This Work of Living

When I was a little girl we moved from a mining town in southwestern Pennsylvania to a company town some miles away owned by George Westinghouse. We knew, you couldn’t help knowing, that George in his benificence gave us our homes, our schools, our libraries, the stores where we bought our food. His architects and planners had designed the town right up from the narrow valley floor

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Special Survey of Occupational Health and Safety

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where the plant was squeezed along the river. Where they never had to see us. They entered the plant wearing their white shirts directly from "their side of town."

We knew it didn't make much sense for our people to wear white shirts to work. When we hung the clothes out on the line to dry they turned gray from the coal dust and other pollutants at the plant. In our old town when my father came home from the mines he changed his clothes and showered in the basement and every Saturday morning he washed down the outside of the house. When we moved to the Westinghouse Valley the routine was the same, except more and more frequently when he got home he was too tired to change and shower. He'd lie on newspapers on the living room floor—not to protect the linoleum, but, he told us, to keep whatever he was carrying out of the house.

We knew. Without ever reading the life expectancy tables, we knew that our fathers and mothers and aunts and uncles who worked in the plant would probably never live long enough to retire. Except for the ones who lost their hearing or some fingers or the ability to breathe without gasping when they were fairly young so they stayed home disabled. Then someone else in the family had to go into the plant to make up the lost wages.

What we didn't know was where you could get another job. My father died when he was 44 years old at his workbench wearing his safety shoes and goggles, his face blue as it had been my whole life. His lungs were black. The death record said heart attack.

In families like the one I grew up in, life has to be planned around disableity and early death. Workers' compensation was important, but I'll always associate it with angry, drunken men confined to the house, straining a family fabric already frayed. Worker safety was the steel-plated shoes and the goggles, the pathetic hosing of our houses.

But no matter how hard we worked, and we all worked, we never got ahead. So when the workers struck, knowing the repossessions of the cars and the furniture would come, and the
preservative

Conservatives

Newly-elected Senator Dan Quayle (R-IN) didn’t wait to take his seat on Capitol Hill before launching a strong attack on OSHA. Speaking to the Formaldehyde Institute on December 15, he urged that Congress remove the "presumption of innocence" from health and safety regulations (that’s OSHA’s innocence, not industry’s), and require the agency to defend itself in the courts. "I don’t think you’re going to see an abolition of OSHA," he predicted, with perhaps a touch of regret, but this "dramatic shift" in the agency’s mandate would be likely to ensure "much slower" rulemaking.

Senator Quayle didn’t quite say "They’ll cut formaldehyde use over my dead body," but his listeners were certainly

Vital Signs

gratified by his words. They may not be upset that OSHA regulations are lowering the death rate, depriving them of embalming business, but they are nervous about their substantial market in plastics production. Since scientists discovered a few years ago that formaldehyde fumes cause nasal cancer in small animals, the Institute has vociferously opposed any suggestion that humans might also be in danger. The industry might be afraid that OSHA will take precautionary measures before waiting for irrefutable proof, whatever that may be.
Hatch’s Hatchet

In an interview with the New York Times printed on January 25, Senator Orrin Hatch (R-Utah), new chairperson of the Senate Labor and Human Resource Committee, offered his balanced opinion of OSHA. There are serious safety and health problems in industry, he noted, but the agency has only exacerbated them: it’s “vicious, mean, low, vindictive, petty, and low-down.”

Health/PAC saluted this tough hombre who dares to stand his ground no matter which poor and working people suffer as a consequence. This is the same spirit that inspired that Country and Western classic, You’ve Worked For Us Long Enough, Ma, Now Get Out And Work For Yourself.

Cold Comfort

If you are susceptible to the flu and like to hedge your bets, you probably bought stock in Eli Lilly & Co. and Upjohn Co. last fall. As leading manufacturers of antibiotics, they were bound to profit handsomely from the winter epidemic. So handsomely, in fact, that an analyst at the brokerage house L.F. Rothschild, Unterberg, Towbin estimated their earnings per share would jump by 14 and 13 percent in the first quarter of 1981.

You probably know that antibiotics don’t cure the flu. Doctors know this also, but they have found that antibiotics help prevent secondary infections such as bronchitis; show the patient that the doctor can take decisive action, however ineffective; and only cause dangerous reactions in some cases.

Sick people who cannot afford to bring their flu to the doctor often load up on medicines they learn about from that ubiquitous health guide, advertising. So while you were wisely treating your flu with chicken soup, juices, and rest, you could have reached over to the telephone and bought shares in manufacturers of aspirin and other cold medicines. Sterling Drug, Schering-Plough, American Homes Products and Bristol-Meyers all are expecting earnings per share to rise 14 to 19 percent.

—George Lowrey
meals on surplus food we didn't know how to cook would come, it was for higher wages. Life seemed like a fringe benefit we couldn't ask for lest the plant close and take our jobs away.

Times have changed. The occupational health people can tell the workers in the company towns across the country exactly how much toxic poison they're absorbing every hour. But management can still explain that industrial progress comes with some risk. And the workers still rise to the sound of the plant whistle, eat lunch when it blows again, file out the gate when it blows again, all the while hoping their kids can somehow get out of the smokefilled valley, beyond the stripmined hills.

"I can't get you out of here, only an education can," my father told me two days before he died. "Go to school and promise me you'll never marry anyone from the mines or the plant. Then get your sisters out." In his mind dying was the penalty you paid for being too "dumb," too uneducated, to escape. For him and for my uncle and aunt who are still in the valley, safety was and is largely in the hands of the engineers working for the bosses. If the choice is safety or food on the table and a roof, it's no choice at all.

But we wanted to live. When high employment rates gave workers greater power in the late 1960s, asbestos workers, coal miners, and others seized the opportunity to move beyond wage demands. They resisted when corporations cracked the whip with speedups to maintain their profit rates and accidents rose 25 percent nationwide. Strikes over working conditions leaped from 16 percent of the total between 1953 and 1960 to 30 percent in 1968-73 and an extraordinary 35 percent in 1974-77, according to figures extrapolated from Bureau of Labor Statistics reports by economist Michelle Naples.

Caught between militant workers and management insistence that there was no money for large wage increases, union leaders readily increased their emphasis on health and safety issues. Corporate executives were often happy to go along. The new provisions didn't appear to cost that much. They codified the company's responsibilities so workers were less likely to walk out every time someone lost a finger or was asked to mount an unsafe scaffold.
Corporations don't want to be blamed by their workers for every problem. They don't want competitors with less militant unions to get an edge in the marketplace. The problem, they feel, is government regulation.

But it didn't work that way. Management quickly learned that once it accepted responsibility for improved conditions, workers began to say there should be less poison dust floating into their lungs or less noise deafening them to the point where they had to turn their TVs up full blast when they got home so they didn't have to lipread the evening news. And they wanted decent compensation for the damage they and their relatives had already suffered.

Corporations are never interested in paying out more than they have to. They didn't want to be blamed by their workers for every problem. They didn't want competitors with less militant unions to get an edge in the marketplace. The answer of the most enlightened, as always, was government legislation. Then if anything happened, they could say, "Don't strike against us, write your governor."

Union leaders, most of whom were happy to cool out rank and file activity, led the drive for state and national laws. The workers wanted whatever improvements they could get.

But the Miners Health and Safety Act and the Occupational Health and Safety Act were only first steps. And grievances have to wait on Washington—a long, often disappointing wait for many.

Even these victories turned out to be too much for corporations, however. The cost of compensation and environmental health inside and outside the workplace have risen far above what they anticipated and they don't like it. Demands for "unshackling free enterprise" are ascendant in Washington, thanks in no small part to $200 million spent by conservative Political Action Committees in the last election. Beyond deregulation, the model for the Reagan Administration is the government of Prime Minister Margaret Thatcher in Britain. If "successful," the results here as there will be unemployment levels unknown since the Great Depression and a drastic reduction in benefits for the unemployed. Workers, the Administration hopes, will be too frightened for their jobs to demand higher wages or better working conditions. But the miners in Britain fought back, and it was Mrs. Thatcher who had to back down. My people won't give up easily either.

