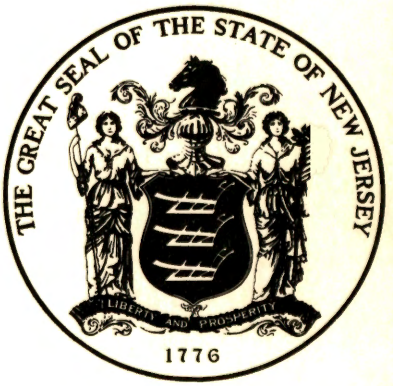
GOVERNOR'S CONFERENCE ON INDUSTRIAL SAFETY LAWS

REPORTING THE
ADDRESSES OF:

Gov. Robert B. Meyner
Philip H. Burch, Jr.
Donald J. Grabowski
Joel Jacobson
A. R. Hasbrouck, Jr.



TRENTON, NEW JERSEY
May 23, 1961.

PREPARED BY:
BUREAU OF ENGINEERING & SAFETY
DEPARTMENT OF LABOR & INDUSTRY

State of New Jersey
DEPARTMENT OF LABOR AND INDUSTRY
RAYMOND F MALE, COMMISSIONER

PLEASE REPLY
TO WRITER AT
THIS ADDRESS

20 West Front Street
Trenton, New Jersey

Dear Sir:

Governor Meyner and I appreciate the interest shown in the need for revision of the State's industrial safety laws by the large and enthusiastic attendance at the Governor's recent Conference on that subject.

We believe that the Conference has served its purpose: to make management, labor and safety leaders more aware of the need for basic law revision in this field and better informed as to the work of the Governor's Committee in preparing suggested new legislation.

Because of many requests which were made by those attending the Conference and others who were unable to be there, we are enclosing copies of the afternoon presentations.

Sincerely yours,

Raymond F. Male

Commissioner

June 19, 1961

Enclosure

WELCOME AND KEYNOTE ADDRESS

By Governor Robert B. Meyner

Law, however carefully written and diligently enforced, can never by itself guarantee workers full protection against occupational injury. As you well know, many ingredients comprise a successful industrial safety program: the engineering which builds adequate safeguards into new processes and new equipment; the training that gives workers the skills needed to perform safely; the constant review of work methods for job accident causes; and the education which produces a safe working attitude. All these are necessary in an organized management-labor effort to produce a working environment free of accident causes. I have seen the evidence of such complete safety programs in industrial plants whose outstanding safety records won them the Governor's Safety Award.

However, while law and its enforcement are not enough, their necessity is well established. It has been agreed for decades that the health and safety of our working population are matters of public concern. Early in this century the Legislature determined that in the interest of the community the law should require reasonable protection against hazardous, unsanitary and unhealthful working conditions. The application of this law in the intervening decades has contributed to the gradual improvement in the quality of working conditions in New Jersey's places of employment.

The laws now in effect, however, cannot fully accomplish their important purpose. Most of the safety statutes are fifty years old, and obsolete. They have failed to keep pace with the rapidly changing conditions of employment. They emphasize the hazards which were common at the turn of the century but which now have largely been

brought under control. They neglect even to mention hazards which account for a substantial number of work injuries occuring in 1961. More than half the State's working population is excluded altogether from protection under the law.

As the first step in correcting these deficiencies, I established, in January of this year, an Advisory Committee on the Health and Safety of Workers. That Committee was charged with the responsibility to review existing law and to recommend whatever revisions the Committee feels are necessary to make today's safety laws meet today's safety problems.

As the second step in this process, I have invited management, labor and safety leaders to attend today's Conference. You will have a presentation of various viewpoints by the speakers and by the audience on the question of the State's moral responsibility to protect the health and safety of its workers. We are hopeful that these expressions will assist the Advisory Committee in its important and difficult law revision work. The Conference will also give opportunity to the Advisory Committee, whose members are present, to report to all of us on the progress of its work.

Welcome to the Conference. The value of your experience in this field can greatly assist State Government in meeting its obligations to our working citizens.

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INDUSTRIAL SAFETY LEGISLATION IN NEW JERSEY

By Philip H. Burch, Jr.

In 1958 the Bureau of Engineering and Safety of the Department of Labor and Industry asked the Bureau of Government Research at Rutgers University to make a study of the adequacy of a number of the industrial safety statutes under its jurisdiction. More specifically, these laws dealt with the health and safety of workers in factories, mills and workshops in New Jersey. At that time I was employed as a Research Associate at the Bureau of Government Research and was therefore given the job of appraising this legislation. This assignment was completed in 1960 with the publication of a 45 page document entitled Industrial Safety Legislation in New Jersey. My presentation here will be, in essence, a summary of the major findings and recommendations of that report, for which I, of course, bear full responsibility.

