A Historical Survey of Factory Inspection in Great Britain

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It was in Great Britain that, over a century ago, the world's first factory inspection system was instituted; and it is thought that at the present moment, when the Governing Body of the International Labour Office is contemplating placing on the agenda of an early session of the International Labour Conference a question related to the organisation of labour inspection systems, the publication of an account of the origins and evolution of the British Factory Inspectorate may be considered timely and instructive—the more so as no complete and up-to-date study on the subject exists.

The Origins of Factory Inspection

The Act of 1802

THE history of factory legislation in Great Britain may be said to begin with the passing of the Health and Morals of Apprentices Act, 1802; but it was not until 1833 that the difficulties encountered in securing the enforcement of this and subsequent Acts led to the creation of a system of factory inspection in the modern sense.

The problem which the 1802 Act was intended to solve was of a special and ephemeral character. The cotton and woollen textile mills were at that time almost invariably worked by

water power, and were consequently situated in comparatively remote valleys, where water was abundant but where labour was scarce. The method adopted for obtaining labour consisted in taking over pauper children as " apprentices " from the poor-law authorities of more populous districts. These apprentices were housed on the factory premises, and lived and worked under conditions which can be imagined. Public opinion became alarmed at the danger to the whole community represented by the continued existence of such forcing-beds of disease [1] and criminality. Accordingly, the 1802 Act, covering apprentices employed in cotton and woollen mills and factories (and only apprentices) contained provisions limiting the apprentices' hours to 12 in the day (exclusive of meal times), to be taken between 6 a.m. and 9 p.m.; stipulating the minimum clothing and accommodation that was to be allowed them; requiring steps to be taken to secure their education both religious and secular; and concerning the ventilation and periodical limewashing of the factories.

In 1802 there was no police force to which the enforcement of such legislation could have been entrusted. As paupers, the apprentices were a charge upon the local Justices of the Peace, and it therefore appeared logical to make the Justices responsible for the enforcement of the Act. The Justices were required annually to appoint two unpaid " Visitors " for each district (or more if there were more than five mills in the district); one of the Visitors was to be a clergyman of the Established Church and one a Justice of the Peace, " not interested in, or in any way connected with, such mills or factories ". They were empowered to enter and inspect the mills, and were required to submit quarterly written reports to the Justices on the results of their observations. Their reports were to be filed specially by the Clerk of the Peace. Further, if they noted conditions likely to spread infectious disorders, they might require the employer at his own expense to have a medical investigation conducted and to report the results to them. A fine of from £5 to £10 might be inflicted in respect of an attempt to obstruct the Visitors in carrying out their duties.

The Act further contained the following provisions designed to secure its enforcement: (1) the mills or factories were to be

[1] Outbreaks of " fever "—presumably exanthematic typhus—were frequent among the apprentices.

registered annually with the Clerk of the Peace; (2) copies of the Act were to be posted in the mills; (3) offences were made punishable with a fine of from £2 to £5; (4) informers whose evidence led to a conviction were to be given half the fine inflicted; (5) informations must be laid within one month from the date on which the offence was noted.

Enforcement of the 1802 Act was thus to repose on two distinct bases: the activity of the official, but unpaid, Visitors, and denunciation, in return for a share in the fine, by casual informers. In fact, however, neither of these two methods produced any effective results, and the Act remained a dead letter; a Select Committee which sat in 1816 to enquire into "the state of the children employed in the manufactories of the United Kingdom" found that witness after witness had never even heard of such an Act.

Visitors were in many cases appointed under the Act immediately after it had been passed, and carried out a few visits of inspection, but there is practically no record of any such inspections after the first two years. There was, in fact, insufficient inducement for the unpaid and unqualified inspectors to perform their duties seriously. As Richard Arkwright, the famous pioneer cotton manufacturer, opined in giving evidence before the Select Committee in 1816, the inspection of factories would be "an invidious office, particularly where the magistrates themselves have generally been engaged in the cotton manufactory, or have connections engaged in it".[1]

It is easy, too, to understand why no informers were forthcoming to denounce offences against the Act. The only persons who could have given evidence of such offences were persons actually employed in the mills; and, in a time of widespread poverty and distress, a worker could hardly be expected to sacrifice his employment and get himself blacklisted throughout an entire district [2], either in obedience to humanitarian motives or in order to win an insignificant pecuniary reward.

In any case, the question of enforcement apart, the Act had

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[1] *Minutes of Evidence taken before the Select Committee on the State of the Children employed in the Manufactories of the United Kingdom* (1816), p. 282.

[2] There is ample evidence to show that these consequences did ensue where a worker was bold enough to give information against his employer. Cf. FACTORIES INQUIRY COMMISSION (1833): *First Report*, Section D 1, pp. 1ff.; *Sixth Report from the Select Committee on the Act for the Regulation of Mills and Factories* (1840), p. 5; B. L. HUTCHINS and A. HARRISON: *A History of Factory Legislation*, pp. 36-7 (London, 1926).

become obsolete within a very short time, as the rapid extension of the use of steam power made it possible to situate factories in populous districts, where there was an abundant "free" labour supply, so that the employment of pauper apprentices soon fell into disuse.

The Act of 1819

The ineffectiveness of the 1802 Act, and the increasing employment in textile factories of children who were not apprentices, and therefore not covered by that Act, led to agitation and enquiries which resulted, in 1819, in the passing of an Act applying certain rudimentary measures of protection to children in general employed in spinning and preparatory work in cotton mills and factories: prohibition of employment before 9 years of age; maximum working day of 12 hours, exclusive of meal times (with the possibility of working one hour's overtime to make up for lost time); prohibition of night work (9 p.m.—5 a.m.); stipulations as to meal times; periodical limewashing.

The principal author of the 1802 Act, Sir Robert Peel the elder, also played a leading part in the campaign which led to the passing of the Act of 1819. He was himself a cotton manufacturer, and realised the dangers involved for the trade and the whole community in the unregulated employment of children. Moreover, he was fully aware that the system of inspection for which the 1802 Act provided had failed to work, and that more effective steps ought to be taken. As he said in the House of Commons in 1815: "It was to be lamented that the inspectors, appointed under a late Act, had been very remiss in the performance of their duties. He should, in consequence of this misfortune, propose that proper persons be appointed at quarter sessions (*sc.* of the Justices of the Peace) and that they should be paid in due proportion for their trouble."[1]

The idea of instituting a paid inspectorate was thus already being canvassed, but nearly twenty years' further experience of the ineffectiveness of other methods was necessary in order to secure its adoption. The spokesmen of the workers showed no enthusiasm for it. The existing and proposed legislation protected only a very restricted category of juvenile workers, and the adult workers were aiming rather at securing such

[1] "ALFRED": *History of the Factory Movement*, Vol. I, p. 42. London, 1857.

measures of protection for the juveniles as could, in practice, be utilised to limit their own hours of work. As a means of enforcement, therefore, they supported, not inspection, but the compulsory stoppage of all machinery between the prohibited hours of employment. Besides, they suspected that inspectors, belonging to the same social class as most of the employers, would inevitably be biased in the latter's favour. On the other hand, many employers objected to regular inspection (*a*) because of the danger that trade secrets might be divulged, and (*b*) because the inspectors' visits would distract the children from their work.[1] There would no doubt be fairly general support, among workers and employers alike, for the views expressed by the *Leeds Intelligencer* on 10 August 1833, when the Act instituting a regular inspectorate was passed : " The inspectorships are a lumbering affair, and will turn out in practice, we suspect, a nullity ; their chief recommendation with their projectors is probably the patronage they afford." [2]

It is easy, in the light of subsequent developments, to condemn the resistance of the majority of the employers, not merely to the adoption of means calculated to secure the proper enforcement of factory legislation in those early days, but to the legislation in itself. Yet, impartially considered, their attitude cannot be regarded as wholly unreasonable. It must be remembered, in the first place, that the great development of manufactures and trade that had been and was taking place was closely associated with an economic and political doctrine, according to which governmental interference with production and commerce, or indeed with the freedom of individual economic activities in general, was regarded as almost invariably harmful. The practical advantages accruing from the application of this laissez-faire doctrine appeared self-evident, and an uncommon degree of perspicacity was necessary if the doctrine's limitations in respect of the hiring of labour were to be perceived. Secondly, in face of the appalling poverty of the working class at that time, it was not unnatural to suppose that to employ children in the factories, even under bad and unhealthy conditions, was preferable to leaving them to starve in the absence of such employment, the wages of an adult male worker being generally insufficient for the maintenance of a family. Thirdly,

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[1] Cf. *Minutes of Evidence* etc., *op. cit.*, pp. 77-9.

[2] Quoted in B. L. HUTCHINS and A. HARRISON : *op. cit.*, p. 56.

the whole subject was confused by the intrusion of political issues: many of the principal supporters of factory legislation were representatives of the Tory landowning class, and, while the motives of such leaders as Lord Ashley or Michael Sadler are above suspicion, there can be no doubt that a number of Tories favoured factory legislation partly as a counter-attraction to political reforms, and partly as an offensive and defensive weapon wherewith to resist the campaign for the repeal of import duties on wheat. Fourthly, it was only human on the part of the textile, and particularly the cotton-textile, employers to resent discriminatory legislation in the case of their industry, when it was common knowledge that conditions in other industries—for instance, the coal-mining, metallurgical and pottery industries, to say nothing of agriculture—were if anything worse.[1] Fifthly, full compliance with the law was genuinely difficult for many of the employers. In a large number of cases the children were employed and paid, not by the occupier of the factory, but by the adult male operatives [2]—a system which still persists in the mule-spinning process in Lancashire—and it seemed unfair to the employers that they should be held responsible not merely for their own actions but for those of the hundreds of workers whom they might be employing. Again, in the absence of any national education system, the only means by which many of the employers could provide the schooling required under the Act of 1802 and the Acts of 1833, 1844, and subsequent years, was to institute schools themselves, and it was hard for them to consider the provision and maintenance of schools as forming part of their normal duties as manufacturers, or even as a duty which they were personally qualified to perform.[3] Yet again, the fixing by law of age-limits for employ-

[1] The reason given by Sir James Graham, who as Home Secretary had much to do with the drafting and application of early factory Acts, for the selection of the (textile) factories for legislation, is interesting. He said: "From the use of machinery factory labour is necessarily concentrated—therefore easily inspected—therefore difficult of evasion." Or, in the words of HUTCHINS and HARRISON: "The real reason for starting with the children in cotton factories was that the industry being a concentrated one, carried on in large buildings in which great numbers were employed, with a certain degree of publicity, it was easier for the Government to learn what the conditions actually were, and how they could be dealt with." Cf. B. L. HUTCHINS and A. HARRISON: *op. cit.*, pp. 120 and 130.

[2] Evidence collected by the Factories Inquiry Commissioners in 1833-4 showed that, in the Lancashire cotton mills, very nearly half of the children under eighteen were in the direct employ of the operatives. Cf. FACTORIES INQUIRY COMMISSION: *Supplementary Report*, Part I, p. 119 *cc.* London, 1834.