—Louanne Kennedy

Double Indemnity
The Poverty and Mythology of Affirmative Action in the Health Professional Schools

by Hal Strelnick and Richard Young

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OSHA
The Act and Its Performance

...too much regulation?

Poison
Among the vast body of voluntary standards which the private, management-oriented organizations had instituted by consensus was the now-famous split toilet seat provision.

When militant coal miners, rising workplace injuries and a Democratic Congress willing to reward its labor allies combined to push through the Occupational Safety and Health Act of 1970, virtually none of its sponsors expected it to have such far-reaching effects. They saw it as a source of threshold exposure standards and plant inspections. Workers took it up as new light on the extent of workplace hazards and a stimulus to eliminate them.

The Act also came at a crucial time in the broader public awakening to environmental dangers. Rachel Carson's *Silent Spring*, and other books had exposed the damage caused by pesticides. Many scientists, including Nobel Prize winner Linus Pauling, had denounced the dangers of nuclear fallout. Ralph Nader had exposed automobile defects and the auto companies had damaged their credibility even further by attempting to cover up the problems. Health scientists seemed to be finding connections between food additives and cancer virtually every week, and pollution, cigarettes, and even X-rays came under attack. Important technical developments permitting more sensitive statistical analysis enabled scientists to pinpoint the origins of many diseases, particularly cancer, with much greater accuracy, and the results were deservedly disturbing.

Under Nixon, the federal Occupational Safety and Health Administration suffered from various job-related diseases of bureaucrats, including foot-dragging and endemic torpor. Standard-setting moved forward at a feeble pace, especially for health hazards, and even then only under strong labor pressure. The first health regulation, which limited asbestos exposure, appeared in 1972 only after the Oil, Chemical and Atomic Workers and the AFL-CIO had jointly requested an emergency standard.

The neglect of worker interests, not to say lives, was best illustrated in the notorious "OSHA Watergate" memo of George Guenther, a hosiery manufacturer appointed as the first director of the agency. In it, Guenther virtually offered to sell delays in setting standards and restrictions on inspections in return for donations to the Nixon re-election campaign.

It is a pretty damaging indictment of OSHA to note that the vast majority of its current standards were established under Guenther, who gave an illusion of action by adopting the vast body of voluntary standards which private, management-oriented organizations had instituted by consensus. Among them were the now famous split toilet seat and ice water provisions, as well as hundreds of other rules now characterized as nitpicking. The mass media's shameful role in perpetuating the big business myth that these standards prove the disastrous results of "big government" liberalism and particularly union-initiated OSHA regulation is a telling reminder of what the movement to safeguard workers' lives is up against. (This heads I win, tails you lose strategy is briefly discussed in John Mendeloff's important and often overlooked book, *Regulating Safety*.)

**OSHA Policy Shifts**

When the Carter Administration took over in 1977, OSHA's new leadership had to choose between two strategies. One was to ally itself closely with labor, build a strong base of popular support among workers and other groups, and hope to be strong enough to fend off the inevitable industry attacks. The second was to meet some worker needs while restraining activity sufficiently to maintain support among key corporate sectors.

The latter course has been the customary one for most regulatory agencies under Democratic administrations since Franklin D. Roosevelt. However urged on by activists within OSHA and the health and safety movement outside, the agency leaned toward the first course throughout the term of Dr. Eula Bingham. Whether this policy choice was deliberate or merely the consequence of an honest commitment to the Hippocratic oath will remain a secret until top officials publish their inside accounts—if any do.
While implementing a traditionally Republican economic policy of high interest rates and planned recessions, the Carter Administration was willing to accept an activist OSHA to placate its powerful labor constituency. In effect, in exchange for a few improvements in health and safety, workers were asked to accept fewer jobs and lower real wages. Not surprisingly, they weren’t rushing out to the polling booths to vote for Carter in 1980.

**Fewer But Better**

Under Eula Bingham, OSHA began to initiate standards on its own for the first time. The cancer policy standard marked the first attempt by OSHA to regulate workplace exposure purely on the basis of animal tests rather than waiting for a body count of workers. (See *Bulletin*, No. 79, 1977). The lead standard, adopted in 1978, was the first OSHA health standard to include a full rate retention provision. This protects the wages and seniority of workers who are laid off or transferred due to hazardous exposure levels in the plant. Another innovation in the new standards was the inclusion of mandatory worker training and education provisions.

“Did you say you want to report this to the safety committee? Well, I am the safety committee.”

---

“In retrospect, the two most significant OSHA measures were the Right-to-Know standards, assuring greater worker access to company accident logs and company medical and exposure records. Adopted in 1978 and 1980, they were actively promoted in Congress and in many communities by labor unions and COSH groups.

Despite the advances under Bingham, OSHA’s health standards remain pitifully meager in comparison with the range and seriousness of the hazards. About 450 were incorporated in the early days from management-oriented groups. Tens of thousands of materials in commercial use, few of them adequately tested for dangers, were left unregulated. (See *Bulletin*, No. 44, Sept., 1972) By December, 1980, only 11 additional standards had been promulgated. (See Table.) Aside from an indication of OSHA’s timidity, this miserable record is a tribute to persistent industry resistance—behind the scenes, in the OSHA hearings, and in appeals processes.

Almost all of the these standards are now on appeal in the federal courts.

OSHA’s safety regulations, largely embodied in the 500 small-print pages of OSHA’s “General Industry Standards,” have been amended less than ten times a year on average. If the practices they are supposed to regulate changed at the same turtle’s pace, the
Table

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<tr>
<th>New OSHA Health Standards*</th>
<th>Date of Promulgation</th>
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<tbody>
<tr>
<td>Asbestos</td>
<td>6/7/72</td>
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<tr>
<td>14 Carcinogens</td>
<td>1/29/74</td>
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<tr>
<td>Vinyl Chloride</td>
<td>10/4/74</td>
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<tr>
<td>Coke Oven Emissions</td>
<td>10/22/76</td>
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<td>Benzene</td>
<td>2/10/78</td>
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<td>DBCP pesticide</td>
<td>3/17/78</td>
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<td>Arsenic</td>
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<td>Cotton Dust</td>
<td>6/23/78</td>
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<tr>
<td>Acrylonitrile plastic</td>
<td>10/3/78</td>
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<td>Lead</td>
<td>11/14/78</td>
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<tr>
<td>Cancer policy standard</td>
<td>1/22/80</td>
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American economy would have completely collapsed a long time ago.

Of course, even the best standards aren't worth much if they aren't adequately enforced. There was some improvement in procedures under the Carter Administration, but the rate of inspections never rose above a modest two percent of all workplaces in any year. Larger factories have been visited more often—annually if they have more than a few hundred employees.

Fines, while still averaging a derisory $50, did go up, particularly for serious and willful violations. In any case, both OSHA and the companies know that the real cost of inspections comes in the requirement to clean up. Many managers appear to be driven to distraction by the large and unpredictable expen-

One Reaction

Last fall, among the many recommendations to President-elect Reagan for changing OSHA came the massive study from the Heritage Foundation. Unlike many of the Foundation's position papers whose flat-earth nostalgia has proved embarrassing even for the Reagan Administration, this one appears to represent widely-held conservative positions. Its primary author, Robert Hunter, is a top adviser to Senator Orrin Hatch (R-UT), who oversees OSHA as Chairman of the Senate Labor and Human Resources Committee.

