

# LAW AND CONTEMPORARY PROBLEMS

---

VOLUME 38

SUMMER-AUTUMN, 1974

NUMBER 4

---

## FOREWORD

The Occupational Safety and Health Act of 1970<sup>1</sup> initiated massive federal regulation of conditions affecting the safety and health of American workers. The basic strategy of the Act was to authorize the administrative promulgation of workplace safety and health standards and to subject employers to various sanctions for violating those standards. Although the vast potential of this regulatory mechanism has yet to be realized, enough experience has been accumulated under the Act to warrant an examination of its several aspects.

In the collection of essays which follows, we begin by considering some purely legal issues. Richard Morey explores legal problems created by the use of standards, while Richard Miller analyzes the relationship between the law of torts and the new law of occupational safety and health. The next pair of papers deals with the federal government's administration of the Act. John Stender, the Assistant Secretary of Labor for Occupational Safety and Health, defends the Administration's enforcement of the Act by characterizing the federal government's role as that of a catalyst. Joseph Page and Peter Munsing, on the other hand, are highly critical of the government's development of the carcinogen standard and the Target Health Hazard Program. A third group of papers considers whether the expected benefits of the Act's approach exceed its economic costs. Walter Oi uses a concept of the optimum level of safety, as well as empirical evidence on injury rate differentials, to evaluate the major OSHA programs. James Chelius explores, both theoretically and empirically, alternative means of controlling industrial accidents. And Robert Smith examines the feasibility of substituting and "injury tax" for the current standards approach to occupational safety. Finally, Barry Brown, formerly the Director of the Michigan Department of Labor, argues that the states should have a significant role in setting and enforcing safety and health standards.

No consensus emerges from these papers. Indeed, there is disagreement on virtually every major issue: whether the Act has been effective, whether mandatory standards are worth the cost even if effective, who should enforce whatever programs are adopted, and so forth. What does emerge is a realization that the problems of occupational safety and health will require considerably more thought and debate if the areas of disagreement are to be narrowed significantly. It is to that end that these essays are directed.

ALVIN C. WARREN, JR.

November, 1974

---

<sup>1</sup> 29 U.S.C. §§ 651-78 (1970).