PLAINTIFF'S EXHIBIT 10150.0

Ex 714. Part 1

PLAINTIFF'S EXHIBIT CSR-60

IN THE COURT OF ARBITRATION
OF WESTERN AUSTRALIA.

NOS. 41/48,
12/49,
22/49.

B E T W E E N:

AUSTRALIAN WORKERS UNION, WESTRALIAN BRANCH, INDUSTRIAL UNION OF WORKERS COASTAL DISTRICT COMMITTEE, AMALGAMATED ENGINEERING UNION, ASSOCIATION OF WORKERS, and others.

Applicants.

- and -

AUSTRALIAN BLUE ASBESTOS LIMITED.

Respondents.

REFERENCE OF INDUSTRAL DISPUTE.

THURSDAY, 2ND JUNE, 1949.

BEFORE: JACKSON J.(President)
E.MCKENNA, Esq.
T.G.DAVIES, Esq.

MR. C.T. OLIVER: appeared on behalf of the A.W.U. Carpenters, & Painters Unions.

MR. H. SYMONS: appeared on behalf of the A.E.U.

MR. S. F. CROSS: appeared on behalf of the Respondent Coy.

THE PRESIDENT: There is no appearance for the Carpenters, Joiners and Painters.

MR. OLIVER: I have no warrant to appear for them, but Mr. Hendley asked me last night if I would take care of his interests.

THE PRESIDENT: What about the painters?

MR. OLIVER: I understand it is a joint award which will cover them.

THE PRESIDENT: Mr. Wheeler tells me that he has endeavoured to

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

contact representatives of both unions, but without success so far as this morning's proceedings are concerned.

MR. OLIVER: I do not think it would be possible to raise them as I understand one is in Kalgoorlie and the other in Fremantle. Frankly I do not think, after having a discussion with Mr. Cross and Mr. Gill yesterday afternoon, that Mr. Fenley has anything to worry about.

MR. CROSS: I can confirm that Mr. Fenley said that he was acting for Mr. White, and then he asked Mr. Oliver to act for both Unions at the Conference yesterday.

THE PRESIDENT: Very well.

MR. CROSS: I have pleasure in handing in three copies of each of the schedules, Nos. 41/48, 12/49 and 22/49.

THE PRESIDENT: There is no consolidation?

MR. CROSS: No, in this case, they will all be separate. I would also like to suggest an alteration to clause 43 - reserved matters - in reference No. 41/48 - that is the A.W.U. Reference. Sub-clause (b) says: "Clause 5 - District allowance -" Following our discussion yesterday, we would ask that that be amended to read "Clause 4 - subclause (6) - and clause 5" That is regarding district allowances. In this case the Union want the matter of the percentage of the District allowance for juniors argued. A similar amendment, I think has been made to each of the other references.

THE PRESIDENT: By the way, in this case do you wish to put in any reference to consequential amendments?

MR. CROSS: No. We have covered all the consequential amendments here. In reference 12/49, it should read "Clause 4 - subclause (c) and clause 5"; and in reference 22/49 it should read "Clause 5 (c) and clause 6" - District Allowances".

THE PRESIDENT: There is just one question on page 7 of reference No.41/48. There is a strip pasted on.

MR. CROSS: It was a typing mistake. Part of the annual leave clause was omitted.

THE PRESIDENT: I was wondering, because on that page you have 16 (a) and (b) and 18 (a) and (b).

MR. CROSS: That is part of 16.

MR. OLIVER: With yourpermission I would just like to run through the schedule and tell you what we have agreed to and what we consider we should discuss at a future date.

THE PRESIDENT: You mean a similar type of protest as you made in the last case?

MR. OLIVER: There is very little protest in this, in fact no protest at all. We have arrived at substantial agreement in this matter, but I am included to think that your suggestion that there should be something, some words in clause 43 - Reserved matters - "That any consequential amendments" is a good one, because there are several matters contingent upon the 5 day week, in this schedule also. We discussed it all yesterday, and there are several matters that follow.

THE PRESIDENT: I would do [illegible].

MR. CORSS: I have no objection, but I cannot recall any at all.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE PRESIDENT: Supposing we make it read "The following matters are reserved for further consideration by the Court with any consequential amendments".

MR. OLIVER: We agree with clause No. 1 - Scope -. You will notice that the word "glue" has been included before "asbestos" to define the type of asbestos mining the schedule refers to.

Area is agreed to, and all the occupations are agreed to with the exception of occupations No.26 - riggers and splicers; 27 - riggers and splicers' assistants; 29 - tradesmen's labourers; 30 - blacksmiths' striker; 44 - brushhands; and 45 - brushhands using spray. With regard to these occupations it is agreed that we will argue them at some future date in this Court. The question of an asbestos bonus, is also in dispute in sub-clause (d) and sub-clause (e) in clause 3 of the claim.

Junior workers is agreed to with the exception of this question of percentage of district allowance for a junior. This district allowance - clause 5 - is a matter referred for further consideration.

We can agree to everything in the hours clause, with the exception of sub-clause (c) - line 3, the words after "provided" and we want to have that matter reserved for further discussion. You will find in the overtime clause(sub-clause b) in the first line "except as provided in sub-clause (c) of clause 6".

THE PRESIDENT: That is consequential upon our decision under that.

MR. OLIVER: That is true. Sunday and holiday work is agreed to; clauses 8 and 9 is agreed to. Shift work is agreed to; pieceworkers is agreed to. With regard to clause 12, transport - para.(a) is reserved for consideration. Para.(b) is agreed to. Absence through sickness - clause 13 - is agreed to. Dust allowance is agreed to. Holidays - clause 15 - is reserved for further consideration.

Now, in the matter of annual leave we agree to everything with the exception of the latter part of (b) which is consequential of course, on the hours clause.

THE PRESIDENT: In other words if we agree with what you will be submitting to us in that respect, that last proviso will come out?

MR. OLIVER: I won't be there. Wet places is agreed to; special rates is agreed to; protective clothing is agreed to; casual workers is agreed to; and this noreduction clause is agreed to under circumstances of this particular award. You may not be aware that Mr. Broadhurst has already agreed some time ago to pay these margins as given in the schedule with the exception of course of those in dispute, and of course the no-reduction clause is obviously designed to meet that situation. He would not want to reduce any of the rates you may order, and most of the rates are already agreed to. However we agreed to that in that particular case, although we would not like to agree to it in any others.

The mixed functions clause is agreed to; reduction of hands is agreed to; accident pay is agreed to; full payment for a shift is agreed to; resumption of work after holiday is agreed to; underground workers is agreed to; explosives is agreed to;

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

first-aid is agreed to; free water is agreed to; drinking water is agreed to; change rooms is agreed to; sleeping quarters is agreed to; payment of wages is agreed to; dry-clothing plants and water jets is agreed to; junior workers certificate is agreed to; employment is agreed to; representative interviewing workers is agreed to; and aged and infirm workers is agreed to the term of one year is agreed to, as I think are reserved matters. That is all I have to say.

MR. SYMONS: I think all the matters are set out in clause 33 of our agreed schedule. Mr. Oliver has covered the point in relation to preference. I do not agree in the matter of alteration to the apprenticeship regulations 37 (c) and (d) as defined on the last page.

THE PRESIDENT: You want to keep your position opened in the same way as in the Aust. Iron and Steel case?

MR. SYMONS: No. It is different here. That one was agreed to, but this is not agreed to at all.

THE PRESIDENT: What is the position?

MR. CROSS: Under the circumstances, I do not mind. I am prepared to argue it because I think it will be automatic. Mr. Symons objection amazes me, however I am prepared to argue it.

THE PRESIDENT: The mere fact that it amazes you Mr. Cross, has nothing to do with it. We had better include that as one of the reserve matters under award 12/49 - new sub-clause (f) Clause 33 regulation 37 (c) (d) - Apprenticeship regulations. Is there any other point Mr. Symons?

MR. SYMONS: That is all.

THE PRESIDENT: Now, Mr. Oliver, as far as you are aware are there any other queries in regard to 22/49 Carpenters and Painters?

MR. OLIVER: Mr. Henley has a protest to make about his tool allowanc

THE PRESIDENT: That is not one of the reserved matters? What is the position there?

MR. CROSS: Mr. Henley wants the right to argue it next year without prejudice.

THE PRESIDENT: He is making a protest about the tool-allowance question to keep it open until next year?

MR. CROSS: That is so.

THE PRESIDENT: Apart from that, is there any other comment that Mr. Henley wants to make?

MR. OLIVER: Mr. Henley appears to be quite happy about it.

MR. CROSS: I just want to say as in the Yampi case, that there are many clauses to which we also object, but under the circumstanc es it is no use my going into details. The unions have got every thing on this occasion also, and there is nothing that we have got back. I do not think Mr. White will raise any objection on behalf of the Painters Union because all he asks for is a definition of tr margin and we have given him a lot of other things without any obje tion at all which he did not even ask for. They have been included in the schedule because he usually asks for them.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

The issues will be typed today and copies sent to the unions as early as possible ready for the hearing tomorrow. I will also send copies to the Court so that the Court will be able to see clearly what is really in dispute before the hearing tomorrow.

THE PRESIDENT: Mr. Symons, this was the case where I think you were in some technical trouble because of an existing award with a three year term?

MR. SYMONS: Yes.

THE PRESIDENT: That difficulty has now been got over; that is I take it the employers have decided not to raise that difficulty.

MR. SYMONS: I take it to be so by their action in coming before the Court this morning and submitting a schedule to the Court.

MR. CROSS: I have had no instructions to raise any objection, and I presume that Mr. Symons position will be quite clear now.

THE PRESIDENT: So far as reference 22/49 is concerned that is a very recently filed reference, within the last week.

MR. CROSS: Yes, itis filed on the 31/5/49 and we filed our answer on the 1st June formally answering. I will apply tomorrow to amend the answers in all three matters so that certain matters now agreed upon will be shown in the new issues.

THE PRESIDENT: For myself and I am sure I speak for my fellow members I do not think an instance like this should be passed by without some proper reference being made. The position here was that the A.W.U. representative, Mr. Oliver, had a reference pending for some time which was due for hearing, and which would have been heard, as planned this month, but the other unions concerned had no pending references.

The A.S.U. wished consideration to be given to an award for itself at the same time as the A.W.U. Award, but technically it could not do so and it could not be here atall today had it not been that the employer in this case has obviously waived the disability under which that union was placed. So far as the painters and carpenters are concerned, they came very late into the picture, having filed their reference only last last Tuesday, which in the normal course of events would not have given them a hearing for several months. But in their case, also, it appears that special efforts were made by the employer and its representatives to get all matters heard at the same time as the A.W.U. reference.

I think that Mr. Symons, Mr. Henley and Mr. White should appreciate the fact that this step has been taken by the employer in this case in, I can only presume, a general policy of acting sensiblywith a view to industrial peace in this State. That this action should be taken by the employer is one that calls for praise from this Court, and I would express the hope that if one day the position should be reversed similar action will be taken by the unions concerned.

Now, with these few remarks the Court is pleased to accept these consent awards, subject to the matters that have been reserved, and all three consent awards will be dated as from today.

So far as this case is concerned, we have fixed tomorrow for the opening addresses, and the programme is that at least the Court is proceeding to Wittenoom Gorge on Tuesday next so that we will be available up there to take evidence and make such inspections as you desire on Wednesday and Thursday. Do you anticipate

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

Mr.Oliver, that 2 days there will be sufficient space for your purposes.

MR.OLIVER: I think it will be ample.

THE PRESIDENT: We have arranged to come back on Friday. Again as with the other case, if there are any particular matters which should be looked at, I should like you to have them in mind, before we get up there.

MR.OLIVER: Wittenoom Gorge is not a big place, though it may sound so, and it can easily be gone over in a day.

MR.DAVIES: Do you know if anyone is going to Wittenoom Gorge representing the Painters or Carpenters Unions?

MR.OLIVER: I understand that Mr.Westfall for the Carpenters is going and I take it he will be handling something for the Painters also.

CASE ADJOURNED TILL 10.30 A.M. FRIDAY, 3RD. JUNE, 1949.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE COURT OF ARBITRATION
WESTERN AUSTRALIA

Nos. 41/48, 32/48, 33/48.

Produced in the manner of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

B E T W E E N :

AUSTRALIAN WORKERS UNION, WEST-RALIAN BRANCH; INDUSTRIAL UNION OF WORKERS COASTAL DISTRICT COMMITTEE; AMALGAMATED ENGINEERING UNION, ASSOCIATION OF WORKERS and others

Applicants

A N D

AUSTRALIAN BLUE ASBESTOS LIMITED

Respondents

REFERENCE OF INDUSTRIAL DISPUTE.

ADJOURNED HEARING

FRIDAY, 3rd JUNE, 1949.

MR.CROSS: May I be permitted to apply formally for an amendment of the Employers' answers in all three cases, in the terms set out in the XXX column of the issues now before the Court.

THE PRESIDENT: Is there any objection?

MR.OLIVER: No, I think Mr. Cross was dealing with something in regard to which I have just informed him.

MR.CROSS: No, it is another matter.

MR.OLIVER: I have no objection.

MR.SIMONS: I have no objection.

MR.CROSS: In the A.W.U. claim I misunderstood the position, and in Clause 5 - District allowance - it is not as in the issues.

