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no. 3

REPORT OF THE INVESTIGATION INTO THE CONTROL OF SMOG

Made by the

ASSEMBLY INTERIM COMMITTEE ON
GOVERNMENTAL EFFICIENCY AND ECONOMY

Pursuant to

House Resolution No. 22 of the 1949 Regular Legislative Session



MAJORITY REPORT BY

Hon. A. I. Stewart, *Chairman* Hon. Laughlin E. Waters, *Vice Chairman*
Hon. Lester A. McMillan Hon. John W. Evans
Hon. Charles J. Conrad

DISSENTING REPORT BY

Hon. Augustus F. Hawkins Hon. Glenn M. Anderson

ASSEMBLY

CALIFORNIA LEGISLATURE

HON. SAM L. COLLINS
Speaker of the Assembly

HON. THOMAS A. MALONEY
Speaker pro Tempore of the Assembly

ARTHUR A. OHNIMUS
Chief Clerk of the Assembly



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PART I
The Problem

LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
GOVERNMENTAL EFFICIENCY AND ECONOMY
CALIFORNIA LEGISLATURE

ALBERT I. STEWART, Chairman
ASSEMBLY INTERIM COMMITTEE ON GOVERNMENTAL EFFICIENCY
AND ECONOMY
CALIFORNIA LEGISLATURE, April 1, 1949

Pursuant to the instructions contained in House Resolution No. 22 of the 1949 Regular Legislative Session, your Interim Committee on Governmental Efficiency and Economy conducted an investigation to ascertain, study and analyze all the facts relating to smog.

Having concluded its public hearing and having carefully studied and analyzed the evidence and the record before it, the committee hereby submits its majority report and recommendations to the Assembly.

A. I. STEWART, Chairman
LAUGHLIN E. WATERS, Vice Chairman
CHARLES J. CONRAD
LESTER A. McMILLAN
JOHN W. EVANS

PART II

The Organization and Functioning of the Los Angeles County
Air Pollution Control District

The Los Angeles County Air Pollution Control District is the only such district now functioning in the State of California. It was established as a district pursuant to the act of the Board of Supervisors of Los Angeles County on October 15, 1948. The district has jurisdiction authority over the control of smog including the area in which smog is most prevalent during the winter. Pursuant to statute, the board of supervisors is the governing body of the district and the laws of the State have been enacted to prevent and air pollution caused by the district.

REPORT OF THE INVESTIGATION INTO THE CONTROL OF SMOG MADE BY THE ASSEMBLY INTERIM COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

Pursuant to House Resolution No. 22 of the 1949 Regular Legislative Session

PART 1

The Problem

Smog, as it is commonly known, is a condition of air pollution brought about by the discharge into the atmosphere of smoke, charred paper, dust, soot, carbon, noxious fumes, and gases and other contaminants in such quantity and under such atmospheric conditions as to constitute a nuisance or endanger health and public welfare.

In recognition of the fact that in certain parts of the State, smog conditions did exist, and that it was necessary to set up regular machinery for the control of the same, the Legislature, in 1947, enacted legislation (Chapter 632, Stats. 1947, Chap. 2, Division 20, Health and Safety Code) providing for the creation and functioning of air pollution control districts within counties.

Assembly House Resolution No. 22, directed the Assembly Interim Committee on Governmental Efficiency and Economy to ascertain, study and analyze all the facts relating to smog, including but not limited to the adequacy of the existing state and local regulations thereof, the efficiency of the state and local agencies administering such laws and regulations, and the need for legislation on the subject, and to do all other things necessary to provide the Assembly with all the facts necessary for proper consideration of remedial legislation on the subject and to include in its report its recommendations for appropriate legislation.

Pursuant to that direction, the committee conducted public hearings on the subject on February 2 and 3, 1949, in the Assembly Chamber of the State Building at Los Angeles, California.

PART 2

The Organization and Functioning of the Los Angeles County Air Pollution Control District

The Los Angeles County Air Pollution Control District is the only such district now functioning in the State of California. It began to function as a district pursuant to the action of the Board of Supervisors of Los Angeles County on October 14, 1947. The district has county-wide authority over the control of smog including the areas in the 45 cities within the county. Pursuant to statute, the board of supervisors is the governing body of the district and Dr. Louis McCabe has been employed as director and air pollution control officer for the district.

From the date of its organization until about the first of April, 1948, the district was engaged with organizational and recruitment problems. The nucleus of the staff of the district was obtained from those employees of the City of Los Angeles and of the County of Los Angeles who had been working on air pollution control problems pursuant to local ordinances enacted prior to October 14, 1947.

