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EMERY R. HAYHURST, M.D., Ph.D.
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1021 CONCORD ROAD
THE LEXINGTON, S.W.

May 17, 1938

Dr. A. J. Lanza,
Assistant Medical Director,
Metropolitan Life Insurance Co.,
New York City, New York.

Dear Dr. Lanza:

Enclosed herewith please find a copy of the deposition of Dr. Clayton S. Smith and of my own evidence in the first of the series of legal cases resulting from the alleged silicosis developments at the New River power tunnel project. This case is that of Raymond W. Johnson (an employe) Vs. Kinsbert & Dennis Co., et al (the contractors).

I have indicated certain corrections in red pencil where mistakes are obvious, either on my part or that of the stenographer. This copy of my testimony was transcribed by a stenographer for the Kinsbert & Dennis Co., and I think he made a pretty good job of it. You will notice my attempt at simplified language, also many grammatical slips, etc. - the case being heard before a locally selected lay jury. Hence, please be quite critical of the phraseology and so on, but lay on heavily where you think I am in error and I shall appreciate it. You will find these two manuscripts most valuable for the direct evidence of the West Virginia situation rather than for the opinions contained regarding silicosis

In this Raymond Johnson case, some 26 lay witnesses had already been heard before I arrived, while the plaintiff, Mr. Johnson, and his physician, Dr. L. R. Harless, preceded me on the witness stand. I waited there until the two X-ray specialists from Charleston, Dr. Hughey and Dr. Lambert, had given their testimonies, which corroborated mine, and then departed for Columbus.

I am informed that the next week Dr. Pancoast and Dr. James A. Britton appeared for the defense. Dr. Pancoast limited his testimony to the X-ray films of Mr. Johnson alone and stated that in his opinion they were tuberculosis and not silicosis, while Dr. Britton considered all the evidences, X-ray and otherwise, and declared the case was purely one of tuberculosis and not silicosis; thus, we obviously disagreed.

I think the trial must have covered between four and five weeks. Finally it resulted in a disagreement on the part of the jury. Dr. Harless wrote me under date of May 10th that seven of the jurors were in favor of finding for the plaintiff, Johnson, and five were for the defendant. "There is very strong suspicion that those five were corrupted by an agent for the defense. One of the five has been summoned before the Court and was fined for contempt on the evidence that he discussed the case during the progress of the trial. I think a second one will perhaps receive a summons to appear

before the Court to answer contempt charges. Of course it is very difficult to obtain evidence sufficient to establish charges of bribery, but there is no doubt in my mind as to what happened. The case was clearly won for the plaintiff by overwhelming evidence. The same case, or another one will come to trial soon, perhaps in this month."

Judge Hary, who presided (Circuit Court, Fayetteville, W. Va.), I considered very fair indeed.

I am sending similar copies to Sayers and Russell. You may keep this material for your files.

With all best regards,

Sincerely yours,

Emely R. Haglund