There was an amendment supplied by the union, and I thought the unionhad now foregone the amendment proposed, but apparentlyit has not. The claim is actually in accordance with the claim in the Engineers' schedule.

22-JUN-1949

MR CROSS: It should read, 'A district allowance of 30s. per week in the case of single men and £2 per week in the case of married men shall be paid to all workers employed under this award.'

THE PRESIDENT: Is the rest of the clause the same ?

MR CROSS: No, that should be cut altogether.

THE PRESIDENT: In other words, from "if any worker notifies the management in writing", etc., right down to the end.

MR CROSS: Yes, that is all deleted, and you will notice that Clause 5 of the engineers' claim should be the same as the A.W.U.

THE PRESIDENT: Are the final words 'shall be paid to all employees under this award'

MR.CROSS: That is correct although I suggest that the word 'workers' be used as that is the word in the Act.

THE PRESIDENT: What is the wording of yours, Mr. Oliver? Is it 'All employees' or 'All workers' or 'All workers employed'?

MR.OLIVER: To read the clause as we have drafted it it is :-

> "The district allowance of 30s. in the case of single men and £2 in the case of married men shall be paid to all workers employed under this award".

MR.McKENNA: What is the definition of 'married worker' under this award?

MR.OLIVER: I have not attempted to give an definition as we do not want to get arguing about de facto wives or anything else. I should say that the definition would mean, of course, anyone residing at Whitecross Siding. I should say that if a man's wife was not residing there he would be under just as great a hardship. Anyhow that can come into the discussion.

In dealing with our claim, Your Honour, I shall rely quite a lot on the information given in a booklet entitled "Mineral resources of Australia. Summary report No.17, Asbestos".

THE PRESIDENT: Who is it published by?

MR.OLIVER: It is published on the authority of L.F.Johnson, C'wlth. Govt. Printer Canberra and it is compiled in association with the controller of mineral production and the Mines Departments of the States and Territories.

(CONTINUED ON PAGE 9)

Produced in the matter of: Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR OLIVER: At the outset, I want to quote page 22 of this booklet, particularly as the Kimberley Ranges. That is, of course, the portion of the State with which we are dealing. I quote —

"Crocidolite occurs in the Kimberley Ranges in the north-western part of the State. The fibre is found in beds of the Mullingine Series which form a belt 180 miles long and 20 to 30 miles wide, trending east-south-east from Millstream Station, approximately 45 miles south of Roebourne, to the Ophthalmia Ranges. The deposits are strikingly similar to those found in the Griqua Town Series in South Africa (Hall, 1930), from which the greater part of the world's crocidolite is obtained, although the Kimberley Range deposits appear to have a higher proportion of long fibre.

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

I quote that to give you some idea of the immensity of these deposits and the value they represent to the State, or their future value to the State, as an industry, and the quality. We believe that asbestos will always be in demand. Its uses are increasing and, as time goes on, we find asbestos is playing an increasingly important part in the needs of the nation, and for that reason, of course, we think the foundations of a very vast and important industry are being laid in the North-West of this State.

I might say at this stage that we will not attempt to prove that the present operators are making any profits. We will not attempt to do that because we do not believe they are, and I do not believe for one minute that Mr Broadhurst has shown his company a pennyworth of profit since he has been there, through no fault, of course, of his. However, I do not think any notice should be taken of that; it should be discounted in view of the difficulties under which this company has been operating. I think they commenced operations in perhaps the most difficult period of our history. They have lacked supplies, they have not been able to get the things they needed. Labour has been one of the most acute problems. With all these difficulties confronting them, I am suggesting it would be futile to expect them to have shown any profit whatsoever in spite of all the ability of Mr Broadhurst.

Further, I suggest that conditions are returning to normal, and we can deal with the production of asbestos at Wittenoom Gorge at this stage with some knowledge that in the future the problems they have been faced with in the past have vanished.

(Continued on page 10).

MR.OLIVER: Now Sir I again want to say that we believe the foundations are being laid at Wittenoom Gorge for a vast and very wealthy industry. I would suggest, and I think Mr. Broadhurst would agree, that most of the work that has been carried out at Wittenoom Gorge has been done in the nature of an experiment.

I believe it is the first attempt that has been made to treat asbestos in W.A., if not the whole of Australia. There is a very real attempt at Wittenoom Gorge, not only to extract the asbestos from the rock, but to grade it and market it in the proper form. Even the mining operations, as you will see on an inspection of not only Wittenoom Gorge but the other Gorges, have been in the nature of an experiment, though you will see a very modern mine set up at Wittenoom Gorge which has been introduced in very recent years - probably the last 2 years.

The production itself has been on a very small scale. You would not expect it on its present scale to be profitable. I don't think the present operators expect it to be; but I understand it is the intention of the present operators to increase the production enormously, increase the capacity of the plant and the output of the mine. And we suggest that when that is done profits will accrue. In fact, we believe that with Mr. Broadhurst in charge of the operations, they will be producing asbestos at a price of between £30 and £40 a ton.

We can only inform the Courts on the experience of the markets in the past as to what asbestos is worth but again we have to keep in mind that the system of marketing asbestos in Australia has not been the system used by other important asbestos producing countries in the world. I believe, Sir, that grading has not been considered important and probably for that reason a lot of the value of the product has not been obtained but I do know that white asbestos produced at Nunnyery, which is only a few miles from Wittenoom Gorge ——

THE PRESIDENT: How do you spell it?

MR.OLIVER: I am not sure but it sounds like this to me and it is an asbestos deposit not far from Wittenoom Gorge but perhaps Mr. Broadhurst could tell us how to spell it.

MR.BROADHURST: It is spelt 'Nunnyery'.

THE PRESIDENT: Is it being worked at the moment?

MR.OLIVER: Yes, Hancocks work it extensively. That particular syndicate or company is selling its asbestos on the basis of 'run of mine'. That is the overall asbestos for £70 a ton.

THE PRESIDENT: How far did you say it was from Wittenoom Gorge?

MR.OLIVER: Perhaps Mr. Broadhurst could tell you more accurately Sir, than I can.

MR.BROADHURST: It is about 75 miles.

THE PRESIDENT: I am wondering if there is any suggestion that that mine is to be covered by this award.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR.OLIVER: Now Sir, you will note that we particularly placed the word 'blue' in front of the word 'asbestos' to define the particular type of asbestos with which we are dealing.

THE PRESIDENT: And this is white.

MR.OLIVER: Yes, the other is what?

MR.DAVIES: Is the other show outside Mulga Downs?

MR.OLIVER: I am not sure.

MR.BROADHURST: It is about 50 miles from Mulga Downs.

MR.OLIVER: A distance of 50 miles in the North-West is a mere stone's throw. I think we can all agree that the method of production at Wittenoom Gorge would be uneconomical. I would say that to try and argue the economics of the industry at this stage would be perhaps, if not futile, then very difficult. I know that at a later stage Mr. Cross will produce a mass of figures which will show all sorts of losses but we are expecting that Sir. However I want you to keep in mind what I have told you this morning about the potentialities of this immense deposit of asbestos which is rated one of the largest in the world. We think that the increased production —— and when I say increased production I mean something to meet the requirements of the market. ——

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

I might say at this stage that the demand in Australia is far in excess of the local supply; in fact, I believe, and it is statistically stated, that Australia is not producing 5 per cent. of its requirements. Yet you have these immense deposits at the Hamersley Ranges.

I will produce figures to the Court based on statistical information which will indicate that we have imported £5,000,000 worth of asbestos in the last seven or eight years.

At the present time I am informed by a responsible officer of the Housing Commission that it is one of the factors holding up their building programme—the lack of asbestos— and in fact they are relying on the major portions of their supplies coming from Italy. So you will see there is an immense market in Australia for asbestos.

Now I propose to deal with some of the history of asbestos production in Australia, to tell you of its uses and to make some comparison with this deposit at Wittenoom Gorge and the rest of the available sources of asbestos in Australia. I think we can convince the Court that Wittenoom Gorge is probably the only source of asbestos supply worthy of consideration. It appears so to us, after our examination.

I also intend to deal with other aspects of asbestos mining, its effects on the workers, for one thing, and when I refer to that I mean their health generally. I will not worry the Court at this stage with what I would call the history of the disabilities of the workers in the mining industry generally, but I suggest the history of the Mining case is available to you, and a considerable amount of statistical information was put in on that occasion which would be applicable to conditions at Wittenoom Gorge.

THE PRESIDENT: You mean the last goldmining award ?

MR OLIVER: Yes. These tables I have here will give you some idea of the uses to which asbestos is being put at present and, as I have told you, its uses are continually increasing. I will put a copy of this in.

You will see by the table headed "Consumption of Asbestos in Australia by Uses" that asbestos is used for:

> Asbestos cement products, building material, pipes, etc.
>
> Millboard, boiler lagging, insulation material, brake linings, plastic asphalt, asbestos cement, etc., rope yarn, gaskets, asbestos clothing, etc.

The table also gives the percentage of its uses, and I again want to emphasise that its uses are continually on the increase.

THE PRESIDENT: Apparently this is also an extract from that pamphlet.

MR OLIVER: Yes.

THE PRESIDENT: What is the date of publication of the pamphlet?

MR OLIVER: It was compiled in December, 1945, by Mr L.J. Noakes, and the production tables and graphs are given by Mr N.H. Ledbrook.

Produced in the matter of Asbestos Personal Injury Cases, Abrams Lead & copied to Richard F. Scruggs.

I have prepared a table here on the productionof asbestos in Australia, and I have tried to make some comparison with what has gone on at the Hammersley Range.

EXHIBIT: EXHIBIT 2: Statement showing comparisons of Australian production of Crude Asbestos by types.

The first page of the table gives you the Australian production of crude asbestos by types during the period 1918-1935, and from 1936-1944. It also gives you the comparative value perton of types of asbestos produced.

The remarkable part about this document is the increase in the production of Graphilites, as against the fading or reducing production of what is known as Chrysotile - that is white asbestos.

THE PRESIDENT: And Crocidolite is the blue asbestos?

MR.OLIVER: Yes. You will see what is referred to as Other Amphiboli has never played a big part in asbestos production.

What is important in this discussion is the fact that during 1918-1935 there were 4,939 tons of Chrysotile produced against 109 tons of Crocidolite, while in the period 1936-1944 the production of Chrysotile was reduced to 1,341 tons, and the production of Crocidolite had increased to 1,629 tons.

Another important factor is the fact that the value per ton of Crocidolite had increased from approx.£9 to £36 per ton which is equal, or almost equal, in value to the price of Chrysotile. The next table is compiled with the idea of giving you, Sir, some comparison of the value of asbestos production inwestern Australia.

You will see Sir that production in N.S.Wales during the years 1880 to 1944 was approx. 3,546 tons. In Tasmania during the period 1899 to 1944 it was 541 tons, South Australia 1915 to 1944, 756 tons and W.Australia during the period 1908 to 1944 it was 3603 tons. You will notice that the average value of this asbestos over these periods was, In N.S.W., approx. £24 a ton, Tasmania £18/10/- a ton, South Australia £14 a ton andwestern Australia approx. £38 a ton. The interesting part of the table, of course, is the production of Crocidolite with which we are dealing.

THE PRESIDENT: The first table refers to all productions.

MR.OLIVER: Yes, all asbestos. You will see Sir that Crocidolite has only beenproduced in South Australia and Western Australia and all we are attempting to compare is the production of Crocidolite in South Australia and W.A. In South Australia over theperied 1915 to 1944 approx. 682 tons were produced at a value of £9799 with an average value of £14/10/- a ton. In W.A. during the period 1937 to 1944 we produced 1054 tons with an value of £45,881 giving an average value per ton of £43/10/-. I think Sir that that is a very interesting table because it does show the importance of asbestos production, particularly Crocidolite as it concerns the portion of the State with which we are dealing.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE PRESIDENT: Do you know why the value is so much higher for Western Australian Crocidolite than it was for South Australian.

MR.OLIVER: I would say that it indicates the quality of the product.

THE PRESIDENT: I was wondering whether it was because it was produced in the earlier years and was possibly not of so much value then.

MR.OLIVER: Possibly, but the production does not appear to have been increased even in recent years and I think it must be a poorer type of Crocidolite.

The next table I do not want to quote because I do not think the figures are quite correct. I have since checked on these and I took them from information given by the Dept. of Supply and from this booklet. I find on a careful check of asbestos produced in the Hamersley Range, that it does not exactly agree with this table. However, I have prepared a table of all the recorded production of Crocidolite in W.A. and while t is table will give you some information Sir, I suggest that the correct table is the one I will now hand to you.

EXHIBIT: EXHIBIT J: Statement showing recorded production of Crocidolite in W.A.

I think Sir the table with which we are now dealing covers the whole of what is known as the production of Crocidolite in the Hamersley Ranges. That is the only source of blue asbestos being worked in W.A. although there may be some in other parts. You will see how production has increased over those years from approx. 5 tons in 1933 to 931 tons in 1945 although production has since decreased until in 1948 it was 607 tons.

I think what is important for our purposes is the fact that while the value per ton was £40 in 1943, in 1948 it was £46. I suggest Sir that the table does indicate that the value of the product has remained dreasonably stable, and you will note that the average value perton over a period of 12 years has been £43 and a few shillings.

