

Minutes
GENERAL MEETING
Asbestos Textile Institute
SEP 27 1974

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Raybestos Manhattan Industrial Products Company

Textile Group
Milton Q. Scowcroft
Group Director

October 29, 1974

Board of Governors
Asbestos Textile Institute
P.O. Box 471
North York Road
Willow Grove, Pennsylvania 19090

Gentlemen:

Please accept my sincere thanks to you individually and to your companies collectively for the elegant Atmos clock presented to me at the Annual Meeting held in Sea Island, Georgia.

It is important to me to acknowledge the contributions that each of you has made during the past two years toward keeping a continuity in A.T.I. activities. I hope that we are successful in maintaining our organization in some form as there is work still to be done in our small but vital industry.

Carolyn also wants to express her thanks to everyone in the Institute. She certainly enjoys the friendships she has made during the past several years and looks forward to future meetings with anticipated pleasure.

Sincerely,

Milton Q. Scowcroft
Milton Q. Scowcroft

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ASBESTOS TEXTILE INSTITUTE

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MEMO TO: ATI TECHNICAL COMMITTEE

J. W. Hawkins, Chairman --
Paybestos-Manhattan Industrial Products Company
D. T. Austin, Jr. -- Uniroyal, Inc.
C. S. Barnwell -- Uniroyal, Inc.
J. W. Echerd -- Southern Asbestos Company
W. Maaskant -- Amatex Corporation
P. O. Nicodemus (ASTM Liaison)

RE: ATI TECHNICAL COMMITTEE MEETING -- 9/25 & 9/26/74

Please be advised that the Technical Committee will hold two meetings during the ATI 1974 Annual Meeting at The Cloister, Sea Island, Georgia:

Extra Committee Meeting

Wednesday, September 25th
1:30 p.m. to 5:30 p.m.
Solarium

Regular Committee Meeting

Thursday, September 26th
8:30 a.m. to 11:30 a.m.
Spanish Lounge or Solarium (signs will be posted)

Just as a matter of record -- As much as I would like to (and should) sit in on your Extra Committee Meeting on Wednesday, I find that I have been designated to take minutes at the Ad Hoc Committee Meeting from 1:30 p.m. to 3:30 p.m. and, of course, at the Board of Governors' Meeting from 3:30 p.m. to 5:30 p.m. However, I do plan to be with you during most if not all of your Regular Committee Meeting on Thursday morning.

September 3, 1974

Doris M. Fagan

Doris M. Fagan,
Executive Secretary

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MEMO TO: ATI AD HOC COMMITTEE
(A.C. F. Finkbinder, III, Esq., Chairman)

M. J. Scanlan -- Amatex Corporation
A. Kuzmuk -- Garlock Inc.
G. G. Gabrielson, Jr. -- Nicolet Industries, Inc.
W. F. Guenther -- Raybestos-Manhattan, Inc.
E. C. Bratt -- Southern Asbestos Company
E. A. Morris -- Uniroyal, Inc.
D. B. MacDermott -- Cassiar Asbestos Corporation Ltd.
A. C. F. Finkbinder, III, Esq., Johns-Manville Corporation
R. J. Muth -- Lake Asbestos of Quebec Ltd.

COPY TO: M. Q. Scowcroft -- Raybestos-Manhattan, Inc.
W. B. Alcorn, Jr., Esq., ATI Trial Counsel
Y. Sato -- Nippon Asbestos Co. Ltd.
H. J. Corson -- TBA Industrial Products Ltd.

RE: ATI AD HOC COMMITTEE MEETING

Please note that the Ad Hoc Committee will hold its initial meeting during the ATI 1974 Annual Meeting at The Cloister, Sea Island, Georgia:

Wednesday, September 25th
1:30 p.m. to 3:30 p.m.
Spanish Lounge

It is, of course, vital that you attend the meeting, not only to be brought current as to the present status and possible future events of the Tyler Litigation, but also to voice your views on how ATI could best handle potential situations; to have a vote on any recommendations that the Committee may wish to present to the Board of Governors; and to receive benefit from mutual discussion.

Please be sure to check your estimated time of arrival at The Cloister to be certain you can make this important function.

September 1, 1974

Doris M. Fagan

Doris M. Fagan,
Executive Secretary

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P.O. BOX 91111 NORTH YORK ROAD - WILLOW GROVE, PENNSYLVANIA 19080 - 215 835-0100

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MINUTES

1. The 1974 Annual Meeting of the Asbestos Textile Institute was called to order by President Milton A. Scowcroft at 8:30 a.m., September 27, 1974.

2. President Scowcroft welcomed the attendees to the 30th Annual Meeting of the Institute and following traditional procedure, asked each member to stand and state his name and company affiliation.

