PLAINTIFF'S
EXHIBIT
CT-137

EXTRA COPY 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
and
SOUTHERN DISTRICT OF NEW YORK

IN RE JOINT EASTERN AND SOUTHERN DISTRICT ASBESTOS LITIGATION	) New York Asbestos Litigation
This Document Relates To:	)
EDWARD SUTEMYER and IRENE SUTEMYER, his wife	)
Plaintiffs,	)87 Civ. 5447 (S.D.N.Y.) (CPS)
- against -	)
TURNER & NEWALL PLC, et al	)
Defendants.	)

Edited For JENKINS TRIAL

Wilmslow, England
25 July 1988

DEPOSITION OF SIR RALPH BATEMAN - VOL I

Taken pursuant to Rule 30 of the Federal Rules of Civil Procedure; West Virginia Rules of Civil Procedure; and by stipulation at the Valley Lodge Hotel, Altrincham Road, Wilmslow, Cheshire, England, commencing at 10:00 a.m.

Court Reporters:
HARRY COUNSELL & CO.
61 Carey Street
London, WC2A 2JG
England

By: JUDITH A. MOCK, CSR

Sir Ralph, would you state your full name please, again, for the record?

A Ralph Melton Bateman.

Q And, where do you reside, sir?

A Wilmslow, Two Bollin Court, Macclesfield Road, Wilmslow.

Q That's in Cheshire?

A In Cheshire.

Q And that's in England; is that right?

A Yes.

Q And, you're a citizen of England?

A Correct.

Q Sir Ralph, when were you born?

A 15th May, 1910.

Q And that would make you how old today?

A 78.

Q What is your present employment status, if any?

A I'm totally retired.

Q What was the last employment position you held?

A I was Chairman of a non-operating company called Northern Shipbuilding and Industrial Holdings.

Q For what period of time did you hold that position?

A I can't be precise. Less than five years; and I retired from it at the end of December, 1986.

Q Did that company have any relationship to Turner and Newall?

A None, whatsoever.

Q All right. What was the last employment position which you held prior to the one you just mentioned?

A There were one or two totally unrelated Turner & Newall. I'll try and remember the details of those, if you wish.

Q Well, I'm not particularly interested in those. Did, at one time -- at one time you were employed by Turner & Newall; correct?

A Correct.

Q When did you retire?

A End of July, 1976.

Q Since July, 1976 have you had -- strike that.

Since your retirement in July, 1976 have you held any positions, either employment positions or consulting positions with any of the Turner & Newall companies?

A I believe that for one year after that (that is to the end of July, 1987) I did hold some sort of consultancy with Turner & Newall. I can't remember the details, because in effect, it meant nothing.

I carried out no duties. And, certainly it ended not later than 31st July, 1977.

Q When you -- I believed you said '87 a moment ago. You meant '77?

A I meant '77. I beg your pardon.

Q All right, Sir. Could you give us briefly the benefit of your educational background?

A I went to school at Epsom College in Surrey, which is what we call a public school. From there I went to University College, Oxford, where I read engineering and law; and I took the final Bachelor of the Arts examination in law.

After that, subsequently (after I had entered the employment of the Turner & Newall Group) I took the examinations of the Chartered Institute of Secretaries, and became a Fellow of that Institute.

Q When did you join the Turner & Newall Group?

A September, 1931.

Q. Could you trace for us, briefly Sir (and I know it's a long time ago, and a long period of time) your employment history with Turner & Newall between 1931 and 1976?

A I think I can get the order correct. The dates will have to be only approximately correct. I could easily be wrong by a year or so in some of them.

My first appointment was as a trainee; and I was then on the employment role of Turner & Newall, the parent company. And they sent me for training to Turners Asbestos Cement, where I remained until 1933.

They then sent me for a few months to Germany where I worked in Berlin in the office (the sales office) of an asbestos cement manufacturing company there. That was for about four or five months.

I then came back to the United Kingdom, and I joined the staff of Turners Asbestos Cement where I had received training; and was with them in various capacities, including that of a field salesman, until about 1937 when I was transferred to Turner Brothers Asbestos Company in Rochdale.

I stayed with them until (in various capacities) about 1940 or 1941, when I was transferred to Raw Asbestos Distributors, a company whose name in the later years became Turners Asbestos Fibres.

I was appointed to the board of that company in 1942. I remained there until 1948, when I was transferred to -- back to Turner Brothers Asbestos Company as a member of the board and the title, "Home Sales Director."

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In 1951 or '52, I was transferred to Turners Asbestos Cement where I became a member of the board, and Sales Director.

In 1955 (I think) I became Managing Director, and soon after, Chairman of Turners Asbestos Cement.

In 1957, while retaining my position in Turners Asbestos Cement, I was appointed to the board of Turner and Newall; and in 1959, while still retaining the position in (or positions in) Turners Asbestos Cement, I became Deputy Chairman of Turner & Newall. That was in March, 1959.

Soon after that I relinquished the position on the board of Turners Asbestos Cement. In, I think 1967 I became Chairman of Turner and Newall, and I retired from that in 1976.

Q Thank you, Sir. Could you give us a general description of the business of Turner & Newall?

A Yes. Turner & Newall was a miner of asbestos fibre through subsidiaries in the African Continent and in Canada.

It was a manufacturer of asbestos products including textile asbestos products, asbestos cement products and asbestos insulation products

in the United Kingdom and in other countries of the world.

In addition, it was a manufacturer of various industrial engineering products which were -- which contained no asbestos fibre.

Q Could you describe for us in general terms the structure of Turner & Newall during the period when you were employed by that company? And, if it changed over time, you can indicate that in your answer.

A Turner & Newall was a holding company, which held shareholdings in manufacturing and selling companies mostly 100 percent shareholdings, but not invariably.

