experienced doctor working in the field of industrial medicine soon learns, that health and safety too often evoke a positive reaction from management only when they are either financially or emotionally frightened.

The defects of the statutory system are succinctly summarized by saying that there is too much law, and this point will be heartily applauded by all who get involved in legal medicine. One of the reasons why there is too much law is that every time a new technical situation arises an external agency imposes a new set of detailed rules. But one of the fundamental points in this document is that the primary responsibility for prevention lies with those who create the risks, i.e., the management and the men. The voice of practical experience of men in industry sounds clearly in the report when it states that there are distinct limits to bringing about better standards of safety and health through negative regulation. The conclusion seems to be that a more effective self-regulating system is required. These sentiments will be echoed by any doctor who has experience of

trying to work in the nuclear power industry, or who has seen situations brought about in which safety regulations are made so tight or so complicated that either the rules have to be broken or the job cannot be done.

The second chapter starts off by stating frankly that the promotion of safety and health is an essential function of day-to-day good management. Moreover, this promotion should not be considered to be something rather special superimposed on more important things or something of low priority which the manager does only when he has the time. Better performance can come about only if there is a clear overall policy and an effective organization in which everybody knows what to do and is held responsible for doing it. The suggestion is made that safety officers should be up-graded and that work people should be brought more into the decision-making process, with legislation acting as a kind of long stop. It might be necessary to have a statutory demand to consult, and also for all employers to set out in writing their safety and health policy and to make this available to all employees. The suggestion is made that just as company reports contain financial accounts, they should also furnish reports on the safety and health of the work people and explain how effective safety policies have been. There are nine separate groups of health and safety statutes, the enforcement of which is divided between five separate government departments, to say nothing of a number of separate legal authorities.

The committee conclude that there should be a national authority responsible for safety and health at work and that it should be autonomous. It would take over the management of statutory inspection and advisory services and would keep under review the legal provisions for safety and health. It would conduct research, education, and training, and would collaborate with all employer organizations, the Trades Union Congress (TUC), and the individual trade unions. At the head of this new organization there should be an identifiable person who gives his whole time to it, but it would be directed by an executive management board. The word executive is important. Committees which are merely advisory are usually not particularly effective. This board would have a full-time chairman, 'a person of public stature', and there would be a full-time executive director responsible for the day-to-day management. There would also be a number of paid, part-time, non-executive directors, who would have very much the same sort of function as they would if they were members of the boards of public companies. Each part-time assistant director would have his special field of work, e.g., administration of finance, legal, research, or occupational medicine. The authority would not form part of an existing government department but it must have

a channel of communication and responsibility to parliament. This must, therefore, be through a minister, probably the Secretary of State for Employment.

The report suggests that there should, as a first move, be an Enabling Act. It then goes on to outline all the various declarations of principles with their supporting instruments and regulations. One of the main reasons for the almost incredible delays up till now in altering the law is that there is round after round of consultation with every conceivably interested party. This point is underlined by the fact that the average interval between the first draft and the ultimate regulation has been five years, and in one case it was as much as 15 years. The report's comment upon this, in one of those short telling sentences with which it is peppered, reads 'This is manifestly absurd'. Moreover, it suggests reasonably enough that the best way to avoid this delay is to associate outside interests right from the start with the process of making regulations. No further law should be made if the situation can be met by a voluntary code of practice. One of the things to be aimed at here is the formation of a single legislative code, which should cover all employers and employees, except for specifically excluded groups such as transport workers.