[3] It was not until 1870 that a compulsory national education system was introduced.

ment presupposed the existence of some means of checking the age of juvenile workers ; yet, in the absence of a system of compulsory registration of births, it was exceedingly hard to devise any such means, and the best-intentioned occupier was liable to be deceived by the children or their parents.[1] Sixthly, and lastly, apart from the reasons mentioned above as invoked by the employers against the introduction of a system of inspection—prejudice to secrecy and risk of distracting the children from their work—there were grounds for scepticism as to the results of such a system. The proposal was a novel one, and nothing of the kind had yet been attempted (with the exception of the rudimentary and unsuccessful experiment of 1802). Nor was there any guarantee that the inspectors would be as honest, capable, or discreet, as they would need to be if the extreme difficulty of exact compliance with the law was not to be made an occasion for vexatious, or even blackmailing, pressure.

Moreover, while it is no doubt true to say that the majority of the employers opposed both factory legislation and inspection, a minority—Sir Robert Peel the elder, Fielden, Hindley, Brotherton, Robert Owen, and others—were among the foremost pioneers and champions of such legislation ; and the actual introduction of factory inspection in 1833 owes more to the efforts of an enlightened group of manufacturers, who realised from their own experience the importance of strict, general and uniform enforcement of the Factory Acts, than to any other single factor.

The framers of the Act of 1819 made no attempt to revive the useless system of unpaid local " Visitors ", but relied for enforcement on the rewarding of informers with half the fines inflicted. The amount of such fines was to be £10-20. Informations were to be laid within three months of the observing of the offence. An abstract or copy of the Act was to be conspicuously posted in the factory. The Act contained no other provisions for its own enforcement.

The Acts of 1825 and 1831

An amending Act, passed in 1825, embodied more stringent provisions in respect of enforcement. The occupier was to keep

[1] Compulsory registration of births was introduced in 1837.

a register of all children under 16 years of age. Penalties were laid down for refusal to give evidence. Justices who were themselves proprietors of mills, or the fathers or sons of such proprietors, were not to hear complaints under the Act. Moreover, there might be no appeal against conviction. On the other hand, the maximum fine was reduced from £20 to £12; the period for making complaints was reduced from three to two months; and employers were exonerated from responsibility for employing children under nine if they could produce a statement signed by such child's parents or guardians to the effect that it had reached that age.

In 1831 was passed Sir John Cam Hobhouse's Act, amending and repealing the previous Factory Acts (though not the 1802 Act). Its scope was wider than that of the legislation which it repealed, for it applied to labour in cotton mills and factories generally, and not merely to employment in spinning and preparative processes, and it extended the maximum age of protected persons from 16 to 18 years. It tightened up the "kindred and affinity" clause with regard to Justices; placed the onus of proof that no illegal employment had taken place, should it be proved that the machinery had been worked during the hours prohibited for young persons (9 p.m.—5 a.m.), on the employer; and restored the maximum fine to £20. It required the employer to keep a register of the times during which the machinery was worked. On the other hand, it dropped the clause requiring a copy or abstract of the Act to be posted, and reduced the period for making complaints to three weeks.

All these Acts, from 1819 to 1831, remained almost entirely inoperative.[1] In the Manchester area, it is true, a committee of the manufacturers made persistent efforts, both alone and in collaboration with representatives of the workers, to secure satisfactory application of the factory legislation from 1819 onwards. They were not unsuccessful as regards the town factories, but the difficulties encountered in obtaining witnesses and securing convictions defeated them in the

[1] Cf. FACTORIES INQUIRY COMMISSION (1833): *First Report*, p. 32: "On the whole we find that the present law has been almost entirely inoperative with regard to the legitimate objects contemplated by it, and has only had the semblance of efficiency under circumstances in which it conformed to the state of things already in existence, or in which that part of its provisions which are adopted in some places would have equally been adopted without legislative interference."

case of the country districts. By 1833 their efforts had been abandoned.[1]

The Factories Inquiry Commission, 1833

In 1832 the House of Commons set up a Select Committee on Factory Children's Labour, with Michael Sadler as chairman. This Committee elicited much vivid and picturesque evidence on the actual conditions of factory labour, the ineffectiveness of the existing legislation, and the urgent need for thorough reforms. Shortly after the Committee reported Parliament was dissolved, and the new (Liberal) Government decided, before proceeding to legislate, to appoint an expert Commission " to collect information in the manufacturing districts with respect to the employment of children in factories, and to devise the best means for the curtailment of their labour ".

This Commission deserves a place of prominence and honour in the prehistory of labour administration in Great Britain, on more than one account. In the first place, the subsequent creation of a system of factory inspection was based on its specific recommendations. Secondly, its investigations represented the first attempt to obtain full, scientifically accurate and—humanly speaking—impartial information on factory conditions—from then onward one of the most important official tasks of the inspectors themselves. Previous enquiries by Parliamentary Committees had proved unsatisfactory and inconclusive, for the evidence was frequently confused, contradictory, and biased, and no attempt had been made to check it by systematic local investigations. As " Alfred " [2] says of

[1] Cf. FACTORIES INQUIRY COMMISSION (1833): *First Report*, Section D 1, pp. 1 ff.; *Second Report*, Section D 2, p. 50. The fact may also be mentioned that in 1830 some 40 Leeds manufacturers appointed Mr. Baker (subsequently a factory inspector, but then a practising surgeon) to supervise conditions in their factories in the interests of the children's health (Cf. FACTORY AND WORKSHOPS ACTS COMMISSION (1876): *Report*, Vol. II: *Minutes of Evidence*, question 566.)

[2] *Op. cit.*, Vol. I, p. 59. Michael Sadler, in a speech delivered in the House of Commons on 16 March 1832, refers in scornful terms to the equivocal nature of the evidence called by the opponents of factory legislation before the Parliamentary Committees. " Certificates and declarations ", he says, " will be obtained in abundance, from divines and doctors, as to the morality and health which the present system promotes and secures. I cannot refrain from giving a sample ..... They have said that .... so far from being fatigued with, for example, twelve hours' labour, the children performed even the last hour's work with greater interest and spirit than any of the rest ..... A doctor is produced, who will not pronounce, without examination, to what extent this luxury of excessive labour might be carried without being prejudicial. I must quote a few of his answers to certain queries. ' Should you not think (he is asked) that, generally speaking, a child eight years old standing twelve hours in the day would be injurious ? ' The doctor reverses, perhaps by mistake, the figures, but his answer concludes,—' I

the evidence taken by the Select Committee in 1816: "The disagreement of the witnesses examined was distinct and irreconciliable . . . men of the highest respectability gave evidence on the same subject leading to opposite conclusions." Thirdly, the Commission is noteworthy because of the subsequent careers of some of the Commissioners. Two—James Stuart and Leonard Horner [1]—were subsequently appointed factory inspectors, and the latter was, indeed, one of the most remarkable men who have held that office; two others—Thomas Southwood Smith and Edwin Chadwick [2]—played a most eminent part in the movement for sanitary reform and the organisation of a public health system.

The Commissioners divided the country into four districts. Two civil Commissioners and one medical Commissioner were sent to carry out investigations in each district, while a similarly constituted Central Board remained in London to frame instructions for the District Commissioners and to prepare the general report. The investigations were carried out rapidly, and a first report was issued on 25 June 1833. The Commissioners found, as has already been recorded, that the previous legislation was "almost entirely inoperative". They made proposals for fresh legislation, but the main interest of their recommendations, for present purposes, resides in the system that they proposed to institute for the enforcement of the law.

They found that many of the employers interrogated, particularly in Lancashire, favoured the institution of a system

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believe it is not'. 'Supposing (it was again demanded) I were to ask you whether you thought it injurious to a child to be kept standing three-and-twenty hours out of the four-and-twenty, should you not think it must be necessarily injurious to the health; without any fact to rest upon, as a simple proposition put to a gentleman of the medical profession?' 'Before I answer that question', the doctor replies, 'I should wish to have an examination, to see how the case stood; and if there were such an extravagant thing to take place, and it should appear that the person was not injured by having stood three-and-twenty hours I should then say it was not inconsistent with the health of the person so employed.' 'As you doubted', said a noble Lord, 'whether a child could work for twenty-three hours, without suffering, would you extend your doubts to twenty-four hours?'—'That was put to me as an extreme case', says the doctor. 'My answer only went to this effect, that it was not in my power to assign any limits.'" (Speech published as a pamphlet, London, 1832.)

[1] Karl MARX said of Leonard Horner that "He rendered invaluable services to the English working class" (*Capital*, translated by Eden and Cedar PAUL, p. 223, London, 1928).

[2] HUTCHINS and HARRISON (*op. cit.*, p. 40) consider that the Commission's recommendation to institute a system of factory inspection "was probably due to the well-known zeal for central administration of Mr. Chadwick". They quote no evidence in support of this supposition, and the Commission's reports supply no evidence to confirm it.

of inspection in order to enforce proper compliance with the law, and they decided to recommend the adoption of this proposal.[1]

The precise recommendations of the Commissioners under this heading are as follows :

Several eminent manufacturers have represented to us, that the only certain method of ensuring obedience to any legislative measures on this subject would be by the appointment of officers charged with the powers and duties requisite to enforce their execution. The necessity of some appointments of this nature has indeed been urged from all parts of the country.

In general it is conceived that the officer ought to be resident, and should be charged with exclusive jurisdiction of complaints relating to the infraction of legislative regulations of manufactories. The prominent objection to such an establishment of resident officers is chiefly the expense ; for the manufactories being spread all over the country, such officers must necessarily be very numerous and expensive, if they are adequately paid for their services. We consider that by giving to the magistrates a concurrent jurisdiction on complaints made before them a comparatively small agency would suffice.

The necessity of the appointment of inspectors has been most urgently stated by those manufacturers who have had chiefly in view the restriction of the hours of labour in other factories to the level of their own. The greater necessity of the appointment of some special agency for the enforcement of the measures we have recommended

[1] The temptation is irresistible to reproduce the following passages from the interrogation of Charles Hindley, a prominent cotton manufacturer and one of the leaders of the movement in favour of shorter hours :

" Q. Would the cost of cotton goods rise (*sc.* as a result of reducing hours) ?

A. That would be the first effect ; ultimately it would depend upon the production in foreign countries.....

Q. Then .... will not the English cotton spinner be ruined, seeing he will have the same outlay of fixed capital, higher wages to pay, and nearly one-sixth less return ?

A. .... Should it unfortunately happen that the excessive competition of foreigners should endanger our trade, unless we employed our people longer than was advisable for their own comfort and the good of society, I think it would be as proper a subject of treaty with foreign nations as the annihilation of the slave trade.

Q. Then you would enter into treaties with foreign powers to pass factory bills ?

A. Their interest in maintaining the welfare of the general body ought to be the same as our own, and if a factory bill be good for this country it ought to be good for other nations. I am of opinion that the temptation to factory proprietors to work longer than is beneficial to the operatives in their employ is in this and will be in all countries greater than as a body they will be able to resist, or the people to prevent, in consequence of the amount of sunk capital being so many times greater than the amount of loose capital."