It act -- Turner & Newall acted as overall financial controller of the subsidiary companies; and it interested itself in the appointment of the boards of those companies; and it oversaw the overall legal arrangements of the group. It did not, itself, manufacture or sell.

The relationship between Turner & Newall and the subsidiary companies in the United Kingdom did change, legally; but I can't tell you the details of those. Those changes were -- must have been either for legal reasons or for tax reasons.

They didn't, in fact, have a practical effect on the operation of the subsidiaries or the position of the people on the boards of those subsidiaries. And, clearly the relationship between Turner & Newall and the subsidiaries in the United Kingdom was closer than that between Turner & Newall and the subsidiaries in overseas countries.

Clearly, the subsidiaries in overseas countries were subject to the laws of those respective countries; whereas the subsidiaries in the United Kingdom were all subject to the same law; the law of the United Kingdom.

Q Was there any difference in the manner in which the United Kingdom subsidiaries and the overseas subsidiaries were organised or structured?

A No.

MR. HANLY: Would you mark this as the next exhibit, please?

(T&N Exhibit 7 marked for identification)

BY MR. HANLY:

Q Sir Ralph, I'd like to show you what's been marked as T&N Exhibit 7 to this deposition, and ask you if you can identify this document.

A Yes, I recognise this document. It was produced while I was Chairman of Turner & Newall.

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Q And, this is "Turner & Newall Limited, The First Fifty Years"?

A It is.

Q Could you tell des -- could you tell us briefly what you know about the genesis of this document; how it came to exist?

A Yes. The 50th anniversary of the formation of Turner & Newall was noted by the board, who decided that they would like to have a brief history of the group to mark that event. I can't tell you where the idea first originated; but certainly, I was strongly in support of it; if I didn't originate it myself.

We enlisted the aid of an outside writer to make suggestions about this history. I can't remember his name. And, we didn't like his first suggestions, so we didn't proceed with him.

We found that in one of our departments at head office (I think it was the Public Relations Department) there was a young man who I think had read history at the university, and was a good writer. And, it was suggested that he should do this for us. I can't remember his name. But, I know I had talks with him, and sketched out, very briefly, the shape which I thought the history should take.

And, based upon that, he produced this obtaining information from all the people within the Turner & Newall and subsidiary companies as he wanted it.

And, this (subject to the refining which took place correcting the usual thing - editing) was the final result.

Q Did you read the drafts of this product?

A Yes.

Q And, did you read the final product?

A Yes.

Q Before it was printed?

A Yes.

Q Will you turn to page 28, please, Sir Ralph?

A (Witness complies)

Q And, I'd ask you to read to yourself the last paragraph on page 28 which carries over to 29.

A (Witness complies) I have read that.

Q Sir Ralph, does that paragraph, to your mind, accurately reflect the administrative structure which existed within Turner & Newall?

A Yes, it does.

Q Sir Ralph, were there any Turner & Newall subsidiary companies during the period of your involvement with the company? (And, of course all my questions today will only ask for your

Q Sir Ralph, you mentioned certain mining interests which T&N had during the period of your involvement. Could you describe for us, in general terms, how fibre mined by mines owned by T&N was disposed of, or sold?

A In my time with Turner & Newall, starting with my appointment to Turners Asbestos Fibres (which at that time was called Raw Asbestos Distributors) in about 1940, the fibre was produced at the mines; all of which were either in the African Continent or in Canada and it was -- all the African fibre was sold by Raw Asbestos Distributors.

The Canadian fibre produced by Turner & Newall-owned mines was sold to Turner & Newall manufacturing companies by Raw Asbestos Distributors. But, the Canadian mines were responsible and effected sales themselves, to some companies -- some customers outside the Turner & Newall Group; for instance, Japan. They sold directly to Japan.

Raw Asbestos Distributors was, in effect, a service organisation to centralise supply of asbestos fibre to the Turner & Newall manufacturing companies. It -- it's duty was not (as told it by the Turner & Newall Board)

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was not to make a profit, but to cover its costs, and to act as a purchasing servicing organisation.

The companies in the Turner & Newall Group advised Raw Asbestos Distributors in late summer or early autumn of each year what types and tonnages of fibre they would like to have for the following calendar year; and Raw Asbestos Distributors, being advised by the mines what tonnages they would produce, then attempted to reconcile the demands with the supplies.

And, where there were problems of any sort, they tried to sort out those problems by offering other types of fibre instead.

Insofar as concerns Canadian fibre, if the manufacturing companies required fibres which were not produced by T&N itself (and in effect, T&N itself in that case means Bell Asbestos Mines, who were wholly-owned by T&N) if -- and which I loosely describe as a T&N mine -- if the Bell mine couldn't supply what was wanted, they would act as purchasing agents to purchase from another Canadian mine (of which there were a number); and they would arrange that purchase and supply.

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In other words, Bell acted through Raw Asbestos Distributors as the purchaser of grades of Canadian asbestos fibre for the manufacturing companies.

Q Sir Ralph, I think you said that -- strike that.

Did Raw Asbestos Distributors (or TAF as it later became) did it sell fibre to non-T&N companies?

A Yes, yes. The T&N companies did not take all the production of fibre from the mines in the African Continent, and Raw Asbestos Distributors was responsible for selling the balance to customers in all parts of the world.

Q Sir Ralph, I believe you testified a moment ago that RAD (If I refer to Raw Asbestos Distributors as RAD, you'll understand what I mean) that RAD's mandate, if you will, was not to make a profit, but to cover its costs.

Does it follow from that that when RAD sold to non-T&N companies, that it made no profit whatsoever?

A Yes, it does. The prices were set by the producing mines, and advised to RAD; and RAD sold at those prices to the customers, whoever they were.

The names have changed from time to time, so it's hard to be certain about them. But, there was Newall's Insulation Company and Washington Chemical Company.

Q Sir Ralph, you've heard of Keasbey & Mattison Company?

A Yes.