The activities of the district have been divided into three divisions: The inspection division, the engineering division, and the office management division.

The inspection division is responsible for the detection and alleviation or control of all visible and known sources of air pollution. The county has been divided into 18 inspection districts under the direction of a chief engineer and assistant chief inspector and 15 inspectors.

The engineering division performs two primary functions: (1) Approval of equipment to remove air pollution and (2) research on the nature of air pollution, its source, and how to correct it and to control a volume of pollution that actually comes out of a stack. Meteorological studies and research are also carried on within the engineering division.

The office management division is concerned with the recruitment of personnel, office management, and the issuance of permits.

A hearing board consisting of three members has been established pursuant to law to hear and act upon air pollution complaints and to hear applications for variances and applications for permits to install equipment.

PART 3

Progress Report

It was made clear to the committee that there is no magic in the control of air pollution. It is a highly technical problem in a field in which there is a very small amount of scientific knowledge now available and in which the assistance of the best available engineering minds is required. Progress is necessarily slow and expensive.

However, substantial progress toward the ultimate solution of the problem was reported to have been made from April 1, 1948, to the date of the hearing. The committee was informed that 289 authorizations to construct air pollution control equipment costing \$4,370,000 had been issued.

Over 13,400 inspections were made and over 2,000 notices were served on violators.

Forty-two out of the 57 open rubbish burning dumps in the county have been closed.

One major refinery has expended approximately \$3,000,000 to correct air pollution through the recovery of sulphur compounds. A new chemical plant costing approximately \$1,000,000 has been recently put in operation to recover sulphur compounds for three other major refineries. All of the major refineries in the county now have plans to recover their sulphur gases, and when the construction of the necessary recovery and chemical plants is completed, more than 90 percent of the sulphur compounds that were being released into the air when the district was formed will be recovered.

The non-ferrous, gray, iron, and electrical steel furnace groups have done experimental work for the collection of the dust now going into the atmosphere and, during 1949, efficient collecting equipment will be widely installed, based upon engineering tests made over the past six months. The open hearth steel plants have installed three types of equipment to determine which will remove the greatest amount of dust from their stacks. In no other place in the country has equipment for control of dust and fumes of this nature been required.

The lumber and furniture industry have installed a number of new incinerators and have remodeled others to prevent smog and fly ash.

The metal working industries in Los Angeles have employed consulting engineers who have gone to work to study dust release and over the past six or eight months, Dr. McCabe has been studying the problem very thoroughly. No previous study of that sort has been done anywhere. Pilot installations have been made on this problem and they are being watched to see if they do a good job. Several bigger plants have installed bag houses and they are very effective but tremendously expensive. One plant which re-works and melts old battery plates for lead recovery has just started a bag house installation at a cost of \$225,000. They are losing up their stack 600 pounds of dust a day which will be recovered. These dusts are very fine and never settle to the ground unless there is rain or they are blown out of the area. They are part of smog and obstruct visibility.

The industry which re-works scrap cans for the recovery of copper has a serious air pollution problem because of the release of metallic fumes. They have recently come before the board and indicated that they have let a contract for an incinerator at a cost of \$130,000 or \$135,000. The builder of this incinerator has put up a cash bond for \$98,000 that the incinerator will do a good job.

Two open hearth steel plants, one in Vernon and one in Torrance, have done extensive work during the past six months to remove dust from their stacks.

It was pointed out that extensive research is under way, particularly on the problem of eye irritants in smog in an attempt to detect and isolate those smog factors most injurious to health and physical comfort. Professor Hogenschmedt of the California Institute of Technology is working on this problem in cooperation with the chemists of the district. Professor Blacent of the University of California at Los Angeles is directing the work on the oxidation of sulphur compounds in the air. Numerous other special research projects are being undertaken by industry in cooperation with the districts research staff, and it is reasonable to anticipate substantial future progress will be made.

It was the consensus of opinion of the witnesses who appeared before the committee that a sincere, constructive and effective effort was being made toward the solution of the problem. Dr. Halvorson, Director of the State Department of Public Health, advised in a letter to the Chairman of the Committee on Public Health of Los Angeles City Council that as a result of their observations, a sincere and intelligent attempt was being made to solve the problem in Los Angeles County and that the air pollution control districts should be given a chance to exhaust their authority and ability to handle the problem without the undermining effect of concurrent activity on the part of the State.

Mr. Harold A. Henry, President of the Los Angeles City Council, testified that he was of the opinion that a good job was being done and that progress was being made. He testified that the district had laid the ground work for a solution, and that, while it was going to take time to actually see the results, the ground had been laid for effective remedies. He also testified that an intelligent approach is being made to the problem and they, in the city, had not been able to find any particular flaws in the district's operation.