3. The following special delegates were welcomed by the President:
- a) William G. Simpson, Chairman of the Board and Chief Executive Officer, Raybestos-Manhattan, Inc.;
 - b) Carroll G. Barnwell, a new representative of Uniroyal, Inc.;
 - c) Aaron C. W. Hinkbinder, III, Esq., Johns-Manville Corporation; and new Chairman of the ATI Ad Hoc Committee;
 - d) Richard O. Moebius, Raybestos-Manhattan, Inc., Manheim, Pennsylvania;
 - e) Robert J. Muth, Esq., American Smelting and Refining Company, Inc., and its wholly-owned subsidiary, Lake Asbestos of Quebec;
 - f) William H. Johnston, President of ATI's newest member company -- Atlas Textile Company, North Wales, Pennsylvania;
 - g) Robert B. Pilmer (not in attendance) was welcomed as a new representative in the Institute; he is General Manager of Carlock of Canada Ltd.

4. Upon President Scowcroft's calling for the reading of the Minutes of the last General Meeting, it was moved by Lawrence E. Moody and seconded by Charles E. Stiefken, and so carried, to dispense with the reading of same.

5. Treasurer E. A. Morris presented the Report of Funds of the Institute for the Fiscal Year to August 31, 1974. On September 1, 1973, the ATI had a balance on hand of \$16,118.56. Taking into account receipts during the year of \$29,164.08, expenditures of \$31,231.20 and nominal amounts for accounts receivable and furniture and equipment, the total net worth of the organization at year-end was \$14,066.76.

The latter figure is somewhat misleading because included therein is a Special Assessment to cover the cost of the Tyler litigation. The actual net worth of the Institute is \$5,977.73.

Looking at the projected budget for the new Fiscal Year, to August 31, 1975, the Institute can reasonably expect to generate an income of \$15,350.00 from annual dues, book sales, bank interest and other miscellaneous items. However, even with a realistic cutback in expenses, it appears the ATI will just about break even after necessary disbursements are made.

Combined with this are additional expenditures which must be made to cover the Tyler litigation; estimated to cost in the neighborhood of \$12,000.00 through February 1975. This will necessitate

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a second Special Assessment on the Regular Members. The first such assessment on the six (6) Regular Members constituted 125% of each company's regular annual dues. In addition, Johns-Manville Corporation voluntarily contributed a like percentage of the dues it would have paid if it had been a Class A/Regular Member.

It must be obvious to all members that ATI will need all the financial help it can get toward proper handling of the litigation. Within the next few weeks, all members of the ATI will be receiving a letter from the President of the Institute requesting contributions which will be applied against litigation costs. It is hoped that each member will cooperate to the best of its ability.

The Complete Report of Funds for the F/Y 1973-74 is attached to these Minutes. Alex Kuzmuk moved that the Report be accepted as presented. The motion was seconded by Guy G. Gabrielson, Jr., and so voted, unanimously.

6. The Fiber Producers Report was presented by Walter H. Smith, having been prepared by William J. W. Smith and approved by all member companies of the Committee. Mr. Smith reported that demand for all grades of asbestos fiber, with the possible exception of certain Group 7 fibers, remains extremely strong. Although news accounts report some new orebodies will be put into production in the next few years, there is no indication that any of the mines will be producing Group 3 Spinning Grade fibers. The entire Report is attached hereto.

7. The membership was afforded the opportunity to view the excellent film entitled "Asbestos At Work," produced by the British Asbestosis Research Council and on loan to the ATI via the Asbestos Information Association/North America. The film covers a variety of work practices and situations involving asbestos, some textile and some other, drilling and stripping of insulation, etc. It graphically describes the effective use of dust extraction equipment, vacuum cleaning, waste disposal, and so forth, and illustrates how proper housekeeping techniques ensure the safety and health of the worker who handles asbestos-containing materials.

8. Upon confirming that much of the vital work undertaken by the Institute is accomplished by the Committees, President Scowcroft asked for Committee Reports by the respective Chairmen (a copy of each Report is attached hereto):

Air Hygiene & Manufacturing -- Buel E. Carden, Chairman;
Fiber Research & Testing -- Richard A. Kuntze, Chairman;
Chrysotile Asbestos Test Manual -- Charles E. Stiefken;
Technical -- John W. Hawkins, Temporary Chairman.

Following Mr. Carden's report, President Scowcroft presented him with a plaque as an expression of ATI's appreciation for the fine job he did as Chairman of the Air Hygiene & Manufacturing

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Committee. Mr. Carden accepted the plaque, giving credit to the members of the Committee and stating it had been a pleasure and a privilege to serve as Chairman for the past two years.

After the report by Mr. Stiefken, President Scowcroft presented him with a plaque, publicly recognizing his service as Chairman of the Fiber Research & Testing Committee. Especially cited was Mr. Stiefken's outstanding work on the Test Manual, one of the most difficult and time-consuming chores of the ATT.

President Scowcroft acknowledged Mr. Hawkins' ably acting as Temporary Chairman of the Technical Committee over the last few months and thanked him for "pitching in" during the interim period until a new Chairman had been secured.

Due to illness, Lawrence F. Dieringer was not in attendance at the meeting. However, President Scowcroft stated that a plaque and letter of appreciation would be mailed to Mr. Dieringer for the excellent leadership he had performed as Chairman of the Environmental Health Committee during 1973 and 1974.