Q Was that a T&N subsidiary at some point in time?

A Yes, when T&N purchased the whole company.

Q When, roughly or precisely if you know, did T&N purchase Keasbey & Mattison?

A I can't be certain, but it was approximately 1933; the middle to early 1930s.

Q Again, based upon your historical knowledge and experience, the knowledge you acquired during the period you were with T&N, do you know how long Keasbey & Mattison had been in existence prior to its purchase by T&N?

A All I can say is a good many years. But that, I mean probably the top side of 20 years, anyway. It may have been more.

Q Do you know the nature of the Keasbey & Mattison business at the time that T&N purchased it in the mid-1930s?

A Yes. It (Keasbey & Mattison) owned the Bell Mine at Thetford Mines in Canada; and it was engaged in manufacture of various asbestos-containing products in the United States.

Q Sir Ralph, could you please turn to page 27 of Exhibit 7, which is "The First Fifty Years"?

A (Witness complies.)

Q And, if you'd direct your attention to the only full paragraph on that page and read that to yourself, please.

A (Witness complies) Yes, I've read that.

Q Yes, Sir. I'm interested in the phrase which states, "K&M was the manufacturing organisation in its own right with wide interests in asbestos cement." Sir, based upon your knowledge, is that a true statement at the time that T&N acquired the company, which is what this referred to?

A Yes. Yes, it is.

Q Now, I believe you mentioned that at the time of the acquisition Keasbey & Mattison owned the Bell Mine?

A Yes, correct.

Q Did there come a time when Keasbey & Mattison divested itself or spun off of that entity?

A I have -- don't have direct personal experience of that; but yes, I know that the Bell Mine became separated and became a direct subsidiary of Turner & Newall at some date. I have no prac -- personal experience of how it was done.

Q All right, Sir. But, it was some point after the acquisition of Keasbey & Mattison by T&N?

A Yes.

Q Do you know how long the Bell Mine, as separately constituted, was a subsidiary of T&N?

A From sometime in the middle to late '30s until after I had returned -- retired from Turner & Newall.

Q Have you ever heard of a company called Atlas Asbestos Company?

A I have.

Q What relation did that have to Bell, if any, during the period of your employment at T&N?

A I have a little problem with names, but the name at least was used in all sorts of connections in Canada.

If you're referring to Atlas Asbestos Cement, which is an asbestos cement manufacturer in Montreal, the relationship there was that they were both separate legal entities; both wholly-owned by Turner & Newall Overseas

Limited, which in turn, was wholly-owned by Turner & Newall.

Q Do you know how long Atlas -- that Atlas entity, which you just referred to, was owned by Turner & Newall?

A I believe it was owned by Turner & Newall from the date on which it was set up. I can't give you that date. I haven't personal experience of it, and I can't remember. But, I believed it would be sometime after the war. And, that would mean after 1945.

Q Was Atlas -- was Atlas a subsidiary or -- strike that.

Was Atlas owned by T&N at the time you retired in 1976?

A It was owned by T&N Overseas Limited, which in turn, was wholly-owned by Turner & Newall PLC.

Q How long did Turner & Newall own Keasbey & Mattison Company?

A (Pause)

Q You told us it acquired it sometime in the mid-30s.

A Well, it owned it until its dissolution, which was around the mid-1960s, I believe.

Q Can you identify for us (to the extent of your knowledge, obviously) the presidents of Keasbey & Mattison from its acquisition by T&N until its dissolution in the mid-1960s?

A I can't remember who its president was at the time when T&N took possession of the company, or purchased the company; but the first president that they installed which was, I believe, soon after that, was Ernest Muehleck. That's M-u-e-h-l-e-c-k.

The next president was Robert R. Porter; and I think that he was president until the company ceased operating and was -- went into dissolution.

Q Was there another president appointed for the period of dissolution?

A Mr. Porter retired about 1962, and I believed that Mr. C. B. Brown, who was a director of Turner & Newall Overseas Limited and a resident of Canada, was appointed president to facilitate handling all the various legal and financial matters concerned with dissolution of the company.

I'm a little in doubt as to the exact titles there. Mr. Brown may have been president, or he may have been chairman and

president. In effect, he was the chief -- the principal director during that period of dissolution.

Q Do you know the identities of the chairmen of Keasbey & Mattison from the mid-1930s, when it was acquired, until it ceased to operate in, I believe you said, around 1962?

A I think that the first chairman in that period was Mr. Shepherd. That's W.W.F. Shepherd, who later became Sir Walker Shepherd.

We're talking about chairmen.

Q Yes, Sir.

A Yes. I think that the next chairman following on the death of Sir Walker Shepherd in March, 1959, was myself. And, I was chairman for maybe six months, till about September, 1959. And then, Mr. R.R. Porter became chairman as well as president, until he retired in 1962.

Q Sir Ralph, you became chairman of Keasbey & Mattison upon Sir Walker's death, or shortly thereafter?

A Yes.

Q And, that was -- when did you say? March, '59?

A March '59. I can't give you exact dates in the month.

Q That's not important, Sir.

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That, as far as I can remember, applied to all subsidiaries of Turner & Newall, whether in the United Kingdom or in other countries. And, therefore, this is carrying out that responsibility.

I didn't have the power to act on these by myself. I had to obtain approval of the Turner & Newall board to do them.

Q So, let me ask you a few questions without reference -- without specific reference to this document, about fibre supply to Keasbey & Mattison.

Did RAD or TAF play a role in the supply of fibre to Keasbey & Mattison?

A Yes.

Q Could you describe the general mechanism or workings of fibre supplied to Keasbey & Mattison through RAD/TAF?

A It was, in effect, the same as fibre supplied to other Turner & Newall manufacturing subsidiaries. Each year, about late summer or early autumn, Keasbey & Mattison would advise RAD what tonnages, of what grades of fibre it would like to purchase for the succeeding calendar year and, whether from -- in fact, whether from T&N controlled mines, or from outside mines.

