

PLAINTIFF'S EXHIBIT

CAP-1557

NOTES ON PHILADELPHIA HEARING

PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH:
PUBLIC HEARING OF REGULATION TO CONTROL ASBESTOS
IN CONSTRUCTION, OCCUPIED BUILDINGS AND PLACES
OF EMPLOYMENT

Monday, April 19, 1971

Commenced at 9:30 A.M.

Chaired by Norman R. Ingraham, M.D. (President, Board of Health)

ATTENDANCE: The audience at the meeting was quite small, perhaps 15-20 people, including those presenting testimony. The Board of Health was represented by an additional dozen or so individuals, including three members of the Board itself (Ingraham and two others); five members of the Ad Hoc Committee (Jesse Lieberman, Prof. R. O. Gorson, Dr. Katherine Sturgis and two others); a couple of lawyers, administrative assistants etc.

The public address system in the hearing room was in operation only very occasionally, so I was not able to tape record the meeting in a satisfactory manner. Fortunately, being a hearing of record, a city stenographer was in attendance, and I have ordered a transcript for the AIA/NA. It is supposed to be available within two weeks.

There were only six speakers at the hearing, five opposed to the ban and one (Dr. Sturgis) in favor. Dr. Selikoff, who was on the agenda, did not appear nor did he send a surrogate. It is our understanding that he did talk to Jesse Lieberman at some length over the phone late last week, and Dr. Ingraham mentioned that the board had received a letter from Selikoff on the proposed ban (it is our supposition that he expressed his opposition to the ban in the letter, but it was not read at the meeting, so we can not tell for sure).

Herbert Levine, representing the Sprayed Mineral Fiber Manufacturers Association, was the first speaker. His statement was essentially the same as those he made at the earlier New York and Boston hearings. Gorson asked him if non-asbestos containing spray materials were available on the market, wouldn't it be prudent to use them in place of asbestos? Levine replied that the new sprays may prove their worth over the years, but that we already know that asbestos can do the job; therefore if controls are effective (which he claimed they were), why substitute an unproven material for a proven one.

Mack Furlow of the Universal Fire Bar, Inc., a manufacturer of cementitious sprays (60 per cent asbestos content, according to his assistant), opposed the ban, but also inferred that if a ban is approved, it should only be on dry-type sprays, rather than on cementitious ones, which he claimed are much cleaner. Furlow also introduced an interesting point in his presentation. He said: "Restraint of trade by selective banning of available products, without adequate proof of the reasons cited to support such banning, is serious business." He gave the impression that if the ban was approved, he might be seeing them in court.

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Furlow also mentioned in his statement that some doctors who originally were in favor of banning asbestos had changed their mind. When questioned on this, he replied that Dr. Selikoff was one. The Board, however, refused to accept this without written proof. Levine then asked if he might read from Selikoff's testimony at Chicago (a copy of which I had provided him). The Board approved, and Levine then quoted from the Chicago transcript. Levine also mentioned that Selikoff had said essentially the same thing in New York and had submitted a letter to the Boston group, also expressing opposition to the banning of asbestos. Dr. Sturgis then questioned whether these statements were recent enough to reflect Dr. Selikoff's current opinion. I then stood up and gave the dates of the three hearings in question.

The Board then asked Levine to join Furlow in answering how the industry could assure the City of Philadelphia that controls would work, especially in light of the fact that New York had tried control and had switched to a ban when controls proved ineffective. Their answer, in my opinion, was not satisfactory. Levine said that the SMFIA was negotiating with an outside testing laboratory (he said he could not reveal the name at this time) to review each and every step of the recommended control procedures of the the SMFIA to ensure that they were effective. Ingraham replied that the Board would be very interested in the results, but the spray problem was one that required immediate attention.

The next person to testify was a representative from the Philadelphia Insulation Contractors Association, Inc. He said that his Association would go along with whatever Dr. Speil and Cliff Sheckler had to say.

