"Deregulation of Health and Safety Laws in the USA and UK: Past Practices, Recent Trends and Future Options"

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Abstract

Deregulation of health and safety laws in the USA and UK has been a firm policy of both countries almost since the introduction of major legislation by each in the 1970s to protect the rights of workers in a more manufacturing industry climate than exists today. This policy has been heavily criticised by trade unionists for putting the interests of business and the profits of companies before thos of individual workers. The reduction in protective legislation, albeit largely prescriptive and often outdated has been only one part of an attack which goes to the very heart of government protection of workers. The enforcement agencies in each jurisdiction have been weakened, overburdened and diminished in size, often looking more like advisory agencies than enforcement agencies. The situation does not look likely to change in the near future and so, the options available as an alternative to state regulation have been considered as a valuable insight into the options for a future health and safety regime in the UK and possibly USA. Certainly, given the current regulatory climete, prescriptive legislation and powerful state enforcement agencies are increasingly becoming a thing of the past. The future may lie in state regulation or in adapting economic incentives for business to conform but in any event, it is more than likely to have the interests of business, rather than the worker at it's heart.

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Introduction

Since the adoption in the 1970s in the UK and USA of major health and safety legislation the protections laid down in each jurisdiction have been gradually eroded and altered to reflect an increased business friendly regulatory approach. The reduction has been necessary in part to reduce the ever increasing amount of secondary regulation and guidance from the enforcement agencies. However though, the inherent evil involved in the process is that it arguably reduces protection for workers although some would argue that the complexity of the regimes as they stand prevents business from implementing standards effectively and also affects workers. The deregulatory drive has gained such strength that legislators are now considering the alternatives to state regulation, some of which will be examined below. More importantly though, the deregulatory drives themselves must be examined in depth to allow consideration of the reasons behind deregulation, the methods employed to reduce the effect of legislation, the present efforts on both sides of the Atlantic and whether the deregulatory drive is showing signs of coming to a natural or other conclusion.

UK Position

The Health and Safety at Work system in the UK was once "[a]n enforcement system which institutionalised the toleration of contravention."[1] However, in the late 19th Century as factories grew both in size and number, so too did solidarity among workers following increased acceptance of Trade Unions in the 1870s and conditions gradually began to improve. The industrial revolution, arguably was aided greatly by the absence of effective health and safety legislation and indeed fast expansion required low overheads and other costs in order that employers could compete.

[1]Hostages to history: Some Aspects of the Occupational Helath and Safety Debate in historical perspective by WG Carson, p.74

As the industrial revolution began to slow down in the UK and so too the bitter price wars and competition, other countries such as the USA and Germany began to have their own industrial revolutions and the need to compete revised itself again.

Prior to the 1970s, there was a host of over-regulation and over-complication in the system. Aside from the then nine Acts, there were hundreds of Statutory Instruments and many agencies designed to oversee the system.[2] Furthermore, accidents in the workplace were on the increase and major accidents were not uncommon. The most horrific major accident which occurred when a coal slurry accidentally covered an entire school in Wales killing 116 children and 28 adults[3] brought massive media attention to the issue and increased demands for action.

In 1972, the Report of the Safety and Health at Work Committee[4], chaired by Lord Robens (The Robens Report) advocated a goal-based approach to health and safety in the UK instead of the more prescriptive and detailed approach previously taken. By allowing industry to implement objectives as it saw fit in order to achieve greater goals, it was hoped to encourage a greater reliance upon self-regulation in industry. While the Report has been heavily criticised as being no longer applicable, it will not be considered in great depth here.[5]
The recommendations of the Robens Report led to the Health and Safety at Work Act 1974 (HASAWA) which remains the primary piece of legislation in the UK. The Act, in keeping with the recommendations of the Committee laid down broad goals to be achieved by employers and legislators in the future, preferring a simple, practical approach rather than the complex and prescriptive efforts of its predecessors. This approach is illustrated most clearly in section 1(2) of the Act which states that future legislation must "maintain or improve the standards of health, safety and welfare".[6]

[2]From Old Labour to New Labour Woolfson and Beck - p.3
[3]Aberfan, 21st October, 1966
[4]Report of the Committee 1970-1972, Cmnd 5034, HMSO
[5]see Robens Report - The Wrong Approach by Anthony Woolf
[6]at s.1(2) of the 1974 Act

However, in the absence of prescriptive legislation, the Health and Safety Executive (HSE), and the Health and Safety Commission (HSC) introduced Approved Codes of Practice (ACOPs) and guidance notes, intended to show standards which should be met in achieving goals.

Why Deregulate?

The confusion over the legal status of these tools and the increased number led to confusion in business and a general atmosphere of non-compliance. As Jim Lyons, a safety advisor recently pointed out,

> "Since COSHH [Control of Substances Hazardous to Health] was introduced there have been a legion of documents attempting to explain how to assess. These documents are so numerous that HSE has just issued another document which lists all the available COSHH documents. This is not only a waste of time and resources, it can be dangerous and is an indication of failure to offer early guidance to the employer."[7]

These reasons, combined with a distinct lack of compliance in business and the trend in the more conservative 1980s which has continued to the present day of embracing free market ideologies and allowing business to operate free of constraints.

UK Deregulation - The Beginning

In the 1980s, Margaret Thatcher's Government in embracing the ideologies of a free-market economy began the process of reducing burdens upon business which it saw as unnecessary in an economy which would naturally keep itself in check if left to its own devices. Two discussion papers were introduced to facilitate the debate and were aptly entitled "Building Business, Not Barriers"[8] and "Lifting the Burden"[9] which even from the titles, clearly indicated the government's own opinion on the matter. It was

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[7]Jim Lyons, "Deregulation Disarmed" in Health and Safety at Work, January 1994 p11 at p12.
[8]1986
[9]1988

not until the early 1990s though that significant steps were taken to deregulate health and safety laws.

USA Position

In the USA, the Occupational Safety and Health Act 1970[10] is the primary piece of health and safety legislation in the USA laying down basic goals and the agencies which should enforce these through methods designed to regulate health and safety standards for employees and their families operating in businesses engaged in interstate commerce. While the Secretary of Labor possesses a great deal of power under the Act, the Occupational Safety and Health Administration (OSHA) acts as an enforcement agency and the National Institute for Occupational Safety and Health (NIOSH) acts as a research body.

The US 1970 Act had taken a similar approach to the HASAWA in 1974 in the UK, and indeed, aimed "to assure, so far as is possible every man and woman in the nation safe and healthful working conditions", a similarly broad statement to that found at s1(2) of HASAWA, albeit more open to interpretation over what would and would not constitute "possible".