9. President Scowcroft reminded the membership that the Ad Hoc Committee had been established at the last meeting to permit and, in fact, encourage a flow of information between Associate Members and the Board of Governors. A report on the initial meeting of the Ad Hoc Committee was given by A. Kuzmuk in the absence of Aaron Finkbinder, who had to leave the meeting early. The Ad Hoc Committee report is attached to these Minutes.

12. Wendell B. Alcorn, Jr., Esq., presented Remarks of Legal Counsel. The full text of his remarks is attached hereto. In essence, Attorney Alcorn discussed one of the significant changes in the relationship between employers and employees, brought about by OSHA '70; namely, the creation by Federal legislation of a National Commission on State Workmen's Compensation Laws.

11. It was announced by President Scowcroft that the following Officers were elected by the Board of Governors to serve the Institute for the year 1974-75: President--Alex Kuzmuk, Carlock Inc.; Vice President--Edward A. Morris, Uniroyal, Inc.; and Treasurer--Michael C. Scanlan, Amatex Corporation.

13. Also, Chairman Scowcroft announced important committee changes. The Air Hygiene & Manufacturing Committee will be chaired by Le E. Moody and the new Chairman of the Technical Committee is Carroll S. Barnwell. It was further advised that following a long discussion by the Board of Governors concerning possible changes in ATT's committee structure to make it more meaningful and contributory, it was decided to combine the efforts of the Air Hygiene & Manufacturing Committee with those of the Environmental Health Committee. The resultant group will be known as the Environmental Committee. In addition, the Fiber Research & Testing Committee has become a part of the Technical Committee; however, further thought

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will be given to how the committee should be structured so that the Fiber Research & Testing group does not lose its identity.

13. President Scowcroft welcomed Atlas Textile Company, North Wales, Pennsylvania, as a new Class E/Associate Member. The official representative of the firm is its President, William H. Johnston.

14. President Scowcroft sadly advised the membership of the death of J. Carroll Johnston, Founder and Chairman of Atlas Textile Company. Mr. Johnston is well recognized as one of the pioneers and early leaders in the asbestos textile industry in the United States.

15. It was regrettably announced by the President that S.A. Francaise du Herodo, Perlam Division, Paris, France, had cancelled its Associate Membership in the ATI.

16. On behalf of the Board of Governors, President Scowcroft announced that ATI's Legal Counsel had been instructed to begin the necessary process toward incorporating the Asbestos Textile Institute.

17. In the interest of economy, President Scowcroft announced that the Board of Governors had determined that future meetings of the ATI should be held in large cities. The necessity for the decision, of course, is based on the serious financial condition of the Institute and especially on the extraordinary expenses that will be incurred as a result of the pending litigation in Tyler, Texas. The President expressed sincere regret that, consequently, the ATI must decline the kind offer of the mining member companies of the Institute to host the June 1975 Spring Meeting in Quebec City. That meeting will be held June 5-6, 1975, probably in Atlanta, Georgia. Other sites cancelled are the 1975 Annual Meeting in Ponte Vedra Club, Ponte Vedra Beach, Florida, and the 1976 Annual Meeting at Savannah Inn & Country Club, Savannah, Georgia.

18. At this point in the meeting the gavel was turned over to Alex Kuzmuk, the new Chairman of the Board of Governors and President of the Asbestos Textile Institute. Mr. Kuzmuk accepted the responsibility with a great amount of pleasure, expressing much awareness of the legal and financial problems which the ATI is currently facing.

19. As his first official duty, President Kuzmuk presented an Atoms Clock to Mr. Scowcroft, in acknowledgment of his two years of hard work and a job well done as Chairman of the Board and President of ATI for 1973 and 1974. Upon accepting ATI's token of esteem and appreciation, Mr. Scowcroft expressed pleasure in receiving such a beautiful gift, read the inscription to the members present, and thanked all the members for the great friendships he has established within the Institute. He said it had been a true pleasure to

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work on Institute matters and that he would continue to attend meetings and to support the AII in any way that he could.

20. President Kuzmuk's second pleasant duty was to present a token of appreciation, in the form of a lovely terrarium, to "the strong woman behind a strong leader -- Carolyn Scowcroft." Mrs. Scowcroft read the note that accompanied the gift which expressed the sentiments of the members of the AII and their wives. She accepted the gift with pleasure, stating it would be a beautiful addition to their new home in Charleston, South Carolina.

21. The final announcement made by President Kuzmuk was that the next Winter Meeting of the Institute will be held February 6-7, 1975, at Holiday Inn-Independence Mall, Philadelphia, Pennsylvania.

22. There being no further business to be brought before the membership, E. A. Morris moved for adjournment. The motion was seconded by A. J. Scanlan and unanimously approved by the attending members. The meeting was adjourned at 10:30 a.m.