And, RAD would then endeavour to fit those supplies into its selling program for the succeeding calendar year; and would endeavour to obtain from the outside producers what Keasbey & Mattison wanted.

For instance, Keasbey & Mattison might want to purchase some amosite fibre which T&N did not produce in any part of itself. We produced a little amosite, but not necessarily what K&M wanted. And, the same applied to blue asbestos fibre.

Keasbey & Mattison would indicate (whether it came from an internally owned controlled mine or not) what fibre it wanted. If there was a problem in meeting those demands in grade or tonnage, T&N -- sorry, not T&N -- RAD would try to suggest alternatives which would meet the requirements of Keasbey & Mattison; and they would advise then, what the final proposed tonnages were; different grades, and the prices.

And, Keasbey & Mattison would then place the orders, and from to time, issue shipping instructions against those orders.

When it comes to supplies of fibre from Canada, I can't remember exactly. I should say that the great bulk of the fibre which Keasbey &

Mattison wanted, came from T&N mines (T&N owned mines) either in Rhodesia, or in Swaziland.

I can't remember whether such supplies of Canadian fibres as K&M required came direct from the Bell Mine in Canada, or through RAD. I believe that they came direct, but I can't be precise.

Q When the fibre which went to Keasbey & Mattison came through RAD or TAF, did RAD or TAF, to your knowledge, take physical possession of that fibre?

A No. They never took physical possession. I think that the fibre was shipped by the mine in Africa through an African port; and the bills of lading were sent to RAD and then sent by RAD onto the customer, Keasbey & Mattison. And, at all times the fibre (the physical possession, as well as the legal ownership) rested either with the mine or with Keasbey & Mattison.

The fibre passed straight over without RAD having ownership itself.

Q Did Keasbey & Mattison ever use fibre (chrysotile fibre) from Rhodesia designated "C&G-3"?

Q Yes, Sir. Would you -- could you now take a look at page 35 of the 1959 report?

A Yes.

Q Yes. If you could read that to yourself, please, Sir.

A (Witness complies) Yes.

Q My question is, Sir, do you see anything out of the ordinary, or unusual with respect to how the mechanics usually worked between K&M and T&N in what is reflected on page 35? Is there anything unusual about what is reflected there?

A I don't think so, no. (Witness reading)

Yes. Clearly, the desirability of grades of fibre from distant sources would depend, to some extent, not only on the quality of those fibres (essential intrinsic quality) but also on the relative prices. And, this is what he is saying, I think, in the first half of this paragraph.

Q All right, Sir. Thank you. Sir, why -- why didn't Keasbey & Mattison set up its own fibre -- fibre supply office?

In other words, why (if you know) did Keasbey & Mattison use TAF to obtain fibre from places like Rhodesia? -

A TAF (or RAD) had sole selling rights. They were appointed as sole agents by the mines. But there could be no advantage for Keasbey & Mattison, aside from that, because they were obtaining the world price. And RAD (or TAF) were in a better position to argue for supply to them than they would have been themselves.

Most of this period there was a seller's market for asbestos fibre; the period for which I was concerned. Therefore, Keasbey & Mattison would probably have had a harder task in buying, if they hadn't gone through RAD.

Q Sir, during the period that you were involved, did you ever hear of any complaints made by Keasbey & Mattison that the price it was paying to TAF for fibre was too high or higher than the world price?

A No. Of course, Keasbey & Mattison wanted to buy at as ~~lowest~~ lowa price as they could, but I never had heard that complaint.

Q All right, Sir. Would you turn to page 36 of the report, please.

A (Witness complies.) Yes.

Q Sir, actually my question is a more general question.

A That Johns-Manville decided what was going to happen and that is what did happen; and sometimes it happened without any prior consultation witn anybody else.

MR. HANLY: Thank you, Sir Ralph. That's all I have at this time.

(Luncheon recess taken at 1:20 p.m.)

(Deposition Reconvened at 2:20 p.m.)

EXAMINATION

BY MR. ROGERS:

Q Sir Ralph, my name is Tom Rogers, and I'm with the law firm of Ness, Motley, in Charleston, South Carolina; and we represent the plaintiffs in these matters.

I'm going to ask you some questions continuing your deposition, and I know that probably to your ears I have a pretty significant accent; and additionally I have a tendency to speak rather quickly. If you don't understand me, or if there's any question about the meaning of my question, if you'd stop me so that I could probably rephrase it.

A Thank you.

Q You indicated that you were employed with T&N in one capacity or another between 1931 and 1976; is that correct?

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A Correct.

Q When you listed your employment and your various board positions, you only indicated your board positions with respect to the UK subsidiaries.

A Correct.

Q Could you go back through that period of time, between 1931 and 1976 and indicate what additional board positions you may have held in non-UK subsidiaries.

A Yes. I'm going to have to do some heavy approximation on dates.

Q That's fine.

A But, I think I can cover the companies ~~at~~ which I was with at length ~~with~~. None of them took place until after 1957, and probably not till after 1959 when I became deputy chairman at Turner & Newall.

I was a director of Keasbey & Mattison, and I think those details are on the record. I was a director of Bell. I was a director of Atlas. Those three.

I was a director, and I think chairman of Havelock Asbestos Mine, which was the company which owned and operated the asbestos mine in Swaziland. I was a director, and I may, for a short period, have been chairman of the company

ownership.

I can't say that is it, but I think it is. But I didn't write this.

Q The companies we've been -- the North American subsidiaries that we've been discussing, specifically Keasbey & Mattison, Atlas, Bell and Turner & Newall Overseas, they were all 100 percent owned by Turner & Newall?

A They were.

Q Or, by Turner & Newall through an intervening corporation?

A Yes, through Turner & Newall Overseas.