Despite the power to legislate being vested in the Secretary of Labor, there is an extensive list of regulations adopted under the 1970 Act which currently occupy five volumes of the US Code of Federal Regulations.

Deregulation

UK

In 1992, in the United Kingdom, following Thatcher's attempts to deregulate, Major, as her successor too found himself overwhelmed by the calls from both within his

[10] As codified 29 USC §§ 651-678

own party and from business to ‘lift the burden’ on business. To respond to these calls, Major launched a "deregulation initiative aimed at removing unnecessary red tape from business."[11] The initiative began as Major appointed Lord Sainsbury to head eight Business Task Forces organised by a central Deregulation Task Force which would be part of the Cabinet Office. The position of the Government was made clear by Michael Heseltine who stated that,

> "A certain amount of regulation is essential, not least to ensure public safety and promote quality standards, but these benefits have to be weighted against the cost of enforcing regulation and complying with it."[12]

The language used to describe the initiative bore all the trademarks of a very major legislative reform, the Task Forces would examine the "jungle of regulation"[13] embarking on a "new blitz on regulation"[14] leading to a "bonfire of unnecessary controls".[15]

This 'bonfire' represented a move from "regulation for regulation's sake"[16] to reduce the perceived burdens facing business. Opponents though argued that "the Government and the CBI want to create a low wage and a low standard economy which they think means competitive"[17] and that legislation is required to protect workers from "lapses in self interest"[18] by employers.

Within this review was included the 'burdens' placed upon business by health and safety legislation. The Task Forces and main Task Force were almost entirely composed of members of big companies and were presented with the task of making recommendations on how existing legislation should be altered so as to relieve the

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[11] Occupational Safety and Health, October 1994, page 38
[12] Government attacks "red tape" Euro regs - Health and Safety at Work, March 1993 page 5
[13] ibid. per Michael Heseltine
[14] ibid.
[15] ibid.
[16] ibid. per CBI Spokesman
[17] ibid. per Tom Mehagy MEP
[18] ibid. per Peter Jacques, TUC Spokesman

burden on business. Prior to the final report of the Deregulation Task Force, the Deregulation and Contracting Out Bill 1994 was laid before Parliament, proposing wide-ranging powers for the Secretary of State for Employment to remove existing health and safety legislation among others enabling, effectively, 'fast track' deregulation.

At the same time, the HSC had been instructed to conduct its own internal review on removing legislation. This time though, interests of the TUC were represented alongside those of small and large business although overall the bias remained firmly in favour of business interests.[19] The task before the HSC was to examine the modern day relevance and usefulness of over 400 separate pieces of health and safety legislation and determine whether or not they should remain.

The principle area of review was to be the huge wealth of legislation prior to HASAWA along with the infamous 'six-pack' of EC Directives[20] whose introduction in 1993 had amplified calls for deregulation by the government. It was further stressed that health and safety was not under threat and instead, unnecessary red tape and form-filling would be targeted. The choice of the HSC to conduct this review allowed it to be conducted at a faster pace since its members were at least a little more familiar with the content of the legislation for review and more importantly, how they operated in practice.

The initial proposals were treated with anger by the TUC, indeed the possibility of

> "deregulating health and safety, and privatising the Health and Safety Executive could be giving employers the freedom to kill."[21]

Indeed, Unions argued that the move for removing alleged burdens on business was covering a hidden agenda of lessening the protection of employees in the workplace.

[19] the Chairman of each of the seven Sectoral Task Groups in the HSC was of a business background
[20] Commission lines up six-pack for deregulation - Health and Safety at Work August 1994 p 4
[21] Trade Unions outraged at deregulation - Health and Safety at Work, October 1993, p.5

It was argued that instead of looking at reducing these burdens, valuable research should be conducted into examining the costs and benefits of complying with health and safety laws. It remained unclear as well, adding to the concerns exactly what in the Government's opinion constituted a 'burden' and whether those burdens were 'perceived' or real. A detailed examination of this may have shown that

> "the "burdens" are perceived rather than real and that in practice they are far outweighed by burdens imposed on such businesses as a result of failure to manage health and safety effectively."[22]

The proposals to privatise the HSE have as yet not materialised but the TUC's fears were not merely aimed at the legislation which would be scrapped but at the future of health and safety and indeed of the HSE. It was even alleged at one point that the review was "fixed".[23] The single most widespread fear however was that s. 1(2) of HASAWA would be abolished thereby removing the principal safeguard of worker's rights in the UK.

Responding to the concerns, the HSC Chairman Frank Davies stated that

> "[w]e are surprised that our review is being seen as attempting to lower health and safety standards. We are looking to see if there are features of what we do which can be eased or simplified without endangering these standards".[24]

It is evident that businesses prefer simple and straightforward guidelines which they can easily follow and do not require a great deal of expertise to implement and the criticism prior to deregulation often was that "some regulations are widely misunderstood by business."[25] The results of this "judicial pruning"[26] were revealed in 1994.

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[22]Unions fear deregulation to 'two-tier' safety system - Health and Safety at Work, May 1993, p 4
[23]per GMB Union General Secretary John Edmonds as reported in Trade Unions outraged at deregulation - Health and Safety at Work, October 1993, p. 5
[24]Deregulation will not diminish standards says safety chief - Health and Safety at Work, Jan 1994 p.4
[25]ibid.
[26]ibid.

The HSC reported its findings before those of the DTI's Deregulation Task Force, recommending the repeal of seven pieces of primary legislation and ninety four sets of regulations, along with changing many areas from prescriptive and detailed requirements into more general and simple goal-based requirements. It did not, however extend an exemption for health and safety laws to the self-employed or to the many small businesses, an option which it considered to be unnecessary and unjustified, instead preferring that such groups could benefit from increased advice and assistance.

The HSC showed strong support for the retention of s1(2) HASAWA and this position was accepted by the Government further, the remaining proposals too were accepted both in government and strikingly in Trade Unions. Many of the changes, it would seem that many of the changes were perceived to be extremely necessary and long overdue. Even the TUC had been in favour of removing the legislation.

As Roger Bibbings from the Royal Society for the Prevention of Accidents (RSPA) remarked,

> "Thankfully, because the HSC's review has involved employer and union experts committed to safety, the report has come out firmly against deregulation. Infact, what the HSC are proposing is re-regulation - simplifying and streamlining the law and introducing new packages of regulations on hazards not yet covered by existing legislation."[27]

The Deregulation and Contracting Out Act 1994 now provided extensive powers to revoke regulations without the need for Parliamentary Intervention thereby heavily increasing the speed at which deregulation could continue. The Government had

[27]Government U-Turns on Plans to scrap health and safety laws - Health and Safety at Work, July 1994, p. 4

suffered several small setbacks in its initiative, non of which would deter future action.

