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"FEDERAL OCCUPATIONAL SAFETY HEALTH
LEGISLATION IN 1970 AND ITS
ADMINISTRATION"

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The legislative history of the Federal Coal Mine Health and Safety Act contains so many examples of the actions that can be brought to bear on proposed legislation that it has become required reading in political science courses in several universities. When the Occupational Safety and Health legislation is finally passed, it may well replace the Federal Coal Mine Health and Safety Act in the political science courses. Certainly it has proven to be every bit as controversial.

Out of the lengthy committee hearings in 1969 and 1970, there have come the "Daniels bill" in the House and the "Williams bill" in the Senate. These bills are similar in that the Secretary of Labor would be responsible for standards setting, for enforcement, for assessing penalties, and for seeking court action against offenders. The employer is required to maintain safe and healthful working conditions in general, as well as to comply with the various standards which are promulgated under the Act. HEW's responsibilities include research in both occupational health and safety; annual publication of a list of toxic substances and concentrations at which toxicity occurs; training; and information programs--all relatively non-controversial. The Williams bill differs from the Daniels bill in that the former would establish an Institute for Occupational Safety and Health in HEW and a National Commission on State Workmen's

Compensation Laws. This Commission would make a comprehensive study and evaluation of State workmen's compensation laws and transmit by October 1, 1970, to the President and to Congress a final report containing its findings, conclusions, and recommendations.

The Williams and Daniels bills have the strong support of organized labor, especially the AFL-CIO which has insisted that the Secretary of Labor have the responsibility for standards setting, enforcement, and assessing penalties--claiming that changes in these responsibilities would prevent the Secretary of Labor from effectively operating an on-the-job safety and health program. AFL-CIO has been criticized in its stand by Ralph Nader and editorially by The Washington Post. Both industry and labor have been criticized by the New York Times and others for failure to compromise.

When the hearings began in 1969 on the Occupational Safety and Health legislation, the Administration bill, introduced by Javits in the Senate and Ayers in the House, had the support of the National Association of Manufacturers and the Chamber of Commerce of the United States--a reversal of the situation in 1968. However, when the firm stand of organized labor began to emerge in the Daniels committee, Congressman Steiger (Republican-Wisconsin) and Congressman Hathaway (Democrat-Maine) offered a substitute which was defeated 15 to 19 in the House Committee on Education and Labor.

Congressman Steiger subsequently introduced his compromise bill (with minor changes) in the House and a similar bill was introduced in the Senate by Dominick of Colorado. The Steiger bill has the support of the Administration and industry, and attempts will probably be made to substitute the Steiger bill in its entirety and, failing this, to substitute portions. No floor action was taken in either the Senate or the House before adjournment, but a very lively lame-duck session is expected after the November elections.

As background for subsequent presentations this afternoon on standards setting and the small plant problem, I would like to compare several provisions in the bills.

The Williams and Daniels bills would give the Secretary of Labor authority to issue standards, and these would include early standards of three types: (1) national consensus standards; (2) already existing Federal standards; and (3) already existing standards set by a non-consensus method such as the TLV's of ACGIH. These standards issued by the Secretary of Labor would also include emergency temporary standards and permanent standards. The latter would require a separate advisory committee for each hazardous substance or group of substances being considered. Thus there would be a profusion of advisory committees and notices in the Federal Register.

The Steiger bill would create an independent board to set standards. The board would be composed of five members appointed by the President, all qualified by previous training, education, or experience in the field of occupational safety and health. The Steiger bill improves somewhat on the Williams bill by having provisions for early and quick adoption of emergency temporary standards and of existing standards, without invoking the Administrative Practices Act beforehand.

The Steiger bill would also set up a separate independent Occupational Safety and Health Appeals Commission for the purpose of adjudicating cases of alleged violations.

The Steiger bill makes the general health and safety requirement more specific by requiring employers to maintain working conditions that are free from any hazards which are readily apparent and are causing or likely to cause death or serious physical harm.

Certain controversial labor relations provisions such as the right of employees to accompany safety inspectors at plants, to get copies of reports, and to have access to records of exposure to dangerous substances are not included in the Steiger bill.

All bills currently under consideration provide the same coverage, i.e. all employers engaged in business affecting interstate

commerce, but excluding as employers Federal, State and local governments. No exemptions are made for agriculture or for small plants. The Steiger bill alone could provide economic assistance to small businesses in the form of loans to assist them in complying with the Act.

In conclusion, I would like to say legislation on occupational safety and health is urgently needed, and I hope that some means of compromise can be found which will permit for the first time a national occupational safety and health program in which there can be contributions from the Federal and State levels, from industry and labor, and from the universities and private research laboratories.