The inspectorates, of which there are seven different classes, are next discussed. The word itself suggests large tough men with north country accents, wearing dark blue serge suits and strongly made black boots, and indeed a factory inspector in the mid-nineteenth century probably needed to be something like this. But the modern tendency is to turn the inspector into an adviser, who will be a generalist rather than a narrow specialist and who will work within a unified inspectorate; and who will, moreover, get away from the narrow conception of obedience to detailed statutory regulations. The recruitment board will need to emphasize technical qualifications rather more, as less than 60% of the present cadre are science or technical graduates. Their training will need to be wider than in the past and they will need to know more about management technology, industrial psychology, and ergonomics. Some of this training ought to be done outside the Civil Service in university departments. Suggestions are made for improving public safety in relation to fire precautions. Flammable and explosive substances, toxic substances, radiological protection, and noise all come in for comment. The important point is made that both accidents and noise can be lessened by attention to the design and manufacture of machinery.

Chapter 12 will be of the greatest interest to doctors who work in industry, as it deals with the future organization of occupational medicine. It asserts that the basis for environmental control must

derive from the medical assessment of risk; occupational medicine is a multidisciplinary affair, and the best and most harmonious results are obtained when doctors and scientists work together in a team. It is pointed out that it is engineers, chemists, and others, rather than doctors, who have the expertise to change the working environment. One wonders whether it would not have been better to use the word authority here, rather than expertise, because doctors hardly ever sit upon boards of directors who have the authority to make changes, but engineers, chemists, physicists, lawyers, and accountants do.

Occupational medicine is defined as 'a specialist branch of preventive medicine, concerned with the diagnosis and assessment of health hazards and stresses at work'. This is too narrow a definition of the subject, because it omits the most important element, that of feeding a man back into a suitable job after he has had an illness, whether occupational or not. Doctors who do not work in industry, whether they be general practitioners or consultants, know very little indeed about what industrial work really means and demands. They tend to think of work under three headings, light work, heavy work, and just work. It may not, for example, be fully realized that a man who has made a complete physical recovery from an illness but who is left with partial loss of memory can hardly return to his old job if it was one in which a mistake can have serious consequences. I quote from a case which lies on my desk at the moment.

After reviewing past reports which mention the future of occupational medicine and the existing statutory arrangements, the Robens report touches upon the present state of what it calls 'private medical services in industry' and mentions the British Medical Association's estimate that there are about 600 full-time, and possibly as many as 2 000 part-time, doctors in industry. These figures are significantly different from those put forward in evidence by the Department of Employment, whose estimate was lower. The report comments that most full-time doctors are employed by the larger firms where the medical facilities are 'sometimes quite lavish'. The appropriate tribute is paid to the important part played by occupational health nurses, and it mentions the group industrial health services. The committee feels that by no means all of the work of industrial doctors falls within their definition of occupational medicine, and that some of their time is spent on the same kind of treatment undertaken by the general practitioners in the National Health Service (NHS). Some lengthy paragraphs are devoted to the recently established Employment Medical Advisory Service of the Department of Employment. It is pointed out that this service will have an advisory, rather than a narrow regulatory, approach, and that this is very much in harmony with

the general philosophy of the report. It is accepted by the Robens committee that the Employment Medical Advisory Service (EMAS) would become part of the organization of the new authority for safety and health at work. The importance of collaboration between the EMAS and NHS is stressed. However, there is an impression, which may of course be inaccurate, that in the present frame of mind the EMAS planners' collaboration will merely mean using the NHS laboratories. But it will be to the advantage of the EMAS if it makes use of some of the NHS consultants. The NHS consultant and the Department of Employment medical factory inspector (I use the old term here) are two rather different sorts of animal, with different sorts of work load imposed in a different way. My impression is that the EMAS would have everything to gain, and nothing to lose, if they acquire some of the traits of their colleagues in the other service. It is suggested, on the other hand, that doctors in hospitals should acquire more knowledge about occupational factors in the individual's health. Industrial medicine is, in the committee's opinion, not synonymous with general medical care provided at the point of occupation, and it states frankly that it does not imply a need to have a doctor at every sizeable factory. It points out that no country can afford double banking in medicine with a workplace health service superimposed upon a home and family health service. This section of the document ends with a reiteration of the importance of the interface between the general health service and the occupational safety and health system. It underlines the need for the closest linkage between the two at operational level. Some medical schools got this idea more than a quarter of a century ago.

