

THE STATISTICAL AND SOCIAL INQUIRY SOCIETY OF IRELAND.

FACTORY INSPECTION.

By B. STAFFORD, M.A.

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The Labour Chapter of the Treaty of Versailles, which made provision for the establishment of the International Labour Organisation with the view of securing international agreement as to humane conditions of labour, so clearly required an effective system of factory inspection in every country that for the purpose of the accomplishment of its task the general principles for the organisation of systems of inspections of factories and workshops necessarily demanded the early attention of the international Labour Parliament that owed its foundation to Part XIII of the Treaty.

The signatories, or as they are called in the Treaty, High Contracting Parties enunciated in Article 427 General Principles for the guidance of the Permanent Organisation that was established to advance the well being—physical, moral and intellectual—of industrial wage earners. The Ninth of these principles was that “each State should make provision for a system of inspection in which women should take part in order to ensure the enforcement of the laws and regulations of the employed.”

The International Labour Office accordingly undertook a survey of the systems of inspection throughout the world and in 1923 published a volume concerning the Historical Development and Present Organisation of Factory Inspection. This was the first systematic study of systems of inspection since the survey made by certain nations interested in the International Association for labour legislation in 1908. The International Labour Office was necessarily obliged in the compilation of its work to refer to the original texts of laws and orders, but it had the supreme advantage of the background that was furnished for a work of this kind by the provisions of the Treaty of Versailles and by the co-operation of the signatories of the Treaty. Unlike earlier Associations that attempted international labour agreements the International Labour Office was in the unique position of having been constituted by an International Treaty providing for the representation not only of workers but of Employers and of Governments. The publication, therefore, which it produced in 1923 has come to be regarded as the standard work on factory inspection and any subsequent survey of the subject either of a general character or in particular relation to any of the twenty-six countries with which the survey deals must take as its basis the fundamental report issued by the International Labour Office.

The purpose of inspection in all industrial communities is similar and it is, therefore, not difficult to define the common aims pursued, though perhaps approached in a different manner. The preservation

of the health and safety of workers by the enforcement of statutory standards of ventilation, cleanliness, temperature, fencing of machinery, &c., are the common objects aimed at by inspection.

There are, however, important differences due to administrative custom, industrial tradition and also to the legal system in force in the country concerned. In some countries factory inspection may represent a police or merely supervisory function; in others it may represent the community in labour law just as the public prosecutor represents the community in criminal law; whilst in others the principal function of inspection may be that of an expert technical adviser in factory organisation in matters affecting health, safety and efficiency. Striking differences also occur in the part played by workers' organisations in inspection and in their influence on the administration of labour legislation. A very important difference also exists in the power possessed in certain countries by inspectors who appear to be vested with the right of making Orders and of inflicting fines—a power which in our system is confined to Courts of Law. There are also countries in which the local authorities play an important part in the enforcement of factory laws whereas in others there appears to be almost complete State control.

Two conceptions of factory inspection are to be found in every country, though their relative importance varies. According to one of these principles, the law itself embodies the detailed regulations which the inspectorate has merely to enforce. This inspection is generally held to be in the nature of police work. The other principle is to draft the law in general terms and to allow the inspectorate to interpret it either by passing general regulations to carry it into effect or by issuing individual orders to define its scope and meaning. Under this second system the inspectorate, owing to the administrative and technical experience of the inspectors, has a considerable influence in suggesting the future development of legislation. Such a constructive contribution to the protection of workers against industrial risks is a most responsible function of the utmost importance in the field of industrial safety and hygiene and demands inspectors with very high qualifications. The two systems are complementary to each other.

A third factor has now come into prominence and that is the modern factory equipped with what is known in domestic establishments as all modern conveniences, well situated, well lighted, well ventilated, with machinery provided with the most up-to-date guards, with well equipped mess rooms, rest rooms and lavatories, with suitable protective clothing provided and maintained at the expense of the management, with medical assistance available, with first aid, ambulances and all the other equipment that has transformed the modern factory into an establishment *de luxe* undreamed of a hundred years ago. These improvements have been carried out not only in the interests of the health and welfare of the workers but in the interests of their efficiency and maximum output. Whatever the actual motives underlying such schemes may have been, the work of the inspectorate has not only been lightened but in such cases has been largely confined to advice as to the best known methods of layout of machinery, of protecting the life and limb of the worker and of furnishing a further constructive contribution towards the safeguarding of the life and limb of the worker.