Dr. Robert Dougherty, Chairman of the Advisory Smog Committee of the Board of Supervisors, testified that all of the members of the committee felt that things were going well and that, as an engineer, he thought Dr. McCabe had done about as much as any human being could do in the time that he has had to devote to the problem.

PART 4

Much of the inquiry was directed to the question of whether or not final administrative control should continue to be reposed in the board of supervisors as provided under the original act. The theory supporting such control is found in the fact that the supervisors are elective officials and, as such, are answerable and more responsive for the conduct of the program.

Questioning revealed that the board devoted such time to the problem as was necessary, and it was conceded that the board had provided the director with funds and manpower that were required to do the job. There was no showing that a change should be made in this administrative arrangement.

An advisory committee under the board which was to cooperate with the director and the board, however, failed to function. The primary responsibility of this committee was to act as a public relations medium and through it information concerning the program was to be widely disseminated. It was readily apparent from the widespread lack of information and knowledge on the part of the public as to what had been done and as to what was being done in resolving the problem that the services of this committee could have been and should have been more effectively utilized. This problem is also one that can be met on the administrative level and there is, therefore, no change that should be made in this regard, other than to recommend that this committee be made to perform its role immediately.

Testimony was offered during the hearings that the program was being poorly handled presently, that the personnel implementing the program were not of sufficient stature to effectuate the proper solution, and that the problem could have been solved if a committee consisting of representatives of big business had been appointed to the task. It must be noted that all of this testimony was in the nature of a blanket indictment of the present program, and in no instance was the criticism possessed of sufficient specificity so that its worth might be accurately evaluated against the work being presently performed. This line of testimony, while reflecting the opinions of many persons, failed to establish that the progress in combatting smog was in any wise short of

what could be reasonably expected at the date of the hearing and further, there was no showing wherein such a proposed committee would have achieved any more than has been accomplished under the current program or, indeed, that such a committee would have been able to even equal present accomplishments.

There was a showing that vehicles powered by internal combustion engines and particularly those that burned diesel fuel were major contributors to the aggravated smog conditions. The large number of vehicles in the metropolitan area present a problem not only as to degree of contribution but also as to the question of what controls would be appropriate, and how should those controls be enforced. This is a phase of work upon which accurate scientific data has not been developed as yet, but preliminary indications are that the immediate solution is in the field of engineering research and technological development, to be later supported by such appropriate legislation as is found to be necessary.

The committee was advised that orchard heaters were major sources for contamination of the air. Despite the fact that the operation of the heaters is seasonal, when the heaters are in operation they so effectively pollute the air that they must be considered as one of the outstanding problems with which the director must cope. At present, many of these heaters are exempted from the provisions of the act, and, therefore, before any action can be taken to bring this source of contamination under control, legislation will probably be required to that end. Statements were made to the committee that heaters of a type that would prevent these particles from being discharged into the air were available. The problem is apparently not one that is technical in nature, but one that could be met by the exercising of proper controls.

PART 5

Recommendations

It should be borne in mind in considering the problem that the work of the Los Angeles County Air Pollution Control District is the only such work that is presently being carried on in the State of California. Further, while other such work has been carried on from time to time in other sections of the country, the conditions peculiar to each area make the problem almost one of first impression in Los Angeles County, and, therefore, the findings by others do no more than suggest possible avenues of approach. In no other place has the problem been attacked on such a wide scale as in Los Angeles County, and in no other place has the problem been as extensive and complicated.

With these thoughts in mind your committee therefore recommends:

(1) That no major changes be made in the basic provisions of the act until actual experience gained over a longer period of time demonstrates the need for such changes.

(2) That every effort be made to acquaint the public with all of the facts relating to the situation not only as to what has been done and what is being done to meet the problem, but also advising the public when definite improvement may be reasonably expected.

(3) That technological studies be advanced in order to promptly solve the problems created by internal combustion engines with particular emphasis placed on all vehicles burning diesel fuel.

(4) That legislation be passed which will bring all orchard heaters within the jurisdiction of the air pollution district so that a solution of that problem may be secured.

Respectfully submitted,

A. I. STEWART, Chairman
LAUGHLIN E. WATERS, Vice Chairman
LESTER A. McMILLAN
JOHN W. EVANS
CHARLES J. CONRAD

DISSENTING REPORT OF SMOG CONTROL BY ASSEMBLY INTERIM COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

Pursuant to House Resolution No. 22 of the 1949 Regular Legislative Session

The Assembly Interim Committee on Governmental Efficiency and Economy was requested by House Resolution No. 22 to investigate all facts relating to governmental agencies responsible for the control of "smog". (See Appendix I.)

