

HEALTH AND SAFETY – PAST, PRESENT AND FUTURE

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By John Rimington

I am much honoured to be giving this inaugural Alan St John Holt lecture. My acquaintance with Alan goes back a long time, and is in a sense symbolic. At the time of our first meeting, in 1981, I had just been appointed Director of HSE's Safety Policy Division from a job in Whitehall. I had no apparent qualifications – a lack which was the subject of questions in Parliament at that time and also later, when I became HSE's Director-General. Rumours were circulating that I was what the Sheffield Trades Council endearingly described as “Mrs Thatcher's fox in the HSE hencoop”. Accordingly, the Institute of Occupational Safety and Health thought they had better inspect me, and for this purpose I was asked to drinks with some of IOSH's leading figures, of whom Alan was one.

It was, to be frank, a pretty strange occasion. In those days – and here the symbolism comes in – drinks with the top people in IOSH were not a matter of champagne in May on the Terrace of the House of Lords, but a December rendezvous in the upper room of a pub in Leicester. I can recall that there was something mortally wrong with the lighting, and all I could see when I entered was a fair number of murky figures and the light glinting on Peter Waterhouse's spectacles, he alone being tall enough for the available glimmers to reach him. I was feeling my way around when some dimly seen figure gripped my arm and started to talk about ladders.

It was Alan St John Holt, displaying that queer half-grin that indicated his intention to provoke. I hadn't the slightest idea who he was, but he made the subject of ladders as interesting as is inherently possible, - even if, so far as I knew, he was intending to slip a knife between my ribs before the lights came on. I could see that beneath the deliberate strangeness of his manner, here was a man with ideas and a genuine concern for health and safety in all its aspects. In an era when health and safety practitioners were only just emerging from a position as the scullery hands of British industry, Alan St John

Holt was a person who insisted on thinking things through and looking to the future. He lived to see IOSH's membership increase from 4000 to well over 20,000 and its professional reputation rise to the point where it is now a chartered body, - probably the most significant single development in occupational health and safety since the 1974 Act itself. I salute Alan's memory, and I promise not to pull my punches in this lecture, any more than he would have done.

I have called it, with Roger Bibbing's permission "Health & Safety, Past, Present and Future". This is of course a title which gives me latitude to say practically anything I choose, and in particular to indulge in talking about the past; but I promise not to dwell there. What I do intend to do is to go over some aspects of past history that I think might throw a light on the future, and perhaps place some existing problems in perspective.

I need at this stage to add that by "health & safety" I mean the whole subject of industrial harms and their control; - not simply occupational health and safety, but the whole area examined by Robens and its development since his time. And I make no apology for looking at matters largely from the perspective of a regulator, since that is what I was – though I have for the past thirteen years been more concerned with safety management, as a company director and sometimes, a consultant.

First, let me recall the size and scope of the problems which the 1974 Act was designed to remedy, and the largeness of the vision demonstrated by the Robens report and the Act. In those days, the UK had a massive industrial sector and also a large primary sector, mainly agriculture and mining. Not only was the accident situation in those sectors highly unsatisfactory, but big problems concerned with potential environmental harms, major industrial hazards and toxics were beginning to emerge, characterised by proliferation of new substances and increases in scale. Professional-level attention to these problems was largely confined to the various State inspectorates plus a very few managers in some of the largest firms particularly in the chemical and nuclear industries and a very few doctors. Outside the mining, nuclear and explosives industries, almost nothing had been done to harness the nation's science base to the emerging problems. Such professional and scientific effort as there was took place in corners of inspectorates and major firms; there was

no holistic vision, no means of co-ordinating efforts or cross-fertilising people or effort, much less any conception of exploring a common philosophy either of enforcement or of risk. The scene, if such it could be called, was riven by territorial conflicts and overlaps, and remedies were determined by an historical tangle of statutes and regulations created piecemeal. Outside the mining industry there was little conception of what we now call “safety management”, and there was certainly no general scheme within which commonalties between industrial hazards could be identified, solutions devised and research conducted.