The report asserts that the chief deficiency of OSHA is not the Act itself—which after all was signed by President Nixon—but the "policeman's orientation" of the OSHA agency. Conservative Republicans are not noted for objecting to police action by police, but this time they mean business: these words echo the preamble of the Schweiker bill (see article). So do many of the recommendations which follow, although like much Heritage Foundation literature they carry rightwing logic off the deep end. Among recommendations:

- Place major emphasis on "cooperative labor-management programs." To encourage them, the government should offer incentives such as reduced OSHA penalties for worksites with labor-management safety and health committees and "New Directions" grants for joint labor-management training ventures.
- Target enforcement to worksites with poor safety records, such as exemption of "safe" worksites from routine inspections.
- Send worker health and safety complaints directly to management.
- Write performance-based standards to permit employers "flexibility" in compliance.
- Make state OSHA plans "no less than full partners" with the federal program.

In response to these proposals, the Department of Occupational Safety and Health of the national AFL-CIO circulated the following concise rebuttal which covers many anti-OSHA arguments currently in vogue:

The Heritage Foundation's "blueprint" for the future of the Occupational Safety and Health Administration would turn the clock back a decade and have a devastating impact on worker health and safety. The Foundation's recommended plan for the redirection of the Agency towards a cooperative stance with industry is nothing more than a call to return to the pre-OSHA Act period of voluntary compliance and poor workplace conditions.

Using a current theme of conservatives, the Foundation attempts to blame the government for industry's failure to protect workers on the job. According to the Foundation, OSHA's so-called policemen's enforcement actions are responsi-
ditures this might require.

The largest employer of all doesn't have this problem: no federal, state, or local employees are covered under the OSHA act except by some unenforceable, voluntary paper plans. Anyone who imagines they don't need protection might talk to a firefighter, a sanitation worker, or a public sector health employee. Also vulnerable are workers supposedly covered under a state plan "as good as or better than" what is offered under the federal OSHA act. This loophole, put in the Act to win passage in 1970, now applied to 22 states, Puerto Rico, and the Virgin Islands. While some states, such as California, have relatively strong programs, most of them are abysmal. Those of North and South Carolina, for example, provide as much protection as sneakers in a minefield, but like the others they were approved by secretaries of Labor in the early 1970s.

Besides these limitations, OSHA is circumscribed by another restriction which could effectively destroy it without altering the legislation at all. Under Executive Orders issued by both Ford and Carter, all OSHA and other federal regulatory standards must include a cost-benefit analysis. In the past, OSHA officials have vigorously resisted the most utilitarian interpretation of this provision, which would put a dollar value on human life—one item which doesn't seem to keep up with the rate of inflation. Instead, they have assessed the cost of compliance and then judged whether industry would be seriously threatened as a result. This "liberal" interpretation is now under attack in the federal courts. Even if it is

The Foundation would redirect all New Directions Training and Education money to labor-management programs, decimating an impressive program of worker training (originally proposed by organized labor) conducted by unions, companies, and universities, which has been supported by all sectors and praised by the Congress.

Cost-effective performance based standards for the gravest of hazards are the Foundation's recommendations for controlling exposures. OSHA standards are performance oriented and have been directed towards serious hazards such as asbestos, lead and cotton dust, toxic agents responsible for the death and illness of millions of workers. But imposing cost-effective performance criteria or cost-benefit tests would put company profits before worker health and place primary reliance for control of exposures on respirators rather than engineering controls.

And finally, state plans would be made full partners in OSHA enforcement despite the exhibited failure of these programs to operate competently and effectively.

In summary, the Heritage Foundation's blueprint is a plan to undo all the gains and improvements in worker health and safety of the last decade; to take away worker's rights and protections on the job; and to give industry free rein to impose whatever working conditions it sees fit.
If business were forced to pay penalties commensurate with the damage caused by inadequate standards, enforcing regulations would be a lot easier.

upheld, however, assessment of costs and benefits easily lends itself to distortions which would tilt the process still further in favor of employers. Young business executives appear to receive special training in accounting procedures which enables them to overestimate the cost of complying with government regulations and underestimate the cost of fulfilling government contracts which allow extra payments for overruns.

Paradoxically, OSHA's timidity in improving safety standards also opened it to attacks from the right. Because the accident rate is rising, political opponents have already disingenuously charged that OSHA requires so much paperwork when it regulates toilet seats that companies can't afford to devote adequate time to protecting their workers from injury. It must be said that the occupational health and safety movement could also place more emphasis on safety questions.

As the article on workers' compensation in this issue shows, the defeat of the effort to federalize the program, a policy encouraged by the original OSHA Act, is another indication of the movement for adequate health and safety. If business were forced to pay penalties commensurate with the damage caused by inadequate standards, enforcing regulations would be a lot easier.

Whatever its failings, OSHA has achieved much, both in establishing standards and in arousing awareness of the need for health and safety measures in the workplace. The Reagan years will show whether the agency's decision under the Carter Administration to put its weight largely on the side of the workers will enable it to survive. If it doesn't, we will know it is not because it did too much, but because it did too little.

—David Kotelchuck

Resource

The Carcinogen Information Program, a project of the Center for the Biology Natural Systems, is dedicated to bridging the gap between scientific journals and the public. You can receive The CIP Bulletin, the program's monthly fact sheet, at no cost by sending a long, self-addressed, stamped envelope to:

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OSHA

The Movement Speeds Up
Just five years ago a survey of 15 international unions found they had a total of 27 full-time health and safety personnel

Now that the corporate right has assumed power, their faith healers are performing the Washington surgery, cutting the heart out of health and safety programs in the name of free enterprise. But contrary to the media myth of a Reagan landslide, they aren’t preaching to the converted.

Among the forces opposing them is one of the few mass movements to survive in the me-ness and meanness and post-Vietnam war prostration of the late 70s. This alliance includes workers and their unions, health workers and other professionals. The Black Lung associations and now the Brown Lung associations. The Oil, Chemical and Atomic Workers who struck Shell Oil. The Steelworkers who walked out at the Newport News shipyard. The textile workers organizing at J.P. Stevens plants.

After the 1971 Occupational Health and Safety Act became law, concern with job hazards surged around the country. By 1974, over 93 percent of all contracts involving 1000 workers or more contained health and safety provisions, according to the Bureau of Labor Statistics. The United Auto Workers and the United Steelworkers both won agreements establishing fulltime health and safety representatives in major plants and regions. Both unions now have hundreds. Just five years ago a survey of 15 international unions with seven million members by the Health Research Group found just eight had a fulltime health and safety staff; all of them together could muster only 22 people, only one of them a physician.

The Growth of COSH

Activity has also mushroomed outside the union structure. More than two dozen communities now have a Committee on Safety and Health serving both organized and unorganized workers. Initiated in some areas by workers and health professionals acting independently, in others by the Occupational Health and Safety Project of the Medical Committee for Human Rights, these groups publish information on hazards, conduct conferences and training sessions, and provide technical services for workers and local unions. Among the oldest and strongest are CACOSH in Chicago, MassCOSH, and PhilaPOSH.

In the past few years these local groups have begun meeting together to share information and initiate joint activities. One of the first was a national campaign for a “Right to Know” standard requiring companies to provide their workers with full information about potential hazards of materials they work with, exposure measurements and medical examination results. Their effort, supported by organized labor, played a major role in the introduction of OSHA’s two recent worker rights-to-know standards.

Fighting “Improvements”

The Right-to-Know movement became truly national in the campaign to defeat the Schweiker Bill. Known as the Occupational Safety and Health Improvement Act of 1980, this gift to business from the ranking Republican on the Senate Labor and Human Resources Committee, now Reagan’s Secretary of Health and Human Services, would have exempted 90 percent of all worksites from OSHA inspections. In addition, it would have virtually eliminated inspections triggered by employee complaints. (See Bulletin, Vol. 11, No. 4, 1980.) Corporate interests were soon celebrating their imminent victory. Their usual Southern and Western allies on the Senate Labor Committee were augmented by virtually all the Democratic “friends of labor,” including New Jersey’s Harrison A. Williams, co-author of the original OSHA legislation.