THE PRESIDENT: What do you mean by value in that table? Do you mean the price obtained F.O.B. Fremantle, or what?

MR.OLIVER: Yes, that would be ——

THE PRESIDENT: I notice that your claim in regard to the asbestos bonus is based on current price F.O.B. Fremantle.

MR.OLIVER: Yes I believe that is where the figures are taken —— The price f.o.b. Fremantle. In fact that is, as it is quoted inthis booklet.

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

THE PRESIDENT: How long has the respondent company been in production at Hamersley Range ?

MR OLIVER: I believe they went into the business about 1943, but Mr Broadhurst would probably correct me.

MR CROSS: 1943 is correct. That is when they commenced operations up there, and they went into production in 1944.

THE PRESIDENT: Take the years prior to 1944. In this last table you have indicated, who was the producer of this blue asbestos then ? Did it come from the Hamersley Range ?

MR OLIVER: Yes. All the figures quoted here refer to production in these ranges.

THE PRESIDENT: Crocidolite comes ~~xxxxxx~~ only from the Hamersley Range district ?

MR OLIVER: That is the only known source of supply in Australia.

THE PRESIDENT: There is, of course, some in South Australia, but the quantity is small.

MR OLIVER: Yes.

THE PRESIDENT: And it is now mined by Australian Blue Asbestos Ltd. ?

MR OLIVER: Yes. I would say that all the deposits mentioned in this table come from a locality covering 40 miles.

MR CROSS: It was actually produced by Hancock & Walters, at one time, but Hancock is now producing white asbestos.

THE PRESIDENT: Was it produced on the same mineral claims ?

MR CROSS: Yes.

MR MAYNE: Was there not a syndicate promoted by de Bernales which also mined asbestos ?

MR CROSS: After 1943, yes. That was West Australian Blue Asbestos Ltd. I understand that Mr Walters was producing about a thousand tons per year, but I cannot understand these figures. They seem to me to be inaccurate.

THE PRESIDENT: We can check them if necessary. Carrying on with that point, is Australian Blue Asbestos Ltd. the only producer today of blue asbestos in the Hamersley Ranges?

MR OLIVER: I would say they have a monopoly of production.

THE PRESIDENT: That is the only firm or syndicate or anything else ?

MR OLIVER: Yes.

THE PRESIDENT: And the other firm mentioned is no longer operating ?

MR CROSS: No.

MR OLIVER: I think at this stage I should agree with what Mr Cross has said. This is the recorded production. As you know, all production of minerals should be recorded with the Mines Department, so if all these thousands of

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

tons have been produced, they must have been spirited away, unknown to the Mines Department. They claim this is the whole recorded production of blue asbestos in Western Australia.

I think it might be of value to the Court if I give some information on the importation of crude asbestos to Australia and the amounts of asbestos—that is, crude asbestos and asbestos goods—which are exported from Australia. In view of the quantity of asbestos we have lying dormant in this State, I suggest it is an astonishing story.

EXHIBIT. EXHIBIT No.4. Tables showing Australian imports and exports of crude asbestos and asbestos goods for 1944-45.

(Continued on page 17).

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

You will see inthe first table that Australian imports of crude asbestos for the period 1940 to 1945 show we imported in 1940 13,254 tons of crude asbestos at a value of £263,151.

We imported asbestos goods to the value of £130,473 which gave us the total imports of crude asbestos and asbestos goods of £393,604.

Now I do not want to weary theCourt by quoting all thefigures. The table is in front of you. I suggest however there is some significance in the figures I have given you for the year 1947. There xyou will see we imported crude asbestos to the extent of 19,833 tons, the value of which was £637,629.

We imported asbestos goods, 148,098 tons, the value ofwhich was £785,927. In effect, over these years 1940 to 1947 we imported approx. £5,000,000 worth of asbestos

THE PRESIDENT: Is the blue and the white asbestos interchangeable? and used for the same thing?

MR.OLIVER: I believe it is not necessarily interchangeable, although they are finding that what is known as blue asbestos almost meets all the requirements they thought that white asbestos had to be used for.

THE PRESIDENT: Would these imports of crude asbestos be white asbestos?

MR.OLIVER: They would be in some cases.

THE PRESIDENT: And is blue asbestos mined in other countries and imported to Australia?

MR.OLIVER: Yes there is a tremendous source in South Africa and Canada.

THE PRESIDENT: I was interested in the fact that the value per ton quoted in 1947 is £32. That presumably would be the landed cost into Australia?

MR.OLIVER: I suggest that would be sterling of course. It is not pounds Australian.

THE PRESIDENT: That would be the landed cost?

MR.CROSS: I am instructed this would be all white. The company knows of no blue asbestos being imported into Australia.

THE PRESIDENT: Is there much difference between the class, is the blue and the white?

MR.CROSS: I don't know. There has been a fluctuation, but they seem to be about equal now.

MR.McKENNA: Can they be used for the same purposes?

MR.CROSS: Practically, but there are some slight differences.

MR.OLIVER: If I quote again from the booklet, at page 7, you will find Crocidolite also has a wide range of use :-

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & co. Ltd to Richard F. Scruggs.

'But is not as extensively used as Chrysotile.'

Of course this book refers to some years ago, and the uses of blue asbestos have increased :-

'On the other hand it is held to be superior to Chrysotile in resistance to acids, alkalis, and sea water, and therefore has its own specific uses..... and in specialised military equipment; the use of Crocidolite in asbestos goods produced in Australia is at least increasing'.

I don't think the rest of these tables Sir are of much value to our case. I merely put them in to give you some idea of the known source of supply of asbestos. These are apparently some of the countries from which we import asbestos :-

'Canada, New Zealand, Rhodesia, the Union of South Africa, United Kingdom, and United States of America'.

That will give you some picture of where it is all produced.

Now we have attempted to inform you of the amount of asbestos exported from Australia. I do not propose to weary the Court by quoting these figures, but you will see the value of exports of asbestos over the years 1941 to 1947 are almost negligible. The value over the whole period of the years mentioned is £411,182, which of course does not represent much on the average.

The other table also deals with exports of asbestos in its crude form, and in goods, and the countries to which it was exported. The table is probably not of much value except inasmuch as it shows the amazing disproportion in the amount of asbestos imported as against the small amount we export, when we consider we have one of the largest deposits of asbestos in the world lying in the Hamersley Range.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

(CONTINUED ON PAGE 19)

I want to deal briefly with the effect on the workers' health of asbestos mining and the treatment of asbestos in its extraction from the rock. As I stated previously, I do not want to deal with any ratio of accidents in the industry. We have not much of the history of this class of mining, and it is my opinion, having viewed the mine at Wittenoom Gorge, that the class of mining conducted there should prove to be reasonably safe. I would suggest that it is a very safe method of mining, so that perhaps the accident ratio there will, in years to come, make a little more pleasant reading than the history of accidents in mining generally. We hope so.

I do suggest, Sir, that the effects of working asbestos mines may prove to be more hazardous than the working of metalliferous mines generally. To give the Court some information on what is known as silicosis, and I have prepared some extracts from a bulletin issued by the United States Department of the Interior and Bureau of Mines. I have also taken extracts from a booklet issued by the International Labour Office entitled "Studies and Reports, Series F., Industrial Hygiene, No.17."

EXHIBIT. EXHIBIT No. 5. Extract from United States Department of the Interior booklet.

Your Honour will see in the first part of the document that it gives what I would term a definition of the ~~definition~~ diseases produced or caused in mining generally. You have silicosis and fibrosis

"Silicosis is a fibrosis caused by free silica from quartz and the best known scientifical dust disease of the lungs."

Further down you have:

"Asbestosis : a fibrosis of the lungs with characteristic microscopical stigmata due to breathing asbestos dust, a silicate of magnesium."

In its crude form, asbestos is almost wholly composed of silica. I want to quote what Mr Collis defines as aspidosis. He defines it as follows:- (Reads from exhibit). Not a very pretty picture !

Again, you have the story of silicosis. That is a progressive disease and is described as follows:-"Silica has been . . . to initiate . . . . pulmonary infection."

On the second page of the exhibit you have another story, given by a different authority, on the effect of silica on the human lungs. It is important to know the effect silicosis has on the human lung and the effect it can have in establishing or bringing on accompanying diseases. You will see in the first paragraph on the second page that, "Uncomplicated silicosis . . . and becomes arrested."

At the bottom of the page, you find the following:- "Bronchitis and emphysema . . . . dry bronchitis."

I have made those quotations to inform the Court on the effect of silicosis and aspidosis on the human lung.

I now want to quote from a paper by Dr. Outred, of the Kalgoorlie Laboratory, and I will hand the paper in after quoting from it. You will find on the latter part of the first page that, "Simple silicotics once having

MR OLIVER.
3-6-49.

1.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

left the industry . . . . eventually become tuberculous."

On page 4, under what is entitled "Complications", it states, "It is convenient at this stage to discuss other conditions which may be encountered...the condition of emphysema." I do not think I have to inform you that emphysema means a contraction of the lung until there is no expansion whatever.

This may not be importantto the present discussion, but on page 6 you will find this, "In a recent survey of 200 new cases of nodular silicosis . . . . on all classes."

This document does not bear Dr. Cutred's signature; it is a copy that was handed to me for my information, but I will put it in and will go into any box and say it is a true report handed to me by Dr. Cutred.

EXHIBIT. EXHIBIT No. 6. Report on pneumoconiosis on the West Australian Goldfields by Dr. Cutred.

(Continued on page 21).

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR OLIVER.
3-6-47.

Having become interested in conditions at Wittenoom Gorge it was only natural that I should want to know the type of mine being conducted there and the type of rock being mined and its effects on the worker. I have attempted, Sir, to give you every possibly information on the subjects, and while I am dealing with the question you Sir, will be able to peruse this document.

EXHIBIT: EXHIBIT 7: Reports re sample and dust from Wittenoom Gorge.

Following a visit I paid to Wittenoom Gorge, I am afraid I purlained a bit of stone which contained some asbestos and I handed it into the School of Mines at Kalgoorlie to see if the would part it and give me some information as to what it consisted of and I suppose I should say what its geological contents were.

You will see that the sample handed in by me mostly consisted of fibrous and semi-fibrous material being Crocidolite asbestos approx. 15% and banded quartzite 85%.

I might say at this stage, for Mr. Broadhurst's information, and Mr. Cross's also, that the sample taken was a typical sample off the belt. It was not a sample of the stone from the mine itself, but a sample of the stone after a lot of the mullock had been taken out, and it is the part they treat in the mill.

A large portion of what is called mullock had already been taken away before it was placed in the crackers, so this would not be a true sample of what we would term the 'maiden' rock in the mine.

You will see a typical analysis of the constituent of the stone is given in the [illegible] Bulletin 100 Geological Survey of [illegible]. This is rock from Wittenoom Gorge:

> The silica content of crocidolite is 51.94%, the protential crocidolite 45.51%, and banded quartzite 51.54%.

In effect I think we can at least presume that half the rock mined at Wittenoom Gorge is composed of silica or quartz and apparently the crocidolite extracted from the rock contains approximately half silica also.

When this document was submitted to Dr. Outred for his opinion, he said —

> "Quartzite is widely recognised as a silicosis-producing mineral.
> With a silica content of 51%, and taking the sample, containing 85%, as representing average conditions throughout the mill, konimeter counts consistently over 200 per c.c. at nose level at the various working places will indicate a likelihood of silicosis developing in a proportion of cases after 15 to 20 years' work in the mill.
> Presence of 15% of asbestos is likely to accelerate the development of silicosis and lead to the occurrence of some cases of a mixed condition of silicosis and asbestosis.
> Cases of simple asbestos are unlikely to be found except in men employed in the packing process, where the pure material is being handled. Likelihood of its occurrence in these men will likewise depend on working conditions. (Sgd K.G. OUTRED, Medical Officer in Charge.

MR. OLIVER.
3/6/49.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

THE PRESIDENT: What does it mean in the second paragraph ? What is a Canimeter ?

MR. OLIVER: That is the way they measure dust in the air. It is a sort of glass plate, highly polished, which is exposed to the air; then a shutter is flashed across it, and it takes the dust at any given place. This is then put under a microscope, and the dust spots are counted, and that is how they find the dust contained in the air.

THE PRESIDENT: Apparently it is the number of dust spots per cubic centimetre.

MR OLIVER: It is about an inch square and these experiments are wrapped and put carefully away.

THE PRESIDENT: If in fact the counts were over 200 per cubic centimetre, would that indicate the likelihood of silicosis ?

MR OLIVER: I do not know; but the formula is infallible. They have a formula that is followed generally by the mines inspectors and, having got to note what the average rock content is in any area, they then define what is a dangerous dust count in that mine. For instance, if you take Norseman as an example, where practically all the rock ~~xx~~ milled is almost pure quartz, they look on a dust count of 60 spots or particles to the cubic centimetre as being a danger count. When they get to that point in Norseman, they get a bit worried, and I might mention that it is almost impossible to keep the air content in any mine with a dust count of 60 per cent. I think it is beyond mining engineering to do it.

It all depends on the silica content of the rock, of course, what the danger point in a dust count is. For instance, in coal mines they do not look on it as anything serious if there is a 500 dust content, because the ~~xxxxxx~~ silica content in coal is low. In Kalgoorlie, they take a 300 dust count as the margin of safety because the silica content, of course, is a lot lower, and it all depends on the silica content of the rock as to the danger point in a dust count.