And in furtherance of this investigation a subcommittee of the interim committee met in Los Angeles on February 2 and 3, 1949, and conducted a hearing. A list of witnesses called is attached hereto. (See Appendix II.)

The importance of such an investigation and need therefor, is almost too obvious to need reciting, but it is well to relate that during 1948 "smog" was literally in everybody's eye, and, figuratively, on everyone's tongue in Los Angeles County. One has only to read the newspaper headlines of grand jury investigations and threatened indictments and a report adverse to the board of supervisors of Los Angeles County. Public meetings were called, including a city council star hearing; open warfare broke out between the chairman of the board of supervisors and county grand jury; Mr. William Jeffers resigned from the citizen's committee; Brigadier General Thomas was discharged or terminated from county employment; and public indignation demanded more and more action to suppress air contaminants and less politics.

As added subject material worthy of investigation, likewise, we cite the findings and recommendations of the 1948 Los Angeles County Grand Jury. (See Appendix III.)

And, in addition, other areas in California have indicated an existing or potential smog problem, notably in Kern County, where dust storms have become a plague, and San Francisco, where, according to reports, "the air is becoming increasingly polluted with smoke and noxious gases."

Enabling legislation to control and suppress air pollution in California was passed by the Legislature and approved June 10, 1947. It was not until April, 1948, however, that an air pollution control district began operating effectively in Los Angeles County. While some progress has been noted in smog control, the evidence submitted does not indicate either that the most effective operation has been secured or that the success already achieved can be claimed entirely by the presently constituted body.

Certainly, we do not expect magic in the control of air pollution. But we do expect a reasonable regard on the part of public officials for the discomforts suffered by our citizens every day that inaction, indecision, and "nebulous thinking" prevent a business-like administration of laws.

Many of the installations made by industry to suppress smog were made prior to effective operation of the district itself, and much of the

credit for elimination of open incinerators belongs to the city councils in the county. For the district to take credit for all the improvements made by private industry on its own initiative is misleading.

Dr. Louis C. McCabe, Director of Los Angeles County District, appears to have high qualifications and to have done a good job as head, but has been handicapped by excessive duties, outside activities of a public nature, and lack of cooperation from the board of supervisors. Dr. McCabe's testimony was very vague about his meetings with the board. (Pages 36, 37 of Transcript of Committee Hearings.)

Such a citizen's committee (advisory committee) was named in January, 1948, by the board of supervisors but was given no instructions, and failed to hold a single meeting with the board or Dr. McCabe up to the time of our hearings over a year later. (Page 72 of Transcript Hearing.)

In June, 1948, the chairman of the Advisory Committee, Dr. Robert Daugherty, wrote to the chairman of the board of supervisors requesting details on their work and duties but didn't receive any reply.

Mr. William Smith, Chairman of the Board of Supervisors of Los Angeles County, presented some very amazing testimony of the activities of this board which under the act is *ex officio* the air pollution control board of the district in the county. (Page 112.)

He admitted that the board did not meet with the grand jury (page 113) officially, did not meet with the citizen's committee (page 115), and did not meet with the advisory committee or instruct them as to their duties (pages 118-119) for a whole year.

And, likewise, Supervisor Smith is evasive as to what time the supervisors devote to their duties as *ex officio* directors of the smog control district.

We, therefore, can only conclude that, if Chairman Smith speaks for the board, they do not devote *any* official time to this activity for which the people of Los Angeles County are starved. It is shocking that in the State of California, which created these local districts to relieve distress among our citizenry and at the same time not to retard industry, we cannot find where local elected officials are applying themselves to those duties for which they are charged.

The Legislature has been most cooperative with the board of supervisors. We raised their pay even after such a proposal had been rejected by the voters of Los Angeles County. The reason was the supervisors' plea that their responsibilities had been increased over the years.

If they do not have time for this important function, why did they seek it? The taxpayers should not get stung—coming and going.

As to the practicability of the legislation, there are several glaring defects. First, the law does not allow two or more counties to consolidate in a regional set-up for smog control. Thus, the San Francisco Bay area, comprising as it does five (5) separate counties, could not effectively operate under the law. (Opinion of California Legislative Counsel in Opinion No. 4633 rendered March 1, 1949.)

Another deficiency is an exemption allowed under specified conditions to agricultural operations and the use of orchard heaters. (Section 24251 and 24265 of the Health and Safety Code.)

We can see no justification for this exemption.

