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THE EVOLUTION OF ATTITUDES AND APPROACHES TO OCCUPATIONAL HEALTH AND SAFETY IN NEW ZEALAND

by
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December 1995

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ABSTRACT

The contemporary expression "excellence" in Occupational Health and Safety is mere rhetoric without a genuine commitment by the parties to positive attitudes involving a meaningful desire to protect the worker. Regretfully, attitudes require stimulation and encouragement to ensure positive growth. One important catalyst for growth is a sympathetic political ideology.

In a general sense, New Zealand enjoyed a sympathetic political ideology with the Liberal Government between 1891–1912. The legislation enacted during the first five years of the Liberal Administration was significant and far reaching. The legislative innovations witnessed the face of Industrial Relations being dramatically altered, the embryonic origins of the Department of Labour, the re–focusing of the Trade Union movement and a structure developed for the fledgling Inspectorate. During this era, New Zealand's political ideology was a mixture of socialism, liberalism and pluralism, and was coined as "the social laboratory" by a sceptical international audience.

The legislative enthusiasm of the Liberal Administration was followed by a variety of political ideologicals that were essentially lacklustre in their focus upon Occupational Health and Safety. The casualty was the luckless worker confronted by a bewildering array of legislation that was confusing, heavily prescriptive and very often duplicating. Attitudes of the Inspectorate were confused due to the ill–defined focus and low morale. The Labour Government that was swept into power in July 1984 lacked a real political reforming conviction to alter the status quo and it was not until the National Government came to power in 1990 that dramatic change occurred. The National administration subscribing to a laissez faire doctrine scuttled a century's worth of prescriptive legislation and leaving the worker to fend for himself in a market driven environment, alienated from the hitherto trade union representative by the marginalisation focus of the Employment Contracts Act 1991. As such, the worker can be excused for interpreting the concept of "excellence" with some degree of scepticism.

LIST OF CASES REFERRED TO

Name of Case	Part within thesis
David v. Brittanic Merthyr Co. [1909] 2 KB 146	3.3.3
Howell v. Caxton Printing Works [1971] NZLR 1068	3.3.3
Leach v. Standard Telephone and Cables Ltd [1966] 2 All ER 523	3.3.3
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Civil Aviation Dept v. McKenzie [1983] NZLR 78	5.2.1
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Perfect Poultry Products Ltd v. Inspector of Factories [1967] NZLR 69	5.2.2
Ohinemuri Mines and Batteries Employees (IUW) v. Registrar of Industrial Unions [1917] NZLR 829	5.4.2

LIST OF ABBREVIATIONS

ACC	Accident Compensation Commission (to 1980) Accident Compensation Corporation
ACOSH	Advisory Committee on Safety and Health (NZ)
ARCI	Accident Rehabilitation and Compensation Insurance Act 1992
CRN	Criminal Record Number
CTU	Council of Trade Unions (NZ)
CBI	Confederation of British Industries
DCR	District Court Reports
EC	European Community
ERNZ	Employment Reports of New Zealand
ELB	Employment Law Bulletin
FOL	Federation of Labour (NZ)
HSEA	Health and Safety in Employment Act 1974 (UK)
HSAWA	Health and Safety at Work Act 1974 (UK)
HSE	Health and Safety Executive (UK)
HSC	Health and Safety Commission (UK)
ILO	International Labour Organisation
IUW	Industrial Union of Workers
NZEF	New Zealand Employers Federation
NZLR	New Zealand Law Reports
NZIM	New Zealand Institute of Management
OSH	Occupational Safety and Health (in New Zealand a division of the Department of Labour)
OSHA	Occupational Safety and Health Act 1970 (USA)
TUC	Trade Union Congress (UK)
WHO	World Health Organisation

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PREFACE

This thesis had a somewhat longer gestation period to that which was originally contemplated. In certain respects, the embryonic focus of the thesis evolved during the author's legal sabbatical in England where a Research paper was completed, entitled "Is there a role for the Trade Unions in Occupational Health and Safety?". The conclusions reached within that paper revealed that whilst the New Zealand trade union movement evolved in a different fashion to its British counterpart, its overall effectiveness in promoting the workers' Occupational Health and Safety was questionable.

As a follow on from the research paper the thesis research was ordained in 1992 with its focus towards the involvement of the Trade Unions in the subject of Occupational Health and Safety; in particular, attitudinal positions. Unfortunately, the effectiveness and suitability of the subject focus was severely compromised by the consequences of the Employment Contracts Act 1991 which ravaged the traditional protective legislative cocoon hitherto enjoyed by the Trade unions.

Whilst the set-back was frustrating, it nonetheless provided a unique opportunity of focusing upon the radically new legislation entitled - The Health and Safety in Employment Act 1992. Proceeding upon the assumption that the worker was in part alienated from the Trade Unions due to their marginalisation, the question was posed as to who would advocate on the part of the workers' safety, and similarly, how would the employer groups respond in a non prescriptive environment. As such, to provide answers to these particular questions a logical structure was sought. Accordingly, a detailed survey was undertaken between the months of August and December 1993 involving 75 businesses.

The survey results whilst partially predictable, nonetheless provided ample legitimacy to proceed upon a detailed analysis of attitudes held by the various parties involved in the Occupational Health and Safety equation. To accurately assess contemporary attitudes as to relevance and durability it was considered necessary to evalue attitudes in a historic context. The hitherto attitudes provided the necessary template for comparisons. The final part of the thesis involved a detailed survey of 72 businesses in North Taranaki between November and December 1995 by personal interview. The survey results were rather revealing and are considered to reflect contemporary attitudes towards Occupational Health and Safety as at December 1995.

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