Respectfully submitted,

Doris M. Fagan

Doris M. Fagan,
Executive Secretary

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ASBESTOS TEXTILE INSTITUTE

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MEMO TO: R. A. Kuntze, Chairman,
Fiber Research & Testing Committee

J. W. Hawkins, Chairman,
Technical Committee

B. E. Carden, Chairman,
Air Hygiene & Manufacturing Committee

L. F. Dieringer, Chairman,
Environmental Health Committee

cc: M. O. Scowcroft, ATI President
W. B. Alcorn, Jr., ATI Legal Counsel

RE: COMMITTEE REPORTS TO ATI GENERAL MEMBERSHIP

Following past procedure, please plan to present a Report on the activities of your Committee at the General Meeting of the Asbestos Textile Institute, to be held:

Friday, September 27, 1974 -- Solarium
8:30 a.m. -- 11:30 a.m.
The Cloister, Sea Island, Georgia.

Committee Reports are scheduled on the Agenda at about 9:00 a.m., immediately following the presentation of the Fibre Producers' Report.

Also, please see that I receive a copy of your Committee Report for inclusion with the Minutes of the Fall 1974 General Meeting.

Thank you.

September 3, 1974

Doris M. Fagan,
Executive Secretary

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P.O. BOX 111, 131 NORTH YORK ROAD, WILLOW GROVE, PENNSYLVANIA 19090 • (215) 964-9007

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ASBESTOS TEXTILE INSTITUTE

Annual Meeting

September 27, 1974
The Cloister, Sea Island, Georgia

IN ATTENDANCE

AMATEX CORPORATION

W. Maaskant
M. J. Scanlan
H. H. Walter

CARLOCK INC.

A. Kuzmuk

NICOLET INDUSTRIES, INC.

G. B. Gabrielson, Jr.

RAYBESTOS-MANHATTAN, INC.

M. N. Brooks
P. C. Dolan
J. W. Hawkins
R. T. Matthew
R. O. Moebius
M. Q. Sawcroft
W. S. Simpson

SOUTHERN ASBESTOS COMPANY

E. C. Bratt
D. E. Childers
J. W. Echerd
L. E. Moody

UNIROXAL, INC.

C. S. Barnwell
B. E. Carden
H. A. Morris

ASBESTOS CORPORATION LTD.

G. F. A. Brink
P. E. Leclerc

ATLAS TEXTILE COMPANY

W. H. Johnston

BELL ASBESTOS MINES LTD.

W. H. Smith

CANADIAN JOHNS-MANVILLE CO. LTD.

A. C. F. Finkbiner, III, Esq. (J.D.)
J. P. Power

CASSIAR ASBESTOS CORPORATION LTD.

R. A. Kuntze (Ontario Research
Foundation)

LAKE ASBESTOS OF QUEBEC LTD.

E. A. Farrell
R. Lefebvre
R. J. Muth (Asarco)
C. E. Stiefken (Asarco)

TBA INDUSTRIAL PRODUCTS LTD.

H. J. Corson, Jr.

ASBESTOS TEXTILE INSTITUTE

W. B. Alcorn, Jr., Esq., Legal
Counsel (Hull, Towill, Nor-
man, Barrett & Johnson)

D. M. Fagan, Executive Secretary

Total attendance during the three-day 1974 Annual Meeting was 60 people: 31 members, 1 legal counsel, 1 secretary and 17 spouses; representative of 13 member companies plus the ATI.

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M I N U T E S

AIR HYGIENE & MANUFACTURING COMMITTEE

Asbestos Textile Institute
September 26, 1971 -- The Cloister, Sea Island, Georgia

The AIT Air Hygiene & Manufacturing Committee met on September 26, 1971, with sixteen members and guests present, representative of nine Institute member companies, i.e.:

Amatek Corporation
H. H. Walter

Atlas Textile Company
W. H. Johnston

Canadian Johns-Manville Co., Ltd.
A. J. E. Finkbinder, III (J-M)
J. P. Power

Carlock Inc.
A. Kuzmuk

Lake Asbestos of Quebec Ltd.
B. A. Farrell
R. Lefebvre
R. J. Muth (Asarco)

Raybestos-Manhattan, Inc.

H. M. Brooks
P. O. Dolan
R. A. Matthew
R. O. Moebius

Southern Asbestos Company
E. C. Pratt
L. E. Moody

TBA Industrial Products Ltd.
H. J. Corson

Uniroyal, Inc.
B. E. Carden

A report on a recent OSHA inspection at a member company's plant was discussed -- specifically concerning the weaving area where the dust level was measured by OSHA as being over "5", thus requiring the employees to wear respirators. Having received a request for their assistance and cooperation, the employees worked with management and were able to reduce the dust counts to a point low enough, for a period of three months, so that it was permissible for the workers to remove their respirators.

After due consideration and a full discussion, the Committee respectfully submits the following recommendations to the AIT Board of Governors for further action:

- 1) In order to improve the time-weighted average, it is the Committee's recommendation that a different method be used to obtain dust samples, i.e.--
 - a) In the taking of dust counts, the filter intake valve should be placed in the breathing zone area;

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- b) Dust-count checks on a time-weighted average should be based on a number of 1/2-hour checks over an 8-hour period;

2) Audiometric readings should be used to determine noise levels.

L. E. Moody, a member of the Committee, presented a comprehensive and informative report on the work of the Standards and Technical Committee of the Asbestos Information Association/North America. A written account of his presentation is affixed as Attachment I to this Report.

