FILE NAME: John Crane (JC)

DATE: 0000

DOC#: JC063

DOCUMENT DESCRIPTION: Report of Silicosis Committee [Illinois Manufacturers' Assoc.]

PLAINTIFF'S EXHIBIT K-1785

Silicosis Committee

Illinois Manufacturers' Association

O. E. Mount, Chairman

SILICOSIS and similar diseases caused by the inhaling of dust have created such a problem for all Illinois manufacturers, involving millions of dollars in claims for damages in common-law suits, that the only remedy seems to be to include such cases in the Workmen's Compensation Act.

Several meetings of the Silicosis Committee and its subcommittee were held during the year. At a meeting on September 8, it was unanimously decided to introduce an amendment if possible at a special session of the Legislature, reading as follows:

Amend paragraph 7 of section 3 of the Compensation Act by inserting therein after the word in the second line, "vapors," the following: "silicon dioxide dust or other noxious or poisonous dusts," so that said paragraph shall read as follows:

"In any enterprise wherein molten metal, or explosive or injurious gases or vapors, silicon dioxide dust or other noxious or poisonous dusts, or inflammable vapors or fluids, or corrosive acids are manufactured, used, generated, stored or conveyed in dangerous quantities."

New Provision

Thereafter add to section 3 a new paragraph 7½ as follows:

"Any disability to or death of an employee resulting from exposure to silicon dioxide dust or other noxious or poisonous dusts, shall constitute an accidental injury for which compensation shall be payable under this Act."

After a brief presentation of the purpose of this meeting, Dr. A. M. Harvey of the Crane Company was called upon to discuss "Silicosis and Dust Diseases from a Medical Point of View."

Silicon and similar dust diseases, Dr. Harvey pointed out, confront Illinois and every other state. A few months ago it was estimated damage claims involving $50,000,000 had either been tried or started. Probably double that amount at the present time confront employers. Compensation is asked of industry for certain workers who presumably are disabled, but in reality a tribute is being levied upon industry by those who are getting the tribute from the persons who claim to be injured. The money is going to smart doctors and lawyers.

"Thirty years ago," said Dr. Harvey, "it was predicted that a gradual increase of lung diseases due to occupational dust might be expected, but no one expected the growth of thousands of cases. It has been called a depression disease—the plaintiff has nothing to lose and may have something to gain.

"Silicosis and similar diseases are caused by the inhalation of microscopic particles of silica which lodge in the lungs and develop slowly—the progress of the disease depending upon the quantity inhaled and the time of exposure. Symptoms appear slowly, with shortness of breath and difficulty in breathing. The appetite is capricious, there is weakness, more frequent colds, bronchitis, influenza and presently tuberculosis following silicosis due to irritation.

"The question ultimately must be settled on a permanent basis with a properly drafted occupational disease law. A state board to pass upon silicosis and similar diseases should be appointed, separate from the present Industrial Commission. The Illinois Industrial Commission does not want a lot of lung cases. Dust will have to be stopped at its origin as a result of more careful methods in factories. Dissemination of dust must be avoided.

"Few industries can cope with this silicosis problem and remain financially sound, even if they settle the cases. There should be physical examinations at least every six months and if the workman shows tuberculosis or healed tuberculosis, he should be put in some other occupation. I know of twenty men who are the apparent picture of health, but x-ray examinations show silicon dioxide."

Dr. Harvey recommended that those present secure the following publications for a study of the effect of dust upon certain diseases:

Report by the Industrial Commission of Wisconsin, on "Effect of Dust Upon the Respiratory System."

Report by the Industrial Commission of Wisconsin, giving general orders in connection with dust fumes, vapors and gases.

Report by a commission appointed by Governor Pinchot on occupational diseases, issued by the Pennsylvania Industrial Commission, Harrisburg.

Journal of the American Medical Association for August 19, 1933.

Legal Aspects

A. C. Hirth of the Owens-Illinois Glass Company, talked on the "Legal Aspects of Silicosis and Other Dust Diseases."

Most cases involving dust diseases constituted a racket, he stated, but the problem had its serious side. While many cases were fraudulent, an employer could not go into court with their fraudulent character as a basis. Many cases were bona fide. There might or might not be liability.

For 300 years there has been knowledge that certain diseases were caused by certain types of dust. The law contemplates that a workman should have a safe place in which to work. For twenty years there has been more or less knowledge of dust diseases in various countries and for fifteen years this country has been studying the effect of dust upon the respiratory system.

Mr. Hirth stated that the subject of special legislation covering dust hazards had been considered in a number of states and in several states laws relating to the hazard had been enacted. In states where such laws were not in effect, plaintiffs took their claims for damage before common law courts. This was exceedingly expensive for employers. The Pennsylvania Pulverizer case had cost $40,000 for legal expenses, including a record of the case. A verdict of $10,000 against the [illegible] afterwards been set aside by [illegible] Appeals on the ground that [illegible] on the part of the employer [illegible] established, but the expense [illegible] had to be borne by the employer.

Mr. Hirth thought all such cases should be tried under the Workmen's Compensation Act. There was no need of a jury. The evidence should be presented to commissions, as was the practice in Canada and Great Britain. He referred to 128 cases against one employer in St. Louis, which had netted $100,000 for one attorney. If silicosis cases were tried before a commission, it would be possible to pay the compensation in monthly installments and if the employe went back to work and showed an improved condition, the award could be cut down or discontinued.

J. L. Earlywine of the Illinois Steel Company stated that up to three or four years ago, no employer realized the danger from silicosis and other dust diseases. Twenty years ago no foundry ever had a case of silicosis. If lawyers and doctors were honest, most of the cases could be defeated, he said.

Silicon Dioxide

Mr. Earlywine stated he had defended cases during the last two and one-half years and had reached the conclusion that silicon dioxide was the only dangerous dust. He thought it would be sufficient to amend the Act to cover such cases. Every industrial employer of Illinois was subject to such cases and must be in a position to defend himself against a racket. He referred to damages in which 50 per cent of the fees went to the lawyers and stated that if an employe obtained a judgment of $15,000, he would be lucky if he got $5,000 for himself after all the court costs were paid.

He referred to an unsuccessful attempt to secure an amendment to the Workmen's Compensation Act at the last session of the Illinois General Assembly, the failure being largely due to the fact that the employers were not united. The present plan was to introduce an amendment to the Workmen's Compensation Act which would include silicon dioxide and other dust diseases, and it would be necessary to obtain an agreement with organized labor to the amendment in order to have the proposal submitted in the Governor's call for a Special Session, and also for the reason that a two-thirds vote of the Legislature was necessary to insure the passage of the proposed amendment in a special session.

David R. Clarke, counsel, talked on the importance of having the amendment included in the call for a special session and proposed that Mr. Earlywine take the matter up with representatives of labor.

W. F. Crecombe of the American Manganese Steel Company, stated silicosis cases involving $20,000,000 in damages were on the court dockets in New York.

F. H. Elam of the American Steel Foundries, stated the increased cost of compensation cases in Pennsylvania covering silicosis amounted to about 8 per cent.

Commonwealth Edison Company, Chicago, has filed with the Illinois Commerce Commission a series of industrial rate changes which should interest many manufacturers in Chicago. The company's contract department is prepared to give full information.

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