The Commissioner (Mr. Tufnell) observes rather sceptically that this was an " ingenious mode of preventing the evil effects of foreign competition.... which, *were it adopted*, would doubtless answer the intended purpose." (FACTORIES INQUIRY COMMISSION : *Second Report*, Section D 2, p. 50 ; *Supplementary Report*, Part I, p. 221.)

must be admitted, when it is recollected that they relate solely to the children, and are not directly conducive to the immediate interests either of the master manufacturers, or of the operatives, or of any powerful class, and are not therefore likely to receive continuous voluntary support. On the whole, we recommend the appointment by the Government of three inspectors to go circuits of the chief manufacturing districts, at intervals as short as may be practicable, and exercise the functions with which they may be invested for carrying the law into force. For this purpose each inspector should have the right of entering all manufactories where children are employed, and of ordering machinery to be fenced off, and directing arrangements of a sanitary nature, compatible with the execution of the manufacturing processes ; and he should also have cognizance of the arrangements for the education of the children employed. He should have power to hear and determine all complaints of infraction of the provisions of the law, to give directions with relation to them to peace officers, and fine for neglect. It should be the duty of the inspectors to meet as a board, to report periodically to the Government for the use of the Legislature as to their proceedings and as to any amendments of the law which they might find requisite or which might be called for. For this purpose they should be invested with the power of examining witnesses on oath, and of compelling their attendance.

In several of the most important manufacturing districts the resident magistrates are manufacturers; and the appointment of officers of the character and the concurrent jurisdiction we have recommended would enable a complainant to reserve his complaint, if he thought proper, until the period of the visit of the inspectors. Some mills are so remotely situated in solitary places apart from towns that it would be impracticable to visit them with the same frequency. But in these places the difficulty of finding a magistrate who was not a manufacturer, before whom a complaint might be made, probably would not exist.

We consider that the performance of the function of reporting periodically to the Government, by persons whose duty it should be to examine the evidence on which allegations of abuse were founded, and to whom all complaints might be referred for examination, would be attended with considerable advantages, in the security it would give against the occurrence of practices inconsistent with humanity, and in the protection which on the other hand it would extend to the master-manufacturers against groundless complaints.

Some of the manufacturers have proposed that the inspectors, who they think ought to be appointed to ensure compliance with any legislative regulation, should have power to inspect the factories, and direct what parts of the machinery should be fenced off, and that after such directions have been complied with, the manufacturer should be relieved from further responsibility.

We concur in the proposition for giving such power to inspectors, but we do not concur in the proposal to relieve the manufacturer from responsibility.

We apprehend that no inspector would probably be so fully con-

versant with all the uses of every variety of machinery as to be acquainted with all the dangers which may be provided against; and also, that whilst there is much machinery which does not from its nature admit of being boxed off, there is much that could not be made entirely safe without the reconstruction of whole manufactories.

The Act of 1833

The provisions actually embodied in the Factory Act of 1833 (usually known as Lord Althorp's Act, after the leader of the House of Commons in Lord Melbourne's Government) closely followed the recommendations of the Commissioners. The Act applied to textile mills in general (i.e., to cotton, woollen, worsted, hemp, flax, tow, linen and silk mills). It maintained the previous minimum age of 9 years, but limited the hours of work of children of 9-13 years of age to 9 in the day and 48 in the week. Maximum hours for young persons of 13-18 years were fixed at 12 in the day and 69 in the week. The employers were made responsible for securing the education of the children employed by them. Factories were to be limewashed periodically.

The Act provided for the appointment by the Crown of four "inspectors of factories and places where the labour of children and young persons under 18 years of age is employed", to be responsible to the Home Secretary; and for the appointment by the Home Secretary, on the application of an inspector, of paid superintendents (who soon became generally known as "sub-inspectors") to work under the inspector's direction. The inspectors were empowered to enter any factory or mill, or school attached thereto, at any time when protected persons were at work, and enquire concerning their condition, employment, and education; to take or call to their aid other persons to assist them in such enquiries; to call for the transmission of such information as the employers were required to keep in special registers; and to require sworn evidence. They were given the general powers of a Justice of the Peace, including the power to inflict penalties direct. It was their duty to make binding rules, regulations, and orders, for the execution of the Act; to enforce the school-attendance provisions; to order tickets or vouchers of school-attendance to be kept and registered; to order a register to be kept of the children employed in each factory, with indications as to sex, hours of attendance, and absence owing to sickness, and, in a general way, to order

the registration of any other information deemed requisite for the enforcement of the Act.

The four inspectors, working in their respective districts, were to be independent of each other, and responsible directly to the Home Secretary. Each was to keep full minutes of his visits and proceedings, and to report the same to the Home Secretary twice yearly, or oftener, and also to report the state and condition of the factories and children, and whether the law was observed. In order secure some measure of administrative uniformity the inspectors were to meet together twice yearly, and to report to the Home Secretary on their meetings.

The powers conferred on the superintendents (sub-inspectors) were considerably less extensive: they might, in the absence of the inspector, enter only school-rooms, counting-houses, or other parts of the factory not used for manufacturing purposes.

An important provision, from the point of view of the subsequent evolution of factory inspection, consisted in making the employment of children conditional upon the production of a doctor's certificate to the effect that the child in question was of the " ordinary strength and appearance " of a child over 9 years of age.

Copies or abstracts of the Act and of the inspector's regulations were to be posted conspicuously in the factory.

Penalties were provided in respect of offences committed by the occupier or his agent, or by the parents of children, or by persons guilty of forging age certificates. The minimum fine in the case of the employer was fixed as low as £1, and even this figure might be reduced if the offence was not " wilful or grossly negligent ". Not more than one penalty might be inflicted for the same offence except after notice had been given to the employer of an intention to take proceedings (so that, whether an inspector found one person or one hundred being employed illegally on the same date, only one fine could be inflicted). [1] The period after the commission of an offence within which a complaint might be lodged was reduced to a fortnight. Obstructing the inspector was made punishable with a fine not exceeding £10. Convictions under the Act were not liable to appeal.

[1] The clause prohibiting near relations of defendant occupiers from sitting as magistrates was omitted from the 1833 Act, in view of the judicial powers conferred on the inspectors themselves, but was restored in 1844 when those powers were withdrawn.

A certain scepticism as to the probable effectiveness of the new system of inspection is evident in the maintenance of the timeworn and valueless provision to the effect that half of every fine might be paid to the complainant. The superintendents were, in practice, never allowed to profit by this provision, and there is no record of its having had any practical effect. The next Factory Act, of 1844, no longer contains it.

Gradual Extension of the Scope of Factory Legislation

Undertakings Covered

The early factory legislation, in its restricted application to textile undertakings, was an experiment. It was only when a proper system of factory inspection had been instituted that the results of that experiment, and the desirability of applying it to other industries, could be assessed. In the words of Hutchins and Harrison [1]: "If it could be shown that this regulated industry, far from suffering in competition with others, went ahead, improved its machinery, and developed a higher standard of comfort than its rivals, then, although the improvement might not be due to the legislation, there would be, at all events, a strong presumption that good, and not harm, had been done." Thanks to the investigations and reports of the factory inspectors, this was exactly what took place, and from the middle of the nineteenth century the process of extension of factory legislation to other industries was a relatively rapid one.

The years 1845-1861 witnessed the extension of factory legislation to various industries closely allied to the textile, industry—print works, bleach and dye works, and lace factories; and in 1864 the Acts were extended to the manufacture of lucifer matches, percussion caps, cartridges, and earthenware, and to the two "employments" of paper-staining and fustian-cutting. The Act of 1864 marks an important date in the history of British factory legislation, inasmuch as it involved the first extension of the Factory Acts to cover definitely non-textile industries [2], and also because it extended, not

[1] *Op. cit.*, p. 121.

[2] The first Act for the regulation of labour in coal-mining (and particularly for the prohibition of the employment of women and children underground) had been passed in 1842. It involved the appointment of inspectors (at first styled "commissioners") whose competence was limited to reporting on the state and condition of the persons working in the mines. In 1850 the commissioners were given the title of "inspectors", and their competence was extended to cover the state of the mines themselves.

merely to factory labour, but also, in the case of fustian-cutting, to home working establishments. In 1867 the first attempt was made to render the scope of factory legislation approximately universal. The Factory Act of that year brought under regulation and under the control of the factory inspectorate a large number of specified new industries, and, in a general way, any premises in which fifty or more persons were employed in any manufacturing process ; at the same time, by the Workshops Regulation Act, a modified system of regulation, and inspection by the local sanitary authorities, were applied to all establishments in which fewer than fifty persons were employed in any manufacturing process, and which were not already within the scope of one or other of the Factory Acts.

Much legislation has been passed since 1867, for the purpose of consolidating and clarifying factory legislation, extending the degree of protection afforded, modifying and improving methods of enforcement and administration, and so forth. But the scope of the consolidating Factories Act of 1937 in respect of the forms of employment covered differs, generally speaking, from that of the two Acts of 1867 combined only in respect of the addition of certain activities not covered by the term "manufacturing process". The chief of these activities with the dates at which factory legislation, with or without modification, was extended to them, are as follows : laundries (1891 and 1895) ; docks wharfs, quays and warehouses (1895) ; railway lines and sidings used in connection with a factory or workshop (1901) ; buildings in course of construction or repair (1895) ; demolition and excavation (1937) ; construction, repairing, breaking up, etc., of ships in harbour or wet dock (1937) [1] ; civil engineering (" works of engineering construction ") (1937) ; electrical (power) stations (1901) ; dry cleaning, carpet-beating, and bottle-washing (1901) ; bakehouses in places having over 5,000 inhabitants (1878) ; bakehouses in general (1895) ; outworkers (1891) ; charitable institutions, reformatories, etc. (1907).

Thus, with the exception of mines and transport undertakings, the Factories Act now covers practically all forms of industrial employment.[2]

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[1] Shipbuilding yards were covered by the Act of 1867.

[2] Further, the Young Persons (Employment) Act, 1938, now makes the factory inspectorate responsible for the enforcement of provisions concerning the employment by railway companies of young persons under 18 in the collection or delivery of goods, loading or unloading goods, carrying messages, running errands, or operating hoists or lifts.

Categories of Persons Protected

The Factory Act of 1833 prohibited the employment of children under 9, and limited the hours and regulated the working conditions respectively of children (9-13 years) and young persons (13-18 years). The only provision of which the protective effects applied equally to adult workers was that prescribing the periodical limewashing of the premises.[1]

The Act of 1844 took an important step forward in subjecting the employment of adult women to the same restrictions as that of young persons. Moreover, while most of the new safety clauses of the Act (compulsory fencing of machinery [2], etc.) were specifically intended only for the protection of juveniles and women, certain important provisions applied for the protection of all workers, of whatever age or sex: reporting and investigation of accidents, assistance of the inspectors in suing for compensation, posting of notices showing hours of beginning and ending work, and serving of notices on the employer to the effect that dangerous machinery required fencing.