Q So, in other words --

A In effect --

Q -- subsequent to the formation of Turner & Newall Overseas, Turner & Newall Overseas held 100 percent of the stock of Keasbey & Mattison, Atlas and Bell?

A Yes.

Q And, Turner & Newall held 100 percent of the stock of Turner & Newall Overseas.

A Yes.

Q I have here a document I'm going to label Plaintiff's Exhibit 1; and just for the sake of clarity, all the documents I'm going to be using over the next few days are documents that were

produced -- excuse me -- over the next two days are documents that were produced by Turner & Newall by their document repository in Manchester.

MR. ROGERS: And I believe that we have a stipulation between Mr. Hanly and myself concerning the authenticity of those, so we can probably avoid that --

MR. HANLY: That's correct.

MR. ROGERS: At least we hope we can avoid that.

(Plaintiff's Exhibit 1 marked for identification)

BY MR. ROGERS:

Q This first document is entitled "Turner & Newall Limited Historical Summary" .

BY MR. ROGERS: And, I also apologise because of the bulk of the documents involved, I was not able to bring duplicate copies.

BY MR. ROGERS:

Q Have you seen this document before?

A I remember this document, yes. Yes, I do.

Q Do you recall how it was produced, and when it was produced?

A I think it was produced in the secretaries department. I can't remember when production of

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it first began, but clearly it was an attempt to set down the important accounts in the history of Turner & Newall from its formation, which is the first thing in 1920 onwards. And, if I remember the document correct, yes, it added summaries each year for what were considered to be worthwhile recording happenings during that year.

Q Now, I don't expect you to vouch for every word in there, but just as a general proposition this document was produced by T&N and is an accurate summary of the historical developments of T&N and its subsidiaries over -- from 1920 on.

A I believe it is so to be.

Q Sir, Ralph, with respect to TAF, which I am going to use to refer to Turner & Newall Asbestos Fibres as well as the predecessor corporation, Raw --

A Right.

Q -- Asbestos Distributors.

A Yes.

Q For the sake of simplicity.

A Yes.

Q You indicated that the purpose of TAF was not to make a profit; is that correct?

A Correct.

commission. With the result that on a turnover, which would be enormous, because the total value of the fibre going through the books and all this, would make maybe ten, fifteen thousand pounds surplus in the year.

The aim was not to lose money, but not to build up any fancy amount. I never heard when I was there -- I never received any instructions about earning a profit.

Q You indicated previously that TAF was the sole distributor of fibre from mines in Africa owned by T&N directly or indirectly.

A That's correct. But, I should -- I should correct that. I believe that some of the supplies from the African mines to the manufacturing companies in South Africa were organised direct [redacted], because they were so much nearer. And, they could take supplies on a hand to mouth basis because the geography allowed it. In the United Kingdom and other parts of the world, you needed to carry three months stock on up. So, I think those companies were allowed direct access to the supply.

Q Would you agree that TAF would be the sole distributor for T&N African fibre -- and when I use that phrase, I understand that T&N did not

mine fibre itself.

A Yes.

Q But fibre mined from T&N subsidiaries in Africa, TAF would be the sole distributor of that fibre outside of Africa.

A Correct.

MR. HANLY: Tom, can we go off the record, because I think she can't see.

(Whereupon a recess was taken)

MR. ROGERS: We are back on the record after changing some seating arrangements.

BY MR. ROGERS:

Q Sir Ralph, on that African fibre for which TAF was the sole distributor outside of Africa, did TAF make a commission on that fibre, however insignificant?

A I think they must have done. I can't remember what it was, because I know that TAF covered its costs by something -- they sold at the same selling price as they bought from the mines. I think. But, it may have been there was a pound a ton difference in the purchase price and selling price. It was either a marginal different in the price or it was a marginal commission.

Somehow they picked up a little turn on that which was enough to cover their costs of operations, which I've told you were kept pretty low. What we had to do was to satisfy an inquiry from the tax authorities that we weren't improperly transferring profits which should have remained in the producing country.

Q Was that fibre distributed by TAF both to T&N unit companies, both in the UK, and outside of the UK as well as to unaffiliated companies?

A Yes, yes.

Q Did the commission vary that TAF took with respect to whether the fibre was purchased by an affiliated or an unaffiliated company?

A No.

Q So, the commission that TAF would derive from sales to Keasbey & Mattison would be exactly the same as the commission TAF would derive from sales to John Mansville?

A. Exactly the same.

Q Of course the sales of this fibre did generate profits from -- to the mines themselves, didn't it?

A Oh, yes.

Q Did TAF receive a commission on sales of Bell fibre?

Q Sitting here today though, you are ~~competent~~ confident that the commission derived by TAF from the sale of fibre did not vary between affiliated and unaffiliated purchasers.

A No, it didn't.

Q During your tenure with T&N, I believe you indicated that with respect to the Rhodesian or Southern African fibre, it was a seller's market. By that I take it that there was more demand than there was supply.

A Immediately following the war, there was demand in the world greatly exceeding world supply. Progressively over the 50s that position slowly changed. When it came to about 1960-61, it was a buyer's market; partly because of moderation in demand in certain places; partly because new mines came into production. It seems to be the natural happening because a mine takes a good many years to get into production, that by the time it gets into production, demand isn't what it was when they started putting money in. So then you get an excess production, and competition on prices.

Q During the period when demand exceeded supply for the Rhodesian fibre, was there a preference given to affiliated purchasers?

A Not on price, but on supply.
Q That's correct.
A Yes, there was that position on supply. There was. We were not able to pick up customers who we had supplied before the war; cut off those customers. I'm talking particularly about people in Europe. That was cut off; and eventually we supplied them again, but for a few years there was just not enough, and the companies who were owned by Turner & Newall had preference, not as much preference as they would have liked, but they had preference.
Q Turning to some brief general questions with respect to Keasbey & Mattison, I'd like to show you an exhibit I've marked Plaintiff's Exhibit Two, which is captioned, "History of Keasbey & Mattison Company".
(Plaintiff's Exhibit 2 marked for identification)
BY MR. ROGERS:
Q Are you familiar with that document?
A I can't remember seeing it before, but I'm not saying I didn't.
MR. HANLY: Tom, do you know the date of this?
MR. ROGERS: This document? Unless it's on it, I don't.