Certainly time should be allowed for the installation of new equipment so that economic hardship will not be imposed, but we point out that, under the operation of the existing law (Section 24263 of the Health and Safety Code) and administrative rules established therefrom, discretionary power is already exercised by local boards in enforcement so as to afford a "reasonable time for full compliance." Thus, we have power to control established, with flexibility to prevent hardship as far as industrial concerns are concerned; but in the case of agricultural operations, where the same flexibility is cited as reason for exemption, control is practically lacking. The only reason for such inequity of treatment, that we can see, is that the agriculture lobby in Sacramento was most effective when the law was drafted. The pressure of this lobby is admitted on page 86 of the transcribed report of the hearings.

It seems to us that the cost of preventing such a public nuisance is logically a charge on the cost of production. Also, we point out that improved types or orchard heaters have been perfected by the University of California and appear in their College of Agriculture Bulletin No. 643 issued as far back as 1940.

We recommend:

1. Immediate activation of the advisory committee by the board of supervisors.
2. More research and basic engineering on the state level to provide a broader financial base and involvement of more extensive technical assistance, especially by state universities and large industrial sections.
3. Repeal of those provisions of the law granting exemptions and limited supervision to agricultural operations, orchard heaters, vehicles, and buses.
4. Passage of legislation to allow several counties to form a district.
5. Passage of legislation, with reasonable period for replacement, requiring installation of improved orchard heaters. (See new improvement suggested in Bulletin 643, University of California, College of Agriculture.)

(NOTE: We understand that since our hearings in Los Angeles, the board of supervisors is proceeding, as recommended in Item 1, to some degree. But we believe that a citizens' advisory committee can play an even more important role.)

Respectfully submitted,

AUGUSTUS F. HAWKINS

GLENN M. ANDERSON

Members of Water Pollution Committee

APPENDIX No. I

House Resolution No. 22

Requesting the Assembly Interim Committee on Governmental Efficiency and Economy to investigate all facts relating to the governmental agencies responsible for the control of "smog"

WHEREAS, The unprecedented increase in the number of industrial and manufacturing plants in this State and their concentration in small areas has caused an increase in the discharge of noxious fumes into the air and has produced a concentration of such fumes known as "smog" in many areas in this State; and

WHEREAS, This condition is injurious to the health, safety and welfare of the people of the State, and can be controlled or diminished by proper equipment; and

WHEREAS, In order to determine whether such regulation of manufacturing and industrial firms as is necessary to remedy these conditions should be left to local governmental agencies, it is necessary to ascertain what provision, if any, has been made by such local governmental agencies, and to ascertain whether such agencies are operating in an efficient manner with respect to the control of "smog"; now, therefore, be it

Resolved by the Assembly of the State of California, That the Assembly Interim Committee on Governmental Efficiency and Economy (created by House Resolution No. 216, 1947 Regular Session and continued by resolution as an Assembly committee at this session) is hereby authorized and directed to ascertain, study and analyze all facts relating to "smog," including but not limited to the adequacy of existing state and local regulation thereof, the efficiency of the state and local agencies administering such laws and regulations, and the need for legislation on the subject, and to do all other things necessary to provide the Assembly with all facts necessary to proper consideration of remedial legislation on the subject, including in its reports its recommendations for appropriate legislation; and be it further

Resolved, That said investigation be commenced at the earliest possible date and that a report be filed not later than March 15, 1949.

Resolution read, as amended, and adopted, as amended.

APPENDIX No. II

Witnesses

FEBRUARY 2, 1949

Wednesday Morning

1. Dr. Louis McCabe, Chief, County Air Pollution Control District
2. Mr. Harold A. Henry, President, Los Angeles City Council
3. Dr. Robert L. Daugherty, Chairman, Advisory Committee

Wednesday Afternoon

4. Mr. Harold Kennedy, County Counsel, Los Angeles County
5. Mr. A. L. Goodreau, Chairman, Non-Ferrous Foundries Society
6. Mr. Herbert Walker, Chairman, Hearing Board, Air Pollution Control District
7. Gen. Wayne Allen, Chief Administrative Officer, Los Angeles County
8. Mr. William Smith, Chairman, Board of Supervisors, Los Angeles County

FEBRUARY 3, 1949

Thursday Morning

10. Mr. Clarke Keely, Chairman, Grand Jury Committee on Smog
11. Mr. William Jeffers
12. Mr. Beach D. Lyon, Foreman, 1948 Grand Jury
13. Mr. Robert J. Davis, Member, 1948 Grand Jury
14. Mr. Lee J. Myers
15. Dr. Louis McCabe (RECALLED)

APPENDIX No. III

**Report of Special Smog Committee of 1948
Los Angeles County Grand Jury**

*To: Mr. Beach D. Lyon, Foreman, and
Members of the 1948
Los Angeles County Grand Jury*

Introduction

On the occasion of the regular meeting of the Los Angeles County Grand Jury, held November 18, 1948, the matter of the continuance of the "smog" condition within the county was brought up. It was pointed out how nebulous the thinking of the board of supervisors appeared to be in connection with this general smog matter, and a motion was made and carried authorizing a committee, composed of six members of the grand jury, to thoroughly investigate the situation and bring recommendations to the grand jury as a whole.