So far as the limitation of hours of employment is concerned, the scope in respect of persons of the present-day factory legislation remains what it was in 1844—that is to say, adult male workers are not directly covered.[3] But in respect of health,

[1] It is important to bear in mind that the limitation of the hours of work of children and young persons was in fact regarded practically from the outset—not merely by the workers themselves but also by the Legislature—as an indirect and elastic method of limiting the hours of adult workers as well. Sir James Graham, who as Home Secretary was responsible for the Act of 1844, observed that " the Legislature had already come to the conclusion that twelve hours was a sufficient period. It enacted directly that children and young persons should not be worked beyond that limit, and when it did so it indirectly fixed the principle that twelve hours ought to be the general limit to the worker of machinery . . . The restriction which had already been imposed upon the labour of children and young persons had driven those who sought to evade the law in working machinery for more than twelve hours to avail themselves of the lower-paid labour of females in order to work beyond the limited time. " It was in order to obviate such " evasion " of the intended universality of the law that women's labour was assimilated to that of young persons by the 1844 Act. (Cf. B. L. HUTCHINS and A. HARRISON : *op. cit.*, p. 83.)

[2] The provision requiring the fencing of mill-gearing was general in scope, but by an amending Act passed in 1856 the obligation was made to apply only to those parts " with which children and young persons and women are liable to come in contact, either in passing or in their ordinary occupation in the factory ". (This restriction was removed, and a less rigid wording substituted, in 1878.) On the other hand, the 1856 Act explicitly included all other parts of the mill-gearing among the machinery the fencing of which the inspector was empowered to recommend to the occupier if he considered it dangerous, and for the first time imposed penalties for failure to comply with such recommendation.

[3] Except in sheet-glass works, special legislation having been passed in 1936 for the purpose, *inter alia*, of permitting ratification of International Labour Convention No. 43, and in bakehouses.

safety, and welfare, distinctions in respect of age and sex have steadily been eliminated, and now the majority of the complex and detailed protective provisions of the Factories Act, and of the codes of Regulations issued under it, cover all workers alike.

The consolidating Act of 1878 extended the obligation to fence dangerous parts of the machinery so as to protect adult male workers as well as women and juveniles. The 1891 Act empowered the authorities to impose special rules and requirements as to dangerous and unhealthy incidents of employment, in the interests of the health and safety of all workers; and prescribed the means of escape to be provided in case of fire. Henceforward the health and safety provisions of the Factory Acts apply, generally speaking, to all workers, though some still have a restricted application: prohibition of cleaning machinery while in motion, of employment to lift heavy weights, and of employment in or in connection with certain processes; provision of facilities for sitting, etc.

The piece-work particulars clause, introduced in 1891 [1], applies to piece-workers in general.

The minimum age for employment was reduced to 8 in 1844, and raised to 10 in 1878 (in 1874 for textile factories), to 11 in 1891, to 12 in 1901, and to 14 in 1918.

Nature and Degree of the Protection Afforded [2]

Hours of Work.

By the Act of 1844 the maximum daily hours of work for children under 13 were reduced to 6½, the whole to be worked either before or after dinner-time (half-time system), or to 10 on alternate days, in cases where the hours of all young persons were restricted to 10 in the day. In 1847 the maximum hours of women and young persons were reduced to 10 in the day and 58 in the week. In 1850 these figures were raised respectively to 10½ and 60. These three Acts applied to textile factories, but the 1850 limits were applied to the other industries which were subsequently brought within the scope of factory

[1] See below, p. 636.

[2] Some of the most important clauses of the earlier Factory Acts concerned the education of the child factory workers, and the enforcement of these clauses constituted one of the most difficult and absorbing tasks of the inspectors. With the passing of the 1870 Education Act the function of the inspectors was reduced to the enforcement of school attendance for the half-timers. The half-time system was abolished in 1920, and education then ceased to be a concern of the Factory Acts or the factory inspectorate.

legislation. In 1874 the daily limit for textile factories alone was restored to 10, and in 1901 their weekly maximum was reduced to 55½. It was not until 1937 that these statutory limits were further reduced (although in practice the maximum hours were, by the latter year, rarely worked). Under the 1937 Act, the maximum hours for women and young persons in all factories are fixed at 9 in the day and 48 in the week, while for young persons under 16 the weekly maximum is, generally speaking, to be reduced to 44.

Safety.

Safety provisions were introduced into factory legislation for the first time by the 1844 Act. Under this Act accidents causing absence from work were to be reported to the certifying surgeon, who was required to investigate and report to the inspectorate. Juveniles and women were prohibited from cleaning transmission machinery while in motion, or from working between the fixed and traversing part of any self-acting machine (a provision intended to reduce the risk of accident at self-acting spinning mules [1]). The secure and continuous fencing of fly-wheels, parts of steam engines or water-wheels, wheel-races, and hoists and teagles, near to which children or young persons were liable to pass or to be employed, and of all parts of the transmission machinery (" mill-gearing "), was required.[2] Further, the inspectors were empowered to give written notice to an occupier that any dangerous machinery required immediate fencing. (Such notices had, until 1856, no binding force.) Most subsequent safety provisions have been developed on the basis of the above requirements.

(The Act also empowered inspectors to institute an action for damages on behalf of any person injured by the machinery of a factory. Reading this clause in conjunction with the recommendations of the Select Committee on the Act for the Regulation of Mills and Factories, published in 1841, we may conclude that it was intended to apply in cases where accidents occurred owing to neglect on the part of the occupier to comply with the inspector's notice concerning the desirability of fencing ; and it appears to have been applied, with successful results, in this sense. When binding force was given by the 1856 Act

[1] *Annual Report of the Chief Inspector of Factories and Workshops for the Year 1932*, p. 27.

[2] See above, p. 630, note 2.

to the inspectors' notices, though subject to provisions concerning the reference of disputed cases to arbitration which, in practice, discouraged the inspectors from issuing such notices, it was no doubt felt that the justification for the inspectors' direct intervention in accident compensation suits had disappeared, and the relevant provisions were not reproduced in subsequent Factory Acts. The Employers' Liability Act of 1880 and the Workmen's Compensation Act of 1897 were in any case an adequate substitute.)

The 1878 Act made it compulsory to fence every part of the mill-gearing, unless it were in such position or of such construction as to be as safe as if it were fenced, without special notice from the inspector. The inspectors' power to send notice requiring the fencing of other dangerous machinery, subject to arbitration in disputed cases, was maintained. In 1891 the whole matter was simplified by making it compulsory to fence " all dangerous parts of the machinery ", without notice or possibility of arbitration. The 1937 Act, besides maintaining general stipulations as to the fencing of dangerous machinery, contains a number of detailed clauses on particular cases. Further it lays down that new machinery must be supplied in a properly fenced and otherwise safeguarded condition.

The 1891 Act introduced two important new provisions. In the first place, it made the provision of means of escape in case of fire compulsory. Secondly, it conferred power on the Home Secretary to certify machinery or processes as dangerous, and to make such Special Rules as appeared to meet the necessities of the case. This provision, in a simplified and more effective form, is still the basis of the Regulations for particular trades, which constitute one of the most important parts of the modern health and safety code. Forty-four of them were in force by the middle of 1938.

(The Workmen's Compensation Act of 1923 empowered the Home Secretary to require by Order special provisions to be made in any factory or class of factories to secure the safety of the persons employed. In 1927 an Order was drafted requiring the establishment of safety schemes in certain dangerous classes of works, but progress made on a voluntary basis made it seem unnecessary to put the Order into effect. The clause in question has now been taken over into the 1937 Factories Act, the procedure to be followed being the same as in the case of the Regulations for particular trades, mentioned above.)

In 1895 courts of summary jurisdiction were given power, on the complaint of an inspector, to make Orders prohibiting the use of dangerous machinery or of a dangerous factory or workshop until they were made safe.

The 1901 Act contained a new provision requiring steamboilers to be examined every fourteen months, and to have attached to them a proper safety-valve, steam gauge, and water gauge.

The 1937 Act contains new clauses concerning vessels containing dangerous liquids, the training and supervision of young persons working at dangerous machines, chains, ropes, and hoisting tackle, cranes and other lifting machines, construction and maintenance of floors, passages, and stairs, safe means of access and safe place of employment, precautions against dangerous fumes, precautions with respect to explosive or inflammable dust, gas, vapour, or substance, steam receivers and steam containers, air receivers, and water-sealed gasholders.

Health and Sanitation.

The Act of 1802 went considerably beyond all subsequent legislation for over half a century in that, in addition to prescribing the periodical limewashing of the interior of factories —a provision which, with modifications and extensions, has been maintained in all the successive Factory Acts—it required that the workrooms should be properly ventilated. It was not until 1864 that a clause was inserted, in the Act of that year (which dealt only with certain trades supposed to be specially unhealthy), requiring that every factory to which the Act applied should be kept in a cleanly state and be ventilated in such a manner as to render " harmless, so far as is practicable " any gases, dust, or other impurity, generated in the process that might be injurious to health. By the Sanitary Act of 1866 this provision was extended to apply to all factories and workshops, and it was laid down at the same time that no factory or workshop should be so overcrowded while work was carried on as to be dangerous or prejudicial to the health of those employed. General provisions, of an increasingly strict and specific character, concerning cleanliness, lime- or whitewashing, ventilation, and overcrowding, have been included in the subsequent enactments. Provisions concerning temperature were first inserted in the Act of 1895. Provisions concerning artificially produced humidity were first contained in the Cotton Cloth Factories Act of 1889, and extended to other textile

factories in 1895. The 1901 Act first made the proper drainage of wet floors compulsory. The Act of 1895 first introduced the obligation to maintain adequate sanitary conveniences. It was not until 1937 that provisions concerning the lighting of factories were laid down. Safeguards and prohibitions in respect of taking meals on factory premises have been contained in the legislation since 1878. The 1937 Act contains new provisions with regard to the protection of the eyes in certain processes, shuttle threading by mouth suction, underground rooms, and lifting excessive weights.[1]

Since factory legislation was first consolidated, in 1867, various special Acts have been passed at different times for the purpose of regulating or even prohibiting employment in connection with particular substances or processes, or in particular trades, for instance : bakehouses, lead compounds, white phosphorus, and celluloid film. Some of these enactments have subsequently been incorporated, with modifications, in the consolidated factory legislation ; others remain in force separately. But by far the most important measures on behalf of the health of workers engaged in specific dangerous or unhealthy trades have been taken by way of special Regulations.[2]

The 1937 Act contains a further new provision empowering the Home Secretary, by special Regulations (or by a temporary Order in respect of a particular factory), to require the medical supervision of the workers in any factory or class of factories where he has reason to apprehend the of existence special risks to health.

The examination of juvenile workers by certifying surgeons was introduced in 1833, as a means of ascertaining their age in the absence of documentary evidence. In 1878, the compulsory registration of births having made the granting of age certificates by surgeons superfluous, a provision was inserted in the Acts requiring certificates of fitness in the case of juveniles under 16, and a requirement to this effect has figured in the Factory Acts ever since.

In 1891 a clause prohibiting the employment of any women during the four weeks succeeding childbirth was introduced.

[1] The 1844 Act contained provisions for the protection of women and young persons against the harmful consequences of wet (flax) spinning. These provisions were repeated in subsequent enactments down to and including 1901. Special Regulations concerning flax and tow spinning and weaving have been in force since 1906.

[2] See above, p. 633.