The Final Report of the DTI's Deregulation Task Force was unveiled in 1995 after the proposals of the seven Business Deregulation Task Forces were announced in January 1994. The Deregulation Task Force illustrated its position on deregulation from the beginning, "[a]ll governments, left to themselves, tend to over-regulate."[28]

It's proposals were of little surprise to many, supporting the reduction in health and safety legislation, perceived by many as a massive burden upon business, calling for a block on new EC health and safety legislation and commending the government on the introduction of its Deregulation and Contracting Out Act 1994. It also called for further health and safety legislation, including the infamous 'six-pack' set of Directives and the Working Time Directive, largely believed to have been rushed through Parliament when introduced[29] and as a consequence was badly drafted. Section 1(2) of HASAWA was to remain intact for the time being.

Section 1(2) and the European Community

The protection under section 1(2) HASAWA is largely perceived to be the most important statutory protection of worker's rights available under UK law. This though. it is submitted, is a myth and the protection believed to be provided by the section does not exist and never has done. The principle of Parliamentary Sovereignty, namely that one Parliament cannot bind the next and if a later Act introduces legislation which clearly conflicts with earlier legislation, the later Act is taken to have superseded the earlier one. As a consequence, Parliament does not require to expressly repeal earlier provisions and instead they will be impliedly repealed if they conflict with later laws. In the field of health and safety law, new

[28]Deregulation Task Force Report, Cabinet Office, HMSO 1994-1995 Final Report at p.1
[29]to avoid legal action by the EC Commission

legislation will be able to weaken the existing protection and standards without altering or removing section 1(2) of HASAWA and its potential effect and the safeguard it is perceived to provide is therefore significantly less valuable than it would appear.

This is quite a dangerous situation to be in, for as long as section 1(2) exists, Trade Unions and other supporters of worker's rights remain a little bit more complacent with the deregulatory drive. In the absence of a written constitution in the UK, this complacency, it is submitted, ought not to exist for at any time it so desires, any Parliament can legitimately introduce legislation conflicting with earlier laws without fear of annulment.

This principle extends, on a purely legal technicality to European legislation for the European Communities Act 1972 for any laws emanating from the EC are a part of UK law only because Parliament wishes them to be so. In reality, European legislation is treated as superior to UK law and as a consequence, the protection offered by the Community in Articles 136 to 140[30] of the Treaty Establishing the European Community[31] and the legislation enacted thereunder. Although the Treaty does not provide a great deal of protection to workers, it has served to hamper the Government's deregulation initiative somewhat.

Firstly, as the deregulation initiative began, a collection of Directives were about to enter UK law from the EC[32] which were largely perceived by industry and indeed the government as overly prescriptive and burdensome. Although many unions believed the HSE "carried out a sustained policy of blocking, delaying and diluting the progress of the Directives"[33] from the EC, they were nonetheless implemented in the UK. A

[30]formerly Articles 117 to 118c
[31]as ammended by the Amsterdam Treaty
[32]Are you ready for 1993 - Health and Safety at Work, January 1993 p.4
[33]Major doubts over Directives - Health and Safety at Work, January 1993, p.4

failure to implement Directives correctly in UK law could lead to legal proceedings being brought against the UK under Article 226 of the Treaty[34] a possibility which has been threatened on several occasions over recent years.[35] The battle in Europe continues for the UK government which continues to oppose new health and safety legislation, arguing that less prescriptive measures should be adopted.

The UK has had success though in promoting deregulation in Europe, or at least discussion thereof, leading the way in setting up several reports and summits. The Molitor Group was set up in 1994 by the Council of Ministers to review social policy legislation in the EC and when it reported back was largely in favour of deregulation. The European Union also held a summit on deregulation after some persuasion from the UK government with backing from the German.[36] While the European Parliament succeede in blocking initial proposals for reform, pressure from both the UK and German governments is mounting and given the weight of these two countries, it may not be long before a similar deregulatory initiative begins in earnest in the European Community. In the meantime, both will continue to block new legislation fearing its potentially burdensome nature.

USA

By the time that Margaret Thatcher began to lead the deregulatory drive in the UK, the USA had already begun the legislative 'diet' in earnest. President Carter had already deregulated the trucking and airline industries in the late 1970s and early 1980s before Reagan began his 'streamlining' programme with an Executive Order calling for a reduction in the burden of existing and future regulation which was followed up with a Bill. Despite Reagan's initial attempts being thwarted in 1982 by the failure of his Bill primarily due to his own over ambition in his legislative proposals. This would not act to deter the US Government from carrying on with the deregulatory drive and

[34]formerly Article 169
[35]Who is getting away with what - Health and Safety at Work, January 1993, p.11
[36]The views of the UK government are made clear in UK Priorities for European Regulatory Reform

indeed, "If the 1980-88 Reagan administration had a heart, the word 'deregulation' would have been found carved upon it in capital letters."[37]

As had been the case in the UK, the reason for such an enthusiastic effort arose out of the need and desire to reduce if not remove the burdens or controls on business. However, as has been pointed out, "An irony of Reagan administration-directed rebellion against controls is this: in giving even more freedom to these forces that are unseen and at variance with common or communal purpose, we add to chaos and the sense of impotence and so to the eventual multiplication of all controls – most painfully, controls upon individuals,"[38] although, "Reagan was chosen because he represented the electorate's conviction that government was too costly, too intrusive, and ineffective."[39]

During the Reagan administration, therefore, the Health and Safety legislative regime was not the only area of government to suffer, indeed the entire public sector was reduced both in size and in funding. Indeed, a general policy of government cutbacks ensued, urged partly by budget concerns, but also by the growing belief that less involvement by a government in its country's affairs would benefit companies, consumers and the economy, in essence, a 'free' market.

More recent attacks on OSHA and the 1970 Act have stemmed from moves from both political parties, the Democrats, led by Clinton in 1993 in his efforts to reduce the federal budget deficit, one of his main tasks whilst in office, and the Republicans as the majority party in Congress and also, efforts from individual members backed by business.