To really understand the problem, it would help, I think, to sketch in the evolution of industrial safety legislation in the United States. Though interest in occupational health and safety dates back many centuries, few significant measures were taken prior to the Industrial Revolution to safeguard the physical well-being of the worker. Indeed few were necessary, it being a predominatly agrarian society up to that time. In the post-Civil War period, however, the development of the factory system brought with it complex and potentially dangerous machinery -- not to mention crowded and frequently unsafe working quarters. Little or no heed, as a rule, was given to the safety of the individual worker. Consequently conditions in most manufacturing establishments could only be described as deplorable, at least according to present-day standards.

Aside from a few scattered efforts at factory inspection and mandatory safeguards, the first important remedial action took the form of employers' liability laws. This, unfortunately, did not prove to be a feasible solution to the growing problem of industrial accidents since the injured worker was forced to seek damages through the courts, a costly and painfully slow process at best. Hence the principle of workmen's compensation was adopted shortly after the turn of the century -- New Jersey incidentally being one of the pioneers in this field, providing through administrative channels for prompt financial care of the injured employee. Thereafter, as the number of work-injury claims continued to climb, management quite understandably began to cast about for ways of avoiding accidents. Not only that, it was increasingly recognized that the sums provided by workmen's compensation programs could never truly compensate a worker's family for his death or permanent disability. The best answer was to prevent accidents from occurring in the first place, and this could only be accomplished by the passage of industrial safety statutes.

The character of this legislation, however, has undergone substantial changes in the course of its development. Originally safety laws were drawn in rather broad, general terms. This left it up to the individual factory inspector to make the final determination as to whether a hazard existed and, if so, what should be done to correct it. A wide variation in the enforcement of safety standards naturally resulted. Moreover, the orders of factory inspectors were sometimes sharply challenged by industrial executives on the grounds that the statutes did not call for such action. When it became apparent that the vast majority of the generally worded industrial safety laws were not achieving their objective, there followed a comparatively brief interval

in the early 20th century during which many extremely specific statutes were enacted. Thus, no doubt could exist in the minds of either the plant owner or the inspector as to what the State required of management in the realm of industrial safety.

The industrial safety statutes of New Jersey today are by and large a product of the early 20th century. The bulk of this legislation was enacted between 1904 and 1914. Amendments have been exceedingly rare. Consequently most of the laws administered by the Bureau of Engineering and Safety have become as out-of-date as the proverbial Stanley Steamer, the gap being comparable perhaps to the difference between old handicraft techniques and automation. Fortunately the solons of a half-century ago inserted several comprehensive or broadly worded passages along with the multitude of minutely prescribed provisions they enacted into law. It is upon these few broadly worded clauses that the Bureau of Engineering and Safety has based a goodly part of its industrial safety program. But not all sections of New Jersey's accident prevention laws were drafted in such a fashion as to give enforcement personnel the flexibility needed to cope with the complex safety problems of the mid-20th century. One statute, for instance, spells out in great detail the material specifications and dimensions of all industrial elevators to be installed in the State. This law, though, was passed in 1913 and many of these construction requirements are now completely antiquated. Quite understandably, then, the Bureau of Engineering and Safety has not promulgated any current regulations or standards concerning safe elevator operation in manufacturing establishments. The law simply does not permit it.

What's more, there are serious omissions and "loopholes" in the law as well. To illustrate, proper plant layout does not fall within the purview of administrative officials. No legislation has been

enacted stipulating that handtools be properly employed or defective ones discarded. Nor is the use of safety apparel mandatory in especially hazardous lines of work. State examination of industrial erection or conversion plans is limited to factories more than two stories in height. Yet most industrial construction and expansion today is of the one-story variety.

New Jersey's industrial safety laws are also somewhat inconsistent. The bulk of the statutes, as already indicated, apply only to factories, mills and workshops. No mention is made of, say, newspaper plants, print shops and commercial laundries. The occupational disease law, on the other hand, extends to all places of gainful employment, not merely to manufacturing establishments.

Very clearly New Jersey's industrial safety statutes are in need of a thorough overhaul. Originally, of course, there was good reason for the insertion of numerous, detailed technical provisions in the law. There was little or no consensus prior to the First World War as to what constituted good safety practices. The safety engineering profession was still in its infancy. Thanks to the untiring efforts of such organizations as the National Safety Council and the American Standards Association, however, a body of safety rules has been developed over the years through the application of engineering principles and trial-and-error methods. At the present time there are more than 160 health and safety standards which are now recognized and accepted throughout the country. There is, in other words, no shortage of codes and regulations which are available to legislators and administrative officials alike. The only question is how to use them most effectively.

New Jersey has traditionally followed the policy of incorporating its safety rules in the law. This is no longer considered sound

procedure for two reasons. First, no statute can possibly contain all the details necessary for the adequate regulation of the myriad industries in a state at a particular time. Secondly, even if this could be accomplished, the regulations frozen into the law would quickly become out-of-date, as the experience of New Jersey has amply demonstrated. Industrial health and safety legislation, therefore, should be framed in a rather general manner with detailed technical provisions being made a part of an administrative code.