Then workers heard about it, and they didn’t keep their anger a secret. Union delegations went into congressional offices around the country. PhilaPOSH organized over 100 people, including workers in the United Electrical Workers, the UAW, and OCAW to picket Senator Schweiker’s house in a demonstration which drew nationwide publicity. State and
local union councils, assisted by the national AFL-CIO, held public meetings in eight cities. Unions and COSH groups initiated lobbying and other activities.

"We were surprised," admitted one senator hit by the barrage, "We didn't realize how upset people would get." Nervous senators began withdrawing support and the bill, once considered certain to pass, died in the Senate.

This was not the first attempt to gut OSHA. Although trade unions may devote too much attention to Washington, on a number of close health and safety votes labor's legislative staffs earned their paychecks. On several occasions, union lobbying was decisive in winning more money for OSHA and the National Institute for Occupational Safety and Health than either President Ford or President Carter requested.

Occupational health and safety training, previously limited to professionals and management personnel, is now available to workers as well through OSHA's multi-million-dollar New Directions program. Once again, trade union support was crucial for Congressional approval. Many of the union health and safety staff members are funded wholly or in part through New Directions grants. The Reagan Administration hopes to either eliminate this program or place it under management control to improve "labor-management cooperation."

Lastly, the labor movement has persistently lobbied for more and stricter workplace exposure standards. A majority of the relatively few new health standards OSHA has established resulted from labor initiatives. Many more requests for permanent or emergency temporary regulations were turned aside.

Why the Unions Acted

American trade unions are not noted for their social activism. Yet, as indicated above, they have taken significant steps on health and safety.

Because in many cases the union membership has only become aware of workplace hazards through educational efforts initiated or at least supported by the leadership, rank and file prodding doesn't appear to be the reason. Even now, only a small, though important, fraction of active union members have worked on the issue.

It is more likely that the initiative from the top comes from a combination of several factors:

1) Workplace hazards cause serious harm to many union members. At the same time, they can be prevented by concerted union action. This allows the unions to perform a very positive, visible service for their members.

2) Although political activists often see health and safety as obvious issues to promote worker control, they can also be approached in a typically bureaucratic manner. A professional is hired to "service" the members, keeping their involvement to a minimum.

3) Particularly with an ostensibly friendly federal or state administration, many advances can be achieved through government action. Not a few union leaders feel more comfortable with high officials than they do with their own members, and winning a few programs through lobbying can justify their continued emphasis on Washington and state capitals.

4) Unable to prevent increasing layoffs or win wage gains which keep pace with inflation, union leaders may decide health and safety is a good arena to obtain something for the members.
One proposal for revamping OSHA was memorable more for its setting than its content. On December 15, 1980, Senator-elect Dan Quayle (R-IN) attacked OSHA from the forum of the Formaldehyde Institute in Washington, D.C.

Never one to throw balm on troubled waters, the former Congressperson from Indiana said that Congress should remove "the presumption of innocence" (sic) from OSHA regulations and require the agency to defend itself in the courts. This "dramatic shift" is likely to result in "much slower" rulemaking, he said. But in true Senatorial form, he added, "I don't think you're going to see the abolition of OSHA." (OSH Reporter, Dec. 18, 1980, p. 764)

Commercially, formaldehyde is an important chemical. It is used not only for embalming—where demand is relatively constant since, despite the plaints of the "extreme environmentalists", the U.S. national death rate has not been changing much recently—but more importantly as a cross-linking agent in plastics production.

Lately the Formaldehyde Institute has become one of Washington's most active forums for attacks on OSHA. Perhaps because a few years ago scientists found that formaldehyde fumes cause nasal cancer in small animals. Since then a flurry of scientific activity has attempted to relate the animal results to human cancers. The Institute has been in the scientific and public relations forefront in the battle to defend free enterprise against this body blow.

The Professionals

The successes achieved by labor and COSH would have been much smaller without the new occupational health and safety professionals. For the first time in recent decades, the corporate near-monopoly on scientific and medical expertise has been aggressively challenged.

In the past, business was shrewd enough to find, encourage and fund industrial health specialists. Its interests naturally shaped the process of medical and technical discovery in occupational diseases while giving it the patina of scientific objectivity. (A good example is the research on asbestos, Bulletin, No. 72, Nov./Dec., 1974.) Recently, much to their discomfort industry scientists at OSHA hearings on DBCP, lead, cancer, and other standards have heard their "objective" data torn to shreds by medical personnel and scientists cooperating directly with workers and by professionals employed by NIOSH and OSHA.

Many of these new professionals have been trained at the Educational Resource Centers. Even if these are wiped out by the Reagan Administration, they have already trained hundreds of specialists in all aspects of occupational health, including clinical medicine, epidemiology, industrial hygiene, and nursing.

The smaller group which preceded this new generation did not have a single professional group, but like their predecessors, many of the younger ones have joined organizations such as the Occupational Health section of the American Public Health Association, the Social Concerns Committee of the American Industrial Hygiene Association, and the Society for Occupational and Environmental Health.

Weaknesses of the Movement

Although the occupational health and safety movement is small, it can honestly call itself a mass movement. It does, however, have to overcome several serious problems before it can achieve its full potential.

Most importantly, the number of workers actively involved on a day-to-day basis is still relatively low, although this minority often has strong support within the union local.

Labor-oriented professionals must get their act together before they can give the workers full support. An inability to unite in a single or even several organizations seriously dilutes their influence. To cite one example, no publication discusses the social and political issues related to their work, such as current trends in the labor movement, how to confront other professionals in the field who believe in the "neutrality" of science, and methods for training and educating workers. All of these
issues are taken up periodically in existing forums, but the fragmentary nature of the discussion retards development and prevents people entering the field from taking full advantage of the expertise which veterans have acquired with great time and effort.

The COSH groups, local membership organizations moving toward greater national coordination and cooperation, suffer no such structural problem. Their primary difficulty lies in relationships with organized labor. Although these ties are vital, they are often tenuous. Cultural and class differences create suspicions and misunderstandings. Contending local or national factions within a union sometimes worry that COSH will intentionally or inadvertently take sides.

Fortunately, all of these problems can be overcome. The degree of knowledge, the number of involved participants is vastly greater than it was just ten years ago. And the need is as great as ever. Imagine the press coverage if 123 people were poisoned by eating caviar and another 16,600 seriously injured. This didn’t happen of course; these are the figures for coal miners hurt on the job in 1980 up to December 5. American workers may not know the exact numbers, but they know their lives are on the line.

—David Kotelchuck
The Benefit and the Doubt

Workers’ Compensation in OSHA’s First Decade

“It’s dark as the dungeon and damp as the dew,” goes the old miners’ song, “Where the dangers are doubled and pleasures are few.” But just how dangerous wasn’t clear until the 1950s. The miners knew that they died young, that their children would die young unless they escaped from the coalfields, but the textbooks told them coal dust was safe. When conclusive evidence of black lung disease was found, the situation was actually deteriorating. Giant new machines were pulverizing the coal, sending dust spinning in the air and down into the lungs of the miners. The United Mineworkers, once the champion of its members, had grown sclerotic and corrupt. State officials listened to the mineowner plaints of reduced profits. The federal government heard them also, and had little interest in paying for proper inspection or compensation.

Mineworkers had no one to rely on but themselves and a handful of doctors willing to speak out on the evidence of rampant black lung disease. In December, 1968, miners from Fayette and Kanawha counties in West Virginia met to form the Black Lung Association and demand compensation legislation. In February, 1969, a wildcat strike began in a single West Virginia mine. Within five days, 42,000 of the state’s 44,000 miners were out. They didn’t go back to work until a health and safety bill was passed and signed 23 days later.

Victorious in West Virginia, the miners pressed on at the federal level. Again they met indifference. As often happens, a tragedy was necessary to shame the government into action.