Authorization

Under the laws of California, the grand jury is empowered to make recommendations respecting the conduct of county officers and those recommendations, as contained herein, represent the judgment and sound opinion of the members of this special committee, all of whom are acting without any political influence and without any self interest.

The Situation

An appraisal of the progress that has been made in air pollution control to date is not easy. There are too many unsolved problems involved. Paramount among the unsolved problems remains the determination of what causes eye irritation. The chemical nature of this substance, or gas, is wholly unknown at this time by the authorities of the air pollution control district.

Need of the Report

So far, there has existed a complaining citizenry that is waging a battle to learn how well the air pollution control district is functioning in regard to smog abatement. The citizenry has carried its conviction of the importance of this matter to the attention of its grand jury, and this report has been prepared to put in very definite form certain recommendations which the special grand jury committee on smog has seen fit to recommend to the grand jury as a whole for its adoption, amendment or rejection.

Findings and Recommendations

(A) Organization:

The committee has learned that "smog" as it exists in this area, is brought about by conditions wholly unlike those in St. Louis and other cities where the problem has been previously scientifically attacked—yet this committee finds that:

A CUBICLE TYPE OF INFLEXIBLE ORGANIZATION, CALLED THE AIR POLLUTION CONTROL DISTRICT, HAS BEEN SET UP, UNDER CIVIL SERVICE, TO DEAL WITH THIS WHOLLY NEW PROBLEM.

Because the shape and character of this air pollution control organization should be moulded and reshaped continuously for several years, at least, before the organization can be jelled into the shape of the genii needed to combat and rout this smog nuisance, it is our first recommendation that:

RECOMMENDATION NO. 1

Immediate steps be taken to remove the air pollution control organization from civil service and pattern the organization after the Metropolitan Water District of Southern California, which operates not under civil service but under a board of directors composed of outstanding citizens who, in turn, appoint to the position of chief engineer and general manager a man of outstanding ability.

Comments

This committee realizes that within three to five years, after the smog problem has jelled, that possibly, and in fact very likely, the organization can itself be jelled under a civil service pattern, but the committee is emphatic in its opinion that operations should not have been commenced under a rigid civil service pattern and that this is certainly not the way to continue during the exploratory and development stage.

In contrast with the top executive position in the metropolitan water district organization, Dr. McCabe, director of the air pollution control district, is firmly fixed in his job under civil service status. In this regard, the question may well be asked: Does not civil service status protect the chief air pollution officer from pressure, such as might be brought upon him by members of the county board of supervisors? The committee's opinion is that the director is no further removed from pressure than in any other county department head who is under civil service. This can well be answered by the man in the street, who has been

able to make his own observations in this regard, since the incept of our present form of county government. It must not be overlooked that the board of supervisors holds the purse strings of the budgetary departments.

(B) Personnel:

The committee has carefully scrutinized the higher echelon of technical employees and has reviewed their background and training as set forth on their civil service applications.

The committee finds that all of these men are university graduates and that they generally hold a B.S. degree. The committee further finds that these technical employees generally had a three or four year war service record in technical fields. The committee recognizes the admirable war record of these young men but feels that they would have been further advanced in their scientific attainment if their lives had not been interrupted by the war. Hence, the committee seriously questions the stature of these men as fitting to meet those highly experienced chemists and engineers found in large industry.

Comments

The essence of the committee's concern is best illustrated by the statement of Dr. McCabe when he appeared before the committee. (The question and answer are taken from the transcript—page 21, line 24.)

Question: "In other words (Dr. McCabe), the implication is that a well qualified, profitably engaged engineer would design an efficient device (air purification) which would be turned down because of the lack of ability of this \$300.00 a month engineer" (of yours to appraise it).

Answer by Dr. McCabe: "I will say right here I don't agree with that philosophy. I can hire as good men for \$395.00 in some instances as guys that are getting \$300,000 out here in town—just as good engineers. Now I have got engineers that were good enough to get a silver star at Iwo Jima because they were wounded—well I say they were good enough to work for this county or any other county."

It is the committee's finding by the uncovering of such items as just illustrated, that pertain to the qualifications of technical employees, that causes this committee to recommend on the employment of technical employees as follows:

RECOMMENDATION NO. 2

This committee recommends that the higher echelon of technical workers—and including the director—should always be noncivil service employees. By this recommendation is meant such positions, in addition to the director's as: Chief air pollution engineer, head air pollution chemist, research chemist.