As I see it, the legislature has the responsibility of defining what the State's basic policy should be toward the working public from the standpoint of fields of employment and types of hazards to be covered. In New Jersey this could be accomplished, without extending the scope of the present program, simply by providing that all manufacturing establishments be constructed and maintained in such a fashion as to be reasonably free and safe from accident, fire, and occupational disease hazards. To implement this mandate, general rule-making authority should be delegated to the administrative agency charged with the enforcement of the statute. This is the procedure advocated by the U. S. Department of Labor and most safety officials and engineers in the country.

Although this broad grant of rule-making authority might appear at first glance to be a rather radical departure from previous practice in New Jersey, such is not really the case. Because of the immense complexities involved, the formulation of safety regulations has long been dependent upon outside advice and expertise, whether it be carried out via the legislature or the administrative process. Furthermore, the Commissioner of Labor and Industry is already exercising considerable rule-making authority within certain narrowly

defined areas -- namely, fire protection, occupational disease, machine guards, ventilation and sanitation.

Judging by the record, a broadly phrased statute would be in keeping with long-established state judicial doctrine too. In the case of State Board of Milk Control v Newark Mill Co., for example, the New Jersey courts declared: "It is only necessary that the statute establish a sufficient basic standard -- a definite and certain policy and rule of action for the guidance of the agency created to administer the law." Though this principle was laid down back in 1935, it still holds true today.

A final argument in favor of a broad grant of rule-making authority may be found in the experience of other states. As of a few years ago 33 state legislatures had given full occupational health and safety rule-making power to the appropriate administrative body. The vast majority of those that had failed to do so, incidentally, were predominantly sparsely populated, agricultural states where industrial safety hazards do not constitute such a pressing problem.

According to New Jersey law, the responsibility for rule-making rests solely with the Commissioner of Labor and Industry. Theoretically no other person or interested party has a voice in these deliberations. No public hearings are required, nor are they held. The Commissioner may or may not consult with affected industries and organizations, as he sees fit. Yet as is often the case, this purely legalistic description of industrial safety rule-making procedure tells only part of the story. An advisory body, unknown to law, has actually played a very important role in the formulation of safety codes in the Garden State. As a matter of administrative practice, the Commissioner of Labor and Industry has regularly cleared all proposed regulations

with the New Jersey State Industrial Safety Committee. From this group of some 65 to 75 persons, mostly trained safety engineers, has come much of the draftsmanship and even the initiative in rule formulation.

There are, to be sure, several advantages to this unwritten aspect of New Jersey's industrial safety rule-making procedure. First, it has provided the Department of Labor and Industry with a means of obtaining the knowledge and counsel of competent safety engineers at no expense to the State. Secondly, the participation of affected parties is a valuable administrative device in securing their cooperation in the enforcement of safety standards. In addition, I have heard nothing but praise lavished upon the efforts of the New Jersey State Industrial Safety Committee.

Nevertheless, many people have serious doubts concerning the propriety of permitting so much of the rule-making process to remain on an informal basis. Likewise the question arises as to whether or not improvements could be made over existing administrative practice. The least, it would seem, the legislature could do would be to give statutory recognition to the prominent role now played by the New Jersey State Industrial Safety Committee. However, if the legislature were to pursue such a policy, it would, I submit, open itself to severe criticism on a couple of counts. For one thing, it would transform an extraordinarily large advisory board from an informal to a statutory body. If the New Jersey State Industrial Safety Committee were given legal sanction, it would in all likelihood be by far the largest committee of its kind in the country. Not only that, it would leave something to be desired from the standpoint of the need for periodic review of standards. The responsibility for industrial safety rule-

making in New Jersey rests entirely with one man, the Commissioner of Labor and Industry. If he or the official in closest touch with the State's safety program, the head of the Bureau of Engineering and Safety, is either too busy or isn't too concerned about the obsolescence of existing regulations, there is little that other groups can do to correct the situation, no matter how badly the rules may be in need of revision.

Hence most authorities believe the formulation of industrial safety standards should be entrusted to a multi-membered body rather than having the power vested solely in the Commissioner of Labor and Industry. This could be accomplished by the statutory creation of an industrial safety rule-making board within the Department of Labor and Industry. Now the present New Jersey State Industrial Safety Committee is, to repeat, much too large a body to be given legal sanction. Yet it could continue to serve in much the same capacity it does today by advising through its existing sub-committee structure in the formulation of all health and safety codes. Professional opinion, though, strongly favors the formation of a 5-man rule-making board, composed of two employer representatives, two worker spokesmen, and one -- usually the chairman -- selected from the public-at-large.