In other words, there really was an unacknowledged national problem of large dimensions - a big hole in the nation’s care for individuals, communities and the environment, and no solid foundation for improvement. What took place in the UK in 1974 has has a major impact not only here but worldwide – though not by way of any imitation of the structures that were created. The rest of the world has got by without anything like the Health and Safety Commission and Executive, though IOSH and NIOSH in the US bear some partial resemblances.

There is nowadays no such problem as existed then. There is of course a great deal that needs constant attention and there is always the potential for untoward developments. There are new expectations which have to be provided for. But realistically, there is no great hole, no gap in public polity such as existed in 1970. And most importantly, there is now something that was almost wholly absent at that time, namely a fully accredited profession of health and safety, widely supported in industry, active both in management and consultancy, and backed to a much greater extent by those who create the risks. Here, of course, I speak largely about occupational health and safety and about IOSH; but a major increase in professional-level attention is true also of other sectors of the field.

I am not suggesting that there is now no role for State intervention in this field. On the contrary, without it, something like the same hole would in the course of time emerge. There will always be a need for active regulation, for enforcement, and for a body or bodies capable of acting as a stimulus and as an exchange and mart for new science and new ideas on emerging hazards and their control. And I believe we in this country do all that better and probably

more efficiently than anyone else in the world. What I do want to dwell on is the fragility of that inheritance from the Robens era, and also, to ask the uncomfortable question, what remains of the assumptions and of the world that the Robens structures were designed for.

Robens' intention, as we all know, was to create a new form of public partnership, one in which civil servants with government powers, eg of enforcement and with Whitehall administrative skills would work alongside the main actors in health and safety –and through the main institutions representing employers and workers. On the positive side, this partnership was intended to reform the existing law, to manage the emergence of new standards, and oversee relevant scientific and informational collaboration. On the negative, it was not to interfere in what might be called the “private sector” of safety provision- for example, the giving of advice and the training of professionals, and if it produced technical inventions – as it did through HSE's laboratories – these were to be handed to the private sector for exploitation. Indeed, it was judged that participation of health and safety professionals in the new structure, eg as members of the HSC, would represent a conflict of interest and should be avoided. Very importantly, the new apparatus was part of an experiment in government, and was not to go beyond the bounds traditionally applied to government activity. Moreover, it was to be wholly funded by the Treasury, not by the industrial participants.

Industrial health and safety has long borderlines and overlaps with areas which were largely excluded from the scope of the new arrangements, notably environmental concerns, fire safety, food safety, transport safety and the health service itself; and I will come back to that point. Nevertheless, within the large area to be covered, the main intent was to be more businesslike, more flexible and more co-operative and that was precisely what in the course of time did happen, with, in my view, great and beneficial results.

However, viewed as an experiment in government, the whole enterprise was, if not perhaps a bridge too far, about as far as a bridge can be pushed without collapsing. I confess that when I first learned of the proposals in the then draft Health and Safety Bill, I thought that they could never be made to work. Would Ministers really stand aside and pay large sums of public money to semi-independent organisations which they could not control, from which they

could get no kudos, and whose activities were difficult to understand and value? What would be the attitude of the Departments which were now called on to surrender inspectorates which would continue to work with industries they sponsored? Inevitably, departmental officials would negotiate laterally with HSE officials on many matters, and this must place a great strain on the relations between HSE and the Commission, and particularly on the job of the Director General. If there were international negotiations on safety matters, how could “outsiders” exert influence – they would certainly not be admitted to the table if anything remotely political was at stake. And what would be the fate of the civil servants who would form the new Executive – ejected from the Whitehall club and its career opportunities, probably denied confidential information on developments that might affect their work. They would be working for “outsiders” who might not grasp the limitations on their conduct – yet remaining dependent for pay, information and for support at official levels in any differences that might crop up with departments run by powerful ministers. Finally, if there was trouble, what influence, realistically, could the Commission expect to wield in the fast-moving, highly political world of Whitehall?