THE PRESIDENT: Has a dust count ever been taken at the blue asbestos mine ?

MR OLIVER: I will probably give you some information on that from reports by mines inspectors.

MR CROSS: They have recently been taken and are quite O.K.

MR OLIVER: I want to make this statement to remove any agitation from Mr Cross's mind. I would say that the mine at Wittenoom Gorge should prove to be one of the best in W.A. because there is no reason why it should not always remain well ventilated. It would be sheer neglect and crass stupidity if it were ever allowed to develop into a silicosis-producing mine because we would know they had neglected to send the necessary volume of air through it to ventilate it. There is no need for that, because it is a simple process and the mine lends itself to perfect ventilation. It is not a mine like those on the Golden Mile where the men go down 3,000 ft., but it is a flat seam.

MR DAVIES: It is not on the open cut principle ?

MR OLIVER: No, it is not mined on the open cut principle.

MR OLIVER.
3-6-49.

I think it follows the general coal-mining system, which is a bord and pillar system. It is all open working and there should never be any trouble as far as ventilation is concerned. What we are mostly worried about is the treatment. I understand that the treatment of asbestos can never be anything but a dry treatment.

The extraction itself is a problem and there is a tremendous waste of asbestos because I believe in the final extraction it must be in the form of a vacuum to lift the fibre out of the rock. I also understand it is not so difficult to get the long fibre, but when you get down to what is called the board fibre, it is very difficult to extract, and the only means you can use is the vacuum treatment. However, Mr Broadhurst will give us some idea of the treatment.

Obviously, with a system of extracting the dust by vacuum, that interferes with the production side. I appreciate all the problems that Mr Broadhurst has but, from our point of view, we want the dust cleaned out of the mill. We do not want our people breathing this dust.

I want to say at this stage that anything I quote in these reports is not a reflection on Mr Broadhurst, and I am not trying to turn it on this morning, but I have been very concerned about the position at Wittenoom Gorge. I have discussed the matter with the Mines Department and they have a ventilation expert to Wittenoom Gorge on two occasions, and I think what I am going to tell you will give you some idea of theresults. I have a copy of a letter sent by Mr. Lloyd, who is a district inspector of mines and considered to be a ventilation expert. It was sent to the State Mining Engineer on the 23 rd February, 1948, and it refers to the Australian blue asbestos mine at Wittenoom Gorge. I am going to quote from the last page, and will then hand you, Sir, a copy: -

"With regard to dust in working places . . . . the extreme lefthand side."

The importance of that is that the ventilation should be kept at its best. The bord, of course, may be 24ft. wide, and, with a Ventura on the opposite side to the machineman, he is obviously getting no benefit from it, and that is why it was reported. He goes on to say —

"A request was entered in the . . . and suspended."

By "suspended" he means that instead of keeping them on the floor to keep them up so that they will be kept clean. As I stated, there should be no need for any bad ventilation in this mine. It should be perfect, and I think Mr Broadhurst will see that it is perfect.

"At the time of the inspection the mills was idle..... it is three or four miles from the mill."

(Continued on page 24).

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

MR OLIVER.
3-6-49.

THE PRESIDENT: I take it a copy is also sent to the mine owner.

MR.OLIVER: I think so.

MR.GROSS: Not always.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR.OLIVER: The report goes on, 'Since my previous visit..... 80 wets'. The other part of the report which concerns us refer to the surface. It says, 'Conditions in the mill from a dust point of view were found to be most unsatisfactory..... 1000 plus'; and it gives the different counts. Apparently that person was filling buckets of asbestos. On the picking belts the count was nil. The remarks are, 'Open - fair breeze blowing'. At the No.3 shaker tail end we have 1000 plus. The remarks are, 'Apart from ..... No.4 shaker 465'.

Now I want to commence at this stage on the meaning of 1000 plus. A slide that shows 1000 plus is never counted. They say it is impossible to count it - it is completely coated - which means, in effect, that the air is full of dust.

I know they planned to eradicate this dust. The position at Wittenoom Gorge has been most difficult with regard to supplies etc. and the whole work has been in the nature of an experiment, and I suppose you would not expect the best possible conditions under such circumstances. However, I made a point of quoting all those things because we do expect improvements.

EXHIBIT: EXHIBIT 10: Letter from Ventilation Inspector Lloyd to the State Mining Engineer re Australian Blue Asbestos mine.

Following that report I wrote to Mr. Hunter who was the workmen's inspector, to see what steps had been taken to improve conditions at Wittenoom Gorge. I am quoting now from his letter to me of the 28th December 1948. He says, 'I have to acknowledge receipt ..... Wittenoom Gorge', and I want to say here that Inspector Hunter's report, to which he refers, was sent to him by the union, and he is the officer in charge in that area. It goes on, 'What I am most interested in at the moment ..... under thepresent set up.'

That is from Mr. Hunter who is theworkmen's inspector. He is apparently overawed by the position.

THE PRESIDENT: Commenting on the lack of liaison, have any steps been taken by you to approach the Mines Dept. to see if the matter could be speeded up.

MR.OLIVER: Yes.

THE PRESIDENT: with any success.

MR.OLIVER: You can see the amount of success I have had.

THE PRESIDENT: It seems to warrant another approach to them

MR.OLIVER: Well, I may have a dash at that later. I have given you all that information for what it is worth, because I feel that it has some bearing on our claims. I think I should now deal with some of the matters we have in dispute,

MR.OLIVER: The idea of that was that the dining room was adjacent to the mill, and all the dust from the mill used to be in the dining room, but they have shifted it now and are living in the town some miles away. That was in February 1948.

EXHIBIT: EXHIBIT 8: Report from district inspector of Mines Kalgoorlie to the Mines Dept. Perth re dust at Blue Asbestos mines.

I have another letter here addressed to myself as Secty. of the Australian Miners' Union, which was posted to me in November 1948 by the Workmen's Inspector of Mines.

It might be a funny story Mr. Cross, but it is not a very pretty one.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR.CROSS: I am a bit concerned about letters being produced. It is a most unusual practice. The witness should produce this.

THE PRESIDENT: Letters are all right of course if they come from the opposite party, but if they come from a man on their own side they could be readily put to an incorrect use; in other words, some kind of evidence could be manufactured by letter if we allowed the practice to spread, instead of taking evidence on oath.

MR.OLIVER: What I am trying to do today is to point out what I think is a lack of appreciation of the danger existing at Wittenoom Gorge. If you say that I am not to use the letters, I will not use it, but it would mean I would have to call Mr. Hunter, who is a workman's inspector at Marble Bar, to produce the evidence.

THE PRESIDENT: I take it in any event, on this particular point, you will be calling some evidence?

MR.OLIVER: Yes, and you will see the evidence yourself at the mill. All I want to quote from this letter is this, having commented on the different aspects of the inquiry I made - the date is 8/11/48 - "I have no idea what Jack Lloyd requested them to do". This is almost 12 months after.

> "but would appreciate it very much if you could let me know, and I will see that everything requested is put into effect".

I think that is some reflection on the co-ordination in the Mines Dept. itself. Their inspecting supervisor of the distri does not know what the district inspector recommended should be done some 8 or 12 months afterwards.

EXHIBIT: EXHIBIT 9: Letter dated 8/11/48 from Inspector Hunter.

This is a report submitted to the State Mining Engineer by district Inspector Lloyd who again, I might mention, is a ventilation officer. I quote :-

> "Underground. Since my previous visit .....

THE PRESIDENT: Who is it from?

MR.OLIVER: Ventilation inspector Lloyd. Perhaps it would be as well if I stated at this stage that in every case a copy of these reports is posted to the union for their information with the Under- Secretary for Mines, Mr. Telfer. Whatever report is made on a mine, we never fail to get a copy of it. There is nothing secret in these documents.

Briefly, in connection with these margins, my story is that there are certain recognised industrial standards in Australia to guide us. Margins for various occupations have been fixed, and all that we are doing is requesting the Court to apply those margins to the workers at Wittenoom Gorge. I can only quote from what is known as the Metal Trades award, and I cannot even give you a certified copy of it, because I have not got one. It is taken as a standard in the Engineering industry, or the Metal Trades industry. It is a Federal award. There will be no question as to the authority I am quoting from, but this award provides that a rigger and splicer shall receive the equivalent of 4/6d per shift.

(CONTINUED ON PAGE 27)

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

When I say 'the equivalent', in these awards they are quoted as a weekly margin, and we have separated it to show the daily contrast of hiring.

MR MCKENNA: How many days a week ?

MR OLIVER: Five days a week. The riggers and splicers assistant would get a margin of 2s.11d. to the nearest penny. The tradesman's labourer gets 2s.11d. a shift; the blacksmith's striker 2s.11d. a shift; the brush-hand 2s.11d., and when the brush-hand is using a spray, he gets 3s.2d.

I do not know of any reason why a worker in the mining industry should be treated any differently from a worker in any other industry when the work being performed is the same work, in respect of his margins.

We have always felt that when the mining industry is referred to as a standard, and I refer to the goldmining industry, in the fixation of margins, the gold industry allowance has coloured the picture. Obviously, when the question of payments is being considered, the gold industry allowance is taken into consideration.

At the present time, the allowance is 22s. a week, which is something over 4s. a shift. That in itself adds considerably to the value of a day's work in that industry.

In this claim, we are also applying for what we are calling an asbestos bonus. We are of opinion, of course, that some bonus should be paid on the production of asbestos so that in the overall picture the workers doing these types of work I have enumerated would be getting something less than similar workers under other awards in the North-West and the metropolitan area, or any other part of the State.

We have workers in the Kalgoorlie Foundry who travel all over the State on construction work constructing plants and repairing them, who get these margins, and there is provision in their award that if they go on gold mines, the mining conditions of payment will prevail. They will get the gold industry allowance and the margin applicable to the work under that award. It means that while they are in the foundry they get these rates; when they go on goldmining they get the goldmining rates, plus the industry allowance.

THE PRESIDENT: And the goldmining margins for these workers are less, that is, the blacksmith's striker, the tradesman's labourer, etc.

MR OLIVER: The goldmining margins which Mr Cross has given in his answer. You will see that this person in the mining industry gets a lesser margin than the person doing the same work at the Kalgoorlie Foundry. The difference is that the man at the goldmine is in receipt of the goldmining allowance.

THE PRESIDENT: Is that the reason the Court has kept this type of man in the goldmining award on a lower margin ?

MR OLIVER: Of course, I could not say what was in the Court's mind when it fixed this margin.

THE PRESIDENT: In their award, do they give any reasons for their decision ?

MR OLIVER: They gave no indication, and the question was not discussed when the minutes were being considered.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Laud & copied to Richard F. Scruggs.

THE PRESIDENT: Was this argued on the last goldmining case ?

MR OLIVER: Yes, it was the only occasion on which these occupations had been included in the mining schedule.

THE PRESIDENT: Were they included in the A.W.U. goldmining award ?

MR OLIVER: Yes, it was the A.W.U. that made the claim.

THE PRESIDENT: Are all these A.W.U. men ?

MR OLIVER: Yes, all members of the A.W.U. in the goldmining industry, and they are covered by the A.W.U. award. The same applies in the engineering industry outside the metropolitan area and the south-west land division. We cover this class of work in the Kalgoorlie Foundry, and most other places where this engineering business is conducted, outside the south-west land division and the metropolitan area.

THE PRESIDENT: You suggest the Court did not accede to the margin laid down in the Federal metal trades award because the men in the goldmining award were receiving the goldmining allowance ?

MR OLIVER: It was referred to so often in the case that I deduced that must have been so. Of course, I had no definite knowledge if that was what was in the Court's mind, but it seemed that must have been the position.

MR GIBBS: That, of course, was not in the minutes.

MR OLIVER: Mr Simons has just drawn my attention to an extract from some minutes. This was in a matter of the A.W.U. and other applicants, and the Lake View and Star and others, respondents. It was an adjourned hearing on Tuesday, 28th September, 1948. The extract I will quote is on page 857, and apparently Mr Walsh and I were dealing with that subject. Mr Walsh stated —

> "We therefore rest our case firstly on inability to pay and secondly that the employees will not be subject to any injustice by the suspension of these margins because, as we have shown in our returns yesterday, they are receiving more now than their comrades working in other places in Kalgoorlie are now, under the industrial allowance, receiving substantially more than their comrades."

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

I think that was part of Mr. Walsh's defence of our claim that the industry allowance should be taken into consideration. These are the minutes of that particular case. So that you could see that before we pass this question we want to state most emphatically that whatever process of reasoning should be used by the other side we will never admit that a worker, working under an A.W.U. award, should be paid something less than a worker working under any other award, performing a similar occupation. We think it is only common justice that a worker under an A.W.U. award should receive at least equal pay.

THE PRESIDENT: It seems a bit illogical to me that the workers concerned should get reduced margins because they are getting no allowances, because from my brief knowledge the two have nothing to do with each other.

MR.OLIVER: The margins we claim on the occasion of the mining case were substantially higher than these but we at least expected the equivalent of what we looked on as a standard margin in the C'wlth. of Australia. However the fact that they were not given led me to the presumption that the industry allowance must have covered the consideration of the claim.