So far as London and Scotland are concerned, this provision is still enforced as part of the 1901 Factory Act, while in England outside London it is applied in virtue of the Public Health Act of 1936.

Welfare.

During the war of 1914-1918 it became necessary to legalise the employment of women and young persons in circumstances not permissible under the Factory Act, and various Emergency Orders were issued for this purpose. Several of these Orders made the provision of welfare facilities a condition of employment. In 1916 the Police, Factories, etc. (Miscellaneous Provisions) Act empowered the Home Secretary to make Orders for any class of factories or workshops requiring special provision for the welfare of the workers, and 24 such Orders had been issued by 1933. The 1937 Act contains a new Part dealing with welfare, and including provisions as to supply of drinking water, washing facilities, accommodation for clothing, facilities for sitting, and first aid. It also takes over, in an extended form, the provisions of the 1916 Act with regard to the issuing of welfare regulations.

Payment of Wages.

The 1891 Act contained, for the first time, a " particulars clause ", laying down that piece-workers employed as weavers in the cotton, worsted, woollen, linen or jute trades, or as winders, weavers, or reelers, in the cotton trade, should be supplied with sufficient particulars to enable them to ascertain the rates of wages at which they are entitled to be paid for the work. In 1901 this provision, considerably expanded, was made generally applicable to piece-workers in textile factories, while the Home Secretary was empowered to apply similar provisions to any other factories or workshops. This has, in fact, been done in the case of a large number of non-textile processes.

In 1887 the factory inspectorate was made responsible for the enforcement of the special legislation against the " truck system ".

Departmental History of Labour Inspection

The administration of the Factory Acts from 1802 onward, and that of the Mines Regulation Acts from 1842, was entrusted to the Home Office. An alternative possibility would have been

to allot the administration of such legislation to the Board of Trade; but, as is observed in the report of the Committee appointed in 1917 "to enquire into the responsibilities of the various Departments of the central executive Government, and to advise in what manner the exercise and distribution by the Government of its functions should be improved", "when these Acts were conceived, they were regarded, ...not as measures for the improvement of the industries to which they applied—as they have since very largely proved to be—but merely as acts of police, designed to prevent particular offences of oppression by employers against helpless individuals of such defenceless classes as women and children." In the course of the nineteenth and early twentieth centuries, however—as the report proceeds to point out—"the Board of Trade became more and more the Department dealing with private enterprise as such, including its employment of labour; and the long and varied series of Merchant Shipping Acts, Railways Regulation Acts, the Acts relating to gas and electricity enterprises, to waterworks and harbours, the Trade Boards Act, the Conciliation Act, and finally those establishing the Employment Exchanges and the system of Unemployment Insurance, were, with many others, placed within the sphere of the Board of Trade." [1] We may add that Workmen's Compensation and Shop Hours legislation lay within the sphere of the Home Office, public health and housing within that of the Local Government Board, while National Health Insurance was administered by an independent Commission. (When, in 1916, a Ministry of Labour was created, most of the labour functions of the Board of Trade had been transferred to it: administration of legislation concerning Trade Boards, Conciliation, Employment Exchanges, and Unemployment Insurance. The administration of the Railways Regulation Acts and the Merchant Shipping Acts, including their labour provisions, remained with the Board of Trade. Health Insurance passed in 1919 to the new Ministry of Health, which is now also responsible for the administration of the Widows', Orphans' and Old-Age Contributory Pensions system instituted in 1925.)

The Machinery of Government Committee (to whose report reference is made above), taking a broad view of the proper functions of the Ministry of Labour, recommended the transfer

[1] MINISTRY OF RECONSTRUCTION: *Report of the Machinery of Government Committee* (Cd. 9320), p. 39.

to that Ministry "of the administration of the Factories and Workshops, Shop Hours and Mines Regulation Acts, and of the Coal Mines (Minimum Wage) Act, now under the Home Office; of the registration and sanction of Trade Unions and their rules, now the work of the Chief Registrar of Friendly Societies; of the Mercantile Marine offices so far as concerns seamen's employment, now under the Board of Trade; of the Wages Boards under the Corn Production Act, now under the Board of Agriculture and Fisheries; and of all functions relating to the unemployed able-bodied which are at present exercised by the Local Government Board." [1] The Committee adds, with regard to inspection:

> The desire has been expressed for some greater co-ordination and simplification of the various kinds of visitation and inspection, at the instance of such separate Departments as the Home Office, the Board of Education, the Board of Trade, the Ministry of Labour, etc., to which employers of labour are now subjected. In a Ministry.... constituted on the lines suggested above there would no doubt be a distinct Inspection branch, in which would be combined some or all of the present staffs of Inspectors dealing directly with employers in their places of business. Such an Inspection branch, while its officers would be the servants of the Ministry...., would be in a position to undertake general inspections for purposes required by other Departments, at their request and subject to the consent of the Ministry.... as the Department with which the appointment and discipline of the Inspectorate would rest. These inspections would in some cases furnish the other Departments concerned with the information which they required. In some cases, however, the general inspection would need to be supplemented by enquiries conducted, not by the officers of the Ministry...., but by the Inspectors of the other Departments concerned, who would be possessed of special qualifications for dealing with the questions relating to health, education, or other distinct services, which were involved. It would thus be possible for the Inspection branch of the Ministry.... to be responsible in the first instance for conducting enquiries into the conditions of employment in the widest sense; and, while reference to the specialised Inspectors of other Departments would be made where the facts of the case required it, the concentration of as much of the work of inspection in industrial establishments as possible in the hands of a single staff might effect a very considerable reduction in the number of visits paid to a given establishment by the officers of different central authorities.[2]

The proposals of the Committee on these points were not adopted. It was no doubt thought dangerous to hand over to a new Ministry, still in process of organisation, the administra-

[1] *Ibid.*, p. 45.
[2] *Ibid.*, p. 50.

tion of complex and delicate legislation which had, by long tradition, lain within the competence of one of the older Departments, whose officials had developed remarkable traditions of skill and efficiency. Accordingly, factory inspection remained, and still remains, with the Home Office.[1] On the other hand, the Mines Department was handed over to the Board of Trade, of which it now constitutes a separate and practically independent section. The origins of mines legislation and inspection have already been recorded.[2] Since 1887 the functions of the Mines Inspectorate have included the enforcement of legislation concerning the hours of work of women and juveniles, and since 1908 of adult male workers.

Shops were first brought within the scope of social legislation by the Shop Hours Regulation Act of 1886, which limited the hours of work of young shop assistants, but made no provision for inspection. In 1892 the Select Committee on Shop Hours reported that the 1886 Act "remained generally unenforced and even to a great extent unknown".[3] The Shop Hours Act of 1892 accordingly empowered local authorities to appoint inspectors to enforce the provisions of the earlier Act, such inspectors to have the powers of factory inspectors, and amending Acts passed in 1893 and 1895 respectively made provision for the payment of the inspectors' salaries and established a penalty for failure to exhibit an abstract of the provisions of the principal Act in each shop. Subsequent legislation has dealt with hours of closing, holidays, hours of work, seating accommodation, sanitation, and welfare. Since 1912 it has been the statutory duty of the local authorities to appoint inspectors for the enforcement of the Shops Acts. (A good deal of the legislation actually in force concerning shops consists, it should be remembered, of local Orders issued by the local authorities in pursuance of the Acts.)

[1] The reasons given in 1921 to the Committee of Enquiry into the working and effects of the Trade Boards Acts by a representative of the British Brush Manufacturers' Association for recommending transference of the administration of the Trade Boards Acts from the Ministry of Labour back to the Board of Trade may be quoted in this connection, as they seem to have a wider relevance. He said: "Our reason ... is that we have not a very high opinion of the efficiency of the Ministry of Labour ... and further, we have the feeling that the Ministry of Labour is, from its name, ostensibly set up ... to consider one side or one class of the population of this country only, and that it approaches matters with a bias in favour of that side, and we consider that the Board of Trade would bring a more impartial feeling to bear." *(Minutes of Evidence*, question 6792).

[2] See above, p. 628, note 2.

[3] J. HALLSWORTH: *Protective Legislation for Shop and Office Employees*, p. 13. London, 1935.

Modern legislation for the protection of seamen begins with the Mercantile Marine Act of 1850, which "for the first time definitely constituted the Board of Trade as the authority to 'undertake the general superintendence of matters relating to the British Mercantile Marine' ".[1] Since that time the Mercantile Marine Department of the Board of Trade (now acting through its officials, such as the Superintendents of the local Mercantile Marine Offices, the Surveyors, the Medical Inspectors, and the Inspectorate of Ships' Provisions) is responsible for the administration of the clauses of merchant shipping legislation which affect the protection of the seamen.

Minimum wage legislation was inaugurated with the passing of the Trade Boards Act of 1909. The administration of the Act was entrusted to the Board of Trade, and transferred in 1917 to the newly created Ministry of Labour.

Minimum wages in agriculture were first prescribed by the Corn Production Act of 1917, setting up an Agricultural Wages Board, and administered and enforced by the Board of Agriculture and Fisheries. The Wages Board was abolished in 1921, but a new system of Wages Boards was set up by the Agricultural Wages (Regulation) Act of 1924. This Act is enforced by the Ministry of Agriculture's [2] Labour Inspectorate.

The Railway Employment (Prevention of Accidents) Act, 1900, first laid down provisions in the interests of the safety of railway employees. This Act was enforced at first by the inspectors of the Board of Trade, and from 1919 onward by those of the Ministry of Transport (constituted in that year). Further, the Regulation of Railways Act, 1889, obliged the railway companies to supply returns to the Board of Trade of hours worked in excess of a specified limit; and the Railway Regulation Act, 1893, empowered the Board of Trade to exercise a general control over hours of work on the railways, with a view to keeping them within "reasonable limits", and obliged it to make an annual report to Parliament on the subject. These provisions were rendered obsolete by the setting up of permanent conciliation machinery under the Railways Act of 1921.

The Road Traffic Act, 1930, introduced provisions concerning the limitation of hours of work of drivers of public service

[1] Sir Hubert Llewellyn SMITH: *The Board of Trade*, pp. 105-6. London, New York, 1928.

[2] The Board of Agriculture and Fisheries was reconstituted under this name in 1919.

vehicles and goods vehicles in road transport, and concerning the wages and conditions of employment of persons employed in connection with public service vehicles. The Road and Rail Traffic Act, 1933, contained provisions concerning the enforcement of the hours clauses of the 1930 Act through the agency of the officers of the Ministry of Transport (Traffic Examiners, under the control of the Traffic Commissioners) and the local police, and with the assistance of a system of records. Finally, the Road Haulage Wages Act, 1938, laid down provisions as to the remuneration of persons employed in the transport of goods by road, and empowered the Minister of Transport to appoint an inspectorate for purposes of enforcement.

Lastly, it may not be superfluous to mention that in 1877 the Canal Boats Act provided for the inspection of canal boats by the local sanitary authorities. In 1884 an amending Act provided, in addition, for the creation of a special inspectorate under the Local Government Board (now Ministry of Health) and the publication of annual reports on its activities. The latter Act was repealed by the Public Health Act, 1936, and the maintenance of a special central inspectorate is now no longer required.