I could quite see that there were features of the new structure that could be counted on to increase all these difficulties. In the first place, with so many expertises involved, it was bound to be expensive. Secondly, it was bound to involve all the classical problems in the management of experts that have dogged bodies such as the Health Service. Also, it would be inherently centrifugal – a shotgun merger of well established organisations which were household names, whose front doors opened on numerous different industries from which, often, their members had been recruited, and whose backdoors led directly to their previous associates in a coterie of warring departments. You may think that in conceiving all these doubts, I must have been particularly prone to nightmares, but let me tell you that every one of them was stone-cold real, and every one of them has left deep scars, and retains power to do so still.

And now I must turn to a second set of problems that I did not foresee in 1973. I will call them the “non-juror” problems, since they concern groups which – for all the ostensible political agreement that surrounded the passage of the

1974 Act,- did not actually come to the party but bided their time. They too explain much of the history, and are still around to create difficulties.

The first of the non-jurors is that section of the Conservative party that instinctively believes not just in Government keeping its distance from industry and from markets, but also in the law being minimalist, explicit and – where absolutely necessary, - sharply enforced. The HSWA is and implies none of those things. It is a piece of Roman Law, ie, law expressing not mandatory commands as with most Anglo-Saxon law, but principles of conduct whose detailed extent and meaning is not at first sight clear. We have had since 1974 a major statutory development in the Human Rights Act which is on the same lines, and we can all see the essential tension between that Act and traditional and powerful Anglo-Saxon conceptions in favour of law clearly stated and limited in extent, -so that, as it were, we know where we stand with it. We can be very sure that those who created HSWA never imagined that it could be used to convict the Metropolitan Police for mistakenly shooting a suspected terrorist. The important point for present purpose is, however, that the section of the Conservative Party with these traditional attitudes, which is also instinctively anti-European and minimalist as regards regulation became steadily more influential as the Eighties wore on, and under John Major they actually seized the reins of power.

A second set of non-jurors were, curiously enough, those on the other side of the political spectrum who believe in a co-ercive approach to employers and seek to force any government agency possessing legal weapons to use them to serve the purposes and desire for publicity of any of the numerous pressure groups which shelter under their wings. By and large, the media are attracted by the drama that this well drilled set of non-jurors know well how to orchestrate. They have done a great deal of damage to the Robens approach, and though their intentions are good they have often diverted effort that would have been better expended elsewhere. The spirit of the Robens system is of course not co-ercive except in the case of foolhardy actions, though it has preserved, rightly, the idea that criminal law should apply to health and safety. It is a little noticed fact that in health and safety systems worldwide the laws that apply are usually administrative, not criminal. This is perhaps an area where we ought to count our blessings rather than seeking to push our luck..

A third set of non-jurors, as I had foreseen in 1973, were the Ministers and Civil Servants in Departments which have no responsibility for HSE's well being but maintain an interest in HSE's doings, usually because they sponsor industries which HSE regulate. It is easy to forget what a peculiarity HSE is in constitutional terms, headed as it used to be by a Commission meeting occasionally rather than by a Minister always at his desk, assiduously served by officials with direct lines to the centre of Whitehall. This situation raised and still raises the question how far Ministers and officials in HSE's sponsoring Department – at first the Department of Employment – would assist HSE in defending its ground with other Departments. In particular it is often not realised by “outsiders” that HSE cannot argue its own case with the Treasury, so it becomes critical what financial priority the sponsoring department will give to health and safety in competition with the matters for which its Ministers are both familiar and much more directly and clearly responsible. These problems became still more acute when the Department of Employment, which at least acknowledged a kind of paternity for the Robens system, suddenly disappeared in 1995 in one of those stellar shocks that afflict the Whitehall world.

Two other non-jurors, silent or absent in 1974, assumed greater and greater importance as time passed. The first was the small business sector, non-trades-unionised and, in the Thatcher era, more and more dynamic and politically fashionable – but largely excluded from the Robens concept, which had been honed in the years of the bfg corporations. Second was the European Commission which – once the European Community had agreed to majority voting in the European Council in 1987, lost little time in seeking to outlaw the principle of reasonable practicability on which the whole Robens concept was based – and, in 1991, they very nearly succeeded. The motive for this attempt certainly had to do with a misunderstanding on the part of Germany that reasonable practicability implied reduced precaution if the cost was high – but it was in reality a calculated attack by Commission lawyers on the Anglo-Saxon tradition of discretionary government – ie, the vesting of officials with an ability to decide what is and is not important in applying the law.