In discussing safety training the report sets out the important principle that it should be an integral part of learning to do the job, but it also makes it clear that there should be some specialized training for managers, safety officers, and instructors. The committee implies that something wider than what is now being provided is necessary. The industrial training boards come in for some criticism and the committee hints at the possible setting up of an international training agency in close collaboration with the proposed authority for safety and health at work.

In the chapter on research it is made clear that more needs to be done to work out the many different causes of accidents and that research needs to study real shop-floor situations. It is envisaged that the authority for health and safety would have its own research capacity, and would also support external research done by other bodies.

In the section on statistics, it is pointed out that the figures collected on industrial disease are of very limited value in prevention because of the time lag

between the environmental change which caused the disease and the case appearing as a statistic. On the costs of accidents, the committee frankly finds itself unable to hazard more than an approximate estimate of £200-900 million a year. They have two main recommendations to make on the matter of compensation and prevention. The first is that the employer's contribution to the personal industrial injuries fund should be based upon past claims experience. This is an approach long used in the United States of America where it has shown itself to be effective. The second recommendation made is that there should be a review of the present system of common law actions for compensation of injuries received at work. This sentiment will be echoed by any doctor or department which is concerned with this subject.

The last short chapter of the report lays down a three-stage plan of action: first, the decision at political level to implement the report with authority given to a single minister; secondly, the passage of an enabling bill establishing a national authority for health and safety and defining its powers and functions; and, thirdly, the slogging match of working through the problems towards their solution. The report then ends with a number of tables and appendices which support this main thesis.

Written evidence

The second volume of the report makes interesting reading in both a positive and a negative way. For example in discussing in detail the particular hazards of sewer workers it omits to mention the hazard of spirochaetosis, although it cites a large number of other diseases. There is almost a Dickensian flavour in the section which deals with factories 'where no mechanical power is used'. Coming to the evidence from the chemical industry, it is clearly stated that the provision of a health service must be closely related to the degree of hazard. It might perhaps have been better to have said the potential degree of hazard, because in the chemical industry, it so infrequently happens that the more dangerous a substance is to handle, the safer it is in fact handled; e.g., hydrogen cyanide illustrates this principle. The point is made that health hazards in new processes should be identified before plant construction begins, and that medical and other safety advice needs to be fed in at the design stage.

The insurance industry thinks that there is no evidence to show that industrial injuries benefit affects a worker's attitude towards safe work, but we must remember that the mouth-watering expectation of a fat claims settlement from a common law action almost certainly does.

The British Medical Association in its evidence does not consider that much argument is required

about the need for expansion of occupational health services, and they assert that 10 times as much time is lost by industrial injury as by strikes and a hundred times as much by ordinary diseases. They state that by far the greater number of doctors working in the field of occupational health are employed by private services, probably by a factor of something like at least five or six times. This very great difference in size between the statutory and the voluntary services will still be great even when the EMAS is fully established. An externally organized service would either have to absorb the existing private service or attend only to industries which have no service. The possibility of a side by side situation, in which an externally organized statutory service existed as well as a private service, has not been brought out in their evidence. The British Medical Association seems to react coldly to the establishment of the EMAS. However, they subscribe to the now increasingly liberal opinion that there is no justification for having higher insurance benefits for injuries merely because they are industrial.

The British Occupational Hygiene Society in its evidence advocates the relentless application of the threshold limit value to each process where there is a potentially toxic hazard, and they point to the importance of their examining board, which offers the only professional qualification in occupational hygiene, based upon a blend of academic attainment and practical experience.

On the matter of safety, the British Safety Council recommends the provision of a skilled safety service. The competition between cost and safety is well brought out by the evidence of the building research station that most contractors would willingly risk the collapse of a trench rather than carry out and pay for the necessary strutting.