Evolution of the Factory Inspectorate Staff

Centralisation

Under the Act of 1833 four factory inspectors were appointed, each in charge of his own district, responsible direct to the Home Secretary, and assisted by a certain number of " superintendents ". A minimum degree of administrative uniformity was secured by the direct supervision of the Home Secretary, and also by the statutory requirement that the inspectors were to meet together twice yearly and to report to the Home Secretary on their proceedings.

The Government was aware of the disadvantages of such decentralisation ; and a Bill introduced in 1839 provided for the appointment of a single Inspector-General, assisted by a staff of twenty coequal inspectors. The Bill was withdrawn, and a subsequent Bill, introduced in 1841, provided for the maintenance of the four inspectors, but attributed special powers of supervision and veto to one of the four. A change of Government prevented the passage of this Bill. (The inspectors

themselves were in favour of maintaining the existing decentralisation.) [1]

The Act of 1844 left the system of four coequal inspectors unchanged, though it assisted the tendency towards uniformity by providing for the creation in London of an " Office of the Factory Inspectors ", with clerical and other subordinate staff, for the use of the inspectors and the preservation of documents. At about the same time, Factory Department affairs were devolved by the Home Secretary upon an Under-Secretary of State.[2]

In the early experimental period of factory law enforcement the four-inspector system offered definite advantages. Each of the four inspectors was a man of experience and strong personality, brought into the Government service from outside after he had already achieved some eminence in his own profession (Horner was a geologist, Howell a barrister, Stuart an editor, Baker a medical practitioner, and so on). Each had his own peculiar methods and predilections, as is very evident from their reports and their evidence before Royal Commissions. The possibility of comparing the methods adopted and the results achieved by the four inspectors in their various districts must undoubtedly have assisted the Home Office in building up the factory inspection system on sound and well-tested foundations.

The time came, however, when the disadvantages of decentralisation began to outweigh its advantages; and when Mr. Horner and Sir John Kincaid retired respectively in 1859 and 1861 they were not replaced. In 1871 a Treasury minute gave definite expression to the intention of the Government to place the Factory Inspectorate under a single head, although, in view of Inspector Baker's age and the imminence of his retirement, no immediate action was taken. When he did retire, in 1878, Mr. Alexander Redgrave was appointed as the first Chief Inspector of Factories.

The Chief Inspector's Immediate Subordinates

The original staff of the inspectorate consisted of the four inspectors and the superintendents appointed to assist them. The inspectors were, as their name implies, responsible in the first place for the actual inspection of factories; and under the 1833 Act the superintendents had not even the power

[1] Otto W. WEYER: *Die englische Fabrikinspektion*, pp. 93-4. Tübingen, 1888.
[2] *Ibid.*, p. 95.

to enter any part of a factory where a manufacturing process was being carried on. (The 1844 Act gave them this power, and altered their title to that of " sub-inspector ".)

In course of time, the pressure of administrative and advisory work made it impossible for the inspectors to do any actual inspection, and by 1867 all the inspection work was being performed by the sub-inspectors. The passage of the first general Factory Act in that year, and the consequent considerable increase in the number of sub-inspectors (the number of inspectors having meanwhile been reduced to two), caused the Government to institute a category of assistant inspectors, whose main task was to assist the inspectors in supervising the work of the sub-inspectors. Their number was increased to four in 1871. Their position and their duties were so ill-defined, however, that their appointment appears, if anything, to have created complication rather than simplification. In 1878, after the retirement of Inspector Baker, and the appointment of a Chief Inspector, the system was changed. The assistant inspectors were abolished, and in their place were appointed five superintending inspectors, each responsible for the supervision of inspection activities in one of the five divisions into which the country was at the same time divided. This system has been maintained, though the number of divisions has been increased.

A Deputy Chief Inspector was subsequently appointed to assist the Chief Inspector and to act as his substitute. The number of deputy chief inspectors was later increased, first to two, then to three, and finally to four.

The Ordinary Inspection Staff

In 1871, the sub-inspectors were for the first time subdivided into grades : grade 1, comprising those with more than 15 years' experience ; grade 2, with less than 15 years' experience ; and junior sub-inspectors (a kind of probationary grade). This subdivision has been maintained, though the titles have changed, being now : Inspector Class I A ; Inspector Class I B ; and Inspector Class II.

Working-class Assistants — an Abandoned Experiment

It is scarcely necessary to point out that the British social system in the earlier years of factory inspection was characterised

by a fairly definite and rigid stratification into classes. It was felt to be essential, for the maintenance of the inspector's authority in his dealings with employers and workers alike, that he should be of relatively " high " social origin, and the inspectors and sub-inspectors in the early days were accordingly recruited from such categories as barristers, medical practitioners, former officers in the armed forces, and so on. The institution, in 1855, of compulsory written examinations as the sole means of entrance to the civil service, combined with the gradual " democratisation " of the educational system, was bound in the long run to relax the restriction of such appointments to the professional and upper classes, but the effects of these reforms were (and still are) inevitably gradual.

In the latter part of the nineteenth century, pressure began to be exerted from two separate directions for the appointment of inspectors' assistants, belonging to a lower category in the social hierarchy than the ordinary inspectors. On the one hand, the organised workers claimed that a former worker would be the most competent person to detect and deal with contraventions in the factories. [1] On the other, the bringing of workshops within the scope of the Factory Acts greatly increased the work of the inspectors, and it was widely thought that a subordinate class of inspectors, of equivalent social standing to a police sergeant or a local inspector of nuisances or a local school-board inspector, would not merely be competent to carry out routine inspections of workshops, but would actually do so more effectively (as well as more cheaply) than an inspector belonging to a class which had no normal contact with such establishments or their personnel.

The views of the inspectors themselves were divided on the matter. Mr. Redgrave, the first Chief Inspector, was very much opposed to any such suggestion. In his report for the half-year ending 31 October 1873 he argued : " My experience has proved to me that the law is obeyed more readily and cheerfully when administered by persons of some social position than by persons holding an inferior rank ..... I consider it of great importance that the inspecting officer should be of a rank in life and education at least equal to the better class of

[1] Cf. FACTORY AND WORKSHOPS ACTS COMMISSION (1876) : *Report*, Vol. II : *Minutes of Evidence*, question 19,815 (evidence of representatives of the Glasgow Trades Council) : " We believe that unless you have men who really belong to the working class the Act will never be carried out, because those inspectors come total strangers to us, and they have to gain our confidence. "

masters ..... Another serious objection to the employment of inferior inspectors is .... the system of ' tipping '."

The Factory and Workshops Acts Commission, in 1876, was not convinced by Mr. Redgrave's objections, and recommended, as an experiment, that in special cases, at least temporarily, the sub-inspector should be allowed the assistance, for the inspection of small places of work, of persons of the standing, for instance, of inspectors of nuisances, who should act under his orders, and for whose conduct he should be responsible. In 1881, the Government appointed a working-man as inspector, exempting him from the ordinary entrance examination. This particular experiment did not constitute a precedent; but in 1892 (the responsibilities of the inspection staff with regard to workshops having been increased considerably by the Act of 1891) the Government appointed 15 workmen inspectors, with the title of inspectors' assistants, "in order to reach amongst others the lowest class of workshops, places which but for their appointment must have remained undiscovered and their evils unremedied ".[1] At first the inspectors' assistants were placed collectively under the supervision of a single inspector. Subsequently they were scattered through the districts and attached to the district inspectors; they were also divided into two grades.

The experiment does not appear to have given any great measure of satisfaction. The trade unions were displeased because of the inferior status and duties allotted to the working-man inspector, whilst in the administration the force of the arguments in favour of high educational qualifications for those who were to perform the full tasks of a factory inspector continued to be felt. The field of the assistants' activities was, however, gradually enlarged to some extent. Moreover, a number of them succeeded in qualifying for promotion to the full rank of inspector, though such promotion never became a normal incident. After 1920 the grade was allowed to lapse, and has now disappeared. [2]

Women in the Inspectorate

In the seventies the women's trade union organisations began to press for the appointment of women inspectors. This was a natural consequence of the extension of factory legislation

[1] *Report of the Chief Inspector of Factories and Workshops for the Year 1893*, p. 18.

[2] It may be of interest to reproduce here a table showing the previous occupa-

to cover workshops, where large numbers of women were employed, and to cover questions of health and sanitation, in respect of which the women workers could hardly be expected to talk openly and freely to the male inspectors. The proposal was resisted by Chief Inspector Redgrave, who, in his report for the half-year ending 31 October 1879, observed: "I do not see how the services of ... ladies could be made available to render the administration of the law more effective ... Possibly ... some details here and there might be superintended by a female inspector, but ... I fail to see the advantages likely to arise from her ministrations in a factory or workshop so opposite to the sphere of her good work in the hospital, the school or the home".

The investigations of the Royal Commission on Labour in 1891-3 finally brought conviction as to the real need for women inspectors, and in 1893 the Home Secretary (Mr. Asquith) appointed the first two women factory inspectors, two more being added in 1894, and one in 1895. The Chief Inspector at that time, Mr. R. E. Sprague Oram, approved the innovation, and in his report for 1893 declared that the labours of the first two appointees had "already been found most useful".

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tions of factory inspectors and inspectors' assistants in 1907:

Occupation	Inspectors	Assistants	Women inspectors
Sanitary department of local authorities	4	4	5
Secretaries or clerks in Government offices or for Royal Commission	6	2	3
University degree	7	—	—
Teachers and lecturers in:			
Science, hygiene, engineering	10	—	1
Subjects not stated	4	—	—
Army	2	—	—
Law	1	—	—
Engineers	43	4	—
Manufacturers, managers, etc.	18	2	—
Workmen, trade union secretaries, etc.:			
Industrial occupations	8	16	—
Clerks, etc. in industrial and commercial establishments	—	11	—
Secretaries, etc.	2	—	1
Analysts, chemists, bacteriologists, etc.	6	—	1
Building surveyors	—	1	—
Officers of charitable institutions	—	—	1
No return	—	—	1
Total	111	40	13

In considering these figures it should be realised that a certain number, for instance, of former employees of local sanitary departments, or of "engineers", would be of working-class origin. (Taken from a report on the *Administration of Labour Laws in the United Kingdom*, prepared by the British Section of the International Association for Labour Legislation, 1908.)

The social position and technical qualifications of the first women inspectors were such that there could be no question of assigning them to subordinate positions. They were appointed as full inspectors, but were not allotted to districts. Their function was, with London as their base, to work as peripatetic officers under the personal direction of the Chief Inspector, conducting enquiries and taking action wherever abuses in connection with the employment of women workers were evident. In 1895 a separate department, called the Female Inspectors Department, was organised, and in 1896 Miss Abraham was promoted to be Superintending Inspector in charge of this department. In 1898, on Miss Abraham's retirement, the title of " Superintendent Lady Inspector " was abolished, her successor, Miss Adelaide Anderson, being appointed as Principal Lady Inspector of Factories, responsible for the supervision of the " women's branch of the Factory Inspectorate ".