[37] Peter Bain, at p. 178 of "Human resource malpractice: the deregulation of health and safety at work in the USA and Britain" 1997 28:3 Industrial Relations Journal
[38] p.12 Schorr
[39] p.14 Schorr

Following the 1994 Congressional elections, the Republicans began to embark upon the latest deregulation drive in the US congress by advocating cuts in the funding and alterations to the roles of OSHA and NIOSH. While it was hoped by the Republicans that the powers of OSHA would be reduced greatly, the aim for NIOSH was its eventual abolition. These attempts though, were not entirely successful and indeed the two agencies do in fact remain. It is interesting to note though, that despite the fact that, "in OSHA's twenty-five year history, the agency has hardly built up what one would call a formidable army of safety enforcers" it was and is still viewed as a threat to business success.

While the Republican Party as a whole had more cost-saving budgetary issues at heart, the individual members' motives were influenced largely by external business pressures. Representative Cass Ballenger[40] of North Carolina introduced the Safety and Health Improvement and Regulatory Reform Bill in 1995 which was largely aimed at reducing the effect of the agencies, and the effects of the 1970 Act in particular. While eventually unsuccessful, after encountering strong opposition at later stages, the proposals it made were the beginning of a long standing campaign to reform OSHA in the USA. The Bill aimed to change the operation of OSHA and its composition from safety and health officers to politically appointed members of business and industry. A new emphasis upon cost-benefit assessment was proposed so that new requirements should at least be able to claim that they would save more money than they would cost to implement. Most significantly, the Bill proposed to remove the general duty upon the employer in the 1970 Act to protect its employees from 'generally recognised' harms and to repeal the Mine Safety and Health Act and its enforcement agency despite its having proved to be quite strong and effective. It was understandable, therefore that the Bill did encounter problems, however, the proposals did not end there.

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[40]<http://www.house.gov/ballenger/bio.htm>

In 1995, Representative DeLay managed to have a 'moratorium' bill preventing new health and safety legislation passed. Later, in 1995, Senator Gregg and Senator Kassebaum's Occupational Safety and Health Reform and Reinvention Act proposed to exempt from inspection by OSHA the majority of workplaces. Many other members of both the House of Representatives and the Senate have been active in the field of Health and Safety but Representative Ballenger would appear to be one of the larger threats to OSHA's powers. Having failed in his attempt with his earlier Bill, he introduced a new one in 1996, The Small Business OSHA Relief Act which defined small businesses as those with fewer than 250 employees.[41] The proposals would, Ballenger claimed, incorporate reinvention ideas of the President, for example,

> "The new OSHA, ..., would rely less on enforcement, more on partnerships. It would use common sense in regulations, so that the most benefits could be achieved with the least burden. And the new OSHA would focus on results, not red tape by focusing on hazards not paperwork and evaluating personnel on improvements in safety rather than penalties."[42]

So in the USA also, the deregulation drive began and then continued as a means to modernise outdated legislation, for certainly Reagan used terminology such as 'streamlining' and 'reform' to describe the legislative cleansing, later though, deregulation served as a means to reduce 'burdens on business'. The ways in which this was done were two-fold, firstly by repealing or altering outdated legislation, and secondly by curtailing the powers of the health and safety agencies and slashing their budgets.

In June, 1998 for the first time in 23 years, both houses of Congress passed Bills[43] to amend the 1970 Act[44] and both were sponsored by Representative Ballenger

[41] which in reality is the majority of US workplaces.
[42] Rep. Ballenger paraphrasing President Clinton in an address to the House of Representatives, May 21, 1996 - HR 5308
[43] HR 2864 and HR 2877
[44] on the 16th July, 1998 the Bills were signed by the President and became law

attempting to alter the ways in which OSHA operates. Firstly, by placing greater emphasis on OSHA's role as an advisor to small business and secondly to end OSHA enforcement quotas. The Acts mark a significant change and one which is deceptively alarming. For instance, unless OSHA's budget and workforce is increased, the extra burden of advising business will inevitably reduce the ability of the agency to inspect workplaces. As Representative Ballenger stated, it would create "an OSHA that offers assistance rather than threats, citations and fines"[45] allowing business

> "the opportunity to receive the expert advice they need to be able to comply with OSHA standards without the fear and adversarial temper approach often associated with OSHA inspection."[46]

These are excellent requirements in a health and safety system, however without the incentive to comply, by removing OSHA's powers of enforcement or the ability to use them, effectively reduces the protection for the US workforce.

The effects of the first Act are compounded by the removal of enforcement quotas for OSHA inspectors to combat,

> "OSHA's long-standing practice of evaluating its overall performance and that of its inspectors based on the number of citations they write or the amount of fines they levy"[47]

which, it was argued by Ballenger, is "unfair to employers".[48] The most alarming effect of the Act is that it refocuses OSHA "towards promoting safety, rather than penalizing employers"[49] which would end OSHA's role as an enforcement agency and change it to more of a public information provider, a function which it was never intended to serve without powers to enforce.

[45]Two Ballenger OSHA Reform Bills Pass Senate, June 25 1998, <http://www.house.gov/ballenger/press>
[46]ibid.
[47]ibid.
[48]ibid.
[49]ibid.

Latest US Developments

Later, in April, 1999, Ballenger introduced five more Bills to reform OSHA, each of which aimed to ensure OSHA used a more co-operative and consultative style in its approach to health and safety utilising and encouraging the efforts of both employees and employers in the workplace. As Ballenger claimed, "OSHA was once an agency that too often focused on enforcement, for enforcement's sake."[50]

With this latest initiative now in full swing and given the success of Ballenger's previous Bills, the deregulation drive shows little signs of slowing down in the USA and infact may only just be starting. There is an increased emphasis on risk-based assessments and ensuring that costs of meeting requirements are outweighed by the benefits which could result. It signals a move which some claim will improve health and safety in the workplace, yet there is good reason for concern among Trade Unions for the extent of the emphasis on compromise, advise and inaction generally, is weighted heavily in favour of businesses leaving less emphasis on enforcement of any kind. Failures in health and safety may not require nor be able to be rectified as quickly as before due to a lack of incentives for business to comply. Indeed, failures may in the future take longer to resolve, adding to the costs which Trade Unions and individual employees will face in order to see results. The end result of this move could herald the establishment of a health and safety regime without an enforcement agency. It remains to be seen however, if "a more effective workplace safety and health program would rely primarily on non-enforcement efforts."[51]

In the USA Representative Ballenger's efforts continue and there is a great deal to suggest that in his absence the move would be exactly the same. One of his Bills[52] for

[50]Ballenger announces introduction of five OSHA reform Bills - April 16, 1999 <http://www.house.gov/apps/list/press/nc10_ballenger/~list.html> The Bills are HR 1434, 1436, 1437, 1438, 1439.
[51]Congress: The Chief Worker-Safety Threat - Aaron Freeman Multinational Monitor, October 1995
[52]the Safety and Health Improvement and Regulatory Reform Act of 1995

example, succeeded in getting over 150 cosponsors. Ballenger also is not alone in his crusade for there are many others[53] who could replace him.