Now let me move away from the theory and consider facts and examples, so far as seems relevant to the future.

The HSC and HSE originally had a sister body constructed on much the same principles for very similar reasons, – I mean, the Manpower Services Commission with its two Executives – one for industrial training, of which I became Deputy Chief Executive, and one for the employment services. The MSC survived only for thirteen years, and the reasons for its disappearance are worth noting. First, its policies, mainly to do with reducing or disguising unemployment, became highly political. Second, MSC allowed its policy branches to be moved to Sheffield, and once marooned there, they quickly lost touch with thinking and influence in Whitehall. Departmental officials began to call the shots, and MSC's carcass was soon ripe for disposal.

Could the same thing happen to HSE? Well, possibly not, any more than it did in 1987. What HSE had in 1987, which MSC did not, was widespread support within industry, and this again became a decisive factor in the siege years between 1992 and 1995. It had also one priceless major asset which no-one else could match or replace, namely its technical capability, and crucially, its well organised and cross-fertilised understanding of industrial hazard. This facility was decisively demonstrated in the growing field of major hazards and toxics. Departmental officials could not deceive themselves that they knew how to handle these arcane affairs; and provided that HSE's chiefs and policy divisions were able to roar in approved English, it was clear that the beast had better be left alone.

HSE must never forget that the understanding of industrial hazard and its ability to place this at the service of industry is its indispensable stock-in trade. There is no market in hazard experience. Only a central and trusted body in close touch at working levels with industry and the science base, and with an intimate understanding of good practice can create such a market and supply the product. HSE has used its stock historically to create standards, produce advisory material, solve forensic problems, strongly influence international developments eg in toxics and nuclear, and create a host of new safety regulatory regimes – for North Sea Oil, the gas grid, railways, coal, transportation of dangerous goods and many others of a more minor character. It was able to do so because it understood in detail the problems

involved and could supply appropriate answers. Relevant wide-ranging knowledge also produced HSE's characteristic philosophy of risk – tolerability – whose influence has likewise been felt worldwide.

So long as HSE maintains and demonstrates this capability it will remain indispensable. But could it forget its central importance? I would not have thought so, but I will confess that the abolition a few years ago of the National Industry Group system, a central pillar in the structure, gave me, and still gives me serious concern. Another danger is surrender to the philosophy that technical expertise can always be purchased as necessary. That might be true, but only so long as there is a robust, multifaceted in-house structure of specialisms able to buy, lead, and quickly apply imported expertise for any number of unexpected purposes, which understands thoroughly what is being bought, how to combine it with other material, how to store the information that experience yields, and refine and improve it through scientific research.

The weakness in the structure required to do all this is its cost. And this will bring me to a set of questions that could be decisive in what happens in the next decade.

But before I get on to that, I will mention the one other major factor which "saved" the Robens structure when MSC collapsed. This was the strength at that time of the Health and Safety Commission, astutely marshalled by John Cullen as Chairman. At that time the HSC included a number of figures with considerable industrial influence, including Alan Raper of Glaxo who did a great deal to get the COSHH regulations on to the statute book, Ray Buckton and Alan Tuffin, both senior members of the TUC General Council, then still a credible and powerful body. The HSC's membership continued to be influential during the early 90s, but my impression is that its strength afterwards ebbed with the marginalisation of the TUC, the reducing interest of the CBI and the change in the arrangements for recruitment after 1995. The Commission certainly seemed to exercise little influence at the time of the recent railway accidents, and has now of course ceased to exist. Outside the world of health and safety, I believe that few people noticed its passing. It can, at the least, no longer be a factor in HSE's fortunes.

I come now to the future against the background of the past. I mentioned earlier the existence of wide areas of industrial harm adjacent to the industrial health and safety heartland, including some that are the responsibility of DEFRA and of local authorities. In 1974, the Industrial Air Pollution inspectorate became part of HSE on the basis of the correct perception by Robens that there is no satisfactory line to be drawn between industrial harms affecting the environment and those affecting people, at least as regards those needing to be regulated near the point of origin.