A Yes, I think I remember this one.
Q If I have my dates correctly, this would have been --
A Well, I was appointed to the board in 1957, and --
Q This --
A This was before I was deputy chairman. Yes, that's right. Wait a minute. Wait a minute. I became deputy chairman -- that was after I was deputy chairman, but I remember seeing this.
Q This would have been after Sir Walker's death?
A Yes.
Q So, at this time Mr. Soothill would have been chairman of T&N?
A Correct.

(Plaintiff's Exhibit 24 marked for identification)

BY MR. ROGERS:

Q Plaintiff's Exhibit 24 is another trip report from Mr. Soothill concerning a trip between September 23rd and October 4, 1961. Do you recall having seen that?
A Yes, I remember this. Yes. I remember this.
Q Were there any guidelines promulgated by Turner & Newall with respect to the contents or format for trip reports?
A Not that I was ever aware of, no.

Q So, each of the -- each of the employees or directors who went on a trip it was sort of left to their own devices what they included, and in what format it was included?

A I don't accept "employees" because I think employees, when they were sent overseas, would be given a pretty clear reason why they were going, and what they had to report back on. With regard to this, a report like this, this would be circulated, of course, to Turner & Newall; and each member of the board would be free, of course, when the matter came up, to ask if there are any other matters which he thought were worth bringing before the board.

Sometimes that will be done in any case because he would want to have the opportunity of an oral presentation ~~and~~ or something he didn't want to put in writing. But, there was no clearly -- I can only speak for myself, but I expected them to have a sufficient report to know what I'd been doing and where I was, and where I went -- why I went to those places.

So, it had to be a fairly complete report according -- following your itinerary.

Q I just note that some of the trip reports are fairly succinct, and some of them tend to be

more voluminous. So, I'm thinking particularly of Sir Walker.

A Yes, you're correct.

Q That was dependent on the individual?

A The nature of the man.

Q I take it by your previous answer that the trips normally resulted not only in a written trip report, but also in an oral presentation to the T&N board.

A This would -- each report would be included in the agenda of T&N's board meeting; and when you came to the item on the agenda, the individual concerned would have to be available; ready to add anything he wanted, and to answer any questions.

Q That's assuming he wasn't already a member of the T&N board, and wouldn't be present?

A Yes. I'm talking about the reports by T&N directors, yes. Reports by other people, they would be sent for some specific reason, and they would have to report back to his own particular post where he was in the company concerned; but it doesn't follow that it was always a detailed report on every trip of that sort, because for instance, in export sales, a man might be sent on an expert sales talk. He would not make a

EXTRA COPY 3

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

and

SOUTHERN DISTRICT OF NEW YORK

IN RE JOINT EASTERN AND SOUTHERN DISTRICT ASBESTOS LITIGATION	New York Asbestos Litigation
This document relates to: EDWARD SUTEMYER and IRENE SUTEMYER, his wife, Plaintiffs, - against - TURNER & NEWALL plc, et al, Defendants.	87 Civ.5447 (S.D.N.Y.) (CPS)

Manchester, England
28 September 1988

DEPOSITION OF SIR RALPH BATEMAN - VOL 3

Taken pursuant to Rule 30 of the Federal Rules of Civil Procedure; West Virginia Rules of Civil Procedure; and by stipulation at the offices of Turner & Newall plc, 20 St. Mary's Parsonage, Manchester, England, commencing at 9.30 am.

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COURT REPORTERS

Q I'd like to now turn to a group of documents concerning fibre supply and fibre procurement. Within the Turner & Newall organisation there was a UK subsidiary that was responsible for fibre supply issues. Isn't that correct?

A It was a service organisation, yes, for supplying fibre to fibre using companies in the Turner & Newall organisation.

Q And the service organisation also provided brokering services to corporations outside of the Turner & Newall Group, too?

A Yes, they sold on behalf of the producing mines to customers outside the Turner & Newall organisation.

Q And that corporation was TAF, is that correct, Turner Asbestos Fibres?

A Yes, originally RAD and then TAF, the same company.

Q RAD is Raw Asbestos Distributors?

A That's correct.

Q I'd like to just use the term Turner Asbestos Fibres or TAF to refer to that corporation whatever its name.

A Right.

Q And I understand that sometimes it was referred to as Raw Asbestos Distributors and there was a time that it may have been referred to as something else, but I'd like to use the phrase TAF to mean that company.

A Right.

Q Was one of the companies that TAF brokered fibre, one of the mines that TAF brokered fibre from was the Rhodesian & General Mines, now called Shabanie & Mashaba in Rhodesia, now called Zimbabwe. Is that correct?

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A Yes, I don't know what the name was from time to time but that was Rhodesian asbestos fibre from Zimbabwe.

Q Did Bell ever have any involvement in the brokering or distribution of Rhodesian fibre?

A Not to my knowledge.

Q This is Plaintiff's Exhibit 343.

(Plaintiff's Exhibit 343 produced)

This is a letter dated February 2nd, 1945. I've got pretty good at reading your signature. That is from you, isn't it?

A Yes, I looked at that first of all. It appears to be, it must be, yes. It is and it's my initials, too. That's mine.

Q That letter essentially indicates that Bell would be from that point forward, at least for some period of time, distributing Rhodesian fibre in the United States to various customers that TAF did not deal with. I think it specifies that TAF was retaining the right to distribute Rhodesian fibre to Keasbey & Mattison, Raybestos Manhattan, Johns Manville, the major companies.