One such replacement is Representative Hefley who, in March 1999 introduced the OSHA Reform Bill 1999 which at present while going through the initial committee stages in the House, is gaining increased support. The Bill seeks to emphasise OSHA's role in the provision of cost-benefit analysis, ensuring standards "provide protection to employees in the most cost-effective manner to minimise employment loss"[54] due to measures imposed.

It also seeks to emphasis the role of employee participation and advising small business in OSHA's workload. This is not though new legislation, per se, merely a substitution of old, for the Act would also repeal many sections of the 1970 Act and place its new business oriented provisions in their place. It is clear from the efforts in both US Houses that wide-ranging deregulation of health and safety laws, although moving at a slower pace than in the UK is picking up an ever increasing tempo. The emphasis has changed to cost-benefit, risk-assessment techniques instead of safety inspection and other enforcement measures. The OSHA Reform Bill would compound the efforts to turn OSHA into an observer in US health and safety law, rather than the enforcer.

In July of 1999, President Clinton launched the Federal Worker 2000 Presidential Initiative[55] which laid down specific goals for the Secretary of Labor to achieve. Generally these goals involve reducing the occurrence of injuries in the workplace by three percent a year and especially in those workplaces with the highest injury rates at present. This reduction in the 160,000 a year employee injury figure in the USA would, as the President claimed, save billions of dollars and truly "serve the American

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[53]Senators Hutchinson, Gregg, Kassenbaum and Representative DeLay to name but a few
[54]Section 3(a) of OSHA Reform Act, 1999 HR 1192
[55]July 2, 1999: The Whitehouse Office of the Press Secretary <http://www.whitehouse.gov>

people."[56] However, in a discussion focused upon deregulation, this surely leads to a more positive conclusion for the otherside of the Atlantic? This may appear so, however, the recent Presidential Initiative, while not removing previous legislation, certainly does not appear to be laying down any over-excessive prescriptive requirements either. What is merely being stated is a broad goal which the Secretary of Labor should seek to achieve, through whatever means he chooses. The initiative too, itself is deceptively empty in content for it states that the Secretary of Labor must report "to me"[57] each year which, as it refers to Bill Clinton, is significant. President Clinton's term in office[58] ends at the elections in November 2000, whereupon he remains a caretaker President for a few months until he is replaced. This would allow for only one chance for the Secretary of Labor to report to the President on the progress of the Federal Worker 2000 Initiative and this would be so close to the election and so unrelated to it that few would care. Clinton though after several embarrassing mishaps in Office is increasingly desperate to both improve his image and leave his mark on history and as a Democrat, is more committed to the needs of the workers than the Republican Congress so there may remain a chance for the Initiative afterall.

Perhaps the greatest benefit from the Initiative will be the increased publicity for worker's rights which were generated, but it is unlikely that the Initiative marks a change in any policy initiatives due to its ability, as a result of its nature, to simply disappear. It must furthermore be remembered that the Initiative is not new legislation nor a promise to keep old legislation, instead, it is a broad statement of goals to be achieved howsoever the Secretary of Labor sees fit and as such, offers little to halt the deregulation drive in the USA.

Better Regulation in the UK

[56]ibid.
[57]ibid.
[58]having already served two consecutive terms in Office, he must stand down.

The concept of 'better regulation' stems from the government policy that it is

> "committed to ensuring that regulations are simple, helpful and fair. We aim to deliver responsible and responsive regulation for business, particularly small firms, and the citizen."[59]

Following on from the work of the Deregulation Task Force in the early 1990s, in September 1997, the Better Regulation Task Force was set up by the Government to look at regulatory issues in the UK and operates alongside the Regulatory Impact Unit.[60] The Task Force's purpose is

> "To advise the government on action which improves the effectiveness and credibility of government regulation by ensuring that it is necessary, fair and affordable, and simple to understand and administer, taking particular account of the needs of small businesses and ordinary people"[61]

The latter part of that promise did not prove to be an empty gesture, it was claimed, for the 18 members of the Task Force, led by Lord Hasking[62] comprise representatives from consumer groups, voluntary organisations, small business and Trade Unions as well as the more common large business presence, according to government literature.[63] However, an examination of the individual members reveals less promising results. There is, for example, only one Trade Union representative,[64] and one representative of small business.[65] Of the eighteen possible members, at least twelve have roots firmly in big business and several of the remaining members have at least similar backgrounds. Applying this fact could lead to reports and research of a one-sided political viewpoint, although considering the needs and opinions of small businesses and consumers, representing those of larger businesses. In their Principles

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[59]Lord McIntosh of Haringey in response to a question on the Government's future plans for deregulation by Lord Burnhan. Lords Hansard Written Answers 31/07/97

[60]formerly the Better Regulation Unit and although it is part of the Cabinet Office, the Task Force remains independent of Government.

[61]Better Regulation Task Force <http://www.cabinet-office.gov.uk/regulation/index/task.htm>

[62]of Northern Foods Plc

[63]Self Regul;ation Interim Report, October 1999.

[64]Ed Sweeney, UNIFI

[65]Stephen Alambritis, Federation of Small Businesses

of Good Regulation[66] though, the Task Force did set about attempting to explain its role and the concept of 'better regulation'. In pursuing their role, they would consider the following elements of legislation, its transparency, accountability, targeting, consistency and proportionality.

Does Health and Safety require to be 'better' regulated?

In short, the present writer's view is that it does and while there are excellent statements of policy and methods for improvement contained within the Principles of Good Regulation, it remains to be seen whether these, in practice will be applied. For health and safety laws to meet some of the tests of good regulation, some alterations may be required. For example, it must be enforceable, easy to understand and be accountable. The question of enforceability goes directly to the core issue of the role of the HSE, further combined with that of accountability to the core issues of the lack of prosecution or punishment or apportionment of blame when accidents occur and the sheer volume of legislation precludes simple comprehension.

These are indeed excellent policies and ones which few would disagree with. Indeed the Task Force may be led automatically to the conclusion that further regulation is required in the interests of enforcement and accountability in order to combat the existing problems with enforcement and prosecutions. Could this, as a result, lead to an end to the deregulatory drive?