There seems to have been considerable friction between the men and women inspectors in the early years, and in an article on " The Women's Factory Department ", published in July 1898 in the *Fortnightly Review*, Mrs. Tennant (Miss Abraham) speaks of the " prejudice, distrust and almost unanimous objection of the men inspectors against the introduction of women into the department ". She states that " some district inspectors gave warning to the employers of the impending visit of a woman inspector " ; and even that one district inspector had testified in a prosecution brought by a woman inspector against the woman inspector's findings. (In the same article she complains that the reorganisation which had taken place on her departure had resulted in a diminution in the powers and status of the women inspectors, and that " my successor's title of ' Principal Lady ' suggests a leading position in a comic opera rather than in a Government department ".)

Until 1908 the women inspectors continued to perform their peripatetic duties from London, but in that year the senior members of the women's branch were established in the principal industrial divisions, with offices of their own in Manchester, Birmingham, and Glasgow, and a staff of women working under each senior lady inspector. In 1921 it was decided to amalgamate the male and female staffs into a single organisation, inspectors of both sexes performing the same duties, and women being eligible for all posts. The post of Principal Lady Inspector was abolished, but one of the three posts of deputy chief inspec-

tor at headquarters and two posts as superintending inspector in charge of a division were to be reserved for women. [1]

The Technical Branches

The increasing technicality of the work of the inspectorate towards the end of the nineteenth century led to the appointment of specialist inspectors or advisers for the various subjects involved. In 1892 the Secretary of the North East Lancashire Weavers' Association was appointed inspector in charge of the application of the textile piece-work particulars clause. In 1898 the first Medical Inspector was appointed, and in 1899 an Engineering Adviser (the next holder of this post—from 1903—was styled " Superintending Inspector for Dangerous Trades " ; this title no longer exists, the head of the Engineering Branch being styled " Senior Engineering Inspector "). In 1902 the first Electrical Inspector was appointed. In each of these four cases a technical branch has since grown up, consisting of a staff of specialist inspectors under the direction of a Senior Inspector.

For a few years at the beginning of the century there was an Inspector for Humid Textile Factories, but the strengthening of the local inspectorate made it possible to abolish this post.

The Certifying Surgeons

In the early days of the inspectorate the absence of regular birth certificates made it impossible in many cases to check the age of juveniles without the aid of a medical certificate. The Act of 1844 gave the inspectors power to appoint the " certifying surgeons ", to direct their activities, and to fix their fees—though the surgeons were never established civil servants, nor was their employment in connection with the enforcement of the Factory Acts even a full-time one. The wording of the Act of 1844 in this respect was somewhat loose, and when, in consequence of the introduction in 1837 of the compulsory registration of births, it became possible for every individual to produce a birth certificate, some controversy arose as to whether the certificates of physical fitness granted by the certifying surgeon were still necessary. The Act of 1878

[1] The information given in this section is taken mainly from George M. PRICE : *Administration of Labour Laws and Factory Inspection in Certain European Countries* (Bulletin No. 142 of the United States Bureau of Labor Statistics), Washington, 1914 ; Dame Adelaide ANDERSON : *Women in the Factory* (London, 1922) ; and Rose E. SQUIRE : *Thirty Years in the Public Service* (London, 1927).

put an end to the controversy by requiring the production of a certificate of physical fitness as a condition for the employment in a factory of any juvenile under 16 years of age. A system of special medical examinations of persons employed in unhealthy processes has since been introduced and extended.

The Act of 1844 also associated the certifying surgeons in the investigation of industrial accidents. Their duties in this respect have developed and increased.

The title has, under the 1937 Act, been changed to that of " examining surgeon ".

The Home Office Industrial Museum

It was decided in 1910 that the Home Office should establish a Museum for illustrating the methods of securing the safety health, and welfare, of the workers. A number of continental safety museums were visited by members of the Home Office, and the building was completed by the summer of 1914. The outbreak of war necessitated its utilisation for other purposes, and it was not until 1927 that the Museum could be opened. Its Director is the Chief Inspector of Factories, and it is under the direct charge of one of the engineering inspectors.

Remuneration and Expenses

The original salary fixed for the inspectors was £1,000 a year, and for the superintendents £250. Out of these salaries the individual's travelling expenses had to be met. Consequently, while the inspectors' salaries were sufficiently high to attract and retain men with the desired qualifications, there was great discontent among the superintendents, and resignations were fairly frequent. (It must also be borne in mind (*a*) that in the early years service in the factory inspectorate was not pensionable, and (*b*) that a former army or naval officer, of whom there were a number among the superintendents and sub-inspectors, was at first not entitled to draw his pension while earning a salary in the inspectorate. It was not until near the middle of the century that satisfaction was given on these two points.)

The salaries of most of the superintendents were shortly raised to £350, but this sum was still quite inadequate to cover travelling expenses as well as provide a family income. The Select Committee on the Factories Act, in 1840, drew attention to this unsatisfactory situation, and it was decided to reimburse

travelling expenses separately. By 1875 the sub-inspectors were receiving salaries of from £200 to £500, according to grade and seniority, plus fares and daily and nightly allowances for travelling. A number of them were complaining, however, (*a*) that they were still considerably out of pocket in respect of travelling, and (*b*) that the minute accounts that had to be rendered of their travelling and incidental expenses involved a disproportionate amount of clerical work. Many expressed a preference for a lump-sum payment to cover such expenses.[1] Such a system has never been adopted, however.

GROWTH OF THE FACTORY INSPECTORATE

1833-1874

Year	Inspectors	Assistant inspectors	Sub-inspectors	Junior sub-inspectors
1833-44	4	—	8–14	—
1861	2	—	18	—
1868	2	2	37	—
1874	2	4	38	11

1888-1938

Grade	1888	1902	1938
Chief Inspector	1	1	1
Deputy chief inspectors	–	1	4
Superintending inspectors	5	5	12
District inspectors	39	42	92
Other inspectors (including assistants)	10	72	141
Women inspectors	–	8	(75) [1]
Inspector of Humid Textile Factories	–	1	–
Inspectors of piecework particulars	–	4	5
Medical inspectors	–	1	11
Electrical inspectors	–	1	11
Engineering inspectors	–	1	13
Central Office inspectors	–	1	–
Total	55	138	290 [2]

[1] Now amalgamated in the general staff.
[2] An increase to 332, spread over the next three years, has been authorised.

The Integration of the Local Authorities in the Work of Factory Inspection

When, in 1864, the Children's Employment Commissioners recommended the extension of factory legislation to cover

[1] Factory and Workshops Acts Commission (1876): *Report.*

workshops, they observed that the experience of thirty years' administration of the Factory Acts had convinced them that "no administrative machinery could be suggested so efficient and satisfactory as the existing one of factory inspection". They therefore recommended that, if the expense were not too great, the law should be administered by the factory inspectors, but that alternatively the smaller factories and workshops should be placed under the supervision of the local government services—Medical Officers of Health and other sanitary officers.

The Workshops Regulation Act of 1867 brought within the scope of factory legislation so large a number of additional establishments that it was considered impossible to ask the factory inspectorate to undertake responsibility for their inspection or to increase the inspectorate sufficiently to enable it to do so, and the plan of placing them under the supervision of the local sanitary authorities was adopted.[1] For several reasons, however, the experiment was bound to fail. In the first place no compulsion was laid upon the local authorities to assume their responsibilities under the Act, and in particular to appoint the requisite staff. Secondly, the local authorities' inspectors, even if appointed and instructed to enforce the Act, had not the same powers of entry as the factory inspectors; before they could enter a particular workshop they had to obtain a special authorisation to that effect from a Justice of the Peace. Thirdly, the Act failed to embody the guarantees for execution that experience in the application of the Factory Acts had shown to be essential: communication of notice of occupation, exhibition of abstracts, production of age-certificates and registers, fixing of definite hours for beginning and leaving off work, etc. The inevitable result was that, except in a very few municipalities, the Act remained a dead letter.

After a trial of four years the necessity for applying some other method of enforcement was recognised, and the Factory Act of 1871 transferred the duty of enforcing the Act to the factory inspectorate. The inspectorate was at the same time strengthened and reorganised, but its strength remained inadequate to enable it to secure full enforcement of all the legislation for which it was responsible, and particularly of the Workshops Regulation Act. The Act of 1878, which for the first time

[1] The factory inspectors were to visit the workshops, but not for purposes of enforcement—merely in order that they might supply information to the Home Office and advice to the local authorities.

applied to factories and workshops alike, removed some of the previously existing anomalies: the definition of a workshop was no longer made to turn upon the number of persons employed (under 50) but upon the non-utilisation of mechanical power, and all workshops in which women and young persons were employed were brought under the same regulations as factories. On the other hand various exemptions, particularly in respect of the normal guarantees of execution—notices, registers, etc.—were still allowed to workshops, or to certain categories thereof—a fact which continued to make the work of enforcement difficult and complicated. In particular, the sanitary condition of " women's workshops " and " domestic workshops " was left within the exclusive competence of the local sanitary authorities.

As has been seen above, the Royal Commission of 1875 had recommended the appointment of a subordinate category of inspectors' assistants to help in the inspection of workshops; but it was not until 1892 that such assistants began to be appointed.

The enquiry into " sweating " by a Select Committee of the House of Lords in 1888-9 threw fresh light on the unsatisfactory conditions prevailing in the workshops, and on the difficulty of enforcing the provisions of the Factory Act in such establishments. In consequence, the Factory Act of 1891 introduced important changes. Some of the exemptions previously granted to workshops were removed, particularly in respect of sanitary requirements; and at the same time responsibility for supervising the sanitary condition of workshops was transferred back from the factory inspectorate to the local sanitary authorities. The reason given for this step by the Home Secretary was that, as Parliament was now " extending the sanitary provisions of the Factory Act to all workshops throughout the country, of whatever kind they may be.... so that every cobbler's shop, every tailor's shop in towns and in the country will come under the provisions of the sanitary law, it seemed foolish not to take advantage of the existing machinery provided by the local authorities ".

The method adopted for effecting this transference of duties was to remove workshops from the scope of the provisions of the Factory Acts in respect of cleanliness, ventilation, overcrowding, and limewashing, and to place them exclusively under the roughly equivalent provisions of the Public Health Acts. For the purpose of enforcing these provisions, the local sanitary

authorities and their officers were granted the full powers of factory inspectors. With regard to sanitation in the strict sense (condition of drains, sanitary conveniences, water-supply, etc.), which lay already within the competence of the local sanitary authorities, the factory inspector was required to give notice of any cases of neglect or default observed by him to the competent local sanitary authority, and if the sanitary authority failed to take suitable action within a reasonable time the factory inspector was empowered to take action himself and recover the costs from the sanitary authority. Further, if the Home Secretary was satisfied that the law in respect of public health and sanitation was not observed in any workshops, he was empowered to have the matter dealt with by the factory inspectorate. Finally, notices of occupation of workshops as well as factories were to be sent to the factory inspectors (who were to communicate them in turn to the sanitary authorities); the sanitary authorities were required to notify to the factory inspectors the existence of any workshop in which they became aware that protected persons were being employed (a provision calculated to assist the factory inspectors considerably in bringing to light unnotified workshops); and provisions concerning the communication of lists of outworkers to the factory inspectors, posting of notices and abstracts, and the reporting of accidents, were applied to workshops as well as to factories.