A And Ferodo & Asbestos.

Q And Ferodo Asbestos.

A Yes.

Q And Bell would then be distributing the Rhodesian fibre to all other American customers. Is that correct?

A Yes, that's what it says.

Q Does that refresh your recollection? Do you recall that relationship being set up like that?

A No, I've forgotten all about it and the reason why I forget would be because when you withdraw these main customers

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there's virtually nobody left.

Q I think it mentioned a couple of other customers in the body of the letter, Southern Asbestos ---

A I haven't got through there yet.

Q I'm sorry.

A In 1945 I was a director and the sole Executive Director of TAF but I was not a director of Turner & Newall or of any other company in the Turner & Newall organisation.

Q Do you recall how long the relationship set forward in that letter continued?

A I don't. I remember nothing about how this relationship turned out. I don't remember anything about it.

Q TAF was the exclusive broker, with the exception of the relationship set forth in this letter TAF was the exclusive broker of fibre from the Rhodesian mines we have discussed, Rhodesian & General, now called Shabanie & Mashaba.

MR. HANLY: Do you mean anywhere in the world or just North America?

MR. ROGERS: I mean anywhere in the world.

A Yes, I think so and I believe that Bell were sub-agents of TAF, I'm not sure about that.

Q Bell received a commission?

A I don't know, unless it says so here. I don't remember any of the details. What's it say?

Q The letter indicates that they received a commission, doesn't it?

A Well, then, they probably would. I don't remember myself. "Coming now to the question of your remuneration we suggest

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that you be credited commission at the rate of 2 per cent on all shipments which are both ordered from and made to the USA, this rate being that previously paid to Messrs. W. E. Crompton & Company, applied to the FOB invoice value of the fibre." I don't remember that but that's what it says.

Q This is Plaintiff's Exhibit 344. It's a series of correspondence about the period 1966 concerning a long term credit from Bell apparently to TAF.

(Exhibit 344 produced)

Was TAF entitled to an interest-free credit from Bell?

A I don't remember but the tax authorities would probably object to an interest-free credit in Canada.

Q So you believe there was interest charged?

A I do not remember whether there was or not but I would expect there to be because, as I've mentioned before, the tax authorities in the United Kingdom and the tax authorities in Canada kept a very close watch on all financial dealings between Bell or Atlas and T & N or TAF to make sure that we didn't use them in any way to take profit unfairly out of one country into the other. So we had to handle these things as though they were arm's length and I am confirmed in this by a statement here which says: "Bell suggest that a 1 per cent cash discount would not be allowed when credit was taken." Normally it looks as though TAF had 1 per cent. "They also suggest that interest at the rate of 3½ per cent should be payable." Well, the tax authorities would insist on something like that.

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Q And so the restrictions that we discussed with respect to both Atlas and Bell would have also been equally applicable, with perhaps some minor modifications, with respect to Keasbey & Mattison.

A Yes.

Q You say you did sit on the Keasbey & Mattison Finance Committee.

A Yes.

Q And those documents would have been received in England just as the documents from Atlas and Bell were?

A Yes.

Q Did you also sit on the K & M Board?

A Yes. I'm trying to remember dates. I think I must still have been a member of the K & M Board, otherwise I couldn't have been a member of their Finance Committee.

Q Presumably you would have taken those positions after the death of Sir Walker Shepherd?

A I had no position in Keasbey & Mattison before the death of Sir Walker Shepherd. That document refers to the same pension matters and so does that.

Q I think we discussed those to some extent in our previous ---

A Yes. So does that. This is a document dated 31st December 1968 about matters concerning the liquidation of Turner & Newall (Overseas). I saw this. It covers again the pensions, it covers other matters, financial matters also, the clearing up of the tax arrangements. I had seen that letter before.

Q That next document I believe shows the fibre sales from TAF to Keasbey & Mattison during the entire period of Keasbey &

Mattison's existence as a T & N wholly owned subsidiary from 1936 to 1962. As far as you know, all of the fibre utilised by Keasbey & Mattison was brokered by either TAF or Bell.

A With one exception. During the period of sanctions by the United Kingdom against Rhodesia ---

Q That would have been after Keasbey & Mattison was already dissolved, would it not?

A Yes, that was when CertainTeed had bought the Pipe Division, that's right, so you're right.

Q Did they use primarily Rhodesian fibre or did they use primarily Canadian fibre?

A Primarily Rhodesian, to a great extent.

Q So the vast majority or the vast preponderance of the asbestos fibre utilised by K & M from 1936 to 1962 was in fact brokered by TAF?

A Certainly. There is no reference here to Canadian fibre which confirms my belief which I mentioned before that Bell sold direct to Keasbey & Mattison. That's a document I have never seen before and know nothing about. It is dated 1946.

Q Ferodo and Asbestos was a wholly owned T & N subsidiary in New Jersey, was it not?

A I know nothing about it but that is my belief.

Q At some point their assets were taken over by Keasbey & Mattison, if you know?

A I don't know.

Q OK, that's fine.

No. C885383
Vancouver Registry

In the supreme Court of British Columbia

B E T W E E N :

George Ernest Hunt,

Plaintiff

and

T & N plc,
Asbestos Corporation Limited,
Bell Asbestos Mines Limited,
Carey Canada Inc., formerly known as
Carey Canadian Mines Ltd.,
The Celotex Corporation,
Flintkote Mines Limited,
The Flintkote Co.,
Jim Walteer Corporation,
J. M. Asbestos Inc.,
J. W. Roberts Ltd.
Lac D'Amiante du Quebec Ltee.,
formerly known as Lake Asbestos Company Ltd.,
National Gypsum Co.
and The Quebec Asbestos Mining Association,

Defendants.