Side by side with this development in which the inspector has

come to be regarded as the Technical Adviser in the factory, there has also arisen the movement in which the workers themselves have claimed to take part both in the framing of protective legislation and later in the enforcement and administration of such legislation. Factory regulations made in consultation with organisations of employers and employees are much more likely to be easily and readily enforced than regulations adopted without such consultation. In International Labour Conventions, consultation with such organisations is becoming the standard method in matters of this kind. Furthermore, the employer is no longer the only person on whom a penalty may be inflicted. It was gradually felt that if legislation was in the interests of the worker, the worker should also be punishable if he failed to avail of the prescribed precautions.

The purpose of inspection was at first merely to ensure the enforcement of laws and where necessary to summon the offender in a Court of Law, but factory organisation has now developed so rapidly and in such a manner as to enable the inspector to abandon more and more the police side of his duties and to devote his time to studying and initiating the best methods of preserving the health and maintaining the safety of the worker, without decreasing output.

The history of the inspection of factories and workshops shows that in the early days, this work was entrusted to honorary voluntary workers but later owing to the difficulties which these workers experienced either through lack of statutory authority or through lack of technical training the duties became the function of certain police authorities. Here again, however, it became clear, particularly in Germany, that the police could not enforce such measures and technically trained factory inspectors became an immediate necessity.

It is of interest to note that in the second quarter of the nineteenth century, France and Great Britain found it necessary to make provision in their legislation for the appointment of factory inspectors. Up to this time in France there appears to have been but little supervision of the enforcement of the Acts and in Great Britain the system which was the voluntary one of "visitors," broke down.

In the French Chamber of Deputies, the rapporteur of the Bill of 1841 concerning the employment of children in industrial undertakings, stated that "Without an organised system of inspection the enforcement of the Act would be endangered and it would probably remain ineffective." Although the principle of inspection was generally admitted, there were differences of opinion on the methods of organising the system. Finally it was agreed that the Government should institute a system of inspection.

In Great Britain in 1833, a system of factory inspection under the Central Government was introduced. The system of honorary visitors had failed and a strong demand for Government Inspectors came from leading employers anxious to observe the law and equally anxious that their competitors should be compelled to observe it.

In Germany too, a demand was growing for a regular system of factory inspection and the demand was supported by employers.

The appointment by States of Inspectors of Factories led to the consideration of the special qualifications required by the Government officials vested with authority under the Factory and Labour Laws. In Great Britain, employers took the view that Inspectors

should be selected from the upper classes of society. Such persons might be expected to exercise the necessary tact and respect trade secrets. Gradually a system was devised which combined nomination by the Home Secretary on the advice of a Selection Board together with competitive examination. The recommendations of the Selection Board were based on the personal fitness, education, technical qualifications and experience of the candidate. A standard of education equivalent to that of an Honours Degree at a recognised University was obligatory.

The Factory Inspectorate in Great Britain is restricted to its own particular work and the Home Office does not permit Inspectors to undertake any work not directly connected with the Factory and Truck Acts. The primary duty of Inspectors is still the enforcement of the Factory Laws, but with the rapid growth of the mere constructive side of inspection, the British Inspectors became experts in questions of industrial health and safety. They were consulted as to the best means of complying with the standards prescribed and advised the Government and employers as to the best means of improvement.

In Ireland up to 1922 Factory Inspection was carried on by inspectors responsible to the British Home Office. The country was divided into districts, each in charge of an inspector for the district who was responsible to a Superintending Inspector stationed in Great Britain; the Superintending Inspector being in turn responsible to the Chief Inspector whose office by Statute was situated in London.

The Acts and Regulations enforced by these Inspectors were the Acts that obtained throughout Great Britain and Ireland with certain slight exceptions such as variations in holidays, St. Patrick's Day being substituted in Ireland for one of the Bank Holidays observed in England; the substitution of the Irish Education Act, 1892, for the Elementary Education Act, 1876, and similar substitutions in the case of Public Health Acts. On the establishment of the Free State the factory legislation in operation on the appointed day consisted of the Factory and Workshop Acts, 1901 to 1920, together with Regulations and Welfare Orders made in pursuance of these Acts. This inherited legislation is the law that is being administered at present subject to the modifications made subsequent to the establishment of Saorstát Eireann.