I also mentioned the inherently fissiparous or centrifugal nature of HSE as a shotgun merger of mature organisations abstracted from different traditions. Two particular factors led to the defection of IAPI in 1987. One was an attempt originating with my predecessor and pursued by myself to achieve a common pay and grading structure, a necessary move if cross-fertilisation within HSE was to achieve all its intended effects. Many IAPI inspectors refused to accept the position indicated for them this structure by an independent review, and began an intrigue with certain major figures in the chemical industry from which all the inspectors had been originally recruited. This might have come to nothing had William Waldegrave not become a Minister in what was then DOE, and decided to endorse the long held view of the Royal Commission on the Environment that a industrial pollution inspectorate was required. At the critical juncture, Ministers in the Department of Employment declined to defend HSE's claims, and the TUC, which was always pre-occupied with occupational health and safety, largely ignored the issue and the implications. In the course of time a new Environmental Agency was created on the dubious principle of mixing up a small regulatory body based on the IAPI with and inside a much larger body mainly concerned with environmental management.

This episode well illustrates the inherent political fragility of the 1974 arrangements as well as reminding us of the potential tensions between the regions of industrial harm. But there was also a sub-plot, an element in HSE history understood only by the participants at the time. Certain of the IAPI inspectors were spearheading HSE's vital efforts to develop a new regulatory structure for major hazards – what we now know as COMAH – based originally on thinking in HSC's Major Hazards Advisory Committee and mediated through

the Seveso Directive. Fortunately, these inspectors, who included Adrian Ellis, elected to remain with HSE; but there remained a serious danger that the whole of major hazards regulation would slip into the hands on the Environment Agency, and the persistence of this possibility influenced the internal organisation of HSE for years to come.

Is such a possibility dead? What, for example, could be the possible outcome of current ministerial concerns about the regulation of a future nuclear industry?

It is always a mistake to dwell in the land of speculations – they too easily turn into nightmares. On the positive side, the point to remember is the natural coherence of all the sectors of industrially connected harm. But – to be speculative for another minute or two – there is in my view a serious possibility that after the excesses of the New Labour era there will be a strong reaction against the decentralist ideas which have created the present tangle of poorly co-ordinated Whitehall agencies, each operating on dubious principles of management borrowed from the City of London – hardly the flavour of the moment. If I am right, we might see some presently unexpected amalgamations and a search for commonalties rather than the stampede into managerial “focus” that we have seen for two decades.. Such new thinking, if it comes, could hardly fail to call into question one of the earliest areas of devolution – that proposed by Robens. And of course, the removal of the Commission removes a big obstacle to possible developments. The point to ponder is whether such developments could centre themselves on HSE’s still formidable technical asset-base and regulatory tradition, and also justify the expenditure necessary to maintain it.

This brings me to a second area of future concern - the ability of HSE to disentangle itself from the “nanny syndrome” and over-regulatory image that has been laid to its door. Given that HSE’s whole approach is based on reasonable practicability, and that the most important skill of an HSE Inspector is to know when to walk past things that are unimportant and concentrate on essentials, how did we get into this mess? Part of the answer of course lies in the insistence of insurance companies on a literal interpretation of standards, and the “compensation culture” which increases the probability of civil actions wherever there is injury. But to what extent can responsibility be laid at the

door either of HSE or of the “health and safety industry”, how did it all happen, and are there lessons to be drawn about past errors?

“Nannying” and “over-regulation” are not of course the same thing. However, as I shall show, they became at a certain point mixed up; and as I have already mentioned, they come ready-mixed within a certain strand of conservative political philosophy. And we must remember that dislike for-nannyism and over-regulation are healthy traditional strands in the thinking of all sensible people – including practically every HSE employee I ever spoke to.