Quite a few authorities, on the other hand, look askance at odd-numbered bodies because so much frequently hinges on the vote of one individual. On a 5-man board, for instance, if labor and management were to become deadlocked over a proposed regulation, then the fifth member would hold the pivotal vote. Many safety engineers and officials, therefore, advocate the creation of a 6-man board, with two members being appointed from the general public. In this way a 4-to-2 vote would be required for the promulgation of a safety regulation; the

role of the "swing man" would be eliminated.

Another alternative lies in a change in the composition of the Industrial Safety Board. To avoid the possibility of stalemate with even-numbered bodies and to lessen employer-employee fears of the odd number on 5-man boards, some suggest a reduction in the number of spokesmen representing industry and the worker. On a 5-man rule-making body, in other words, there would be but one representative from management and one from labor. The other 3 members would be selected from the public-at-large. This plan, of course, may be a bit on the utopian side. Obviously only those persons qualified from the standpoint of experience or training should be appointed to an Industrial Safety Board, and this will probably mean that the bulk of the members must, of necessity, come from the ranks of labor and management.

While, it is generally agreed, rule-making responsibility should be vested in a plural body, the contribution which a State Commissioner of Labor and Industry can make toward better safety codes certainly cannot be ignored. By virtue of his close association with the program, he is in an excellent position to detect deficiencies in existing regulations and to pass judgement on the practicality of new ones. For this reason the Commissioner of Labor and Industry is ordinarily given the power to recommend new rule changes to the Industrial Safety Board. Moreover, in order to insure the administrative feasibility of proposed safety codes, the model law drawn up by the U. S. Department of Labor stipulates that all regulations be submitted to the State Labor Commissioner for his consideration. If he approves, then they are promulgated under his name. In short, the Commissioner of Labor and Industry would possess an absolute veto over all rules to be enforced by his department. Needless to say, all regulations issued by the

Commissioner of Labor and Industry should be subject to judicial review.

Uniformity of application is unfortunately an ofttimes unobtainable goal in the administration of safety standards. Because of the diversity of physical facilities and economic conditions within a state, exceptions must be made. The problem, then is to establish statutory controls over this process. As a rule, the recommended practice, except where new material or issues have been introduced or raised, is to delegate to the officer responsible for administering the program the authority to grant variations in cases of undue hardship or unusual difficulties, provided the spirit of the law is still observed.

Much has been said so far concerning improvements that could be made in New Jersey's industrial safety laws. The query which must be answered now is whether the scope of the State's safety program is adequate. At the present time the Department of Labor and Industry's jurisdiction is confined basically to manufacturing establishments. Considering the age of New Jersey's industrial safety statutes, this is a perfectly understandable situation. Prior to the First World War a sizable proportion of America's non-agricultural labor force was engaged in industrial pursuits. Today this occupational pattern has been altered markedly. As of 1950 less than 30 per cent of the country's non-farm labor force were classified as factory workers, and this percentage is declining steadily each year.

More than half of the states in the Union have broadened their safety programs to reflect this growth in employment in service, trade, and like enterprises. By 1959 at least 26 states had extended the scope of their safety laws to include all places of gainful employment -- all, that is, except agriculture and domestic service. In other words, the concept of a state's responsibility for the physical well-

being of its working citizens has undergone a radical change over the years from one of industrial safety to that of occupational safety. This is especially true of the more highly urbanized, northeastern states. Only two states in the nation's manufacturing belt -- other than New Jersey -- have not seen fit to adopt the philosophy of occupational safety.

The failure to do so is decried by many safety authorities in America, and for a variety of reasons. First, it is often argued that the practice of confining a state's accident prevention program to industrial plants is a discriminatory one. New Jersey has thus far limited its safety inspection services to those persons who are employed in construction, mining, and manufacturing enterprises; it has not afforded like protection to workers in other occupations. Secondly, most states view their workmen's compensation and occupational safety programs as two sides of the same coin. They apparently believe that if it is logical to compensate an individual for an injury he may suffer on the job, then it makes even better sense to try to prevent the accident from occurring in the first place. Statistics also lend strong support to the contention that a state should extend its safety program to all places of gainful employment. If relatively few accidents occurred in non-industrial occupational categories, there would indeed be little justification for broadening the safety jurisdiction of a state department of labor. But such is not the case. As a matter of fact, the accident-frequency rate -- the safety engineer's therometer -- is somewhat higher in trade and numerous service establishments than it is in manufacturing plants.

Some observers, moreover, are of the opinion that a state's safety program should be broadened in yet another direction. It is

claimed, for example, that any comprehensive safety law which encompasses mercantile and like establishments within its jurisdiction should do so not only from the standpoint of the employees of a store, but the consuming public as well. In other words, a general occupational safety statute should be framed to protect all persons who may frequent a building, be it a store, factory, multi-storied office building, or place of public assembly. This concept, it should be noted, goes one step beyond the scope of the ordinary occupational safety program, and its acceptance or rejection is a decision which falls within the province of the state legislature.