The Inspectors responsible for the enforcement of this legislation are appointed in accordance with Section 119 of the Factory and Workshop Act, 1901, and are furnished with certificates of their appointment which may be produced to occupiers of Factories and Workshops in testimony of their power to see that the provisions of the Acts are being observed. These Inspectors are Civil Servants in the Department of Industry and Commerce. They consist of a Chief Inspector with the statutory powers vested in this officer under the Acts; a District Inspector of Factories vested with the authority pertaining to that office as prescribed in the Acts; two Senior Industrial Inspectors and ten Industrial Inspectors, two of whom are women. Unlike the British Inspectorate the officers occupying the posts of Chief Inspector and of District Inspector have duties other than those assigned to them under the Factory and Workshop Acts. Furthermore the Industrial Inspectors are in An Saorstát the Inspectors responsible not merely for the enforcement of the Factory

and Workshop Acts but also for the enforcement of the determinations of the Trade Boards established under the Trade Boards Acts, 1909 and 1918. These statutory functions in respect of the enforcement of Minimum Rates of Wages prescribed under the Boards in operation in An Saorstát were added to the duties of Inspectors of Factories in An Saorstát in 1924. This combination of duties was made in the interests of the effectiveness of inspection and also in the interests of employers. An Industrial Inspector in the Free State is empowered to inspect under the two codes of legislation—the one dealing mainly with Safety and Welfare and the other with Rates of Wages. An employer, therefore, whose premises come within the scope of both codes is in the happy position of having the one Inspector capable of dealing with the two sets of enactments on the occasion of the same inspection.

The Factory and Workshop Acts deal with the Health and Safety of Workers and by means of special Regulations and Welfare Orders in the case of all dangerous and unhealthy industries endeavour to lessen the risk of industrial accidents and diseases in such undertakings.

The Trade Boards Acts of 1909 and 1918 were passed with the object of establishing Minimum Rates of Wages (with special rates for learners and apprentices) in those trades in which no effective regulation of wages existed. Unlike the Factory Acts, the application of the Trade Boards Acts to a Trade is by means of a Special Order made by the Minister and by the subsequent establishment of a Board consisting of representatives of employers and workers with certain appointed members. These Boards fix minimum rates of wages for any class of worker in the trade to which the Act is applied by Special Order of the Minister. The rates so fixed become statutory, if confirmed by the Minister.

In addition to their duties of enforcement of the Factory and Workshop Acts and of the Trade Boards Acts Inspectors are also vested with the necessary powers for the enforcement of the Truck Acts in Factories and Workshops. The Truck Acts in operation in An Saorstát are those commencing with the Truck Act of 1831 and ending with the Truck Act of 1896. These Acts were introduced as the result of the practice of employers of paying wages partly or wholly in kind and not in cash. The object of the original Act of 1831 was to compel the payment of wages in cash and not in kind. The subsequent Acts set out the conditions under which deductions from wages either by way of fines for misconduct, bad workmanship, or for materials supplied to workers may be made. The original contract agreeing to such deductions or a notice containing the terms of the contract must be posted where it can be seen, read and copied by persons affected. The notice or contract must contain full particulars of fines that may be imposed and the amount of every fine must be fair and reasonable. The Act of 1896 is aimed not merely at excessive deductions but also at contracts which stipulate for such deductions.

Such is the legislation for the enforcement of which Industrial Inspectors are responsible in Saorstát Éireann. The Inspectors are vested with the powers of Inspectors of Factories as detailed in Sections 119 and 120 of the Factory and Workshop Act, 1901, and of officers duly authorised under Sections 14, 15, 16 and 17 of the Trade Boards Act, 1909. Briefly these powers include the right of

entry by day or night to any Factory or Workshop if there is reasonable cause to believe that the premises entered are in fact a Factory or Workshop. The powers also include the authority to require the production of registers, certificates, records of wages, etc., to inspect and examine and copy any such documents. Furthermore Inspectors if authorised in writing may conduct proceedings under the Acts. The present position, however, is that in the case of legal proceedings under either Factory and Workshop Acts or the Trade Boards Acts, the Department of the Chief State Solicitor conducts the prosecution and the Inspector concerned gives evidence of the offence complained of.