This would, given the current climate, seem unlikely, for there is an element of discretion in the Task Force Good Regulation Guidelines, notably the considerations that legislation, to be effective must both 'balance risk, cost and practical benefit' and 'reconcile contradictory policy objectives'. These latter two elements of the test, it appears to the present writer will be the most significant with regard to Health and Safety legislation reviews. It is with these areas that a discretion will become evident

[66] HMSO

in the Task Force's own practice, for these latter two aspects will, if used properly be able to lead to more regulation or to less regulation depending upon an individual's viewpoint.

It should be stressed though, that the 'Tests of Good Regulation' are not binding upon the Task Force and nor are they a checklist which will be used in each examination. Instead, they represent frequently mentioned areas identified as resulting in good legislation. Taking this into account, in examinations by the Task Force, it would be unlikely to see direct reference to the list of aspects but instead, one might see a regulatory initiative declined for reasons similar to one of those mentioned above, thereby taking a more subtle approach to deregulation. It should be noted that much of this has yet to be seen in practice, it is merely the present writer's view that by allowing such an enormous discretion to a Task Force with an inherent bias towards the interests of large industry, their interests will prevail and given the current climate, evidenced by the continued attacks upon the budget and powers of the HSC and HSE, could lead to further deregulation by the backdoor. With this in mind, it is not surprising that the finding of the Task Force was that other areas of government could benefit from the health and safety regime, it's checklist mentioned earlier, drawing heavily on existing HSE practice.[67] The Task Force also supported the removal by the HSE of "40 sets of outdated health and safety regulations in favour of goal-setting legislation"[68] and the review of the legal status and volume of its own guidance.

Latest UK Developments

Reform continues to sweep through Government at a stunning rate, and as Tony Blair, in March 1999 announced a Modernising Government White Paper,[69] it showed no signs of slowing down. The Paper introduced the Labour Government's policies on

[67]"HSE Welcomes Better Regulation Task Force enforcement report" Press Release E082:99 - 20th April 1999
[68]"Better regulation: taskforce wants more LA involvement" - Health and Safety at Work, May 1999
[69]<http://www.cabinet-office.gov.uk/moderngov/1999/whitepaper/related/letter.htm>

targeting measures effectively and aiming for 'key targets' in each Department whilst ensuring that policies aim for "outcomes that matter, not simply reacting to short-term pressures."[70] This new approach should concern those supporting worker's rights for one reason, in the absence of a regulatory climate in favour of introducing new health and safety laws, reaction to 'short-term pressures' was perhaps the only definite way to get problems in the workplace tackled and assist the protection of workers. It remains to be seen if the Government will use the White Paper as an excuse for not introducing new legislation following the next major accident in the UK, although often public pressure will prove too great and a knee-jerk reaction may be inevitable.

In November 1999, Tony Blair announced a 'war on red tape' in a renewed effort to put business-friendly policies at the forefront of new legislation introduced. As part of the announcement at the beginning of the 1999-2000 legislative session, it was indicated that new regulations would be reduced and revised in an effort to reduce their burdens on industry and that a regulatory reform Bill would be introduced to "make it easier to remove rules imposing an unnecessary burden on businesses and individuals."[71] While health and safety legislation was not expressly included within the proposals, it seems unlikely that it will be excluded from examination, given the evidence of past practice. It is clear therefore that the deregulation of laws in the UK has not yet reached its conclusion and may not do so for some time. Alarmingly, it may take a series of major accidents such as was seen in the 1960s to reverse this trend. Strikingly, the continuation of this policy by the Labour Party marks an increased acceptance of the role of a market free from regulatory constraints in the future. Given the current political phenomenon of a Prime Minister undertaking a more 'Presidential' role than ever before and strong public belief that Tony Blair is 'doing his best' and 'wants to do the right thing', the public may be more willing to

[70]ibid. p.2

[71]Financial Times, Robert Peston, "Blair declares war on red tape" - Thursday November 18, 1999

accept mistakes than previously and the deregulatory drive may continue long past its natural conclusion.

Attacking the Enforcement Agencies

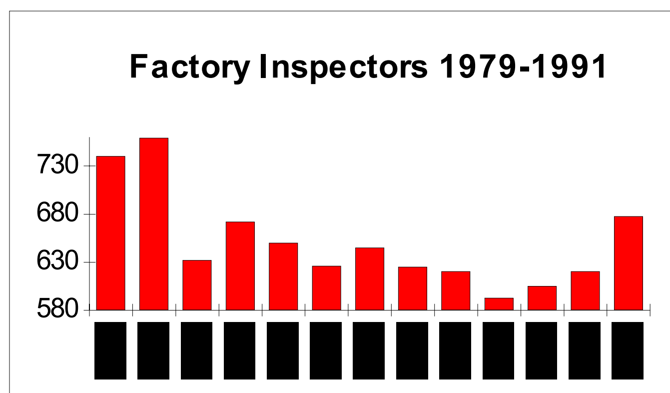
In ongoing efforts to deregulate health and safety, one of the major ways in which the objectives of deregulation are achieved without the need to remove legislation is by a process of 'backdoor deregulation' which has involved reducing the powers of the enforcement agencies so that regardless of the legislative content in each country, the agency is unable to use them effectively. The methods used are similar in each jurisdiction which have added to the workload of the agencies, reduced their budgets and cut the size of their workloads consistently for the last twenty years.

In the USA also, as has been shown above, one of the main tactics for reducing the effect of the burdens on business is to ensure that any legislative provisions are unable to be put into practice. In the USA, moreso than in the UK although the HSE has been asked to adopt a less strict approach to enforcement, it is clear that members of Congress wish to see an OSHA which merely watches the safety and health regime, advising business on steps to improve their workplaces instead of one which inspects premises and penalises employers for breaches of legislation. Thius would leave the USA in the absurdly ridiculous position of having a health and safety regime without an enforcement agency.

The cuts in the funding of the HSE persisted even though the Department of Employment's[72] overall budget was increased by 40%. Furthermore, instead of openly sacking employees, the government has forced the HSE to do so itslef in order to remain within its ever-decreasing budget. The change in the 1980s is illustrated in the graph below and are typical of the HSE's manpower as a whole. While the levels of staff began to increase slightly towards the end of the 1980s, due to public criticism

[72]of which it was previously a part

over the high rise in workplace accident rates, this level was not maintained and the 1993 November Budget forced the HSE to impose restrictions on recruitments and retirements.