After 78 miners were killed in Consolidated Coal’s huge No. 9 mine in Farmington, West Virginia, the opposition fell back and the 1969 Coal Mine Health and Safety Act became law.

For the first time, black lung was legally recognized as a disease, and federal compensation for occupation health and safety had established a foothold. Just a year later, President Nixon signed the Occupational Health and Safety Act.

Since these laws were passed, efforts to obstruct, undercut, and dilute them have been continuous. Under the Reagan Administration, this counterattack has become bolder, not only a frontal assault on regulation, but an attempt to gut the Black Lung Program. Behind the rationale that the budget must be balanced lies a fear that the movement begun by the coal miners is rapidly spreading.

In this environment, it is not surprising that if workers’ compensation were a person instead of a program, it too would be demanding aid to the disabled. Despite some improvements in the early 70s, this granddaddy of U.S. social insurance programs staggers along, a program of leftovers for those who have given their health and lives at their jobs and their survivors; they’ve exhausted their ability to provide profits, so the system puts them out to pasture where the grass is sparsest.

The National Commission

The workers’ compensation laws which originated in the second decade of this century were a tradeoff: workers gave up their right to
sue their employer for negligence and in exchange get state systems that promised swift payment for occupational industries without regard to fault (see Bulletin, July/August, 1976). Since employers would pay the cost of injuries, proponents argued, they would have a strong financial incentive to institute safety measures. This turned out to be weak scaffolding. By the late 1960s, the system was a shambles: real benefits received by disabled workers were falling and accident rates were rising; workers and their survivors were bearing the major burden of work-related disabilities through reduced income; taxpayers were subsidizing much of the rest. Often hostage to long court battles over causation and extent of disability, benefits were neither sure nor swift.

The federal government had three choices in dealing with this national disgrace: federal takeover; pressure on states to reform; or benign neglect until the system became so scandalous that public clamor for reform would be overwhelming.

Senator Jacob Javits (R-NY) opted for the pressure approach, using the leverage provided by the federalization of occupational safety and health regulation. He attached a rider to the OSHA act setting up a National Commission on State Workers' Compensation Laws, a mixed bag of 15 presidential appointees representing the various interest groups involved and three cabinet members; only two of the members were from organized labor.

Despite its conservative composition, the Commission's report, issued in 1972, concluded that "State Workmen's Compensation laws in general are inadequate and inequitable." The report offered 19 "minimum essential recommendations" and expressed the hope that compliance by the states would roughly equalize costs throughout the country, eliminating fears that companies would move from state to state in search of lowest benefits. The 19 recommendations had two major thrusts: extend coverage to more workers and provide higher benefits. In the event the states fail to implement the recommendations by July 1, 1975, concluded the commission, congressional action should be taken to guarantee compliance.

Senator Javits kept the pressure on by introducing a federal minimum standards bill only three months after the Commission published its report. The bill never went anywhere, but continuing versions over the years kept the possibility of federal involvement alive. In addition, in 1972 Congress amended the Longshoremen's and Harbor Workers' Compensation Act to create what was in effect a model compensation law which went well beyond the Commissioner's 19 recommendations.

Within a few years, however, it became clear that the proponents of reform had underestimated the strength of the opposition. Speaking before Congress in 1978, John Burton, Chairman of the National Commission,
At present the battle can't even be described as a stand-off because inflation is on the side of the belt tighteners.

observed, "These various developments from 1972 to 1975 and the virtual stagnation of reform since then, plus the widening of cost differences among the states — make the case for federal standards even more compelling now than in 1972."

Throughout this period the AFL-CIO maintained its consistent support for a federal system, but eager to get at least some progress it backed various versions of the Javits-Williams minimum federal standards bill. However even this legislation was too much for the strong business lobby, and as support for workers' compensation waned, Javits-Williams was watered down to the point where then union federation withdrew its support.

Without federal prodding, there is little likelihood the states will accomplish much, since their pace in recent years has resembled that of a toy soldier winding down. By the end of 1979, the 50 states and the District of Columbia were in compliance with an average of only 12 of the National Commission's 19 modest basic recommendations, and there has been little improvement since.

**Higher Benefits**

The single most significant improvement in workers' compensation over the past decade has been in benefits. When the National Commission recommended in 1972 that maximum temporary and permanent disability benefits be at least equal to the state's average weekly wage, only Arizona was already there. In most states, increases in the ceiling had lagged far behind wages in the 50s and 60s, but between 1973 and 1977 state maximum, benefits rose an average of 84 percent and a majority of the legislatures had reached the commission's standard by 1979. Workers also gained from a reduction in the waiting period for benefits to three days in many states. This was another key Commission recommendation because many workers are disabled for a short time. For single workers off the job for three weeks the average wage replacement nationally rose from 44 percent in 1969 to 58 percent in 1978.

Naturally, for many workers even receiving benefits equal to 100 percent of the state's average wage means a drastic cutback in income, but business resistance mobilized so quickly that only a handful of states met the Commission's 1977 goal of disability benefits equal to 133.3 percent of the average wage. At present, the battle can't even be described as a standoff because inflation is on the side of belttighteners. Only 12 states provide automatic increases for death and permanent disability benefits; in the rest, labor must press for one-shot catch-up boosts.

Partially disabled workers are even more vulnerable. Their benefit programs generally offer only a small fraction of lost earning potential and ignore the plight of the many whose disability brings dismissal, compelling them to take a lower paying job or leaving them without any employment at all. Florida and New Jersey have taken the lead in reducing these benefits even further by tying them more closely to actual wages lost rather than taking probable future wages into account at least minimally.

The National Commission made few recommendations in this area, asserting that it was complicated and required further study.

Even the partially disabled who get benefits are fortunate compared to those who are ineligible for any at all. As in many other cases, the most exploited, least organized workers are slighted in compensation legislation. Coverage has risen from 84 percent of all workers in 1971 to 88 percent now, but the other 12 percent is excluded by many states through measures such as exemptions for agricultural and domestic workers, size of firm restriction, and non-compulsory inclusion provisions.

While the Gross National Product was growing, many corporate leaders were willing to agree to improvements in workers' compensation as long as it they were predictable and not too expensive, but then the economy began to stagnate and the cost began to shoot up as a result of broader coverage, higher benefits,
escalating medical costs, and lengthening periods of disability.

Between 1972 and 1978 the cost to employers jumped from 1.14 percent of covered payroll to 1.85 percent. Business leaders don’t want a moratorium, they want a rollback, pressing their old argument (threat) in state legislatures that unreasonably high compensation costs are causing them to close down or move.

**Occupational Diseases**

When an accident happens, you can debate who is at fault, but it’s hard to deny something occurred. When someone suffers from a disease, causality is the first line of debate and where there is doubt that the cause is occupational, workers generally lose out. The National Commission’s essential recommendations included little that could help close the wide gap between the epidemic of serious occupational illnesses and the few cases eligible for compensation under current laws—not to say the far fewer that are actually filed.

Some states have improved their laws, bringing them closer in line with medical reality: statutes of limitations have been extended and more commonly run from the time the worker knew he or she had the disease, rather than from the date of disability or last exposure. But many states still have restrictive statutes that define occupational diseases within a framework of “accidents”, refuse to compensate “ordinary diseases of life” preferring to compensate only diseases uniquely caused by work. Thus, some workers who find it difficult to obtain compensation for lung cancer may find it easier to obtain benefits if they are fortunate enough to have asbestosis as well. Workers in the tobacco and cotton industries are out of luck because all they get is lung cancer.

For every successful serious occupational disease claim there are several with similar factual situations who never file. Many workers and widows are simply unaware they have a legal “remedy”, as it’s called, for their respiratory diseases, cancer, hearing loss, etc. Awareness that their illness could be job-related has grown rapidly among workers in the last decade, but knowledge of workers’ rights to compensation and how to file claims has lagged behind. Although some unions have played an important part in informing their members and putting them in contact with representatives and attorneys who can help them file and win, most have a long way to go. Simple apathy is partly to blame, particularly since unions could stanch the drain on their health and welfare funds by shifting the responsibility to workers’ compensation.