Prosecutions under the Acts are not resorted to unless other means of compelling compliance have failed and adequate opportunity is afforded to the occupier or employer to make good the offence whether in respect of failure to guard or fence dangerous machinery or to comply with the provisions in respect of hours of work or to pay wages at not less than the minimum rates prescribed.

Unlike the powers with which Inspectors of certain other countries are vested, Inspectors in An Saorstát have no authority to close down dangerous machinery or to inflict penalties. Such offences must first be proved in a Court of Law and an Order of the Court must be made confirming the Inspector's statement.

The relation of the Inspectorate with other Government Departments and with Municipal Authorities may be classed under three headings:—

(1) Where the State is the occupier of a Factory or Workshop, Inspectors of Factories have the power of inspection as in the case of ordinary occupiers. Certain Saw Mills, Military Laundries, etc., are cases in point.

(2) Creameries, Butter Factories and Separating Stations come within the definition of Factories or Workshops under the Acts. In such cases the Dairy Produce Inspectors appointed by the Department of Agriculture under the Dairy Produce Acts have also powers of entry and of inspection for the enforcement of the Dairy Produce Acts.

(3) Certain Sections of the Factory and Workshop Acts place on the Local Authorities responsibility in respect of specified sanitary provisions and provisions relating to escape in case of fire, etc. Most of these provisions are, however, accompanied by the proviso that if suitable action is not taken by the Local Authorities, Inspectors may be empowered to take whatever action is necessary to secure compliance with the provisions of the Acts bearing on these points.

The appointment of new Inspectors in the Saorstát is made on the recommendation of a Selection Board established by the Civil Service Commission. In each case, a probationary period of two years is required, in order to test the fitness of the new Inspector for the duties for which Inspectors are responsible and at the end of the probationary period Inspectors are required to pass a qualifying examination in the administration of the Factory and Workshop Acts, Truck Acts and Trade Board Acts.

A report showing the number of premises inspected, the number and nature of accidents reported and the proceedings taken in the Law Courts is presented each year to the Oireachtas and is for sale at the Government Publications Sale Office, Nassau Street, Dublin.

Immediately subsequent to the admission of Saorstát Eireann as a member of the League of Nations, the Free State was represented at the Fifth Session of the International Labour Conference held in Geneva in October, 1923. The subject for discussion at that conference was the general principles of the organisation of systems of inspection to secure the enforcement of the laws and regulations for the protection of workers.

The Conference was composed of delegates representing governments, employers and workers. As a result of a discussion lasting nearly a week, a Recommendation was adopted. This Recommendation binds the States accepting it to take into consideration the principles and rules laid down in the organisation of systems of factory inspection.

The Recommendation is divided under headings dealing with the sphere of inspection, nature of the functions and powers of inspectors, organisation of staff, the qualifications and training of inspectors, the standard and methods of inspection, co-operation with employers and workers and lastly the form that the annual reports of inspection should take.

In relation to the sphere of inspection, the Recommendation refers to the Ninth Principle of Article 427 of the Treaty of Versailles. That principle as already quoted is that each State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed. The Recommendation also provided that the sphere of inspection should include any other matters which by reason of the experience gained in carrying out their principal duties might be usefully added to the work of inspectors.

In accordance with the Section dealing with the nature of the functions and powers of inspectors, inspectors should be in possession of credentials empowering them to visit and inspect at any hour of the day or night places where they may have reasonable cause to believe that persons under the protection of the laws being enforced by them, are employed. Inspectors should also be empowered to question without witnesses the staff of the establishment and to apply for information to any other persons whose evidence they may consider necessary. Inspectors should also have the right to require registers or similar documents to be produced to them for inspection and having regard to the administrative and judicial system of each country they should be empowered to bring breaches of the law before the competent judicial authorities.

It is further provided that in accordance with the tendency manifest in the oldest and most experienced countries, inspection should be increasingly directed towards securing the adoption of the most suitable safety methods for preventing accidents and diseases with a view to rendering work less dangerous, more healthy and even less exhausting. With this end in view inspectors should inform and advise employers respecting the best standards of health and safety and they should endeavour to promote the improvement and perfecting of measures of health and safety by the systematic study of technical methods for the internal equipment of undertakings by special investigation into problems of health and safety and by any other means in their power.