Any lawmaking body considering the enactment of a general occupational safety statute should remember, however, that there is one serious drawback to such a move, no matter how theoretically desirable it may be. A comprehensive safety program of this kind would undoubtedly entail the inspection of a truly vast number of work places. More than a few safety engineers, in fact, sincerely wonder whether checking all places without regard to size is really worth the effort. This is something which the legislature itself must weigh and decide. At the present time the Department of Labor and Industry is concerned with minimum safety standards in roughly 14,000 manufacturing establishments. If the scope of the New Jersey program were broadened from industrial to occupational safety, it would probably mean that the State's inspection personnel would have to cover nearly 100,000 places of employment. Most likely the law of diminishing returns sets in at some point along the line.

Many states have imposed restrictions, either by statute or as a matter of administrative policy, on the size of their occupational safety programs in order to avoid the operational pitfalls posed by the sheer weight of numbers. Some, for example, confine departmental

inspections to only those places of employment with more than 10,000 square feet of floor space. Others draw the line on the basis of the number of employees in an establishment or the degree of hazard which characterizes a particular type of work. Surely the Bureau of Engineering and Safety could supply this information, along with related estimated cost data, to the legislature.

In recent years, by the way, a new dimension has been added to the concept of occupational safety in the form of the consultative approach. Since only a fairly small percentage of all accidents are caused by a violation of a safety code or law, an increasing number of states are beginning to serve as safety promoter, educator and advisor to labor and industry. The basic idea behind the consultative approach is that state inspectors would, upon the request of management, carefully appraise all phases of an establishment's operations in order to aid the owner in the development of an effective, well-rounded safety program. These services would be of particular benefit to the smaller industrial and commercial enterprises in New Jersey. Today many of the bigger companies and plants have full-time safety directors or engineers who have been able to set up accident-prevention programs far in advance of the minimum standards enforced by the state. Conversely most smaller concerns feel they are not in a position to enjoy the economies afforded by the employment of a safety manager. Thus the consultative approach represents a praiseworthy attempt to reduce the extremely high occupational injury rate which is a trademark of small industry in America.

To sum up, there are 3 basic changes which should be made in New Jersey's industrial safety statutes:

(1) All of the existing archaic legislation should be repealed and a more broadly worded law adopted in its place.

(2) At the same time a representative board should be created within the Department of Labor and Industry charged with the responsibility of formulating safety rules and regulations in accordance with due process of law.

(3) The scope of the present program should be enlarged to include all places of gainful employment, certainly at least the more hazardous ones, in addition to providing for consultative services.

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(Dr. Burch is Chief of the Law and Government Section of the Penn-Jersey Transportation Study. He is the author of "Industrial Safety Legislation in New Jersey.")

A VIEW OF STATE GOVERNMENT RESPONSIBILITY

By Donald J. Grabowski

I am deeply appreciative of the opportunity to speak here today on so important a subject as Industrial Safety. Industrial Safety is, and must continue to be, uppermost in the minds of every member of management. Note carefully that I said, "every member of management," for I wish to stress that point. Management is often referred to as if it were a single-minded group of people, holding the same views. Nothing could be farther from the truth! Regardless of the circumstances or situation, members of management can and will differ regarding any problem and any proposed solution.

It is important to remember that management is a term which refers to a group of managers. It is far more important to remember that these managers are today, more often than not, employees of a corporation, not the owners of it! My intention in this little aside is to illustrate that managers -- and all other members of the work force -- as employees, have many common interests. One of the most important of these common interests is Industrial Safety.

The title of our program today suggests that in the area of The Health and Safety of Workers, there are obligations to be found. That suggestion, to my mind, is well founded. It rests upon a rather basic principle of our society; namely, that when a person embarks upon a course of action, that person usually incurs some obligations. This is particularly true when the course of action chosen affects, or may affect, the lives, health, or happiness of other persons. There is no more convenient illustration of an obligation incurred by embarking upon a free course of action than those of you in the audience who

drive an automobile -- or those of you who have taken marriage vows.

In our society, no one or no group is required to become an employer, just as no one is required to become a driver of an automobile. When a person or group freely chooses to become an employer, he or they incur certain obligations. One of the most important of these is to provide a safe place in which their employees can work. This obligation is basic to the whole field of Industrial Safety and is what I shall refer to as the primary obligation.

The primary obligation of the employer flows from the nature of the employment relationship itself, and from the fact that no one has a right to ask another to take an unnecessary risk. This statement, and my earlier reference to "a safe place to work," raises a problem of semantics and a problem of human relationships. What is "a safe place to work?" What is an "unnecessary risk?" Why is it that "no one has the right to ask another to take an unnecessary risk?" These are broad questions, and their words, like the word "Democracy," can mean many things to many people. And, in a particular fact situation, reasonable men -- be they managers, administrators, or others -- may honestly differ over whether or not this is a "safe place," or whether that is an "unnecessary risk." <u>The basic fact remains; the employer, be he corporate or individual, has the prime obligation in the field of Industrial Safety and the one that must be met!</u>

What then is the responsibility of State Government as regards the health and safety of workers? These responsibilities, whatever they are, are secondary, and flow from the prime obligation of the employer -- that free agent who has chosen a course of action which may affect the lives of others.