I hope that a bit of history will help in disentangling these matters. The basic intention of HSWA was of course deregulatory. The aim was to root out a tangle of ancient regulations and to replace them for the most part with flexible codes of practice. However, as I have remarked, the Act in fact set out a series of principles which could become the basis for a multitude of undefined offences. It also assumed – correctly – the existence of an intelligent, technically able force of inspectors and a policy machine able to write and explain the new law and administer it with a high degree of consent. Though HSE possessed many of the required characteristics, its policy divisions were at first weak, and it took a decade to establish how to write statutory instruments in the revolutionary new form and to carry out all the necessary consultation,- for which a machine had to be developed that is still in advance of anything similar in Whitehall. Even if these special factors had not existed, the reform of such a huge body of law – over 500 sets of regulations and 20 Acts of parliament - would have been a most formidable task.

It was moreover quite soon discovered to be technically impossible to rely, as Robens had hoped, almost entirely on codes of practice – so that to replace the old law entailed the production of large numbers of new regulations. Those of us who pioneered the writing of regulations and codes in the new style moreover found that it was not a case of flinging aside a curtain and revealing a brave new world to the applause of all beholders. Many of the old regulations proved to be dearly loved, partly because they were easily understandable, and if they were nonsense, they were usually unenforceable. Sometimes they were loved because, being definite, they were bankers to produce sure and large settlements in industrial injury cases, or they protected highly profitable restrictive practices beloved of trades unions. Indeed, the

TUC were for a decade gravely suspicious of the whole principle of reasonable practicability. Robens had thought to remove many of these effects by recommending strict liability for industrial injuries, but the prospects for this were removed in 1978 by the Pearson Report.

On the whole, the new law that began to roll off the production line at increasing speed from about 1987 was good law. The administrative achievement was tremendous, and overall there was a great improvement in relevance, effectiveness and flexibility. Equally tremendous however was the activity of large numbers of advisers and consultants who played an essential part in getting the new legislation understood and applied, but who were, uncomfortably often, adept at maximising their financial advantage by exaggerating requirements. It was the small industry sector that bore the brunt of this, and COSHH and the Electricity Regulations were the main cases in point.

While all this was beginning to happen, Ministers chose despite specific warnings to concede that one of the two areas to be subject to majority voting in the European Council of ministers would be health and safety. This undoubtedly was due to a desire to avoid concessions in other fields deemed to be more potentially damaging to UK interests. However, the result, in the hands of an energetic Commissioner for Social Affairs was a spate of activity in producing new European health and safety law alongside the spate of new domestic law - but according to different, less flexible, principles and often hastily negotiated and poorly drafted. All this produced delay and an appearance of confusion. Moreover, the UK being at the time in the European doghouse, HSE lost its previous predominance in European thinking on health and safety, and very nearly also the principle of reasonable practicability that had previously appeared in European provisions. Had we not found ways of reinserting the provision into the domestic versions of the Directives, matters would have been much more serious still.

In short, the Commission and HSE was lumbered with the blame for the whole situation. Matters were not made easier by the desire of many British MEPs to distance Europe from blame, and to lay it on HSE's shoulders. And some bright spark in HSE's publications outfit in Sheffield thought it inspirational to clothe the new regulations in Royal blue with constellations of European stars. When

this glittering sixpack tumbled on to my desk, I knew the game was up; and it was not long before I was up before the Prime Minister, personally accused, by the very Minister I had warned, of “throwing” negotiations in Europe in order to smuggle in impossibly high standards of health and safety – not an accusation he or his political adviser would have made publicly.

This was the background to a succession of seven major externally inspired reviews which affected HSE between 1992 and 1994, no fewer than three of which included in their terms of reference the question whether we should continue to exist. Actually, HSC and HSE survived the battering, though my hair turned white in the course of it. Greek justice or otherwise, the Department of Employment was abolished as a result of one of them – the so-called “Fundamental Expenditure Review”.

So what has this to do with the “nannying” accusation? There is, I think, a simple though subtle connection. A politician or journalist who may believe – and many do – that public expenditure on “health and safety” is too high finds it difficult to express that in a publicly acceptable way. It would moreover be a hostage to fortune. It is much safer and more effective to say that too much nannying is going on, and that HSE are responsible for it. Be that as it may, I believe that the accusation has done the cause of health and safety a great deal of harm. It may not be enough just to try to distance ourselves from it or deny it, though I applaud the efforts being made to nail some of the sillier accusations. Health and safety professionals at all levels do need to ask themselves how far they may have contributed to these public misapprehensions, sometimes by making exaggerated claims or demands for action.