Some occupational groups, such as asbestos workers, are winning their cancer, total disability, and death cases in most states around the country; yet there has been no flood of serious occupational disease cases—despite industry claims that the most common occupational disease is “compensationitis.”

**Disease Reforms**

One major deterrent to pressing claims for serious occupational disease is the prospect of long litigation, often leading to a settlement for far less than might have been awarded. As
Peter Barth and H. Allen Hunt report in their survey of foreign compensation systems:

Only in the American states does one find the adversary procedure used as a way to resolve disputes, including such issues as diagnosis, etiology, and the extent of impairment. The common practice in Europe and Ontario is to hold hearings and find fact without using attorneys and, commonly, without a private insurer or employer challenging a claimant's position. Claims are subject to challenge in some form, but it is usually the social insurance agency that does this rather than a private party.

In the United States, insurance companies are able to stretch out cases for two years or more even when they are exactly the same as dozens of others which have previously been compensated. As if the illness itself wasn’t devastating enough the absence of a strong administrative set-up which seeks out potential cases, finds the facts, and moves cases through quickly becomes cruel and unusual punishment to families with valid claims who find themselves impoverished, sick, and under pressure from complicated legal proceedings which might end up giving them nothing. A law worthy of emulation which took effect in California on January 1, 1981 provides that immediately after a claim for an asbestos-related disease is diagnosed by a claimant’s physician and a Compensation Board-recommended independent medical examiner, and an officer of the Compensation Board has determined the worker was exposed in California, payments for temporary disability can begin from the Asbestos Workers Fund even when the claim is being contested.

While beneficiaries of the Black Lung Program are grateful for the gains of a long struggle, opponents in Congress and out regard it as a bad precedent, “tooexpensive” a “raid on the Federal Treasury” which invites new groups to knock on the door. Other single disease compensation advocates will have to work hard to build the kind of political support in Congress that passed the Black Lung Program. It may be that they must show more strength at the state level before another round of workers’ compensation reform goes back on the national political agenda.

**Right to Sue**

Under workers’ compensation laws, workers have a “no-fault” system, with no right to sue their employer for negligence, punitive damages, pain or suffering. But as they have found out just how fast and loose corporate America has played with their lives, some workers have found ways to get back in court using the valuable weapon they gave up. With the aid of ingenious, dedicated — and prosperous — attorneys, they are making an end run around their employers and suing third parties, manufacturers of products involved in producing occupational illnesses and injuries. The Wall Street Journal recently estimated there are 8,000 asbestos lawsuits alone, double the estimates of a year ago. Evidence of willful negligence or a failure to warn against corporations is convincing judges and juries to override carefully constructed corporate legal defenses.

Companies, naturally, are very distressed. They fear not only large awards and settlements, but the public spectacle of widows and disabled workers proving in court that their misfortune stems from employer negligence. In 1980 the California Supreme Court ruled that Reba Rudkin, an employee at Johns-Manville’s Pittsburg, California plant, could sue his employer outside the workers’ compensation system. The majority opinion held that they were following “a trend toward allowing an action at law for injuries suffered in the employment if the employer acts deliberately for the purpose of injuring the employees of if the harm resulting from the intentional misconduct consists of aggravation of an initial work-related injury.” Rudkin’s attorneys can now go to court to prove their contention that Johns-Manville was guilty of “fraudulent concealment of the condition and its cause” — in this case Rudkin’s fatal lung cancer.

Confronted by this vigorous expansion of the right to sue for damages from someone else’s employer, if not always from your own, some industries are proposing Federal programs to improve workers’ compensation for occupational diseases in exchange for, you guessed it, removal of the right to sue on the grounds products liability or practically anything else.

An occupational health and consumer protection bill more in tune with the 1970s revelations of corporate cover-ups has been advocated by Representative George Miller (D-Cal.). His bill would establish mandatory jail terms for corporate officials who knowingly conceal hazards from their employees and the public. At a more modest level, some states have voted increased benefits to workers
harmed under conditions in violation of an OSHA regulation.

**Right to Know**

Another important development is the wave of state “Right to Know” laws that go well beyond current Federal legislation. They now are on the books in New York, Connecticut, Maine, Michigan, and California, and legislative battles will soon be fought in many other states over measures which give workers the right to know the composition and health hazards of toxic substances at their workplaces. These laws make it easier to document occupational disease cases and create labor-led coalitions with environmental and community groups which can push through similar legislation which goes beyond the workplace.

**Towards a National Movement**

American business is quite right to feel threatened by demands for compensation. They involve more than a desire to maintain income levels, more even than a determination to make those responsible for tragedies pay their share. When the victims raise a challenge, they force corporations and government agencies to provide public explanations and accounting for acts akin to murder. They expose the human cost of doing business, a deep moral failure in the way our production system is organized for private profit. The legitimacy of corporate interests is questioned as we are all compelled to ask ourselves, if these companies are capable of such crimes against their own employees, what are they doing to the rest of us?

As yet there is no national organization or movement, but the banner of “Compensation!” is rising over diverse issues: occupational diseases, dangerous drugs, environmental disasters. Most occupational efforts have focused on the state level; among the victories, still few, is a small bridgehead in the compensation system won by brown lung victims in the Carolinas. Workers suffering from asbestosis are mobilizing in the shipyards; the recently formed White Lung Association has developed a successful organizing model in Los Angeles which they have brought to other cities; networks are forming to help victims negotiate the compensation system and problems of living with a time-bomb in their bodies. With the help of these groups, asbestos workers are often winning their compensation cases and lawsuits.

Last year, 18,000 Kentucky workers marched to the state capital to demand reform of occupational disease compensation. Around the country the old legislative game monopolized by industry lobbyists and the state labor federations is breaking down. Sometimes alone, sometimes with the help of Committee on Safety and Health (COSH) groups, labor is organizing mass support to take the initiative away from business and insurance interests.

The labor movement has also become more active in training workers to identify and handle comp cases in their own shops. The Workers Institute for Safety and Health, a research and education organization set up by the AFL-CIO’s Industrial Union Department and the Ohio AFL-CIO, has developed an exciting program in Ohio to train these compensation stewards. Pilot projects for similar programs are being developed in several other states.

Even long-term compensation recipients have begun to organize. The Massachusetts Organization of Disabled Workers, working with MassCOSH, has been pushing for cost-of-living increases for those already receiving compensation with drives directed at the media, labor movement, and state legislatures. As inflation cuts deep, similar organizations to obtain equitable benefits will probably spring up in other states.

A mass movement won compensation for black lung and provided the motor force for workers’ compensation reform in the 1970s.
Much of this energy was channelled into strengthening federal intervention with hopes that OSHA would sharply reduce occupational accidents and illnesses, that the reform momentum would continue and that the Washington would finally step in and reorganize the workers' compensation system. These hopes have dimmed; the new mass movement beginning knows it has to be stronger, broader-based, and prepared to build alliances across the entire range of environmental activists.

—Tony Bale

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If You Liked This Issue,
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"They want to be God to the people," Earl McCune told a 1976 House subcommittee panel, "They want to be infallible. They don't want to admit or do anything to suggest they have not been doing the proper thing all along."

McCune, a fundamentalist Baptist, didn't appreciate people playing God. The safety chairman of the independent Association of Chemical Employees at the Belle, West Virginia, plant of E.I. Du Pont de Nemours & Co., he was at the hearing to tell the subcommittee about cancers among his fellow workers. One of them stood next to him, squinting one eye in the glare of the television floodlamps. Where the other eye had once been was a hole the size of a baseball.