Comments

The committee lays great stress on the point that free use of the services of highly technical men is needed intermittently, as desired by the director in line with his periodic operations, and that to have to secure such men under authority to employ consultants is cumbersome.

The committee is impressed with Dr. McCabe's integrity and seriousness of purpose and believes he is trustworthy to operate under wide latitude of freedom in regard to hiring and firing within his organization. *The committee sees no future for Dr. McCabe's success in this endeavor so long as his hands are completely tied to the administration of civil service procedure.*

This committee believes that great benefits would result if the director was allowed such flexibility of operation that, for example, he could freely draw on the technical students of our fine universities in this area to augment his small staff of field inspectors during the summer months when the smog nuisance is greatest, to the end that he could by selection, ultimately recruit a picked staff of field inspectors from the cream of our local technical students upon the occasion of their commencing their careers.

Complaints Regarding Type of Field Inspectors

Complaints have reached this committee from industry stating that many of the field inspectors are grossly unfit to contact the public and that much cooperation, that might be expected from industry, is forfeited because of this.

The committee finds, for example, that because of open competitive civil service examinations that the inspector is not always of the type to meet "the man in the boiler room." The opportunity to select type and personality, along with brains, is greatly limited by civil service. Therefore, this committee is strongly of the opinion that not only technical training, but also such qualifications as tact, ability to understand sympathetically the problem involved at each individual industry; and to avoid the possibility of friction while securing a maximum of cooperation—should be stressed in passing on the fitness of these field inspectors. The committee finds no evidence of careful screening in this regard having taken place in the selection of these inspectors.

Although much more could be said as to the limitations imposed by a civil service pattern upon a new organization, whose problems and scope of activity are far from determined, it seems proper to pass on at this time to the subject of "Permits."

"The Permit"

Application for permit must be made by any industry who commenced operations after February 1, 1948. Any industries who at any time between December 1, 1947, and February 1, 1948, operated any contrivance for which Rule 10 requires a permit is automatically granted a permit to continue or resume such operation.

The committee recognizes, in general, the permit requirement. However, it questions item (g) of Rule 16, which reads as follows:

"Plans shall be filed in duplicate and shall clearly show construction details of the air pollution control equipment employed, except when standard commercial equipment is used, the manufacturer's catalog number will be considered sufficient."

This committee vehemently opposes the requirement that the inventor or manufacturer must disclose on the applicant's application, all details of his air purification device to the air purification control director before the director will approve its use by the applicant.

In the first place, this committee seriously wonders if the districts' engineers are fully capable to pass inspection on all air pollution control devices. So long as a proffered device fails to receive approval by Dr. McCabe's office, its development will be choked.

The committee believes that if a manufacturer offers a device to the owner of an industrial plant and makes specific guarantee to the buyers as to the produce meeting the required standards, that it becomes wholly a matter between the buyer and the seller wherein the buyer has his redress.

For a buyer to be unable to try out a manufacturer's air purification device without the workings and trade secrets of that device having first been fully revealed to Dr. McCabe's office flatly discourages invention and research in this field. The housewife would not yet be enjoying electric refrigeration if the plans and trade secrets of the manufacturers had to first be revealed to some local authority for its determination as to whether or not the refrigerator would prevent food spoilage. We all remember that 18 years ago more dependability was placed upon the family ice box than the new-fangled electric refrigerator, but had refrigerator manufacturers been prevented from marketing, trying out, and so developing to perfection their devices, the perfectly dependable refrigerator we know today would not exist. The committee feels that this is a perfect analogy to the situation that exists in air purification equipment and that few devices will be developed so long as the inventor or manufacturer can only proceed by first disclosing all their trade secrets. An inventor will simply not do this. Instead, he is forced to apply his genius to the invention of some device on which there are no permit restrictions—perhaps a still better refrigerator.

RECOMMENDATION NO. 3

THIS COMMITTEE THEREFORE RECOMMENDS THAT ITEM ^g OF RULE 16 OF THE RULES AND REGULATIONS OF THE AIR POLLUTION DISTRICT BE STRICKEN OUT OR DRASTICALLY MODIFIED.

Harshness of the Law

The committee finds that the act has plenty of teeth, and if not administered conservatively, that it can result in undue hardship upon industry. So far as the committee has been able to determine, Dr. McCabe has not administered the law too harshly. The public is now calling for the enforcement of this act to the letter of the law, and this committee feels it to be incumbent upon itself to point out that the terms of the law must only be enforced gradually. Otherwise, there would be a sudden closing of much of our local industry with resulting economic hardship to our county area. The committee finds that large industry is cooperative and shows the inclination to clean up the mess it has created. It is the smaller manufacturer, upon whom the expense of installing air pollution equipment would result in closing shop, that presents the greatest problems.