THE PRESIDENT: Apart from the A.W.U. claim in the award, are these class of workers the only ones in this State

MR.OLIVER: It is general to the Engineering industry in this State and the metropolitan awards for the metal trades all had their men outside the South-west Land Division. There has never been any question on those awards.

THE PRESIDENT: And in all those awards do they get this margin?

MR.OLIVER: Yes, it is a standard margin.

THE PRESIDENT: The same as the Federal Metal Trades.

MR.OLIVER: Exactly the same.

THE PRESIDENT: Dealing with your mention of the asbestos bonus. When was the gold industry allowance first agreed to in the gold award.

MR.OLIVER: It first took effect in January of 1935.

THE PRESIDENT: And has it remained unchanged as far as the basis is concerned since then.

MR.OLIVER: Its basis is exactly the same although the allowance has increased owing to the increase in the price of gold.

THE PRESIDENT: Was that an amendment of an existing award or a new award?

MR.OLIVER: That was a 1934 award and not a completely new award and amended again in 1937.

THE PRESIDENT: The 1934 award introduced the gold industry allowance.

MR.OLIVER: Yes.

THE PRESIDENT: And since then has there been much strenuous effort by one side of the other to have it changed?

Produced in the matter of Asbestos Personal Injury Cases: Abrams Lead & copied to Richard F. Scruggs.

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

MR.OLIVER: Yes, we, in our recent claim wanted it doubled and the employer, in his answer, wanted it abolished. That was only reasonable and what you would expect.

THE PRESIDENT: From both sides?

MR.OLIVER: Yes.

THE PRESIDENT: I am merely seeking to supplement my limit of knowledge on these questions of industry allowances and I would like you, if you get an opportunity some time, to pick out for me the references in the Industrial Gazettes to judgments of this Court on the question of the gold industry allowance. Am I right in saying that that is the only industry in which that type of allowance is made?

MR.OLIVER: No there are other industries in which allowances are given.

THE PRESIDENT: Yes, but on the price of the product?

MR.OLIVER: No, they are based somewhat differently and with the lead bonus it is paid according to the price of lead and in our case in this State it is based on the price of lead in America.

THE PRESIDENT: Is that under a State award?

MR.OLIVER: Yes we have that award with the lead mining bonus.

THE PRESIDENT: I would like you to bear in mind that I am new on this job and assist me by giving me references to past cases where similar allowances or similar bonuses have been paid.

MR.CROSS: The lead bonus was in a recent award made by consent. There is no judgment on it.

THE PRESIDENT: But I mean in cases where there have been judgments.

MR.OLIVER: You have a fairly recent case of an allowance being given for the construction workers in a construction award. They have an allowance on a graduated scale which lowers as the pay goes up. For instance it is paid to the ordinary labourer at about 3s. or 4s. a week and as the margin for skill increases so the allowance decreases, so that when he gets a margin of 18s. a week he loses any interest in this industry allowance.

THE PRESIDENT: Which award is that?

MR.OLIVER: The construction award covering all public works which was an Industrial Board presided over by Mr. Wallwork.

MR.CROSS: That is not based on the price of the product, it is merely because Mr. Wallwork thought the basic wage was not high enough and fixed a new one of his own.

THE PRESIDENT: But if you could possibly give me a reference to these cases I should be very glad.

MR.OLIVER: I would be glad to do that Sir.

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

MR.DAVIES: Is the A.W.U. a party to that award?

MR.OLIVER: The A.W.U. put the case. Before we leave this question of the margin perhaps I should give you an extract from the Govt. Gazette of the 23rd January 1948. The reference is No.251 of 1947, and it is between the Amalgamated Engineering Union and Australian Iron and Steel. You will see in this extract that the occupations we have indispute are paid according to the schedule of rates we are claiming.

There is a peculiar story attached to this. In the case of Australian Iron and Steel, we are a party in the award relating to the undertaking at Cockatoo Island, and we as a union claim the right to cover certainworkers that were covered under the present award by the A.W.U. In claiming the right to cover them, we also claimed the rates of pay, and it has been agreed that those occupations be transferred into our schedule, and it was agreed only yesterday, and those rates of pay operate. They operate exactly as we are claiming here. I will hand you the extract giving you the rates. (Extract handed to Bench).

Now I think we will leave the matter of margins at that. We will endeavour to give you all the information we can on the history of goldmining allowance, or any other allowance in that Award. We will endeavour to provide you with that, if not this afternoon, then at some future date, when the case is in progress.

On the question of asbestos bonus, you will see that we have taken the point of commencement at £26/29. We did not quote that figure haphazardly - we consider that asbestos should be produced in this State at that figure. Having given the matter a very thorough investigation and a lot of consideration we feel that there should be a margin of profit in the asbestos production at Wittenoom Gorge at a price of £26/29, and we claim that as the price increases from that norm the worker should share some of the profits, We have based our table on the method used for the payment of lead bonus. The method applied for the payment of lead bonus at Broken Hill and Mt. Isa is somewhat similar. It follows the rate per day and the rate per week, and the scale of increase is exactly similar to the method adopted at Broken Hill and Mt. Isa. The only difference is what we have given as the point of commencement for the payment of a bonus.

THE PRESIDENT: How did you arrive at your point of commencement of £26?

MR. OLIVER: We considered what we thought would be the cost of production of asbestos at Wittenoom Gorge.

THE PRESIDENT: How did you manage to ascertain that?

MR. OLIVER: We just had to use the knowledge available to us - that was the price received by the miner for his work, the wages paid through the mill, and we allowed a margin to the employer for his plant and so on.

THE PRESIDENT: That would be a bit of a guess would it not?

MR. OLIVER: Yes, but we thought we allowed plenty and we also allowed, in the compilation, £10 per ton for freight from Wittenoom Gorge to Fremantle, and we thought they should be able to produce it at a profit when it reaches the stage where they are getting £25 to £29 per ton.

MR. OLIVER.
3/6/49

THE PRESIDENT: That includes £10 per ton for freight.

MR. OLIVER: Yes.

THE PRESIDENT: What profit did you reckon you would give the employer?

MR. OLIVER: We had in mind the Queensland method of fixing the lead bonus, and they thought 7%, after allowing for working costs.

THE PRESIDENT: 7% of what?

MR. OLIVER: Of the overall.

THE PRESIDENT: You mean 7% of the gross value of production?

MR. OLIVER: If it cost 1 million pounds to work the mine for the year, and the mine made 2 million pounds for the year, the 1 million pounds working cost was deducted. The employer was then allowed 7% on the 1 million pounds and the rest was divided up into the lead bonus.

THE PRESIDENT: The remaining 93% of the one million pounds profit?

MR. OLIVER: Yes, that is how I followed it.

THE PRESIDENT: Of course, it just occurs to me that these figures may very well be suitable at one stage of production and not at another stage. I do not know whether this mine is yet in full production.

MR. OLIVER: It is not in full production at this stage.

THE PRESIDENT: No doubt when it is in full production it should be able to produce a bigger quantity at a lesser cost per ton, should it not?

MR.OLIVER: That is what we envisage.

THE PRESIDENT: And then you would hope, at that stage, to come back and ask for a bigger bonus, but at the present time when it has not reached anything like full production you consider the basis you have mentioned is fair for a bonus payment.

MR.OLIVER: We consider that is the basis on which we would be entitled to claim.

THE PRESIDENT: Has the company made any profit so far?

MR.OLIVER: I do not think so, but I think they have spent a lot of money.

THE PRESIDENT: Do you think they will make a profit in the next 12 months?

MR.OLIVER: Not in the next 12 months, but in the future - huge profits.

THE PRESIDENT: But on this question of the time when they are not making profits at all, is it your opinion that the company should pay a bonus then, on the price of asbestos?

MR.OLIVER: We think the basis should now be weighed. It could perhaps be varied to our advantage in the future of course.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR OLIVER: It would amount to this: If you start life building a house and filling it with furniture, you are not showing much profit on your wages but you are investing it in your house and furniture. I mean, you would not have much left to spend. I agree that this company is not taking profits out of Wittenoom Gorge but is putting them back into the plant.

THE PRESIDENT: There is a difference between not making profits and not making dividends.

MR OLIVER: That is why we are never very satisfied with the argument that we take a half share of the profits because they can just knock them about and never show any profits.

THE PRESIDENT: Was not the gold industry allowance originally a prosperity allowance ?

MR OLIVER: It has been referred to as all sorts of things, but I don't think we have ever presumed it was a profit based on the prosperity because, after all, the goldmining allowance is paid in mining leases, whether in production or out of production.

THE PRESIDENT: But did it not originate in times of prosperity and because of the prosperity ?

MR OLIVER: I think it was because of the increasing price of gold. That is what it was based on. Gold had previously been looked upon as something standard and then it started to gallop away, and the workers thought they could get a share of it. That is how President Dwyer based the allowance. I don't think it was actually a prosperity leading on the industry.

MR MCKENNA: The bonus was fixed on the standard price of gold.

MR OLIVER: At the time, I think gold was about £5.

MR CROSS: The standard price had been £4.10s., and when the bonus was fixed it was £8.10s. The Court decided to fix it on anything above £4.10s. at a certain rate.

MR DAVIES: Some mines which were small producers and not prosperous had nevertheless to pay it, the same as the large mines which were relatively prosperous.

THE PRESIDENT: It seems that the payment of the gold industry allowance was perhaps a prelude to the imposition of the gold tax also at a later stage, on production only. They are both roughly on the same basis, are they not ?

MR OLIVER: Yes.

THE PRESIDENT: You would not like to see an asbestos tax.

MR OLIVER: The gold industry has not been unduly taxed, though it has had a lot of trials and tribulations.

LUNCHEON ADJOURNMENT.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE PRESIDENT: But surely any bonus should only be paid out of profits.

MR.OLIVER: Most bonuses paid in this country are based on the price of the product. It has always been contended by the other side that a bonus is not fair. If they could perhaps offer us something just as attractive, in a different form, we may be prepared to consider it.

THE PRESIDENT: They might offer you 50% of the profits.

MR.OLIVER: They might. I think I said in my opening remarks that I was not attempting to show that they have made any profits.

THE PRESIDENT: I may perhaps be jumping a little bit ahead, but the point I am getting at is that inview of that opening remarks that the company had not been making any profits I am querying whether your union is right in asking for a bonus, when no profits are being made.

MR OLIVER: Yes, but we take the view (although I may be completely wrong) that this company is laying the foundations of an industry. When they went there, there was only the Gorge. The mining which had been done up to that stage was simply where the asbestos was exposed on the side of the hills. It had been benched off and the asbestos taken away. This company has gone into it in a bigger way. They have driven tunnels into the mountain and they are mining. The plant of course when they first went there was very crude, but they are at this stage developing what will be in the future a standard plant. They have not been prepared to instal any plant other than that which they had there until they knew how it was going to work out.

We say they are laying the foundations of what must be an immense industry, and we feel it will be a very wealthy one, and we want to share in some of the profits.

THE PRESIDENT: Before hand or when they accrue? Assuming their profits are nil at the moment, do you think you should share in them?

MR.OLIVER: I think the foundations of a bonus should be laid in the award. You may think our request is too high. You may drop it considerably.

THE PRESIDENT: It will largely depend on what evidence the company can give as to what its profitable production is.

MR.OLIVER: I have no doubt Mr. Cross will deal very ably with that.

MR.McKENNA: But you say the bonus should be based on the average price per ton received. I think you said the company had not made any profits. Going back to your Exhibit No.3 and the value per ton shows there, the price has never approached £26. It has always been considerably above that. The last one you quoted was £46 per ton. On your claim, would not that mean that every employee would be entitled to another 32s. per week.

MR.OLIVER: Yes.

MR.McKENNA: And the company is making no profits?

MR.OLIVER: That is right.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

AT 3.15 P.M.

MR OLIVER: Before ~~we adjourned~~ for lunch you, Sir, asked me to endeavour to provide you with the Gazette containing the reference to the gold industry allowance for 1934. The Gazette is No.14 W.A.I.G., pp.223-243. I now tender this to the Court. We will endeavour at a later stage to provide you with an extract from the Queensland Gazette in connection with the lead bonus at Mt.Isa and the method by which it is given there, and with some information on the method of industrial allowances in this construction award in Western Australia.

THE PRESIDENT: Also the reference to the award for lead bonuses in this State.

MR OLIVER: Yes, that can be given also. In fact, I find I have not a copy of our own award covering the lead industry, but this is an extract from the Government Gazette concerning the Enginedrivers and Firemen's Union which may be of some value to you. I now tender No.34/48 for the information of the Court.

(CONTINUED ON PAGE 35)

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

UPON RESUMPTION AT 2.15 P.M.

MR.OLIVER: We were dealing with the question of asbestos bonus before adjournment. I would like to refer back to the margins, because it has been brought to my notice that even before the time we listed that schedule of margins the C'wlth. Court had further increased the margins we are applying for. I will not bother the Court with all the increases, but in the case of the rigger and spliser, he is now in receipt of 26s. per week, which gives him a margin based on the 40 hour week of 5 days, of 4/5d. He also ofcourse, in this Federal Metal Trades award, gets 3s., which he also receives in the Metropolit area.

THE PRESIDENT: There is no loading asked for in this award.

MR.OLIVER: No, we are asking for a margin but not a loading.

THE PRESIDENT: That was called a war loading.