McCune had a list of Belle plant workers like the one beside him who had lost organs and were clinging to life, and of those who had recently been operated on for throat cancer, he said, "We can prove this man has been exposed to excess amounts of nitrosamines, dioxane, chloroform and beta-naphthylamine, as well as other experimental or suspect carcinogens, but what good does it do for us to have such facts?"

Four years later the mystery remains; the deaths continue. After enduring a long litany of company responses and evasions, times of despondency and moments of encouragement, McCune has left the plant where he worked for 20 years.

The management may well be happy to see him gone. Earl McCune, commented one uncomfortable Du Pont executive, stands out "like the Empire State Building in Kansas." Most Du Pont employees don't belong to unions. They don't make public accusations against their employer's health and safety policies, generally considered among the best in the American chemical industry.

But "best" is a relative word—and the Belle plant is not the only Du Pont facility with a tragic story:

- Blasts rocked the Carney's Point, NJ, plant in 1969 and 1978, killing a total of ten workers and injuring 60. The plant was closed in the summer of 1978.
- More than 350 dye workers in Salem, NJ, have died of bladder cancer according to company statistics, one of the worst occupational health disasters in American history.
- The lung cancer death rate is significantly above normal among chromium pigment workers at the Newark, NJ, paint plant, according to a 1976 study by the Dry Color Manufacturer's Association. This danger was noted by German scientists during World War II.
- Thousands of Du Pont workers in Kentucky, New Jersey, and Michigan have been exposed to high concentrations of chloroprene, the building block of Neoprene synthetic rubber. In 1936, the company's own scientists published an article concluding that chloroprene was a "toxic compound" which causes "severe irreparable damage" of "most vital organs in laboratory animals, including
Aside from millions of dollars, the explosives trade earned Du Pont the sobriquet “merchants of death.”

central nervous system depression, sterility and degenerative changes in the male reproductive system.”

- In May 1977, Du Pont announced “serious suspicions” that acrylonitrile, the 24th most widely used chemical in the world, was a human carcinogen. More than 1,300 workers exposed to it between 1950 and 1955 at the Camden, SC, textile fibers plant had been found to suffer “highly statistically significant” excess incidence of cancer, largely of the lung and colon.

Chemical plants are complex and many of the compounds handled in them are extremely dangerous. Some people argue that it’s a miracle that disasters aren’t more frequent. Du Pont executives proudly point out that the company’s rate of one disabling accident for each four million hours on the job is exceptionally low in the chemical industry, one tenth the average, and only one fortieth the rate for all industries. However as the list above indicates, there are good grounds for wondering why the chemical giant’s record couldn’t be significantly better.

**The Du Pont Empire**

Eleuthere Irenée du Pont de Nemours, the son of a French nobleman prominent in the early days of the French Revolution, began construction of the company’s original black powder plant on the banks of Delaware’s Brandywine River in 1802. Corporate mythology dates the management commitment to safety to an explosion there in 1818 which killed 40 employees.

From the manufacture of black powder and later of nitroglycerine and dynamite, Du Pont diversified in the 20th century into pigments, plastics, acids, lacquers, and paints. Still, the big money came from a near-monopoly grip on explosives from the Spanish-American War to Hiroshima. Aside from millions of dollars, this trade earned Du Pont the sobriquet “merchants of death” at the 1934 Nye Committee Senate hearings of war profiteering.

Du Pont’s image problem worsened with the bladder cancer revelations at the Salem dye works. The public relations department swung into action. At a time when other corporations were spending million teaching consumers to differentiate a Cheerio from a Post Toastie, Du Pont’s management began expounding on “corporate responsibility” with fervor surpassed only by the oil companies of the late 1970s.

These efforts to promote “better living through chemistry” were aided by a product which needed no advertising to win the hearts and legs of millions of Americans. During World War II, Betty Grable auctioned off a pair of nylon stockings for $40,000 to aid the war effort. When peace came and supplies were shifted to civilian production, “nylon lines” formed outside stores in cities throughout the country.

Along with cellophane, Lucite plastic, rayon, neoprene—the first commercially successful synthetic rubber—and hundreds of industrial raw materials, nylon transformed Du Pont into a multinational corporate giant, with annual sales totaling $12 billion.

In Delaware, the company casts a huge shadow. The Company State, an intensive study by Ralph Nader researchers, notes that one worker in nine there is employed by Du Pont. Largesse it has bestowed on the populace includes schools, highways, and the current governor, Pierre S. Du Pont IV. Despite occasional carping by citizens groups or a rare newspaper article — Christiana, the Du Pont family holding company, only recently sold the state’s largest paper — local citizens appear to be unconcerned by their envelopment in this corporate paternalism. A 1976 Philadelphia Bulletin poll indicated that 91 percent of the state population approves of the company.

Few feudal lords outside the Persian Gulf would go to more extraordinary efforts to retain this local favor. When a thick cloud of chlorine and titanium tetrachloride gas emerged from its Edgemoor, DL, plant in 1975, Du Pont...
representatives fanned out over the area to offer compensation for gas-related damages ranging from a dead duck and its unhatched ducklings to medical bills and unused theatre tickets. When a Newport, DL paint plant threw pigments up its smokestacks, tinting the entire town blue, the company literally scrubbed it clean, and even hired a dog groomer to brush out “blue cocker spaniels.”

Corporate Safety

Running around paying off dead duck owners is clearly an expensive and unsatisfactory method of dealing with health and safety. Du Pont has developed an elaborate and well financed system for dealing with problems at earlier stages.

“The health of our employees is not something we put on a balance sheet,” was the unequivocal declaration of James I. Reilly, vice-chairperson of the company-wide environmental affairs committee. Chaired by one of the corporation’s five senior vice-presidents, the committee brings together Du Pont’s top medical, legal, safety, environmental, and public relations staff; all new product lines and major capital improvements must obtain its approval.

Most members of the committee are engineers and technicians who have climbed up the corporate ladder, imbued at each rung with the conviction that environmental and health concerns are simply more challenges to solve.

Their list of industrial health and safety innovations is indeed impressive. In 1915, the company appointed American industry’s first full-time medical director; soon after it joined a handful of other companies offering employees free regular medical checkups. In the 1930s, the Haskell Laboratory for Toxicology and Industrial Medicine, one of the first such facilities, was established. When the American Academy of Occupational Medicine was set up in 1946, a Du Pont doctor became the first president. In 1954, the company’s medical department published a complete textbook, Modern Occupational Medicine, which ranged as far as the rehabilitation of alcoholics and redesigned the workplace to reduce stress; a long section discussed controlling chemical hazards. When a second edition appeared in 1960, it contained a chapter on occupational diseases most companies preferred to ignore, including asbestosis and berylliosis. The Haskell Laboratory, which has expanded its staff to over 200, puts as many as 20,000 tissue specimens under the microscope to check a single chemical for carcinogenic effects before certifying it safe for manufacturing use. In addition, since 1956 Du Pont has maintained a tumor registry for employees at 80 plants to assess potential links between toxic chemicals and cancer—even today, few companies have followed this example.

Until the recent federal focus on occupational health and safety regulation, Du Pont was generally far ahead of any government requirements. Their programs also occurred with hardly any pressure from organized labor at plants, a strong impetus to improvements elsewhere; throughout the corporation’s empire there are only 32 large independent unions and 10 locals of national unions.

Speaking for the corporation, James Reilly promised, “If we can’t protect our employee’s health, we don’t make it.” To illustrate this commitment, Du Pont officials often cite the history of Kevlar, their “better than steel” fiber. After the company proudly announced the discovery of this synthetic, so strong commercials show a single thread holding up a boxcar, scientists at Haskell found through animal experiments that a solvent used to manufacture it, HMPA, is a potent cause of animal cancer. As a result, Kevlar production has been limited to “market development quantities” while researchers seek a replacement solvent; Du Pont estimates that lost sales run into the tens of millions of dollars every year.