An important step forward was taken in the Factory Act of 1895, when it was made compulsory for the local authorities to report to the factory inspector the action taken with regard to complaints received from him. This provision forced the local authorities to a more general recognition of their responsibilities in respect of the enforcement of factory legislation in the workshops.[1]

The Act of 1901 introduced various administrative modifications: lists of outworkers were to be communicated to the local authorities as well as to the factory inspectors; the enforcement of the new provisions requiring the supply of adequate sanitary conveniences was allotted to the factory inspectors except in districts where the local authority had adopted the provisions of the Public Health Acts in that respect; the local sanitary authorities were required to keep registers of the workshops in their respective districts; they were required to

[1] B. L. HUTCHINS and A. HARRISON: *op. cit.*, p. 241.

report annually on their activities under the Factory and Workshop Acts, and to forward copies of such reports to the Home Secretary.

The Act of 1937 has left the situation in respect of the enforcement responsibilities of the local authorities substantially unchanged, though certain points have been clarified. The sanitary provisions in respect of workshops are now embodied in the Factories Act (instead of being left to the Public Health Acts) and the local authorities now have sole jurisdiction in the first instance in respect of sanitary conveniences in all factories (including workshops) throughout the country, and of cleanliness, overcrowding, temperature, ventilation, and drainage of floors, in factories where no mechanical power is used.

(The enforcement of the provisions concerning means of escape in case of fire has lain within the competence of the local authority since the introduction of these provisions in 1891; but, under the 1937 Act, a copy of the local authority's certificate of compliance must in every case be sent to the district factory inspector.)

Powers, Duties, and Methods

The first inspectors were men of experience, tact, and discretion, whose bias was rather towards sympathy with the employers and scepticism with regard to the beneficial effects to be expected from factory legislation. The views which Inspector Saunders later confessed to having held with regard to the 1833 Act were no doubt shared by his colleagues: "I was led to believe that a serious injury was about to be inflicted on all classes engaged in manufacture." [1] They certainly did not desire to enforce the law with any undue rigour [2], and would have fully subscribed to the opinion expressed by Inspector Redgrave in 1875 (an opinion which might almost be quoted as representing the attitude of the British factory inspectorate throughout its history): "In the inspection of factories it has been my view always that we are not acting as policemen, that it is our object to be the friend of the manufacturer as much as the friend of the *employé* and the friend of the parent, and that in enforcing this Factory Act and Workshops Act we do not

[1] *Reports of the Inspectors of Factories*, for the half-year ending 31 October 1848, p. 109.

[2] This is particularly true of Inspector Stuart, the inspector for Scotland.

enforce it as a policemen would check an offence which he is told to detect. We have endeavoured not to enforce the law, if I may use such an expression, but it has been my endeavour since I have had anything to do with the factory administration that we should simply be the advisers of all classes, that we should explain the law, and that we should do everything we possibly could to induce them to observe the law, and that a prosecution should be the very last thing that we should take up." [1] Or, as the present Chief Inspector puts it in his report for 1932 : " The main functions of the Inspector to-day are instruction (on matters within the law) and advice (on matters outside the law), rather than compulsion."

The Act of 1833 conferred on the inspectors very extensive powers, which may be grouped under three heads. They had full powers of entry into premises, investigation, examination of books and registers, and examination of witnesses under oath ; they had the judicial powers of a Justice of the Peace ; and they had power to make binding rules, regulations, and orders, for the execution of the Act.

The judicial powers were very rarely exercised. The inspectors themselves preferred, so far as possible, to abstain from using them. As Inspector Horner told the Select Committee in 1840 : " I think that I should not carry public opinion along with me if I was acting as prosecutor and judge." Asked whether he thought the Act was wrong in giving him such power, he said : " I think it is a power which ought not to be lodged with any man without some check ; but I think, under this limitation, with the consent of the parties clearly given, and the penalty limited to a small amount, that benefit might be derived from such an arrangement." [2] Inspector Howell informed the Select Committee that he had been recommended by the Home Secretary not to exercise his judicial powers except where the local magistrates failed to do their duty.[3] The Act of 1844 abolished the inspectors' judicial powers, and such powers have never since been conferred upon them.

As regards the inspectors' power to issue rules and regulations, some confusion resulted at first from the lack of uniformity

[1] FACTORY AND WORKSHOPS ACTS COMMISSION (1876) : *Report*, Vol. II : *Minutes of Evidence*, question 495.

[2] *First Report from the Select Committee on the Act for the Regulation of Mills and Factories* (1840), p. 81.

[3] *Second Report from the Select Committee*, p. 11.

in the rules and regulations issued respectively by the different inspectors. However, in 1836 the inspectors were directed by the Home Secretary to frame a code of rules and regulations which should be applicable to the whole country, and submit them in draft for his approval. The uniform code was issued in October 1836. [1] In 1844 it was thought better, in the interests of uniformity, to withdraw this power from the inspectors and to vest it in the Home Secretary alone ; and this rule has been maintained ever since.

Two of the most important and difficult duties of the inspectors in the earlier years consisted in the enforcement of the provisions concerning age-limits for employment and education, in the absence of any system of registration of births or of universal free instruction. Their responsibilities under these two heads have in course of time been reduced to very small proportions.

The enforcement of restrictions on hours of work was at first rendered very difficult by the fact that the hours fixed by law for beginning and ending work covered a considerably longer period than the number of hours of daily work permitted plus the statutory meal-intervals. This difficulty was removed by the Acts of 1850 and 1853, which made the two periods coincident. Further, the increasing speed of mechanical processes combined with the demonstration—thanks in the main to the factory inspector's investigations and reports—that reasonable hours of work represented an economy rather than an economic burden, soon brought about a state of affairs where the actual hours of work in the factories (though not until much later in the workshops) were usually well below those permitted by the law. The gradual perfecting of the legal requirements in respect of the transmission of notices, posting of notices and abstracts, and keeping of registers by the occupiers (a matter for which remarkably full provision was already made in the Act of 1844), the skilful collaboration of the women inspectors, and the increasingly effective co-operation of the local sanitary authorities, have also largely contributed to facilitate the task of the inspectorate in enforcing the employment clauses of the law.

On the other hand, in respect of health, safety, and welfare, the responsibilities and powers of the inspectorate (and of the

[1] *First Report from the Select Committee*, p. 70.

Home Secretary, acting on the advice of the Factory Department) have been continually increasing. The early inspectors had no technical knowledge of engineering problems. They encountered strenuous opposition from the organised manufacturers in their efforts to secure the fencing of dangerous machinery, in accordance with their interpretation of the law's requirements. They refused to admit, however, that their difficulties arose from their own lack of technical knowledge. Inspector Horner, for instance, maintained that the question was one " which requires for its solution, not the opinion of professional engineers, but the evidence of intelligent and observant men who are daily employed in factories ".[1] In recent years the tendency has been to lay increasing stress on the desirability of special technical qualifications in candidates for the inspectorate; and the Departmental Committee which reported on the organisation and staffing of the Inspectorate in 1930 found it necessary to make the following observations:

> We do not by any means under-rate the value to an inspector of having acquired some general technical knowledge before entering the service .... We are satisfied, however, that the technical knowledge required for the ordinary work of an inspector does not go beyond what any candidate—man or woman—who has an alert and practical mind, can acquire after he or she has joined the Department. We recognise that engineering and allied technical problems form a very large and important side of the work of the Inspectorate; but, if recruitment were to be limited exclusively to candidates whose natural bent and previous training and experience had directed their interest mainly towards that side of the work, it appears to us that there would be a tendency on the part of the Inspectorate to lay so much emphasis on the more technical side of factory inspection that other aspects would receive insufficient attention and the whole outlook of the Department might be unduly narrowed.[2]

Mention must be made of one extremely important function of the factory inspectorate—a function clearly foreshadowed by the Act of 1833, but which since then has been more or less taken for granted. The 1833 Act laid down in general terms that the inspectors were to report to the Home Secretary the state and condition of the factories and children, and whether the law was observed. By the nature of their activities the inspec-

[1] Quoted in *Annual Report of the Chief Inspector of Factories and Workshops for the Year 1932*, p. 30.

[2] HOME OFFICE: *Report of the Departmental Committee on Factory Inspectorate* (1930), p. 22.

tors immediately became, and have since remained, the country's chief experts on all matters pertaining to conditions of employment in industrial undertakings, and to some extent—see for instance the section on " industrial developments " in the Chief Inspector's Annual Report—on industrial conditions generally. Their representations and their expert evidence have played a most important part in the development of social (and not merely factory) legislation. [1]

There are references in the report of the Select Committee of 1840 to a tendency on the part of the Government at that time to utilise the inspectors for a form of intelligence work which certainly lay outside their proper scope—a tendency of which no traces have since appeared. The evidence reluctantly given to the Committee by Inspector Stuart showed that, in pursuance of confidential instructions from the Home Secretary, he had directed the superintendents to obtain information on the state of political feeling among the working class and the Chartist agitation. (He produced a copy of a letter from himself to the Under-Secretary of State, containing such statements as the following : " The Chartist agitation has so completely ceased that I need no longer communicate with you on the subject . . . The revivals are now the prevailing hobby, and will spread. They keep the people from the alehouses and whisky-shops, and are, therefore, at least harmless. ") [2]

Conclusions

In the preceding pages an account has been given of the origins and development of the British factory inspectorate, and the modification and extension both of its composition and of its responsibilities. This account will, it is hoped, illustrate and explain some of the peculiar features of the British factory inspection system as it exists to-day. Some of the more interesting of these may be briefly summarised :

(1) The inspectorate regards its mission as being rather advisory than compulsory ;

(2) The inspectorate is recruited from among candidates with high educational qualifications, no use being made of any lower category of " controllers " or " assistants " ;

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[1] Cf. Otto W. Weyer : *op. cit.*, pp. 60-61, 171, and 283-4.

[2] *Fifth Report from the Select Committee*, pp. 125 and 132.

(3) The remuneration of the inspectors compares favourably with that of other public officials possessing equivalent qualifications, and their social standing and prestige are high ;

(4) The enforcement of the sanitary provisions of the Factories Act in the smaller undertakings is devolved upon the local sanitary authorities ;

(5) The inspectorate is not placed under the control of the Minister of Labour ; it is concerned with the enforcement of protective legislation (hours of work, methods of wage-payment, health, safety, welfare) in industrial undertakings, and not with that of labour legislation in general, or with such branches of economic activity as mining, transport, agriculture, or commerce ; its duties are confined to investigation, inspection, and enforcement ; the inspectors are not the local representatives, for administrative purposes, of a Government Department responsible for labour questions in a general way (in particular, they have no duties in connection with industrial disputes or with social insurance) ;

(6) Women are employed in the inspectorate on a status of equivalence with men—a fact which constitutes a safeguard against the inspectorate's becoming too exclusively concerned with purely technical questions ;

(7) Technical branches—medical, engineering, and electrical —are a constituent part of the inspectorate ; the Department provides its own full-time experts and consultants.