The Confederation of British Industry (CBI) submits a shrewdly powerful document, which has clearly very considerably influenced the committee. They say that the tremendous delays in preventive legislation in the past have been due to the tradition of over-detailed regulations, the desire of unions to have more detailed legislation to facilitate claims for damages, and the shortage of Civil Service staff together with their diversion from time to time to other matters of greater political importance. The CBI feels that the TUC calls for legislation too quickly. They should first encourage their members to co-operate with their employers to get voluntary safety arrangements made. This appears to be fair comment, as years of sitting around tables with colleagues from both sides of industry has taught me how very rule book minded my trades union colleagues can sometimes be.

One of the central recommendations which the Robens committee has made, that for an industrial

safety and health advisory council, comes out of the evidence of the CBI, and also the emphasis on voluntary effort, particularly in occupational health services. They make the true, but unpopular statement that accidents will be prevented only by a sense of responsibility combined with continuous education, together with a stiff pinch of self discipline.

The Department of Employment submitted a document which also made a significant impact upon the committee. It underlines what every manager and doctor sooner or later experiences when concerned with accident claims, that the whole of the present legal system hampers investigation, and therefore the prevention of accidents. The Department quotes an interesting little table which shows that from 1928 to 1969 fatalities per 100 000 employed have fallen from 13.2 to 4.5. The Ergonomics Research Society stresses that there is too much concentration on apportioning blame after an accident, rather than upon finding out why it really happened and then feeding back the results to prevent it happening again. The Medical Research Council calls for more research into why some environments are harmful, and for more speedy methods for detecting the earliest indication of long-term ill effects. They hope that, whatever type of industrial health service may eventually develop, the division between 'occupational' and 'community' health will become less marked. They might perhaps have added, in addition, that the division between industrial and personal health should be as ill-defined as possible. The Safety in Mines Research Establishment stresses the importance of much more research into why fires and explosions happen. The Society of Occupational Medicine states that Occupational Health Services should be part of the National Health Service, and that the Secretary of State for Health should be empowered to require particular industries to provide health services themselves. Standards for these should be maintained by a central authority, and there should be a network of regional specialists in occupational medicine who should carry out research. The employer should be able to choose between using the National Occupational Health Service or providing one for himself.

One of the personal contributions points out that claims for damages make a useful contribution to safety, and it might perhaps be commented that fear of claims for damages makes an even more useful contribution.

The Trades Union Congress harks back to the now rather dead Dale report, and stresses that there is

now a unique opportunity to consider the whole subject of co-ordination of industrial health services with other health services without the distraction of the conflicting self interest of the various bodies involved.

After a report such as this is published there is a pause. This may be of infinite length and the recommendations may never be implemented. It is as well to remember that the smallest quantum of time in such matters is the year and it may even be stretched to the quinquennium. It is rumoured, however, that the government means to implement this report reasonably soon. If this happens it will mean excising large pieces of the Department of Employment's medical and technical inspectorates and placing them under the new statutory Authority for Health and Safety. This may be painful since no organization relishes this sort of thing. On the other hand, the excised pieces will be so big that they will certainly be viable of themselves and are likely to affect the new authority more than it will affect them. It may well be a case of the same large crew under a new flag determining the course of the ship.

The law and medicine are both venerable professions deeply embedded in the national life and this report will not be automatically viewed with enthusiasm by either. There are references to a tangle of too much law to which a pair of scateurs must be applied, and this could seem, from a narrow point of view, to argue fewer lawyers. Similarly, there are sinister references to 'extreme economy' in the use of medical manpower by industry, a definition of industrial medicine which leaves out most of the medicine, and a preferential acceptance of the evidence of the Department of Employment upon medical matters. One wonders, a little uneasily, whether this may not, in part, have been due to overselling by some of the medical organizations which gave evidence. How much emphasis to use in stating a case is always a matter of nice judgement. Too much is apt to produce an immunity response which may be chronic.

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