MR.OLIVER: Yes, I understand it was given during the war years. I understand it was given by agreement. Mr. Cross was very generous on that occasion.

MR.CROSS: We got something for it.

MR.OLIVER: In the matter of the asbestos bonus we probably will have something to say when Mr. Cross replies to our case, but for the purpose of our application I think we will leave it at what has been said.

MR.CROSS: What does that mean?

MR.OLIVER: Well, I take it we will have the right to ask some questions after our case on this action is closed.

MR.CROSS: The Regulations provide that no closing addresses are permitted unless at the express request of the bench.

THE PRESIDENT: What regulation is that?

MR.CROSS: I do not know, because I have not got it here but I know it sets out the procedure before the Court.

THE PRESIDENT: It is Regulation 97 - Procedure before the Court.

> "Upon the case being called on, the applicant shall state the facts of the case and shall thereupon call his witnesses..... No concluding addresses shall otherwise be made".

So it is up to us. You can ask, if you want to.

MR.OLIVER: I don't think we will have much to say at the conclusion.

THE PRESIDENT: The point is if any points were left particular uncertain in our minds, we would probably ask the parties to address themselves to them; and certainly, if Mr. Cross raised some new matter calling for a reply from you, we would probably ask you. But it is up to us to decide that.

MR.OLIVER: I feel sure you will be generous, Sir, because

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

after all, we are not such accomplished advocates as my friend. All I ask is the right to state our case. Of course, if we are to be bound by the strict formalities as laid down in the regulation, I may be here for 2 or 3 days.

MR.DAVIES: It may even be a questionof adjournment.

MR.OLIVER: It may be. However I don't want to. My conduct in previous cases may not always have been what it should have been. But I was always allowed the privilege of a few words at the conclusionof the case.

MR.CROSS: In my experience the Court has always been very strict in that regard, and closing addresses, to my knowledge, have never been allowed.

THE PRESIDENT: We will see that no person is excluded from placing the facts before theCourt.

MR.OLIVER: I think the general provisions governing the question of the asbestos furnace follow on the lines of the payment of the lead burners in other awards, such as Western Australia, Broken Hill and Mt.Isa. These are the conditions under which the bonus is paid in these awards, and we feel sure they could be very well applied to this particular industry. However, they would be consequential on the Court granting some form of asbestos bonus.

Now we come to the question of junior workers, and you will find here the employer in his answer claims that a junior worker should receive a percentage of the basic wage and district allowance. Now, we say this is a new principle, or an attempt to introduce a new principle into our awards. Personally, until a matter of a few days ago, I had no knowledge of any award in W.Australia which contained a provision whereby a percentage of the district allowance should be paid to the junior worker. To my knowledge the junior worker in all of our awards has always been paid the full district allowance.

I take it that when the matter was discussed in the initial claims, a case was put up as to why the junior workers should get the full district allowance. Frankly, I do not know why it should be denied to them. My knowledge of junior workers is that their requirements are considerably greater than my own.

The junior worker pays just as much to travel, and suffers the same inconvenience as what is known as an adult worker, and I would say that a good husky junior would eat far more than the average adult. So, why anyone should come tothis Court and ask that his allowance, which provide for his needs in the district in which this operates, should not be granted to him in full, I am completely at a loss to understand.

Now, it has been said there have been some agreements on this question of the percentage of district allowances paid to junior workers. Well, I do not know of any agreements.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR OLIVER: It has even been said that the goldmining award makes this provision. Well, I want to say that the question was never at issue in the goldmining case. The union claimed no alteration in the rate of district allowance that should be paid for junior workers, and neither did the employer. The question of percentage payment of district allowance to junior workers was never in issue. If the goldmining standard has anything whatever to do with the standard of payment at Wittenoom Gorge, then I can truthfully say that when we dealt with the application for the new goldmining award, the question was never raised by either party.

THE PRESIDENT: Are junior workers in the goldmining industry paid the full goldmining allowance ?

MR OLIVER: Yes, in whatever district they are in.

MR CROSS: No. It says in the award, "Percentage of basic wage, district allowance and industry allowance."

MR OLIVER: I challenge Mr Cross to find anything in the minutes of the case of this alleged agreement. I challenge Mr Cross to find any part of those minutes which was ever in issue.

THE PRESIDENT: The question is, what does the award say ?

MR OLIVER: I will produce Government Gazette in which the award is given. (Hands Gazette to Beach). It is construed from the wording that that means a percentage of district allowance, basic wage and industry allowance. You will see, after the words "district allowance", there is a full stop. That is a complete sentence. It goes on to say, "percentage of basic wage and industry allowance per shift." I repeat that at no time was that matter ever in issue, and I would have been very surprised if there had been any percentage mentioned on this occasion, because the matter was never in issue.

MR CROSS: If the Court will look at the original typed copy of the award, it is very much clearer. It is quite clear that the words "district allowance" were omitted, and a line put through "basic wage", and "industry allowance" put up above. If you look at the engineers' award, it is set out very clearly there.

THE PRESIDENT: There are no junior workers. We had better try to get this point clear. May I ask Mr Simons what he considers the position at Kalgoorlie to be so far as apprentices are concerned ? Do you consider they get the full district allowance, or only a percentage of it ?

says
MR SIMONS: The position is that what Mr Oliver/is correct so far as the A.W.U. is concerned. It is a matter which was never in dispute so far as the settlement of issues is concerned; but so far as the engineers are concerned, they applied under the increased rates for apprentices, and the Court decided, for some unknown reason (because there was no argument advanced by Mr Walsh except the fact that the industry was not in a position to pay increases), to change that percentage. When the award was originally delivered, all it stated was a percentage of the basic wage, plus a percentage of the industry allowance. But then, when the matter was delivered, Mr Walsh had put forward the inability of the industry to pay. Mr Cahill said the industry allowance was a disability allowance and Mr Walsh, in reply, said: "As far as the submissions are concerned &..... inability of the industry to pay".

They then altered the percentage from the full district allowance for apprentices to a percentage of the district allowance and, in making that decision, the President of the Court said that, unlike all other awards, they had decided to do that.

THE PRESIDENT: Can you give me the reference, Mr Cross ?

MR CROSS: It is page 868 of the judgment of the Court, issued on 20th October, 1948, Application No.11/46.

THE PRESIDENT: That is the A.W.U. ?

MR CROSS: No, it applies to all the unions, and says, "In the apprenticeship awards . . . . in fact, it is the only possible method of dealing with such a situation."

THE PRESIDENT: What does he mean by saying 'unlike awards elsewhere' ?

MR CROSS: Most of the Court's awards prior to that date provided for a full district allowance for juniors and, for the first time, the Court adopted this principle.

THE PRESIDENT: It does not mean outside the State Courts.

MR CROSS: No.

MR SIMONS: We took it that the reason for that was Mr Walsh's argument about inability to pay. If you look at the award in the goldmining case, they have altered the standard of apprenticeship rates, but that did not apply to the A.W.U.

MR OLIVER: At the outside, the discussion is becoming a little involved. I want to deal with the application made by the Australian Workers Union to cover members of the mining industry. I have not got the original three-column schedule in which claims and answers are given. I am quoting from a compilation set up by the Chamber of Mines itself. You will see in this document the union's claim, the answer of the respondents and the present award of the Court, and it must be a remarkable set of circumstances if, without the employer requesting it, the Court has reduced the district allowance to be paid to junior workers. It was never requested by the employer, and he never made any claim for it. There is the claim at the answer, and the award operating at the time. It was never in dispute. (Schedule handed to the Court).

THE PRESIDENT: That appears to be correct, Mr Cross.

MR CROSS: Yes. I understand it was raised during the case. Mr Gill was on the Bench at the time, and he says he cannot find the reference in the transcript, and he understood all along that Mr Oliver had agreed to it.

THE PRESIDENT: He said it was what was agreed to in the main A.W.U. reference. That does not say the A.W.U. would have agreed to it. It might have been agreed to by the Court. When you look at the claim and the answer, of course, it raises the question of ambit.

MR OLIVER.
3-6-49.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE PRESIDENT: Are you saying Mr. Oliver that at the moment all workers under theA.W.U. GoldMining award at Kalgoorlie are getting a full district allowance.

MR.OLIVER: I am certain that is the position.

THE PRESIDENT: Mr. Cross says they are not.

MR.OLIVER: If I learn of an employer who is not paying a district allowance to a junior worker he will be in the Industrial Court immediately and I say the award is quite clear.

MR.CROSS: And the judgment is very clear too.

MR.OLIVER: There is no judgment of an A.W.U. award. I draw your attention Sir to the transcript from which Mr. Cross quoted. It is quite clear and says :-

> 'I do not think there is any reason to question the language in Apprenticeship awards. The increased rates prescribed ..... will apply'.

It goes on to say :-

> 'and like awards elsewhere the percentage will not apply ..... and industry allowance'.

Well, I want to say I know nothing about apprenticeship awards. I have never even been in any discussion on apprenticeship awards; and how anyone can say that I agreed to junior workers in A.W.U. awards getting part of an allowance, I am at a loss to understand.

THE PRESIDENT: At present in the Gold Mining award the apprentices only get a percentage of the allowance.

MR.SIMONS: That was subject to the general Gold Mining award. The Gold Mining award supports Mr. Oliver's argument. It says, 'A percentage of the basic wage and industry allowance'.

THE PRESIDENT: Apparently that was later changed by 164/48.

MR.SIMONS: It was an Engineers' application.

THE PRESIDENT: For a percentage of the basic wage, district allowance and industry allowance.

MR.CROSS: If Mr. Oliver's contention is correct I don't know what the line after 'basic wage' in the printed order means, and I suggest the Court should look at the original.

MR.OLIVER: I don't know whether I have any foundation for believing it, but I do know that in the typewriting the mark follows the letter. I suggest in that case it is a typographical error. There is no sense in the mark being there. It denotes nothing.

MR.McKENNA: That usually denotes there is something to be inserted.

MR.OLIVER: Yes but there seems to be something left out, if that is so.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

MR.CROSS: In the duplicate of the original, the line was in ink, and 'district allowance' was also in ink, showing that they were written in afterwards - apparently after the award was typed.

MR.OLIVER: I am suggesting it would be an extraordinary set of circumstances if something was inserted in the award which was never in issue. It is a most unusual circumstance if such a thing did occur. What happened was the question of increased margins was suspended, pending inquiries into circumstances of the industry we were dealing with - its ability to pay - and the question of assistance to the industry from the C'wlth.Govt.

When we came to this Court late in 1947 or 1948 I placed the case before the Court which secured for the workers the payment of the increased margins. Never at any time when that issue was before the Court was the question of junior workers' allowances raised, and it was later, during an application made by Mr. Cahill and Mr. Gibson for the increased rates for apprentices to be paid, that apparently they say this angle crept into the issue; but I am suggesting now that it was never an issue of the A.W.U. claim and it was never discussed. I think that the fact that the old President has mentioned it in in these minutes is clearly due to inadvertence. It has nothing whatsoever to do with the A.W.U. claim at all and it was never agreed to. Never has it been claimed on behalf of an employer that a junior worker should get a percentage of the district allowance. It has always been a recognised principle that he should get the full district allowance and to my knowledge he has always paid it, ~~xxxxxx~~ whatever information Mr. Cross may have to the contrary and as I say if I find any employer who is not paying~~xxx~~ any junior under the A.W.U. award I will attempt to immediately prosecute him.

I think at a later stage we will call some evidence in connection with junior workers and we will probably be able to give you some idea of their conditions at Wittenoom Gorge. In fact you may be able to inspect some of the junior workers whilst you are there and get some idea of their needs.

On the question of district allowances you will note Sir, as you were informed this morning, that our claim for district allowance has been amended. We wish it to be clearly understood that an application of this nature could only apply to Wittenoom Gorge. We do not intend that it should apply to any other place than Wittenoom Gorge because of the peculiar circumstances. We are not asking for any increase in what you might term the general district allowances paid at Wittenoom Gorge and I suppose generally the workers at Wittenoom Gorge are single men.

We do say that any married man who works at Wittenoom Gorge and accepts all the disabilities incumbent on employment at Wittenoom Gorge, should be paid a greater district allowance to make his living conditions possible. There are many good reasons for our claim in this respect. I think one of the best reasons would be the terrific turnover of labour at Wittenoom Gorge. We feel that eventually a large town will come into existence which will include a number of married people.

Obviously, ~~xx~~ the standard of district allowance which has operated at Wittenoom Gorge for a number of years and which has applied generally should be increased and some

consideration should be given to a married man who goes there, and meets the company's needs for stabilised labour. Surely, some consideration should be given to family needs at that place, and I emphasise it should apply only in such a place as Wittenoom Gorge.

THE PRESIDENT: What is the purpose of a district allowance ?

MR OLIVER: To meet the added cost of living and to offset the disabilities and lack of amenities in outback areas as against workers in the metropolitan area or the more settled areas.

THE PRESIDENT: Is there any instance to which you can refer in which the Court has hitherto made a distinction between the district allowance paid to a single and a married man ?

MR OLIVER: No, I confess that if you did it in this case you would be breaking the ice.

THE PRESIDENT: That is no reason why we should not do it. There must be a start for everything at some time, but I am waiting to know why you wish it restricted to Wittenoom Gorge if a district allowance is to make up for lack of amenities and certain extra cost to which a worker is put. In such a case, if he were a married man, wouldn't he be put to these extra costs in any of the outback parts of the State ?