The graph is taken from Health and Safety at Work April 1992 page 17[73]

Following the announcement by the HSE of over 230 job cuts in 1994 to 1996, the TUC alarmed at the effect this would have in the workplace launched a national campaign urging the government to reverse it's decision to reduce the HSE's budget.[74] At the same time, concerns have been raised that it will take another major disaster within the UK to raise the budget of the agency.[75]

In the USA, regulatory reform seems, as in Britain to be attempting to paralyse the enforcement agencies and whilst attempts to abolish NIOSH, the National Instiute for Occupational Safety and Health, which acts as a research body in the US have so far been unsuccessful, it's future remains uncertain.

The role for the trade unions in each jurisdiction must surely be an extensive public awareness campaign, bordering on scaremongering to increase public pressure for a

[73]"Alternative" annual report reveals staff shortages are still hurting OSHA
[74]TUC calls for budget cut U-Turn - Health and Safety at Work, March 1994, Page 5
[75]Health and Safety: an alternative report - the real facts about the work of the Health and Safety Executive in 1991. Institution of Professionals, Managers and Specialists 1992

halt to the deregulaory drives. Only by using these techniques and failing a major disaster will the agencies regain importance.

Self-regulation

One of the most important areas of the Better Regulation Task Force is to consider the alternatives to State regulation, such as public education programs, codes of practice, economic incentives for business to improve and in particular, self-regulation by industry. The latter two options, as more probable alternatives will now be considered.

The Robens Report in advocating a goal-based approach to health and safety did not turn its back on an organised approach to health and safety in the workplace. Instead, it was urged that "We need a more effectively self-regulating system".[76] This it was hoped would grow out of an increased atmosphere of communication between employer and employee, especially considering that at the time of writing the Report, Trade Unions were extremely strong organisations in the UK, a strength which has been significantly weakened by the Thatcher and later administrations. However, communication cannot lead to successful self-regulation in the absence of co-operation which too has failed, in many cases to materialise.

Self-regulation was advocated by Lord Robens in 1972 and yet, the process of issuing guidelines, codes of practice and the like have been so common that it is difficult to see how much was left to industry to decide of its own accord. If the HSE/C has not been allowed to achieve its potential, nor too has self-regulation, instead the UK has been faced with a hybrid of approaches to regulation both in purpose and method.

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[76] Robens 1972, para 41

In October 1999, the Better Regulation Task Force published its Interim Report on self-regulation, attempting to find the key to effective self-regulation. It laid down the following definition,

> "Self-regulation is the means by which members of a profession, trade or commercial activity are bound by a mutually agreed set of rules which govern their relationship with the citizen, client or customer."[77]

Self-regulation carries, it was argued, numerous advantages being more flexible, more readily complied with, more relevant to the needs of a particular industry, ensure confidence in an entire industry, more cost-effective and can lead to a better relationship between industry and clients. However, problems arise where members do not comply with the rules, where the public is confused about this compliance or about which firms are covered under the regime and where the enforcement agency lacks sufficient authority or powers to see that requirements are met.

Aside from the criticisms mentioned within the Interim Report, others such as a potential bias developing within the industry towards the needs and interests of management, a lack of transparency or precision in formulating rules and watching over members' activities. Furthermore, self-regulation, it has been argued, offers greater opportunity for those who wish to abuse the system to do so.[78] The present writer is not seeking to condemn self-regulation but wishes to draw the reader's attention to the flaws in the self-regulation argument which were absent from the Better Regulation Interim Report for reasons which were hinted at earlier whilst examining the composition of the Task Force.

The role of the government in self-regulation

In considering the notion of self-regulation of the health and safety at work regime, it must be remarked that if certain of the advantages were to be achieved, individual

[77] BRTF Interim Report on Self-Regulation, October 1999, HMSO at p.3
[78] Boyle and Villiers - Corporate Governance and the Approach to Regulation

industries, rather than industry as a whole would require to work together, allowing unifying of the expertise necessary to respond to more localised needs. This too, would increase accountability in industries but may also serve to complicate matters greatly. This arises where we consider the role of government in self-regulation, if indeed there is a role.

It is clear that certain groups would prefer different types of self-regulation, for the more akin to direct government regulation, the more accountable an industry and its members remain for their actions.

If self-regulation in the workplace health and safety regime were to become an effective, successful reality, it would require to be extremely organised. A single government agency would be responsible for ensuring that existing areas of industry separate into the correct groups and that each new body incorporates all existing legal requirements, notably those emanating from the European Community, into its own framework of self-governance. It would also be responsible for ensuring that each new area of self-governance remained accountable so as to avoid a fragmentation of responsibility.

A second government agency would be required to continue to regulate those smaller areas of industry which would not be covered by the larger industry bodies. As such, every area of employment would be covered by Health and Safety laws.

Initially, certainly, larger and more complex areas would be devolved to professional bodies. These initially would be the industries such as chemical or construction which traditionally would require more attention due to their complex natures. Secondly, the remaining industries would be assisted and encouraged by the agency to set up codes of practice and organise themselves to represent the overall interests of their own industry. As this process develops, it should be the aim of the main agency, to set

quotas in each industry for improvement of health and safety therein. Failure to do so could result in a return to direct government regulation or other such similar situations.

Once an area had been devolved from governmental control, significantly, very little input would then be required from the government. Any changes to its code would not require ministerial approval and could therefore occur reasonably quickly. To maintain a necessary degree of control however, a power to veto actions by a self-regulatory group would rest with a government minister, within either the new Health and Safety agency or the DTI.

The benefits of the above example are twofold. The sectors of industry which would require over-complex and specialised regulation would benefit from the freedom to make appropriate regulations and to change these as they see fit. This would create, it has been suggested, a great deal of pride in compliance with rules in "a regime that is 'owned' by those to whom it applies".[79] Those industries which require little regulation would not be forced into self-regulation. At the end of the day, there would exist a freedom of choice for industry with, most importantly, sufficient safeguards and safety nets so that should the need arise, government may step in while faults in the self-governance model may be corrected. As the Self-Regulation Working Group has found,

> "When self-regulation fails, it is tempting to call for a statutory alternative. But this should not be the only option. It may be that small changes would result in an improved self-regulatory regime."[80]

However, is the same statement not applicable to regulation?

The role of economic incentives

[79]October, 1999
[80]ibid.

The main existing economic incentive in a company is to reduce overheads, so as to produce a product cheaper and therefore be able to compete more effectively. However,

> "Competitiveness should not be sought at the risk of any individual's or group of worker's health."[81]

The fundamental goal of a company is quite simply to maximise its profits and in doing so the policy is often 'profits first, safety second'. Heads of business would receive a total absence of regulation extremely warmly but this would be highly objectionable. A high degree of regulation would be welcomed by Trade Unions yet also would be objectionable. A balance, therefore must be struck between the two, for it is not that industry views workers rights as unnecessary, rather in the pursuit of greater goals of profit maximisation, it is an area which can often be neglected and even misunderstood.