During the past two years it has been a real pleasure to serve as Chairman of the Air Hygiene & Manufacturing Committee. I had an outstanding group of people with which to work and my thanks go to the Committee and to the ATI for their fine interest, help and cooperation.

Respectfully submitted,

Suel E. Carden, Chairman

ATI

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Minutes/Air Hygiene & Manufacturing Committee - 9/26/74

RE: STANDARDS AND TECHNICAL COMMITTEE,
ASBESTOS INFORMATION ASSOCIATION/NORTH AMERICA

Prepared and Presented by L. E. Moody, Southern Asbestos Company

In 1973, the Board of Directors of the Asbestos Information Association/North America decided to form a committee to assist them in matters concerning Standards and technical information. Accordingly, Edmund M. Fenner, of Johns-Manville Corporation, was assigned to chair the Committee and each AIA/NA member company designated a representative to serve as a Committee member.

A Committee Organization Meeting was called by Mr. Fenner for February 5, 1974, at Newark, New Jersey. At that gathering, the first major assignment was given to the Committee, i.e., working with the U.S. Occupational Safety and Health Administration; and more specifically, working directly with the Standards Division of OSHA concerning Standard 1910.93a -- the Asbestos Standard. The assignment was to include the preparation of "Work Practices" for the asbestos industry.

The responsibility of preparing "Work Practices" for the asbestos textile industry was assigned to Larry Moody, with assistance to be given by C. Kennedy, the representative on the Committee from Raybestos-Manhattan, Inc. At the February 1974 meeting of the Asbestos Textile Institute, held at Charleston, South Carolina, assistance was also solicited from Hans H. Walter, of Amatek Corporation, and from Suel E. Carden, of Uniroyal, Inc., to prepare information concerning asbestos textiles.

Since Mr. Kennedy and Mr. Moody were geographically located near each other (Charlotte and Monroe, North Carolina), they met briefly on two occasions before calling together the group of four at Charleston on February 25, 1974. They soon learned that although they all had departments called Preparation, Carding, Spinning, Twisting and Weaving Departments, there were substantial differences in each area. They, therefore, prepared a "Recommended Work Practice," very general in nature but one that was adaptable to all methods known to be in use.

Mr. Fenner called a four-member Task Group meeting in the offices of AIA/NA, at Washington, D.C., on April 9-10, 1974. The four individuals concerned were Messrs. Fenner and Moody, John P. McKinley

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Minutes/Air Hygiene & Manufacturing Committee - 9/26/71

Re: Standards and Technical Committee, AIA/NA

of Certain-Used Products Corporation, and Frank H. Zimmerman of National Gypsum Company. The Task Group discussed progress to date concerning the preparation of the "Work Practices." On the next day (April 10th), the Task Group met with John P. O'Neill and Harry Gilbert at the OSHA Standard Office. (Mr. O'Neill is Chief of the Division of Health Standards. Mr. Gilbert is the Project Officer in charge of the Asbestos Standard.)

The purpose of the meeting was to review progress and to submit to Mr. O'Neill rough drafts of six typical "Work Practices" for his review and comment. It was understood that this was only rough material and was not to be considered as "submitted" work. Any work or material submitted formally would require the approval of the AIA/NA Board of Directors. Basically, the Task Group wanted to know if the material it was working on would be useful and was the type of information that could be incorporated into standards, if it were prepared in the proper manner. At the time, OSHA was contemplating a complete revision of the Asbestos Standard 1910.93a, or at least was gathering all available information to that end.

Another meeting was held April 24th in Washington, D.C., attended by the entire AIA/NA Standards and Technical Committee and by Mr. Gilbert. (Mr. O'Neill was ill at the time.) At the start of the meeting it was immediately apparent that a major change had taken place. On April 15th, the U.S. Court of Appeals had handed down a decision in favor of OSHA in the Industrial Union Department (AFL-CIO) suit. This court decision vastly decreased the emphasis on "Work Practices." The Asbestos Standard 1910.93a had been upheld.

Rewriting or revising the Asbestos Standard is not now deemed advisable. There may be amendments made to the Standard, such as a reference to "Work Practices," that would apply to all segments of the asbestos industry -- housekeeping, entering fiber to process, waste or scrap disposal, etc.

The AIA/NA Standards and Technical Committee will proceed with the preparation of "Work Practices" on a recommended basis. In all probability the writings will be recognized and/or recommended by OSHA, but will not be mandatory. It is possible that where a recognized "Work Practice" is in use, less monitoring would be required.

During the most recent meeting of the Committee, on September 10th, again held in Washington, D.C., a review was made of all written

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Minutes/Air Hygiene & Manufacturing Committee - 9/26/74

Re: Standards and Technical Committee, AIA/NA

material, recommendations, etc., that it had submitted to date. It was reaffirmed that the Committee would continue with "Work Practices," in line with procedures and methods of manufacturing asbestos-containing products and to provide information for customers or users of asbestos-containing products.