MR OLIVER: Personally, I know of no other centre such as Wittenoom Gorge in the North-West.

THE PRESIDENT: What about Yampi Sound ?

MR OLIVER: Of course, Yampi Sound may have its own peculiar conditions. In fact, I see by the claim, which was not drafted by me, of course, that we are asking for some increase. But in this case it is particularly for Wittenoom Gorge.

THE PRESIDENT: What about the district allowance of 8s.6d. for Meekatharra, Mt. Magnet and Cue ? They are reasonably outback places, are they not ?

MR OLIVER: You will notice that the allowance increases when it gets beyond seven miles of a railway. That is to meet the added disability of being away from a railway.

THE PRESIDENT: In many outback mining areas the disabilities must be just as great to married men as they would be at Wittenoom Gorge, relatively.

MR OLIVER: Yes, I would say the disabilities that some of them may be greater. But obviously they have not received the attention of the Court, or the disabilities would have been eliminated.

THE PRESIDENT: Therefore, is it not a question of principle, because if you say to us in the case of Wittenoom Gorge you must make an extra allowance for a married man, then surely someone, not necessarily you, but someone from your side of the table, would come to us and say, "Obviously the logic that applied to persuade the Court to grant the extra allowance to men at Wittenoom Gorge also applies to other outback areas.", even perhaps Kalgoorlie itself.

MR OLIVER: I want to make the point that this application, as far as I am personally concerned, could only apply to Wittenoom Gorge.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE PRESIDENT: Yes, I know it concerns only Wittenoom Gorge, but it seems to me to raise a matter of more general application, and if we granted your application we might be hard put to it to refuse any other.

MR OLIVER: I think a married man is entitled to receive some consideration at such a place as Wittenoom Gorge.

THE PRESIDENT: All right. But if that is so, let us argue on the general principle and not particularly on Wittenoom Gorge.

MR OLIVER: What you mean is that I should argue the principle for the whole of the North-West.

THE PRESIDENT: Yes, so that you can in fact give us some particular reasons why it is needed more at Wittenoom Gorge than, say, at Ora Banda, or any of the other outback areas. I do not think you can restrict your argument logically to Wittenoom Gorge in this instance.

Produced in the matter of Asbestos Personal Injury Cases Abrams Lead & copied to Richard F. Scruggs.

MR OLIVER: Personally, I know of only two centres in the North-West where there is any concentration of labour and that is at Wittenoom Gorge and, of course, Tampi, outside of the towns in the North-West. Generally, the district allowance paid in the districts I have mentioned is far in excess of 30s. a week.

MR MCKENNA: What would it be in a place like Marble Bar or Nullagine ?

MR OLIVER: It is 33s. in that area.

MR MCKENNA: Is there any distinction between married and single men ?

MR OLIVER: No.

MR MCKENNA: How would those districts compared with Wittenoom Gorge for amenities and so on ?

MR OLIVER: In this way: A lot of the workers work in the coastal towns.

MR MCKENNA: Nullagine is not a coastal town.

MR OLIVER: There are not too many at Marble Bar. I do not know if there are any. Certainly, there is no goldmining going on, as far as I know.

THE PRESIDENT: Do you mean to say that there are no members of the A.W.U. at Marble Bar ?

MR OLIVER: I do not think we have a member goldmining there today.

THE PRESIDENT: But a member doing any work ?

MR OLIVER: Yes, they are doing road work.

THE PRESIDENT: Do they get a district allowance ?

MR OLIVER: Yes, 33s.

THE PRESIDENT: Do they get an extra allowance for married men?

MR OLIVER: No. As I have said, if you do it in case you will be breaking the ice.

THE PRESIDENT: I am only saying that by restricting your claim

in this case and, if it is granted, it will make it very difficult for us and we will be hard put to it to refuse any other application.

MR OLIVER: This particular case is built on the circumstances at Wittenoom Gorge, and the award, of course, covers only an area of 50 miles in and around Wittenoom Gorge, so we felt that an application such as this could not be used elsewhere. After all, we could commence an industry at Hall's Creek and probably convince the Court that there were all sorts of grave difficulties to be faced at such a place, that would not be met in a town such as Derby; and we would say that a person living at Hall's Creek would be entitled to some consideration over a person living at Derby, and that would apply in this case.

THE PRESIDENT: Yes, but that is not on the question of an increase as between a married and a single man, and that is your point.

MR OLIVER: I would say it would apply to Wittenoom Gorge. We are satisfied that a single man can get along with a district allowance of 30s., but a married man at Wittenoom Gorge cannot do so.

(Continued on page 44).

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

MR.OLIVER: I appreciate the difficulty you were faced with and I know that we will have to produce some evidence at Wittenoom Gorge to prove our contention.

THE PRESIDENT: Yes you will have to give us some reason why we should depart from what so far has been the accepted standard.

MR.OLIVER: The only reason I will be able to give you is the peculiar circumstances at Wittenoom Gorge, the added cost of living, the freights -

THE PRESIDENT: Does it matter to you that clause in effect would mean discrimination against married men?

MR.OLIVER: No. There is this added benefit to the employer when he gets married man settled down in the town, he will have a stabilised labour force. I think when Mr. Broadhurst analyses his costs brought about by the continual turnover of labour, he might realise it is an added advantage to him to have a team of contented men.

THE PRESIDENT: Mr. Cross, on Mr. Broadhurst's behalf, might think it advantageous to amend your claim in this respect.

MR.OLIVER: Yes. I think the best way will be to produce evidence as to what goes on at Wittenoom Gorge, and I think we can do that when we get there. It might be the best way to prove our claim. I know Mr. Broadhurst has a very thorough knowledge of the cost of living at Wittenoom Gorge. He told me the other day that on an average it took more than £3 to pay a single man's food bill.

THE PRESIDENT: Did he expect to be quoted in the Court? He will give his own evidence on that, but I would appreciate help from yourself and fellow advocates in giving me some time next week perhaps, references in the Industrial Gazette to judgments of past Presidents on the question of the principles applying to district allowances generally, just as you have been good enough to inform me on the principles applicable to industrial allowances.

MR.OLIVER: Without at this stage being able to give you that information, I know the late President Dwyer always said it had to be based o the disadvantages of any given district or situation. I think that is how he summed up the position.

Perhaps at this stage I should give you some of the past history of the district allowance. You will see if you go back to some of our earliest awards, the district allowance has increased with wages.

I am quoting now from award No.33/22, which is between the Minister for Works, the Minister for Water Supply, Sewerage & Drainage, the Minister for Trading concerns, the Colonial Secretary, the Minister controlling the State Shipping Service, and the Minister for the North West, applicants, and North Plumbers' Union. It is Vol.3, No.3, page 120 of the W.A.I.G.

Here you will see, Sir, that district allowance as paid at such points as Onslow, Port Samson and Pt. Hedland were, in that year, 4/8d per week.

If you look at the W.A.Govt. Gazette, Vol.11 No.1, page 18, you will find that the basic wage was adjusted on the 3rd March 1931 and the rates of the basic wage were decreased from £4/5/- to £3/17/- in the State generally, and in the

MR.OLIVER:

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

Metropolitan area the rate was decreased from £4/6/- to £3/18/-. Ref, in award No.14 of 1930 between theA.E.U. and several State Ministers the district allowance given in Clause 16 of that award for Pt. Hedland, Broome and Derby, and within an area of 5 miles thereof, was 30s. per week. Now Pt. Hedland and the Pt. of Roebourne are almost a similar distance as the crow flies, from Wittenoom Gorge.

THE PRESIDENT:

Have you the reference in the Industrial Gazette for that award No.14 of 1930?

MR.OLIVER: No, but I can get it for you. We are all aware of what recent basic wage declarations have been. The most recent was on the 2nd May 1949, and it/ the basic wage for the metropolitan area as £6/7/1, for theSouth-West Division £6/6/9, and for other portions of the State £6/15/-. The portion of the State which applies to the area we are discussing gets £6/15/1.

gives/

Now if we make a comparison of the increase in the basic wage of recent dates with the rate paid prior to the 3rd March 1931, which is £4/5/- per week we find that the basic wage has increased by 59%. If you follow that line of reasoning, the district allowance in the North-West, that is Pt.Hedland and the Ports contiguous to it should be 47/64 per week.

THE PRESIDENT: Did you not tell me the district allowance was based onthe cost of living and lack of amenities in particular districts?

MR.OLIVER: Yes.

THE PRESIDENT: So it has no general relationship to the basic wage.

MR.OLIVER: I suggest the district allowance should have some relationship to the basic wage.

THE PRESIDENT: But I am talking about a particular district - say Pt. Hedland. While the basic wage appliable to Australia might increase by £1 per week, the particular cost of living in that town and the particular amenities available might decrease on the one hand, or improve on the other, so that the district allowance might go down.

MR.OLIVER: And remove the need for it altogether?

THE PRESIDENT: It is possible.

MR.OLIVER: But the Court has never seen fit to do away with the district allowance. They have however seen the need to increase it. Whether the comparison has ever been made, and I am not egotistical/to think I am the only person who has made the comparison, the point I am making is that there seems to be some justification for some increase in the district allowance that was paid in 1931, and more so when you consider the disabilities involved in residing in a place such as Wittenoom Gorge, which of course is some 200 miles by road inland from the Port.

enough/

THE PRESIDENT: On the other hand it is pretty close by air.

MR OLIVER: But the average working man, I suggest, cannot afford to travel by air. That is something we will come to in these proceedings. I personally was never able to travel by air until I started to live on thetacks of the workers. When I had to earn an honest living, I either walked or rode in a train, second class.

MR.OLIVER.
3-6-49.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE PRESIDENT: How do you get to Wittenoom Gorge apart from by air?

MR.OLIVER: At the present time a worker going to Wittenoom Gorge from Perth has his passage paid by the employer on the understanding that it is deducted progressively from his future pays. I think he enters into the venture very light-heartedly, wakes up when he gets there and grizzles ever after over it. Of course, he may take a liking to the place. I am sure you will agree with me that Wittenoom Gorge has some real beauty. He may take a fancy to it and decide to stay there. Mr. Broadhurst has men who have stayed there some years, but I know what usually happens. These people have had their fares paid for them and then they seem to exist for the day when they can gather enough money to fly outafit again or get up to the North West and get out of it.

THE PRESIDENT: How else would you get there except by flying?

MR.OLIVER: There is no train, but you can go by car to one of the Ports.

THE PRESIDENT: How is the asbestos delivered in bulk from there?

MR.OLIVER: It is carted in by truck. They have a carting contractor who carts all the requirements of the mine to the mine and takes what we would call the export out of it. I just want to say that if you take it on the lower decreased wage the industry allowance should have increased according to the recent increases in the basic wage.

In dealing with the questionof district allowance, obviously if it is found necessary to increase the basic wage during a given period by an amount of £2 the disabilities that follow on a residence in any given district - the costs - must have some relation to the basic wage. There is the cost of living for instance.

With regard totheEastern States, the people often quote the basic wage at Broken Hill. They will tell you what a high basic wage it is at Broken Hill. I have always been under the impression, founded on somevery sound information I have been given, that the basic wage for Broken Hill includes the disability allowance. As a counter, when our people are quoting these things, I just say, "Yes, look at our basic wage at Yampi Sound. You get £6/13/6. plus 30s., which makes it £7/17/1, which is far in excess of Broken Hill! Or you can quote Wiluna, with 10s. district allowance, and I am firmly of the opinion that when you are dealing with the questionof district allowance it must have some relation to the basic wage, and added to that you have to take into consideration any disabilities which are not invol in other places.

That, we feel, is a very good reason why very serious consideration should be given to an adjustment of district allowance at Wittenoom Gorge.

Now we come to the question of hours, and while we are mostly in agreement withthe employer on this question we are unable to see why any departure whatsoever should be made from the principles embodied in award 11/46. which are applicable to Gold Mining and Lead Mining.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR OLIVER: We do not see the necessity for stretching the 40-hour week over a period of six days or 5½ days. We say that a standard five-day working week from Monday to Friday has been established generally in Australia and there is no necessity for departure from the standard in this case. I want to say that the 5-day working week as applying in the goldmining industry has proved beneficial to employees and to employers.

I would like to quote from the late President's judgment given in a matter between the Amalgamated Engineering Union of Workers, Kalgoorlie Branch, applicant, and the Lake View and Star and others, respondents. It is No. 164/48, dated 20th October, 1948. On this occasion, His Honour said—

> 'Incidentally, I might mention at this stage that the production figures for the last six months of the present year do not indicate that the 40-hour week has had any detrimental effect on this industry. It would rather appear that the production of ore per ton per man has increased in many instances.'

His Honour put that happy state of affairs down to what he termed the rationalisation of hours. We agree with him. We say that the worker, given the week-end to rest, comes to work and works a lot better for the 5-day week.

Personally, we are in almost every instance very pleased with the hours given in the mining award. We have a set-up governing the continuous process worker, a set-up governing the underground worker and a set-up governing the general surface worker. The surface worker and underground worker work a 5-day week from Monday to Friday. The continuous process worker, that is, the plant worker on a continuous process, works a roster system, and does this by agreement with his employer as well as that the award lays down. He works a 40-hour week from Monday to Saturday. His work is spread over six days. He can have any rostered day off in the week, and the award allows that he works ordinary time Monday to Saturday. He is paid if he works a sixth consecutive shift at the rate of time and a half. Sunday, of course, is treated as a separate day, with penalty rate.