The Section dealing with the organisation of the staff makes provision for allocation of inspectors in different localities throughout the country, but in order to secure uniformity in the application of the law as between district and district and to promote a high standard of efficiency of inspection, arrangements should be made for periodic conferences on questions arising in the different divisions. The appointment of experts with competent medical, engineering, electrical or other scientific training and experience is recommended. In regard to the women inspectors it is stated that they should in general have the same powers and duties and exercise the same authority as the men inspectors, subject to their having had the necessary training and experience, and that they should have equal opportunity of promotion.

In regard to the qualifications and training of inspectors, the Recommendation states that it is essential that the inspectors should, in general, possess a high standard of technical training and experience, that they should be persons of good general education, that by their character and abilities they should be capable of securing the confidence of all parties, that they should be on a permanent basis, independent of changes of government, and finally that they should be given such a status and standard of remuneration as would secure their freedom from any improper external influences and that they should be prohibited from having any interest in any establishment which is placed under their inspection. Furthermore, provision is made that on appointment, inspectors should undergo a period of probation for the purpose of testing their qualifications and training them in their duties and that their appointment should only be confirmed at the end of that period if they have shown themselves fully qualified for the duties of an inspector.

The standards and methods of inspection suggest that as a general rule visits of inspectors should be made without any previous notice to the employer and that the employer and officials of the establishment are responsible for the observance of the law and are liable to be proceeded against in the event of deliberate violation or of serious negligence.

Workers and their representatives should be afforded every facility for communicating freely with inspectors as to any difficulty or breach of the law in the establishments in which they are employed. Such complaints should be investigated as far as possible and promptly by the inspector and should be treated as absolutely confidential, no intimation being given to the employer or his officials that the visit made for the purpose of investigation is being made in consequence of the receipt of a complaint. With the view of securing the full co-operation of employers and workers and their respective organisations in promoting a high standard in regard to the conditions affecting the health and safety of the workers, it is desirable that the inspectorate should confer from time to time with representatives of employers' and workers' organisations as to the best measures to be taken for this purpose.

The concluding paragraphs of the Recommendation make provision for an annual report and indicate the form which this report should take.

The Recommendation which was submitted to the Oireachtas was accepted by the Saorstát in 1925. The acceptance entailed neither fresh legislative nor administrative practice as it was considered that

the principles underlying it were fulfilled in the system of inspection then in operation.

Just twelve years ago, the High Contracting Parties to the Treaty of Versailles enunciated as the First Principle in their Creed of Social Peace based on social justice that labour should not be regarded as a mere commodity or article of commerce to be bought and sold, and in their Ninth Principle that a system of Factory Inspection should be established. The struggle is no longer between the upholders and opponents of these Articles. The struggle now is to find and maintain a balance between productive equipment and consumption. The almost unprecedented depression which is sweeping rapidly over the world has slowed down the movement for progressive social legislation and the most that can be achieved in a country even as favourably situated as the Saorstát relatively is, will be the maintenance of existing standards and compliance with existing regulations.

FACTORY AND WORKSHOP ACTS, 1901-1920.

EXTRACTS FROM ANNUAL REPORT, 1930.

Number of Premises on Official Register	..	..	..	10,390
„ „ Visited	..	..	..	8,962
„ „ Prosecutions	..	..	..	9

ACCIDENTS AND DANGEROUS OCCURRENCES, 1930.

GENERAL SUMMARY.

Index numbers represent fatal accidents.

Industry Group.	Number of Accidents notified.	
	1930	1929
Shipbuilding, Engineering and Metal Trade	387 ²	478 ¹
Manufacture of Food, Drink, and Tobacco	172	255 ⁵
Docks, Buildings, Warehouses and Railways	104 ⁴	367 ¹³
General Woodworking (including Furniture and Cabinet-making)	68 ¹	61 ¹
Other Industries	129 ⁵	127 ²
Total all Industries ..	860 ¹²	1,288 ²²

MEDICAL EXAMINATIONS, 1930.

Examinations by Certifying Surgeons for Certificate of Fitness.

Young Persons between 14 and 16 years of age.

Number examined	..	..	..	..	..	..	2,090
„ certified	..	..	..	..	..	..	1,974
„ rejected	..	..	..	..	..	..	116