The Committee was invited to remain in D.C. to attend the Industry-Government Conference, sponsored by the AIA/NA and held at the Mayflower, September 11-12, 1974. The format of the Conference was a series of speakers, with question/answer periods following each presentation. The speakers included:

The Hon. John R. Stender, Assistant Secretary of Labor (CSHA);
Sheldon W. Samuels, Industrial Union Department (AFL/CIO);
Leo Toplew, Special Consultant, Organization Resources Counselors;
Paul Kotin, M.D., Johns-Manville Corporation;
Ian C. Campbell, Quebec Asbestos Mining Association (and Vice-President & Secretary-Treasurer, Asbestos Corporation Ltd.);
Michel Lesage, M.D., Medical Advisor, QAMA;
Maurice R. Bastin, Special Consultant to the Administrator (Industrial Affairs), U.S. Environmental Protection Agency;
Daniel P. Boyd, Ph.D., Director, Office of Standards, OSHA;
Lloyd B. Tepper, M.D., Associate Commissioner for Science, Food and Drug Administration (HEW);
Robert Join, Executive Director, Chambre Syndicale de l'Amiante (The French Asbestos Information Association);
Wilfred P. Howard, Asbestos Information Committee (U.K.) (and Group Public Relations Advisor, Turner & Newall Ltd.);
Noel W. Hendry, Vice President and General Sales Manager, Asbestos Fiber Division, Johns-Manville Corporation;
Richard B. Berman, Director of Labor Law, the Chamber of Commerce of the United States.

There were many interested persons in attendance at the Conference, representing other than the regular AIA/NA membership, i.e.:

A/C Pipe Producers Association
ASBESTOS Magazine
Asbestos Textile Institute
Cadwalader, Wickersham & Taft
Commerce Clearing House, Inc.
Frank C. Frantz & Company
Friction Materials Standards Institute
Government Research Corporation

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Minutes/Air Hygiene & Manufacturing Committee - 9/26/74

Re: Standards and Technical Committee, AIA/NA

Hill and Knowlton, Inc.
Job Safety and Health Report
National Association of Filter Manufacturers, Inc.

Astestos Information Committee (U.K.)
Chambre Syndicale de l'Amiante (France)
Department of the Environment (Canada)
Quebec Astestos Mining Association

U.S. Bureau of Mines, Department of the Interior, Department of
Labor, Environmental Protection Agency, Food and Drug Adminis-
tration, Occupational Safety and Health Administration -- and
several members of the Press.

The Conference was the first of its kind. It was, beyond question,
a successful venture and it is hoped that meetings of this type
can form a common ground whereby Industry, Government and Labor
can define the problems they share and provide the possible means
toward establishing "working" answers.

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AD HOC COMMITTEE REPORT

Asbestos Textile Institute

Reported to the General Membership on September 27, 1974, by Alex Kuzmuk (Carlock Inc.) for the Chairman, Aaron G. F. Pinkbiner, III, Esq. (Johns-Manville Corporation).

The Ad Hoc Committee for the Tyler, Texas, lawsuits convened on Wednesday afternoon, September 25, 1974. The meeting was chaired by Aaron Pinkbiner and, of course, the status of the Tyler cases was the principal item on the agenda. A report from Wendell B. Alcorn, Jr., ATI's Trial Counsel in the Tyler cases, was submitted to the Committee and formed part of the basis of the discussion.

As you know, the Tyler cases are two lawsuits in which ATI is one of several defendants. Specifically, ATI is charged with "impeding the flow of information" about health hazards associated with the industrial use of asbestos. ATI has denied the claims of the plaintiffs and also has taken steps seeking to have ATI dismissed from the suits on the ground that the Institute is not subject to suit in Texas.

In July the Court in Tyler held oral arguments on several matters of court procedure. Attorney Alcorn attended the sessions. The Court recognized that the cases could become quite complicated and, therefore, will issue an order shortly concerning the procedure to be followed in the cases. In the meantime, the Court has entered a stay order, effectively halting all procedures in the cases. Once the Court has entered its order on procedure, there are two pending motions awaiting determination.

The first motion which will probably be decided is the motion by one of the plaintiffs to have the case proceed as a class action, with that plaintiff acting as the representative of all former workers at the Tyler plant.

The next motion for consideration is ATI's motion to dismiss because ATI is not subject to suit in Texas. We believe the Court will allow plaintiffs some discovery (that is, steps taken to learn facts held by different persons or organizations) on this question. It was the consensus of the Ad Hoc Committee members that if a deposition (oral questions and answers taken under oath) of ATI is sought, the Executive Secretary of the ATI would be an appropriate witness. A ruling on these motions may not be forthcoming until the end of 1974. Wendell Alcorn will keep the Ad Hoc Committee posted on all significant developments.

At the close of the meeting, the financing of the Tyler Litigation was discussed. The topic received further consideration by the ATI Board of Governors. It was decided that a second Special Assessment on the Regular Members of ATI would be appropriate and that Associate Members would be encouraged to contribute in a like manner.