That is the set-up in the goldmining industry and it could well be applied to this industry. We see no need for a departure from the principle of what we term the standard-working week. Mr Broadhurst has a treatment plant at Wittenoom Gorge which may in the future involve some continuous process work. I think that for the purpose of his work and the better understanding between him and his employees, he could well adopt the principle that operates in the goldmining industry. The continuous workers in the goldmining industry work a roster system by agreement, which gives them an average week of 42 hours. They work over a cycle of eight weeks, six weeks of 40 hours and two weeks of 48 hours; that is, after searching all the roster systems in at least the English-speaking countries, the best roster we can find, and is working most satisfactorily in the goldmining industry. I suggest there should be no depature from that principle, and we commend to the employer the principle of that roster.

Now we come to the question of transport, and while we say we are not claiming that the employee should not pay for transport under certain conditions, we do say that the previous arrangement whereby he is bound to his employment for a period of six mark months, to earn as a reward his fare to Wittenoom Gorge, we think a fair proposition would be to allow him a period of four months. To be quite frank, the opinion of our people is that they should not be asked to

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

pay the fare at all. They say they should be transported to Wittenoom Gorge and back free of cost.

MR MCKENNA: Without any limit of time ?

MR OLIVER: Well, you could perhaps say the employer was entitled to some guarantee of the length of a man's employment. Under the present set-up, the worker goes there, his fare is paid for him on the understanding it will be deducted progressively from his future wages. If he stays there six months, of course he earns that reward, and his fare is refunded. But at that stage he is ready to get out, and it does not mean a thing to him. So we look on that aspect as a direct tax on the worker's wage. From the time he gets to Wittenoom Gorge, he commences to repay his transport to Wittenoom Gorge and, as I have said, by the time he has repaid it, usually if you question the man you will find quite a number of them are just hanging on until the six months period is completed, to get out again, so as to have it refunded before they go.

MR MCKENNA: Yet you suggest it be reduced from six months to four months.

MR OLIVER: Well, he might get out a bit quicker. But I say it is a bad principle. It gives the worker the feeling that he is caged up there for a certain period. My instructions when I came here in the initial stages were to claim a free fare both ways. Frankly, I did not have the hide to put it up, but that is what I was instructed to do.

THE PRESIDENT:
You claim, in effect, that the employers should pay for the cost of transport to Wittenoom Gorge, in any event ?

MR OLIVER: Yes. We say as the normal pick up of labour appears to be in Perth, he should pay at least half the cost to Wittenoom Gorge, and if the worker stays over four months, he should have the other half paid back to him. If he does not stay, he should sacrifice his portion of it.

THE PRESIDENT: What is the fare ?

MR OLIVER: £14.10s. It is a considerable tax when you consider that a worker has his earnings reduced each week perhaps by £1 for having travelled to Wittenoom Gorge.

THE PRESIDENT: That is so, but at the same time it is a considerable amount for the employer to pay if he gets a week's work out of a worker. So there is difficulty either way.

MR OLIVER: I agree. There must be some thought given to it. I know Mr Broadhurst has often paid a man's fare to Wittenoom Gorge, and he has not even started. He has got nothing for his outlay. But though we cannot deal with these outlying instances, I want to deal with the good honest worker who wants to give a fair deal, and I want a fair deal for him in return. We will probably call some evidence on the matter.

I do not think I have much more to say at this stage, but I would like to remind the Court that there are subjects consequential on the subject of hours embodied in this holiday clause and annual leave, not mentioned in this three-column schedule, and I know the Court when dealing with that matter will give consideration to that angle.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

THE PRESIDENT: If we miss any point, you will have an opportunity of checking up on it when speaking to the Minutes.

MR OLIVER: Yes, and I hope you will place a very generous interpretation on the matter of allowing me to clear up any points in regard to which I have not spoken on this occasion.

THE PRESIDENT: What have you to say, Mr Simons ?

MR SIMONS: Mr Oliver has very capably covered the general claim and therefore I have not much to say.

As regards Clause 4(a), we dealt with that matter previously and, as Mr Gill said in conference the other day, the same district allowance is for the apprentice and the junior worker, there will be no necessity to comment on that matter.

MR DAVIES: What did you say Mr Gill said ?

MR GROSS: I object to any remarks repeated which have been made at a conference, whether they are admitted or not.

THE PRESIDENT: All you are saying is that the same point is in your argument as Mr Oliver has argued in his case.

MR SIMONS: Yes, and I cannot say any more than he has said. In relation to the hours clause, if the latter portion is included in the award and it is decided that 'workers employed on maintenance work and other necessary work, the week's work . . . 5½ days from Monday to Saturday inclusive', that means to say, if that is implemented our members up there will never receive a 5-day week because all their work is on maintenance.

Though we appreciate Mr Broadhurst's action in implementing the 40-hour week, our members have expressed resentment of the fact that it is worked in 5½ days, and on several occasions they have asked me what the union has been doing about the working week. That is one of the main reasons I have come to the Court on this occasion.

When the Blue Asbestos Application No.26/46 was settled, the hours in the mining award were agreed upon. When the union wanted the 40-hour week in five days in the mining award, the Chamber of Mines offered the same hours clause as in the blue asbestos award and the Court granted the 40-hour week in five days.

The President, reviewing the 40-hour week decision, approximately 12 months late, on the 20th October, 1948, said that, owing to the rationalisation of hours, production had increased. What is meant by 'rationalisation of hours' ? Actually, the Court in its decision provided for a 5-day week for our members on a normal shift. (b) provided a spread over six days for the continuous process workers. And further they directed a 5 per cent. penalty for shift work.

This was only included in the engineers' and the A.E.U. awards in the goldmining industry, because they were the only people with continuous process or shift work to do.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

We have agreed that these provisions should go into the blue asbestos award and have gone further and in our application have deleted the restrictions in the overtime clause, subclauses (h) and (k), as in the goldmining award, because we realise some of the difficulties Mr Broadhurst meets up there in regard to labour.

We consider that in all the circumstances, taking into consideration that the late President of the Court said that owing to rationalisation of hours and the way they have been worked out to cover all emergencies, replacement of plant and maintenance, the same hours clause should apply as had applied previously in the other asbestos awards, and the same hours clause should apply to both awards in the future.

Mr Oliver dealt with the other matters, so the only one I wish to touch on now is the apprenticeship regulation, Regulation No. 37.

When Application 26/46 was before the Court, the union and the management of Blue Asbestos agreed to the Court's standard; in the goldmining case, the Court's standard was agreed to.

(Continued on page 51).

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

Actually the court standard does not provide for the inclusion of this regulation 37 in the Goldfields awards, and actually there has been only one apprentice employed at the Blue Asbestos and that apprentice subsequently left because of the high cost of living even though he was getting 30s. district xxxx allowance. I have been lucky in getting him allocated down here, so Mr. Cross would have to show change of circumstances as to why the apprenticeship regulations should be altered in relation to "D".

I understand in the very near future an application will come before the court from both the unions and the employers to amend the apprenticeship standard regulations in respect of the present clause "D". I think there should be provision in the apprenticeship regulations for liberty to apply to both parties to alter the standard regulations should same be altered by the court in the future. Those are the only remarks I wish to make.

MR. DAVIES: When you say an application may be made to the court in future by unions and employers in respect to subclause "D" of apprenticeship regulation 37, what do you mean by that? Do you mean applicants and respondents in this reference?

(CONTINUED ON PAGE 52)

Produced in the matter of
Asbestos Personal Injury Cases;
Abrams Lead & copied to
Richard F. Scruggs.

MR. [illegible]: No, I mean the unions and the employers generally. I believe that that is in the offing and that application will be made to the Court to alter the standard regulations.

MR. MENLEY: Your Honour, there is not very much I can add to the very able case put up by Mr. Oliver regarding these various clauses which have been disagreed with. There is just one point regarding apprentices.

Our union has for some time now been very concerned about many of the difficulties which apprentices working in the country areas are suffering, particularly regarding their training. Of course they have not the facilities available to metropolitan apprentices to attend the Technical school. They come under a correspondence course and many of these apprentices are having difficulties with that course. At present the Apprentice Board is giving consideration to some way of helping them. I believe that any apprentice who may be at Kitimoon Gorge may be under a greater difficulty than an apprentice employed in any the agricultural areas.

We occasionally get around to the lads in the agricultural areas but it will be a very remote occasion before we will be able to contact apprentices at Kitimoon Gorge.

Furthermore, these lads are more or less cut off from the usual type of life to which they are used in Perth. They are isolated, and that being so, we feel that any district allowance which is paid should apply fully to the apprentices in these districts.

With regard to the asbestos bonus, it occurs to me after hearing Mr. Oliver on the question of health in relation to asbestos mining that it is more tragic for a lad in his teens to be affected in such a way, by working among dust and those sort of conditions.

It is so tragic, that I think we could claim that if there is to be an asbestos bonus the apprentices should be full entitled to participate in it.

THE PRESIDENT: Do you mean that they should get the whole bonus?

MR. MENLEY: Yes. I think the industry should attend to those lads, particularly if a lad in his early years is affected, because it may affect the whole of his life.

THE PRESIDENT: But you have only claimed a percentage of it. Your claim reads, "Percentage of basic wage and asbestos bonus."

MR. MENLEY: I understand Mr. Oliver claimed the full district allowance.

THE PRESIDENT: Yes, but not the full bonus.

MR. OLIVER: No, I never at any time attempted to claim the whole bonus for a junior worker.

THE PRESIDENT: No, you claimed a percentage of the basic wage and the asbestos bonus.

MR. OLIVER: Yes.

THE PRESIDENT: And in addition, the full district allowance, but I think Mr. Menley was saying the apprentices should get the full asbestos bonus.

2.

52

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR. KENLEY: I will amend that and say a percentage of the Board. Regarding the district allowance, I think Mr. Oliver has also covered that regarding the need for a 30s. district allowance in respect of Native workers generally. It is a very isolated district. Thirty shillings is paid to Port Hedland, Broome and Derby, and I think they are entitled to it in such an isolated spot as Wittenoom Gorge.

Regarding the claim for married men, I think some consideration should be given to the disabilities suffered by a married man taking his family into an isolated district like this where he is cut off from the normal amenities of the South-Western parts of the State.

THE PRESIDENT: Some people would regard that as a great benefit — to be cut off from the alleged amenities of the city. They would think it was just the life up there where there was peace and quiet. Or are you just thinking of normal men.

MR. KENLEY: There may be a small number of people who think that way, but if we are to attract families there to develop this industry we must realise there are disabilities they have to face, and some consideration should be given to a special claim for those people under those circumstances.

THE PRESIDENT: Would you agree with this view — that if and when the township gets to the stage of providing first-class amenities for the men employed up there, then the need for the district allowance would not be so great?

MR. KENLEY: Even then I would say that there are times when people living in districts like that must have a break away.

THE PRESIDENT: Just as you and I must have a break away from Perth at times.

MR. KENLEY: Yes, but more so in a case like that, where the life is more monotonous than that with which we have to put up with here.

(CONTINUED ON PAGE 54)

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.

MR.KENNEY:

Then again there comes a time when a man has to consider the position of the education of his children. They could probably get a primary education but there may come a time when a man, if he has any ambition at all for his children's future, would have to send them away to be educated in other places either in Perth or some place nearer where there are secondary schools. This sort of thing would be added expense for the families concerned. I think that is a consideration for the higher rate for married couples. There is just one other matter regarding holidays and the question of omitting the Saturday.

I claim in regard to the agreement on our part that Saturday is not a working day. We are slightly different to the Engineers' claim. It is not a working day, and it might happen on several times in the year that a public holiday falls on a Saturday and the worker does actually suffer disability by losing one public holiday in which you may have some grief of preparation.

The principle is already established actually of providing Monday when a holiday falls on Sunday, and we feel that it should be extended to where a public holiday also falls on Saturday. We feel the same principle is involved, and actually from the point of view of working a 5 day as against the 5½ day week he loses more in comparison by Monday not being granted in lieu of the holiday falling on Saturday.

I do not think there is anything else except to particularly support Mr. Oliver's contention regarding transport. I also visualise that there is a disability in the worker having to pay the whole of the cost and wait 6 months before he is reimbursed.

I do not know whether I would be permitted to comment on the fact of the tool allowance. We have had to agree to the payment of 1/6d. but are hoping at any time when the Court sees fit to grant the increased tool allowance of 3s. which is now the State standard, that that could be granted to the industry here.

THE PRESIDENT: It is 1/6d only in the Goldfields.

MR.KENNEY: Yes. We feel that it is most inadequate and feel that the 3s. established in the constructional award and Public Works award and agreed to at Kalgoorlie should be granted in this industry as soon as possible.

THE PRESIDENT: We thank you all for your painstaking care in presenting this case. The case will now be adjourned to Fitzroy Crossing.

CASE ADJOURNED TO FITZROY CROSSING, TUESDAY 7TH JUNE AT A TIME TO BE FIXED.

Produced in the matter of Asbestos Personal Injury Cases; Abrams Lead & copied to Richard F. Scruggs.