For the Legislative Branch of State Government, their responsibility is to define the employers obligation as clearly as they deem necessary. This is not to say that it is necessary for the Legislature to define the employers' obligation! That obligation exists regardless of whether or not the Legislature has defined it.

As with most human affairs, the exact extent of the obligation may not be clear in a given circumstance. New and/or serious situations may make it necessary for the Legislature to define the employers' obligation in specific circumstances. Or yet, the employer may be failing to meet his obligations, thus, making legislative definition clearly necessary. These are some of the reasons why the Legislative Branch of State Government has the responsibility to define the extent of the employers obligation. Whether or not a need exists for the Legislative Branch to exercise its responsibility at any given time, depends upon the facts at the time.

Historically, in New Jersey, the Legislature has deemed that it was necessary to define more precisely the employers obligation -- and they have done so. The previous speaker referred in some detail to these Legislative definitions already on the Statute books.

What,then, is the function of the Executive Branch of State Government -- those charged with the administration of the laws which the Legislature has passed? First and foremost, the responsibility of the Administrative Branch is to assist the employer in meeting his obligation as defined by the Legislature! The reason for this is obvious, and is based upon another sound principle; namely, that most people in our society today are willing to meet their obligations. Now, if an employer has an obligation, defined by the Legislature, and he meets this obliga-

tion, this is responsible social action -- a situation to be applauded. Some employers may in fact need no assistance in meeting their obligation. Some may. Others may need to be reminded that they have an obligation, and the extent of it. In all these areas the function of the Executive Branch and the Administrators of the law is clear -- to assist the employer in meeting his primary obligation! It is certain that, if the employer has an obligation, he must have the means with which to meet that obligation, else no reasonable man can hold him to it. One of the means, provided by the Legislative Branch, is the assistance of the Executive Branch.

Allow me to cite a hypothetical case which may illustrate what I mean. Assume the XYZ Corporation with one hundred employees, manufacturing widgets. The Corporation, or more particularly, those employed by the Corporation to direct its affairs, have the obligation to provide a safe place in which the employees can work. Assume further that the responsible management officials are trying to meet that obligation. One day a State Safety Inspector arrives and begins a routine inspection. He finds that some phase of the State's law, which defines the employers' obligation, is not being observed. What happens now?

The inspector's responsibility is to call this situation to the attention of the appropriate management officials, and to assist them in complying with the requirement of the law. The most important thing in this whole illustration is the inspector's attitude. He is there to help, not to antagonize! He cannot assume that -- merely because he has noted a shortcoming -- the firm does not wish to meet its obligation! To carry the example a step further, the inspector

does not have the responsibility of interpreting the law. It is true that his responsibility includes explaining the pertinent provisions of the Statute, but there is a vast difference between "explaining" and "interpreting." It is the responsibility of the Judicial Branch of Government to interpret the law -- to make clear those areas which are cloudy.

Allow me to summarize what I have said. An employer, be he corporate or individual, has the primary responsibility in the field of Industrial Safety. This responsibility flows from the employment relationship itself; and from the fact that human beings are involved in it. These human beings have an intrinsic worth and an eternal destiny, and one cannot ask or require them to take unnecessary risks in the course of their employment. Unless these individual human beings do have this intrinsic worth, there is no logical reason why they cannot be asked or forced to take any risk whatsoever. In our society, a man is free to work out his own destiny. This is the greatest contrast between our form of social organization and that of Communistic countries. And it is why the Communistic form is basically evil.

Since the employer has the primary obligation, the responsibilities of State Government are necessarily secondary, and must flow from the employers primary obligation. The Legislative Branch of State Government has the responsibility of defining the employers obligation in particular instances; the Executive Branch has the responsibility of assisting the employer to meet his responsibility; and the Judicial Branch has the responsibility of interpreting the exact extent of the Legislative definition when that is unclear -- or when reasonable men differ over its clarity.

The subject of the State's responsibility regarding the regulation of work places for the health and safety of workers, is admittedly a broad one. It is none the less an extremely important one. Just as the obligation of the employer is a continuing obligation -- not one that is met and then forgotten -- so too, the responsibilities of all branches of State Government are continuing. It is only by the diligent efforts of those of you in the audience -- whose concern with Industrial Safety and the State's responsibility is evident by your attendance here today -- that we shall continue to progress in this most important field of human activity. Allow me to thank you for the opportunity to present these views. I will be pleased and honored to answer any questions you may have regarding them.

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(Mr. Grabowski is an Industrial Relations Specialist of the New Jersey Manufacturers Association.)