Causes of Smog Other Than by Industry

Dr. McCabe has proved conclusively to this committee that the backyard incinerators, automobiles, homes and office buildings are very large contributors to smog. Likewise the open dump where burning occurs is

a large offender. The committee believes that little over 50 percent of the blame should be placed on industry and that the public should be made fully conscious of and educated on these other sources.

Community Support

It has been stated in the beginning of this report that the thinking of the board of supervisors has been completely nebulous in regard to smog. This is, of course, also true of the public, but the public may be well excused in this regard since the public believe it has no tools to work with.

An informed public can be the greatest factor in the elimination of our smog problems. Community support is badly needed on the local level. Every man's luncheon club and every woman's organization must take this smog problem up in their individual communities. Voluntary effort on the part of small civic organizations, we believe, can go a very long way toward killing this thing. Cooperative effort at the community level, directed at offending home owners, building owners, and the small manufacturer can do away with that percentage of smog source that is over and above the 55 percent or so that the director of air pollution is now working on in connection with large industry.

It is of much importance that that segment of the public represented by the outstanding scientists in our local universities should be utilized by Dr. McCabe. Steps in this regard have been taken by the board of supervisors, but the work delegated in this regard, appears to this special grand jury committee, to be very unclear and *indicates in-action rather than action*.

Under date of November 12, 1947, the board of supervisors adopted a resolution on creating an advisory committee to the air pollution district, the membership of which consisted of a man appointed by each supervisor; in other words, a committee of five. A formal resolution was finally passed on January 20, 1948, confirming appointment of this committee as follows:

- (1) Prof. Robert L. Daugherty
Mechanical Engineering Department
California Institute of Technology
- (2) Prof. Ray Newsom
Whittier College
- (3) Karl Weber
Weber Showcase and Fixture Company
Los Angeles
- (4) DeWitt E. Strode
Retired real estate operator, Hollywood
- (5) Robert Carson
Retired Fire Chief, Long Beach

Our committee has investigated the activities of this committee and finds as follows:

(a) The committee was not told by the board of supervisors what it was supposed to do.

(b) In June of 1948, Chairman Daugherty wrote a letter to Supervisor Darby, who was chairman of the board of supervisors, asking for suggestions as to the committee's work. To date no reply has been forthcoming from Supervisor Darby to Committee Chairman Daugherty.

(c) Chairman Daugherty wrote a similar letter to Dr. McCabe, who invited the committee on a tour of inspection.

(d) Finally, on October 11, 1948, Deputy County Counsel Andrew Porter wrote Prof. Daugherty a general outline of the committee's duties.

The gist of this outline of instructions was to the effect that Prof. Daugherty's committee was to study, investigate, and advise the board of supervisors.

The grand jury committee knows, as well as anyone reading this report, that Prof. Daugherty's committee is composed of too busy men to just go around investigating. The board of supervisors should have known that this committee would be willing to work on matters referred to it and *should have outlined instructions to the committee along that line and should, since last January, have referred specific and worthwhile items to Prof. Daugherty's committee.*

This grand jury committee cites the above, in closing its report, as emphasis on the amount of inaction that has taken place within the board of supervisors.

Finally, the committee wishes to point out that Dr. McCabe cannot be expected to:

1. Enforce the law.
2. Produce results.
3. Conduct research leading to the determination of the eye irritant.

The problem of the eye irritant must be attacked, and Dr. McCabe must put down the shot gun and quit firing here and there at random. He needs special experts, both in business and science, and above all, he himself cannot continue giving five nights a week to addressing service clubs, to the neglect of research. The highest caliber of public spirited citizens can and must be found to handle the public contacts both with industry and with the citizenry. As this committee has said before, the public must arouse itself at the local level and not expect one man to do everything. The committee feels that the development of interest in the citizens at the local level constitutes as important an item as any recommendation contained herein.

The mass sentiment and support of the community is needed to make sure that politicians do not interfere and that the track is kept clear for the director of the air pollution control district. In this regard, it is recommended that the succeeding grand jury follow this aspect closely.

Respectfully submitted,

SMOG COMMITTEE

By C. CLARKE KEELY, Chairman
CHARLES K. BOWEN, Vice Chairman
MRS. ANDREA K. HAYWARD, Secretary
ROBERT J. DAVIS
ALEXANDER S. MACDONALD
MARK G. McMAHON

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