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REMARKS OF LEGAL COUNSEL
Asbestos Textile Institute Annual Meeting
September 27, 1974; The Cloister, Sea Island, Georgia

This morning, I wish to call your attention to a recent change in the legal relationship among employers, employees and third parties.

In 1970, the Occupational Safety and Health Administration was created and you are familiar with the national legislation that created it. We have had many discussions in the past concerning the effects of OSHA regulations upon the activities and conduct of the business of your companies.

I. WORKMEN'S COMPENSATION

There is another aspect, however, of the OSHA legislation besides items such as implant inspections, safety standards and asbestos dust exposure regulations. The 1970 federal legislation created a National Commission on State workmen's compensation laws. That Commission has made a study of workmen's compensation laws throughout the 50 States of the Union and has come up with a final report.

The Commission's report is not merely a piece of paper. Various State legislatures are changing their workmen's compensation laws on the basis of facts and recommendations contained in that report. One of the States that has acted is Texas. The reason I focus on Texas is because much of the asbestos-health-hazard litigation has been initiated in the State of Texas, has been decided by courts in Texas, and one of the landmark cases which was decided adversely to the industry has been affirmed on appeal by the U.S. Court of Appeals for the Fifth Circuit, which sits in New Orleans.

The Texas law governing compensation of employees for injuries sustained on the job and for occupational diseases contracted in connection with their work was changed substantially for the first time since it was enacted in 1913. Many of these changes are irrelevant in the context of the Asbestos Textile Institute, but there are certain pertinent ones which we shall review this morning.

The major change was the broadening of the coverage of the Texas workmen's compensation statute. For example, under prior Texas law, companies having no more than three employees were not covered. Well, that is no longer so. Also, employees of State agencies and political entities were not covered. They now can be.

There also are substantially increased benefits under the workmen's compensation law. An example: The maximum weekly benefit has been

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raised to \$63.00 while the minimum weekly benefit has been increased to \$15.00. Of perhaps greater long-term significance is the fact that there has been built into the Texas workmen's compensation law an inflation factor which will result in higher maximum and minimum weekly benefits as the Cost of Living Index rises.

There is one very important change that is deserving of our special attention. Prior to September 1, 1973, the insurance carrier, (that is, the one with whom the individual manufacturer or other type of business has its workmen's compensation insurance), had the right to choose the doctor and the medical facilities which would treat an injured or diseased employee. There were certain limitations which affected the right of the insurance carrier to make this choice -- for example, the worker had the right to choose a doctor to render first-aid in an emergency situation. But, generally, the sole choice lay in the insurance carrier. Under the Texas workmen's compensation statute, as now amended, the employee has the "sole right" to choose the doctor and the medical facility.

That's all well and good. However, there has been much criticism raised in the halls of the Texas Legislature to the effect that the employee's new right to choose will encourage the proliferation of what are, perhaps unkindly, referred to as "plaintiff's doctors".

The Texas Legislature also enacted significant changes in that State's compensation laws with regard to third-party actions. A third-party action is like the lawsuit in which ATI is involved in Tyler, Texas. It is an action not against the worker's employer but against a third-party entity -- such as a miner that supplies asbestos fibers to a production plant in Texas; such as a trade association like ATI which the worker claims impeded the dissemination of information about the health hazards of working with asbestos.

Before September 1, 1973, an employee who allegedly had been harmed by such a third party could not pursue simultaneously an action against his employer and the third party. Now he can do so. He can bring a workmen's compensation claim against his employer in Texas to be decided by the Industrial Accident Board and, at the same time, he can file a third-party suit in the Texas District Court or the Federal District Court if the jurisdiction is appropriate. The third-party action would probably seek damages far beyond the maximum recovery allowed by the Texas workmen's compensation statute.

This has affected the time when an aggrieved worker must bring a lawsuit. Under prior Texas law, the worker could file a workmen's compensation claim with the Industrial Accident Board, wait until

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that claim was adjudicated (that is, finally decided) and then, within two years, sue the third party -- the person who supplied the filter, or the trade association, or whatever other entity might be connected with the particular industrial accident or occupational disease. The reason the employee had to sue within two years is that the general statute of limitations in Texas that governs the time in which one must bring suit after he has suffered a personal injury is two years. The effect of this on companies doing business in Texas is that a worker who now files a compensation claim in Texas and waits until that claim is finally adjudicated, which may take over two years, and then seeks to bring a third-party action against a supplier, for example, is subject to being barred from pursuing that case by the applicable statute of limitations.

It is possible under the new Texas law, which is not too dissimilar to compensation laws which have been adopted in other States, that the worker may sue a third party and choose not to claim against his employer. If the worker has already received compensation benefits from the employer's insurance carrier, the insurance company may be subrogated to the rights of the worker in the third-party action. Let us say, for example, worker John Doe had his arm severed in an industrial accident. He brings a claim for statutory workmen's compensation, which is allowed. He then sues the manufacturer of the machine that had the nerve to cut off his arm. He claims the machine was poorly manufactured and did not incorporate appropriate safety factors. The insurance company that paid the original compensation benefits can now intervene in the third-party lawsuit and take up the sword against the manufacturer of the machine.