One specific example on which I have made no secret of my own views has been the support given by many safety professionals for the new offence of corporate manslaughter. This is a quite unnecessary addition to the statute book which has reinforced the scope for action by the police and the Director of Public prosecutions in what are really health and safety offences adequately catered for by HSWA, and has reduced the authority of HSE as arbiter and regulator. The offence will be very hard to prove. In my opinion we are unlikely to see any significant convictions, but we are certain to see policemen trampling through factories trying to uncover evidence in matters they are not

equipped to understand, and wasting professional time that should be devoted to the realities. The net effect has been to reinforce the popular impression that health and safety has been overdone – and it has also risked creating private resentment among respectable employers who have always been more than willing to accept the Robens idea of co-operative enterprise and have never questioned the need for sharp punishment of genuine malefactors.

A second example is the tendency to overstate the meaning of the proviso about “gross disproportion” in the Edwards judgement on the meaning of reasonable practicability. I recall finding in an HSE publication the statement that expenditure on any safety proposal must be incurred up to the point where it is grossly disproportionate to the benefit. That is logic-chopping gone mad. Quite apart from the clear implication that all expenditure on health and safety must be grossly disproportionate to the benefit, it ignores the central fact that most judgements on safety matters are all about whether a reasonable standard of good practice has been attained with a bias in favour of safety. They are not about an extreme risk of death such as that addressed by the Edwards judgement. I am sorry to labour this point; what I am saying is that we must mind our language and our claims, and subject both them and sometimes the lawyers to a dose of commonsense.

I do not wish the point I am making to be misunderstood. I am not claiming that the examples I have given have been the cause of the nannying image. They are just simple illustrations of an age-old tendency in the health and safety world to overclaim – historically, a relic of the years when we had to shout very loud to be heard. That is no longer necessary, and we can proceed on the mature principle that health and safety is now on an accepted, professional basis. There is no need – and never was – to “revitalise” health and safety. It is alive and well – though the effort needs always to be maintained.

I come finally to the question I raised earlier, how much of what we could describe as the “Robens world” – the presuppositions which the Robens system was designed to respond to – how much of that remains? And what, if anything, does the answer to that question tell us about the future?

I think that the only possible answer to the question is that very little of the “Robens world” does still exist. There is no massive hole in care, no heap of law needing reformation, no huge industrial sector including a high proportion of what might be called “scrapheap” industries posing multiple dangers, no marked deterioration in the injury position requiring some major boost in effort, no unaddressed area of major hazard. The lawmaking engine and parts of the standard-making engine have shifted to Brussels. There is however a need for continuous effort to maintain standards and react to new situations, a need for enforcement of health and safety law, for forensic effort and for research into new or extended hazards; a need to keep up the UK’s position in relation to European developments and of course, all sorts of sub-systems to be kept up.

There is therefore, as I have said, a need for a government presence in health and safety to ensure that what has been achieved is maintained and improved; that new developments are attended to, and above all, that the goodwill and spirit of reasonableness implicit in the achievement to date also animates the future. The capacity to get to the bottom of new developments, provide information and stimulus to national and international efforts remains important. And the key to that is the conception of HSE as the UK’s bank of industrial hazard experience, the technical capability that underpins it, and the guts to enforce when necessary and with discretion. Without those central pillars, the professional efforts of the rest of our national provision for industrial health and safety would gradually run down, as would our precious ability to influence international standards.

I must conclude on a warning note. The political position of HSE is weak and its machinery and particularly its technical competence does not come cheap. The way Whitehall operates, that could point to increased marginalisation and a slow death. , As I have tried to illustrate, there is a great deal in the history that points to specific dangers. The question I have sought to outline is whether the central function and capability that I have described could be developed and applied over a wider range, to include specifically environmental regulation. I believe that those responsible for addressing the future of the health and safety institutions may need to bend their minds to this possibility.

And so, farewell. Thank you for this opportunity to shoot my mouth off. It is likely to represent my last public word on a subject that has concerned me for so long, and to which most of us here have been privileged to contribute.