A LABOR VIEWPOINT:

STATE GOVERNMENT'S RESPONSIBILITY
(Excerpts)

By Joel Jacobson

The New Jersey State CIO Council has been deeply concerned at the new threats to the safety of workers arising from introduction of new manufacturing techniques in the State. The fact that the loads of our workmen's compensation program have not diminished over the years is further proof that much remains to be done to eliminate the hazards of on-the-job injury and illness from industrial life in our State.

The fact that only 900,000 of the 2,000,000 workers covered by workmen's compensation in the State work in industries now covered by State safety regulations makes the need for a safety-conscious program with the plants even more imperative. The burden at this point is on government, on management, and on labor, to develop decent safety programs.

Our growing concern that safety is a "no man's land" for most of our members has led us to the establishment of a Standing Committee on Occupational Health and Industrial Safety within our own organization.

That committee, which was re-activated only a few weeks ago, has undertaken as its first assignment, a survey of plant safety in those industries where our members are employed.

Results of this survey, together with further recommendations for additional changes in our existing statutes, looking toward extended legal protection for our members, will be presented to the Governor's Advisory Committee on Safety in the early fall.

Preliminary results, however, indicate a shocking attitude on the part of management in this State toward the problems of in-plant protection of workers.

Surely the field of safety is one in which the outlook for labor-management cooperation should be brightest. Here there is no divergence of views as to the ultimate goal -- the safety of workers on the job. This is also a field in which labor -- representing the people whose lives and health are at stake -- has a detailed knowledge of the dangers which exist.

It has long been the contention of the New Jersey State CIO Council that for these reasons, an effort should be made to develop a program of labor-management cooperation in the field of industrial safety.

Yet, our experience has been that there has been no genuine effort on the part of management to work with unions to safeguard the lives and health of workers.

Typically, however, when a plant safety committee is set up, we find management insisting on the chairmanship and final say.

We find management designating its safety engineer as the "neutral" chairman of joint committees.

We find management excluding the union representatives from the safety program.

We find management telling union officials that "safety is our business -- it is none of yours."

We find, in other words, sincere, dedicated union safety committee chairman ignored in their suggestions and powerless to correct abuses which they find. We find union safety committee

members denied access to parts of the plant in which union members report health hazards. We find, in short -- not action, but -- lip-service to the entire concept of labor-management cooperation for industrial safety.

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(Mr. Jacobson is president of the New Jersey State CIO Council.)

REPORT OF THE GOVERNOR'S COMMITTEE

By A. R. Hasbrouck, Jr.

My part in today's program is to report on the purpose, method and progress of the Governor's Advisory Committee on the Health and Safety of Workers in New Jersey.

On January 12, 1961, Governor Robert B. Meyner named the following persons to a special Advisory Committee on the Health and Safety Workers:

1. Representing the American Society of Safety Engineers, N. J. Chapter, Albert L. Anthony, Liberty Mutual Ins. Co.
2. Representing the American Industrial Hygiene Association, N. J. Section, Kenneth R. Doremus, Merck and Co.
3. Representing the State Council C. I. O., Martin Heed, Manager-Director; Oil, Chemical and Atomic Workers Union and Vincent Foti.
4. Representing the N. J. State Federation of Labor, Thomas J. Kean, Public Relations Director, N. J. State Federation of Labor, A. F. L. and John Gerard, Business Agent, Federal Labor Union No. 23393.
5. Representing the N. J. State Chamber of Commerce, O. C. Boileau, Safety Manager, Radio Corporation of America.
6. Representing the N. J. Manufacturers Association, Gordon Cunnane, Personnel Director, Continental Cooper and Steel Industries, Inc.

7. Representing the South Jersey Manufacturers Association, Otto J. Blank, R. M. Hollingshead Corp.
8. Representing the N. J. State Industrial Safety Committee, A. R. Hasbrouck, Jr., Personnel and Safety Director, Art Color Printing Co.
9. Representing the Association of Casulty and Surety Companies, D. B. John, Engineering Supervisor, American Insurance Co.
10. Representing the American Mutual Insurance Alliance, Frederick H. Deeg, Director, Industrial Division, Accident and Fire Prevention Department, American Mutual Insurance Alliance.
11. Representing the N. J. State Safety Council, George Traver, Executive Vice President, N. J. State Safety Council.

In the same letter appointing this committee, the Governor stated "most of the laws now in effect pre-date World War I. They were written in great detail and have long since become obsolete. Many high-hazard employments are not regulated, such as the salvage industry, longshore and dock work, warehouses, laundries, etc. Because the subject is somewhat complex, the best approach appears to be to get the advice of a Committee representing those affected by such laws or the lack of them." The specific responsibilities of this Committee will be as follows:

1. Review of all available information on the need for statutory coverages in this field;

work injury statistics, workmen's compensation data, estimates of economic loss through work injuries etc.