There is also an obligation under the new Texas legislation for compensation insurance carriers to undertake "loss prevention services". I predict that anyone doing business in Texas, or in another State that has adopted a similar provision, will learn about this in the very near future (if they have not already done so).

The Texas Insurance Code, in conjunction with the Workmen's Compensation Act, has been amended to require carriers to provide accident prevention facilities as a prerequisite to writing insurance in the State of Texas. This includes educational programs which the insurance companies must offer to insured employers and present to employees through field safety representatives. The State Board of Insurance of Texas has authority to enforce this requirement against the insurance companies. I think particularly in industries such as those producing asbestos materials and asbestos products, insurance carriers are going to be very careful to present what they view as programs to help prevent occupational disease. The individual companies who operate in States

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that adopt this approach are possibly going to be at odds with some of the presentations which are prepared by insurance carriers.

The term "occupational disease" has been redefined in the Texas workmen's compensation statute, pursuant to recommendations by the previously mentioned CSHA Commission. Under the old Texas statute there were listed approximately 31 different occupational diseases (and, incidentally, asbestosis is one of them). The amended definition is open-ended and, therefore, is subject to broad interpretation.

No longer is there a list of specific occupational diseases to which an employee must refer in order to file a claim for workmen's compensation benefits. Occupational disease is now defined as including "damage or harm to the physical structure of the body occurring as a result of repetitious, physical, traumatic activities extending over a period of time." This means that anything which occurs in the workplace long enough that has any adverse, physical effect upon the body is compensable under the workmen's compensation statute. This, at least theoretically, does away with the requirement, which existed under the old law governing workmen's compensation cases, that the employee prove that the alleged occupational disease was the result of an "accident".

II. COMPARATIVE NEGLIGENCE

There is another subject I would like to address in addition to workmen's compensation. It is directly related to the cases pending in Tyler.

The date September 1, 1973, has a good deal of significance for Texas lawyers because many legislative changes became effective at that time. In addition to the changes in the workmen's compensation statute discussed previously, the State of Texas did away with the doctrine of contributory negligence.

In the area of tort law, the doctrine of contributory negligence was developed in England many years ago. Essentially, the doctrine says that if an injured person who comes to the court as plaintiff is found to have contributed to the harm of which he complains, he is guilty of contributory negligence. Under the old English common-law viewpoint, it is somewhat analogous to saying that the plaintiff has "unclean hands" with respect to the particular accident -- and therefore should not be able to recover any of his damages from the defendant. That remained the law in Texas until September 1, 1973, when Texas adopted the doctrine of comparative negligence.

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The practical application of comparative negligence, among those of the various States which adopted it, varies greatly. There are several versions of comparative negligence statutes. Texas enacted a modified comparative negligence statute and adopted a relatively conservative approach, compared to some other States.

Generally, the Texas Statute provides: The plaintiff, in order to recover any damages, must be found to have been no more negligent than the defendant. That is, if both the plaintiff and the defendant are guilty of 50% negligence, the plaintiff can still recover. If the plaintiff is 51% negligent (and bear in mind that this is usually a question for the jury) and the defendant is only 49% negligent, the plaintiff is barred from recovery. Remember the common-law doctrine of contributory negligence -- if the plaintiff was 1% negligent and the defendant 99% negligent, the plaintiff was barred from recovery. So the adoption of comparative negligence is a big change.

Where there are multiple defendants in a Texas case, such as the Tyler litigation, the plaintiff's negligence (for example, if he failed to wear a respirator after he had been instructed to do so), in order for him to recover, cannot exceed the combined negligence of all the defendants. If the plaintiff is awarded judgment against several defendants, each defendant must contribute toward satisfying the judgment in proportion to the percentage of his causal negligence.

For example, assume a plaintiff is found to have been 30% negligent in the cause of the subject accident; Defendant A was 15% negligent; Defendant B 15% negligent; and Defendant C 40% negligent. In this hypothetical situation, the plaintiff could recover and Defendant A would be required to contribute 15% of the actual damages suffered by plaintiff, Defendant B 15%, and Defendant C 40%. If actual damages to plaintiff were \$50,000, Defendant A would have to contribute \$7,500, Defendant B \$7,500, and Defendant C \$20,000 -- making a total of \$35,000. The plaintiff could not recover the remaining difference (\$15,000 between actual and awarded damages) due to his 30% causal negligence.

This does not mean, however, that a defendant's liability for damages to the plaintiff is necessarily limited to his percentage of total negligence. The Texas statute retains the common-law rule that defendants are jointly and severally liable for the entire amount of the judgment awarded. However, the statute contains an important exception: If a defendant is less negligent than the plaintiff, he is liable only to the extent of his individual negligence. This exception to the general rule of joint and several liability of multiple defendants does not apply in cases where the

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negligence on the plaintiff's side is less than that of each defendant.

Obviously, the recent adoption in Texas of comparative negligence may have important significance for ATI as a defendant in the Tyler cases. We shall continue to keep you advised as developments in those lawsuits occur.

Respectfully submitted,

Wendell B. Alcorn, Jr., Legal Counsel

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