The cost to industry as a whole of workplace injuries and indeed to society is massive, indeed, in 1993, the HSE estimated the annual cost to British Inustry at £9bn and in the USA the costs are equally as astronomical. There is a theory emerging that industry by guiarding against workplace ill health will save significantly more money in the long run than it will cost to implement and that by doing so, it will place itself at a competitive advantage against other companies. The new approach stems from a change in the idea that,

> "firms [were] essentially viewed as passive in the determination of the socially optimal level of accidents"[82]

The main goal of a company, to achieve profits is constrained naturally by market forces and all other considerations, such as fair treatment of workers and a positive

[81]John Tomlinson, MEP in Government U-Turn on plans to scrap health and safety laws: Health and Safety at Work, July 1994 at p. 5
[82]Nick Adnett & Alistair Dawson, The Economic Analysis of Industrial Accidents: a re-assessment - International Review of Applied Economics, Vol 12 No. 2, 1998 Page 241

corporate image aid the achievement of this goal. As BNFL realised to their cost at Sellafield recently,[83] a poor safety record and several severe slip-ups led to damaged business relations in both Japan and Germany. As a consequence it becomes more apparent that by looking after the interests of workers and indeed safety in the workplace as a whole, a company is able to avoid, severely economically detrimental mishaps and retain its corporate image.

However, it is not uncommon that a company with a poor safety record yet excellent growth potential continues to perform well on the stock market and attract new customers. It is predominantly those whose customers are the public who will suffer from bad publicity. In areas such as construction and service providers where clients are other companies, profits will be affected to a much lesser extent. Furthermore, in the absence of a proper system of accident reporting or in an atmosphere where workers fear recrimination for speaking out against employees, these external forces cannot be considered for in the absence of knowledge of poor worker treatment by a company, the public cannot show its displeasure. The incentive to maximise employee welfare can often be lacking therefore. It is only when industry is persuaded of the economic benefits of diminishing risks in the workplace that real progress will be made, for the reluctance to comply presently experienced will begin to diminish.

Conclusion

The deregulation drive in both the US and UK is certainly not over, and does not seem likely to stop for a while. In the UK the drive appears to have logically progressed from one of deregulation to relieve the burden upon business to one based on a concept of streamlining legislation towards a goal of better regulation. In the USA, despite beginning earlier, significant steps do not appear to have been made until relatively recently and as such it appears that their efforts will continue for much

[83]Bennett, Neil: "BNFL orders Sellafield clear-out" - The Sunday Telegraph Business Supplement, Page 1 - April 2nd 2000

longer.The views of Trade Unions and industry as a whole seem quite opposed and if the interests meet at some point, a compromise may be reached but until then, it seems likely that the majority of the steps taken will face criticism from either side.

It appears though that the USA is more open about it's intentions for the enforcement agency, OSHA, and is attempting to turn it into an advisory rather than enforcement agency. There is strong opposition to this and given the difficulty of having proposals approved in both Houses of Congress may take a long time to come to fruition, if at all. In the meantime, a kind of *de facto* paralysation of OSHA will most likely be used to reduce it's effect. The same process too, of reducing the budget, manpower and increasing the workload of the agencies has been applied in the UK and looks set to continue despite heavy trade union protests.

Economic incentives and self-regulation are both valid alternatives for prescriptive or goal-setting legislation and the example outlined above is the method of self-regulation preferred by the present writer for the reasons give. It is unlikely that such measures will be easy to introduce, as the former requires a great deal of research and co-operation from industry and for every favourable study produced, it is likely that industry will fund several more unfavourable studies to counter arguments. Self-regulation would be strongly opposed by trade unions and take a great deal of planning and negotiations and is not therefore an immediate solution but a long term goal.

The trend of deregulation does not, therefore seem to be in decline and shows no signs of ending although in the UK does appear to have moved on further than in the USA. Both jurisdictions have a great deal of similarities in their approaches to deregulation although the movement in the UK has certainly shown a great deal more development in recent years. For the time being, it appears that the policy climate in both countries will remain,

"Profits first; Safety second."[84]

[84]Health and Safety at Work, 1994

Appendix

Methodological Analysis

In approaching this dissertation, initially, I was under the impression that it would encompass quite a small area, but later discovered that it would be one of the largest areas of information which I had ever encountered. Initially I focused upon deciding what type of information I wanted to find and set about to find out more about Health and Safety legislation in general in each jurisdiction. Later, I focused more specifically on Deregulation since the early 1980s. I decided to concentrate on the USA initially, which proved to be the harder of the two areas to gain information on. However, "Thomas", named after Thomas Jefferson, is a valuable research tool when looking for US legislation and the actions of both Houses of Congress and I soon became accustomed to visiting Representative Ballenger's Webpage on the House of Representatives Website. This provided me with a lot of useful background knowledge.

The journal, Health and Safety at Work proved to be most useful indeed as a guide to the actual deregulation initiatives as they took place and since I had decided to take a more descriptive approach to the dissertation at an early stage, it soon proved invaluable in raising my knowledge. The Search Engines of BIDS, OCLC, LawTel, Edina and so on all proved to be useful in their own way, and in particular a link to Cambridge University Press proved to provide some valuable resources.

I did not constrain myself to the use of soley Glasgow University facilities and indeed made good use of those at Strathclyde and Glasgow Caledonian also.

Had I had more time and a much larger word limit, which for a topic of this size, I feel is required, I would have focused more on the attempts to restrain the powers of the enforcement agencies in each country as I don't think I have gone into sufficient depth there. I would possibly have also liked to hav examined more closely the relationship

between the two countries and utilised more statistics, although, I was loathe to put statistics in solely for the sake of doing so.

Furthermore, I have realised that I should have begun more in depth research at a much earlier stage and regret not having had the opportunity to have done so. I can only blame myself for this although, I feel that in the three months since my heavier research was undertaken, I was able to make up for lost time.

Overall, I feel I have undergone a valuable learning experience, especially regarding time constraints and how to manage one's time to cover all the work required. I also found myself presently surprised that a topic which I initially thought would be extremely boring proved, in the end to be rather interesting. In conclusion, there are many things which I would have liked to have developed further but I feel I have struck the right balance between the areas I intended to cover in depth and those which I intended to cover in smaller sections.

Unfortunately, I did encounter a computer problem at the end of my dissertation, having accidentally deleted my bibliography, the one substituted below is not a complete guide to the materials I used.

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