2. Review of existing laws relating to the protection of the health and safety of workers.
3. Review of this State's worker, health and safety program and facilities.
4. Preparation of recommendations of the enforcement and advisory services the State should provide in this field and on new legislation which may be needed to serve as statutory basis for such a program.
5. The Governor also hoped that the Committee would speed its study so that its recommendations could be introduced into the legislature this year.

So much for the purpose of the Committee, now as to the method and progress we have made so far.

On January 24, 1961, the first meeting of this Committee was held in Governor Meyner's office at which time he charged the Committee with the responsibilities that I previously stated. After lunch, the Committee elected myself as Chairman and designated Mr. Richard Sullivan as Secretary. At this meeting it was recommended that the Committee begin its study by reading the report of an independent evaluation of New Jersey's worker safety legislation published last year by Rutgers University. Copies of that report were distributed to all the members. On March 3, 1961, the second meeting was held in Newark. At this meeting the Committee called on Mr. Richard Sullivan to describe the

functions of the Bureau of Engineering and Safety. Mr. Sullivan highlighted the three principal ingredients of the State's Program. Inspection, plan examining and safety promotion.

The Inspection Service was described in more detail by Mr. Angel, Chief Inspector. A description of the operation of the Engineering Section with particular reference to role of plan examining was given by Mr. Higgins. Committee members questioned both Bureau representatives.

The Secretary was requested to furnish to the Committee members additional information on work injury statistics; copies of whatever publications the Division of Workmen's Compensation has that give information as to job injury costs; a copy of all Administrative Safety Regulations; and to reproduce for the Committee's use the factory safety statutes now contained in Title 34.

It was also decided at this meeting that consideration be given to the fact that a number of the committee members are not free agents but are acting as spokesmen for their groups. It was agreed that all legislative drafts or other documents prepared by this committee would be considered tentative and for study purposes only until officially voted upon by the Committee. It is understood that until such vote is taken no committee member will have made any commitment toward any of the proposals prepared for study.

On March 24th the committee held their 3rd meeting. At this meeting a great deal of discussion was held on the basic questions and certain tentative conclusions were drawn. Also considerable discussion was entertained as to the purpose to be served by the N. J. State Industrial Safety Committee or a broadly representative council, or both, under a new law. The work of the N. J. State

Industrial Safety Committee in advising the Commissioner on regulations was praised and the hope expressed that this function will not be dissolved by a proposed law. The Committee instructed the Secretary to make a draft of a dummy proposal for strictly the purpose of initiating discussion and also giving each committee member something to work from.

The Committee's thinking at this point was that to try to bring all the obsolete laws up to date would be an endless job. Therefore, if we could start from scratch with a general worded statute and rules and regulations taking the place of the laws as such, then we would have some group in on the law making process instead of the way it is provided for in the present law. This group we hope will be the N. J. State Industrial Safety Committee and that is the way the revised draft will so state.

On May 5, 1961, the Committee held its 4th meeting and reviewed the study draft that the Secretary had submitted to them. The Committee revised this study of the proposed law a great deal and there is still quite a few sections that have to be tentative agreed to. The Secretary at the present time is making the corrections that the Committee proposed at this 4th meeting.

As I stated earlier most of the men on the Committee represent groups and have to speak for the groups rather than themselves. Therefore, now that we have tentatively come up with a study proposal which can be reviewed by the different groups, that is what is going to be done before the next meeting of the Governor's Advisory Committee. Each group concerned will be furnished sufficient copies in order to review and comment on the proposed study. I feel that the Committee's job is just starting, now that the interested groups will review and criticize the tentative proposal. We will be having the thinking of a great

number of people to deal with. In my own case I am calling a meeting on June 13th with the sole purpose of getting the reaction of the N. J. State Industrial Safety Committee on the study proposal. Then I will report back to the Governor's Advisory Committee accordingly, so I gather will all the other members of the Advisory Committee do likewise.

We feel that by having each group review this tentative proposed law then we will get all the criticism of it before we finally recommend anything at all.

The Governor's wish that we come up with some recommendations before the end of the year so that legislation can be introduced in the current session will depend a great deal on the reaction of the different groups and our ability to compromise them.

We were supposed to have a meeting on June 2, 1961, but since I for one, can't have a meeting of the group that I represent until June 13th, I am asking that the Advisory Committee not meet until after that date. Then following that meeting we may not be able to meet until September because of vacations etc.

Ladies and Gentlemen, you have heard my report as Chairman of the Governor's Advisory Committee, you all must realize that the job this committee has been given is complex and difficult. Some of the things that we have tentatively agreed to put into a study proposal will probably be changed, our whole approach may be changed because there are a number of different ways to solve this problem. That is

why we feel that if each represented group reviews this study proposal and through their representatives on the Committee submits the comments to us, we will know if we are on the right track or the wrong one.

Thank you very much.

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(Mr. Hasbrouck, Chairman of the Governor's Advisory Committee on the Health and Safety of Workers, is Safety and Personnel Director of the Art Color Co., Dunellen.)