Dr. Sidney Speil, representing the Asbestos Information Association/North America, spoke next. His statement was essentially the same as those given by Dr. Pundsack in Chicago and Boston. The question and answer session with Dr. Speil was quite extensive, and there is no doubt that both he and Cliff Sheckler were able to make many valuable points with the Board. The Board members and Prof. Gorson asked their questions with obvious respect for the abilities and experience of Dr. Speil and Sheckler. The lone exception was Dr. Sturgis, who appeared to be trying to discredit any information or opinions being expressed by those in opposition to the ban. For example, she questioned whether the cohorts of mice and rats used by Stanton and Bill Smith were large enough to give reliable results. She also dismissed the reference to small traces of asbestos existing in the ambient air for thousands of years by commenting that of course asbestos is in the air, didn't Plutarch mention that lamp wicks were made from asbestos? (how the "massive" amounts of asbestos released from these lamp wicks got into polar ice samples or into the air of rural America is a question that obviously didn't bother her).

Two questions asked by Prof. Gorson are of interest because of the manner in which they were handled.

Gorson: You say that there is no evidence of a hazard to the general public. Isn't your statement similar to that of the tobacco people when they say that it cannot be proven that cigarette smoking causes lung cancer?

Dr. Speil: Not at all. The evidence with regard to cigarette smoking indicates that smoking two or more packs a day over an extended period can lead to an increased risk of lung cancer. I personally smoke about two cigarettes a day. Whether my two cigarettes constitute a health hazard is questionable, but most experts would agree that it probably does not. Yet the ratio of my smoking to those levels implicated in lung cancer is about one to twenty. With regard to asbestos, the ratio of fiber in the ambient air to levels thought to be hazardous is in the area of one to 100,000 or even higher.

Gorson: What would be your feeling about a ban on sprayed asbestos if controls were found to be ineffective?

Dr. Speil: I can only answer your question on a theoretical basis, because I firmly believe that controls are possible and effective. Theoretically speaking, however, if controls were not effective then one would have to consider a ban. It should be understood, however, that even under uncontrolled conditions; dust counts taken in the ambient air around spray sites are still in the ratio of one to 10,000 as compared with safe occupational levels. Again, I should emphasize that this is only a theoretical consideration, because controls are effective.

Cliff Sheckler was the final speaker for the defense. His statement was similar to that which he gave in Boston in March. At the conclusion of his prepared remarks, he spoke off on the cuff on the importance of consistent occupational dust standards so that the companies responsible for protecting their workmen would have one set of standards to shoot at, rather than two or three different ones, depending on the location and type of work they were doing. Sheckler suggested that Philadelphia adopt the asbestos dust standard that will soon be announced by the Department of Labor (probably 12 fibers per cc), and reduce it to 5 only when the Federal Government does.

Sheckler was the only witness who spoke to any extent on those sections of the regulation dealing with dust levels in the workplace and the ambient air. Each of the other witnesses was asked if he agreed with the rest of the proposed regulation (other than the ban) and all said that they had no comments on it.

The final speaker was Dr. Sturgis, who gave one of the most outlandish, emotional presentations that I have heard from a supposedly objective, stick-to-the-facts doctor. I missed about half of it (Cliff Sheckler was being interviewed for a television news program out in the hall, and I joined him to see how it went), but I heard enough on my return to the hearing room to get the tone of her remarks. She said that she was speaking on behalf of 5,000 doctors and the people of the city of Philadelphia, who in their "inate folk wisdom" had risen up and demanded an end to industrial hazards, such as asbestos, which were endangering their lives and property. She said she had visited a spray site that was supposedly under control, yet she had been able to pick up from the ground several pea-sized pieces of dried spray material (which she passed around), thus irrefutably demonstrating the ineffectiveness of control and the supreme hazard faced by the people of Philadelphia (her own "inate folk wisdom," I suppose, enabled her to make such deductions without the benefit of dust counts or other mere mechanical procedures). She finished up with the comment that it would be an appropriate sacrifice to Earth Week for the Board of Health to approve the regulation and thus remove the terrible hazard of asbestos from the city's air.

There being no one in the audience willing to try and follow Dr. Sturgis' act, the hearing was adjourned by Dr. Ingraham. Participants will be informed of the Board's decision, or of additional hearings should that be found necessary.

Matthew H. Swetonic