The Fatal Flaws

Given this apparent devotion to employee health and safety, explaining why a Du Pont plant and nearby factories have given Salem County, NJ, the highest cancer death rate for

"I said that it would not help my investigation of the bladder cancer problem if they would not provide management that would cooperate with me. . . ."
white males in the entire country requires a peek behind the nylon curtain.

Helpful information has been provided by Dr. Wilhelm Hueper, a former Du Pont scientist who proved the relationship between a dyestuff used at the plant and bladder cancer and later headed the National Cancer Institute's environmental cancer section for 16 years. In Larry Agran's book, *The Cancer Connection*, Hueper described his rude awakening to the politics of corporate medicine nearly 50 years ago.

"When I first visited the dye works for collecting exposure information, I was shown the beta-naphthylamine operation," he told Agran, "I said to the foreman, 'You have a very nice clean plant here.' He said, 'Oh, you should have seen it last night. We worked all night to clean it up for you.'"

Hueper then asked to see the facility using benzidine, the other potentially carcinogenic substance at the plant. The plant manager resisted. Heuper insisted, and was reluctantly escorted to a building up the road. "When I saw that, I knew why they didn't want me there," he related, "This building they did not work all night to clean up for me. The benzidine was spread all over the place, inside and outside, on the loading platform and on the road."

Outraged by what he had seen, Hueper hurried back to Wilmington, where he received an even greater shock. "I wrote a letter to the president of the company telling of the conditions," he told Agran, "and I said that it would not help my investigation of the bladder cancer problem if they would not provide plant management that would cooperate with me. Now, the result of that letter was that I was never permitted to see the dye works again. This was my introduction to industrial ethics and professional medical integrity."

In 1938, Dr. Hueper produced humanlike bladder tumors in dogs by feeding them betanaphthylamine and published his results in the *Journal of Industrial Hygiene*. Shortly afterward he was fired, ostensibly for economic reasons.

It might be argued that postwar management was more enlightened, but exposure to betanaphthylamine and benzidine continued at the Salem County plant until 1955. Of the 2000 workers there between 1919 and 1955, about 350 have suffered from bladder cancer.

The Belle, West Virginia, plant is still in operation, and 155 hourly employees died of cancer between 1956 and 1976. Du Pont's own epidemiologists have concluded that since the company-wide average cancer rate would have predicted only 127 cancer deaths, there was a 95 percent chance the difference was medically significant. Three cases of eye cancer among them were particularly unusual, since the disease is so rare that one case would be unusual in a group that size. Doctors from Harvard Medical School came down to investigate, but reported in the *New England Journal of Medicine* that they could find no conclusive evidence pointing to any causative factors.

Earl McCune had strong suspicions, however. He brought a bottle of water with him to work every day because he knew Du Pont was getting the plant drinking water only a thousand yards down the Kanawha River from the place it dumped its waste. Between February 1976 and March 1977 alone there were 16 illegal chemical discharges into the river. "We're up there to make a living," commented one worker when the news came out, "not to commit suicide." Du Pont has now closed its water treatment plant and hooked the factory into the Charleston area water supply.

Similar patterns emerge in other Du Pont cancer disasters. When the lung cancer problem was noted at the Newark, NJ, plant, Dr. Irving Selikoff of Mt Sinai Hospital in New York pointed out that even if Du Pont's staff had missed the earlier German studies on the link between chromium compounds and lung cancer, "It is now...25 years at least since good studies were done in our country, largely in New Jersey, showing that chromates cause cancer. Nothing was done. No controls were instituted."

Although Haskell Laboratory researchers had published a paper on the carcinogenic danger of chloroprene exposure in 1938,
perhaps as many as 10,000 of its workers have been around high concentrations over the past 41 years; Du Pont didn’t even begin monitoring chloroprene vapors at its plants until 1972, and didn’t become really concerned until Soviet studies indicated that chloroprene is linked to lung and skin cancer. Du Pont disputes these findings, but since then Soviet scientists have shown that males who work with the compound suffer a reduction in the number and motility of their sperm and their wives have a disproportionate number of miscarriages and children with birth defects. Dr. Peter Infante of the National Institute of Occupational Safety and Health (NIOSH) called the Soviet evidence “so overwhelming” that further studies are not necessary.

Du Pont says chloroprene is “coming up clean” in many Haskell tests. A company study showed no statistically significant lung cancer death increase among close to 2000 workers surveyed, but provided no explanation for the high rate among mechanics at the Louisville plant.

“They told us their studies have indicated no danger at all,” said Dudley Lacy, president of the union representing 1,300 workers at the plant, “They make it sound like you can drink chloroprene and it will probably make you healthier.”

No workers at the plant have been given comprehensive tests by either NIOSH or the government to investigate the dangers, particularly to reproduction. “We’re a little leery of that sort of thing,” explains Robert M. Proser, research and development manager for Neoprene, the synthetic rubber chloroprene is used to produce. “You start asking employees questions about their sex lives, whether they are using contraceptives or trying to get pregnant and you have a problem.”

Weighing the Evidence

Is Du Pont prudently refusing to overreact to less than definitive studies and moving quickly to protect workers when the evidence is clear? Or is it fighting a rearguard action to avoid costly cleanup operations at many plants and to play down hazards that should have been corrected many years ago?

These questions defy easy answers. It is simple to say that small exposures to some chemicals can cause tumors 15 to 20 years later. But deciding whether a particular substance “does or doesn’t” is not. Animal studies must first be extrapolated to humans
and then the effects of alcohol, cigarettes, auto exhaust, diet and other chemicals factored out. Many epidemiological studies, with good reason, conjure up visions of "garbage in, garbage out" statistical shenanigans, not scientific truths.

Despite these notes of caution, Du Pont's experiences are obviously a cause for concern. The growing roster of chemicals proven to cause cancer suggests that the factories which produce them are inherently hostile environments. An excellent safety record on cut fingers, explosions and the like is no protection for workers against the more insidious and chronic exposures to low levels of tumor producing agents.

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Du Pont discounts this indictment, maintaining that it is on top of the situation. Indeed, officials say they are going to waste hundreds of millions of dollars in the next decade complying with federal environmental and health regulations that offer no benefit to anyone. The public relations offensive, focusing on air, water and noise pollution, concedes that most of the $700 million already invested is justified. But it suggests that about a quarter of Du Pont's projected $10 billion capital budget for the 1976-1985 decade will be squandered on the senseless anti-pollution measures.

Yet the company's safety-first image is marred by the bladder cancer fiasco, the chloroprene story, the handling of the chlorine gas leaks at the Edgemoor, Del. plant, and the on-going saga of the high cancer rate at Belle. In January 1977, Du Pont brought the federal probe of the West Virginia plant to a halt by denying investigators unrestricted access to the medical and employment records. Later, a NIOSH team spot-checked records at Belle. They found "very poor" files, loaded with "internal inconsistencies," "errors," and omissions. They documented "poor quality control" by finding two cancer deaths, one from lung cancer, the other from leukemia, in 14 folders inspected at random which had not been reported to NIOSH or recorded in the company's tumor registry. Thousands of records had been destroyed between 1971 and 1976 because of "limited storage facilities."

At about the same time that Belle plant manager Fred Winterkamp was telling all personnel that "there is no evidence that employment here has adversely affected the health of employees," NIOSH's Dr. Joe Wagoner was predicting that a full-scale study "will probably identify an excess risk of cancer of particular organs associated with employment at the Belle plant." He warned that "Du Pont data and analysis of that data as submitted by Du Pont do not deserve to be taken at face value," because they were tabulated "in ways which minimized the chance that excess cancer risks would be noted."

As the Du Pont experience shows, even at the most safety-conscious firms, death is a cost of doing business—a cost borne by the workers. Du Pont's motto "Better living through chemistry," has a hollow ring, considering the workers who have died unnecessarily.

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