Deposition of SIR RALPH BATEMAN

taken at The Four Seasons Hotel, Manchester Airport,

Hale Road, Hale Barns, Altrincham, Cheshire, England,

on Monday 21st May 1990, Tuesday 22nd May 1990

and Wednesday 23rd May 1990.

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MR. AFFLECK: But by carrying on at the moment I'm not waiving any rights I might have on other occasions to say that American lawyers are not to be present.

MR. CLARK: Mr. Affleck, I think for the record, my understanding is that it is your position that there is no lease between Lac and your client and accordingly it is my understanding that we will not be participating in this discovery; we are here solely to observe.

MR. AFFLECK: Oh, I don't understand we're adverse in interest as things stand on the present pleadings, that's correct.

SIR RALPH BATEMAN, having been duly sworn was examined and testified as follows:

Examination by MR. CAMP

Q Mr. Bateman, are you comfortable being referred to as Sir Ralph, Mr. Bateman or what? What is better for you?

A Better Sir Ralph.

Q Sir Ralph, fine.

A Thank you very much.

Q Sir Ralph, do you still reside at 2 Bollin Court, Macclesfield Road, Wilmslow, Cheshire, England?

A I do.

Q And you were born on May 15th, 1910?

A Correct.

Q And you've just enjoyed your eightieth birthday?

A Correct.

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Q And I take it you're in good health?
A As far as I am aware.
Q I understand that you went to university?
A I went to University College Oxford.
Q And did you write your Law at University College?
A I took a Bachelor of Arts degree in Law and then went on and converted that into a Master of Arts; it's an Arts degree, not a legal qualification.
Q What did you do after your graduation, sir?
A I secured a position as a management trainee with Turner & Newall.
Q And what year would that be, sir?
A 1931.
Q Now Turner & Newall by that time was a consortium of companies, was it not?
A It was a holding company which held all or virtually all of the stock in a number of operating companies, manufacturing companies.
Q At that time one of the manufacturing companies was Turner Brothers Asbestos Company?
A It was.
Q And they had a plant, among other places, at Rochdale?
A Rochdale, correct.
Q When did you finish your training with Turner & Newall, approximately?
A Approximately 1934.

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Q That would take us to war time and I wanted to try and understand roughly the T & N group of companies at that time. You have told us already that Turner & Newall was a holding company which held the shares in a number of other companies. Is that so?

A Correct.

Q And what were the major companies of which Turner & Newall held shares?

A In the United Kingdom there was Turner's Asbestos Cement, Turner Brothers Asbestos Company, Ferodo, J. W. Roberts, Newall's Insulation Company, Washington Chemical Company; there may have been one or two very small ones in the UK in addition to those, I can't remember at the moment. There were also some companies overseas. There was an asbestos cement manufacturing company in India, I think the name was Asbestos Cement Limited; there was Bell Asbestos Mines, a mining company.

Q That was a Canadian mining company?

A In Quebec, in Quebec Province. There were mining companies in what was then Southern Rhodesia and Swaziland and some very small mining companies in the Republic of South Africa. There was Keasbey & Mattison in the United States. I think I've mentioned the principal ones. There were almost certainly some very small ones.

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Q The ones that you have mentioned, Sir Ralph, I take it that Turner & Newall held 100 per cent in each of those companies?

A Yes, they did. Initially they didn't hold 100 per cent in Ferodo, they held something over 90 per cent but it was some time before the last few shares came into their hands. All the others Turner & Newall owned 100 per cent of the shares.

Q The one that you may have overlooked, unless I misheard you, was Atlas.

A I deliberately didn't mention that because I can't remember the exact history of the companies in Canada other than Bell because they changed in name substantially from time to time and what was later known as Atlas when I came to know of it was a company set up after the war, to the best of my memory, but there were other small companies in Canada before that by different names and soon after the war, I can't remember the exact date - it may have been 1948, 1949 - Atlas was set up as a manufacturing company manufacturing a range of products, asbestos cement products, asbestos textile products, asbestos and other insulation products, a whole range of products, but that company was set up after the war at a time when I was not concerned with anything that went on in Canada so I can't remember the details.

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routeing completely controlled by T & N in large measures so nothing could be more central to the litigation than that.

MR. MARYN: I take the position, Mr. Camp, that that is not established on the pleadings and you have tried to amend the pleadings to establish this alter ego relationship and have failed thus far. My understanding of your pleading at this point is that the Bell Asbestos Mines Limited that you name in the pleadings is the one that in your mind, at any rate, is the one that you're talking about, in which case this witness may be giving evidence that is on my clients and as you know there is a stay of proceedings on the issue of conspiracy.

MR. CAMP: Mr. Affleck, I'm not going to heed that and I assume that you will not either, given the makeup of this examination for discovery.

MR. AFFLECK: No, you can carry on.

MR. CAMP (to the witness): Sir Ralph, I'm coming back, please, to the North American entities and I'll try and focus these questions and avoid as much discourse as I can between counsel, for my part at least. I think we've established that it was about 1934 that you purchased the shares or most of the shares in Keasbey & Mattison and by about 1936 they were all purchased and as a result of that takeover the Bell Mines came in conjunction with the Keasbey & Mattison acquisition. Is

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all of that roughly correct, sir?

A I know nothing about the details. I do know that Keasbey & Mattison including the Bell Mine came into the ownership of Turner & Newall before the war.

Q Now I'm also advised from some searches that T & N incorporated a company in Canada in 1946 called Turner & Newall (Canada) Ltd. which was intended to operate an asbestos products factory in Montreal and that that subsequently became Atlas Asbestos Co. Ltd. Does all of that sound about right, sir?

A I can't confirm any of the details because at that time I had no knowledge of them. I do know that eventually the Atlas company emerged in Montreal as a manufacturer of a range of products.

Q We also are advised that the machinery for the Atlas factory was purchased from Ferodo, and is the proper name of Ferodo Ferodo and Asbestos Inc.? Was that the original name, sir?

A There was, I think - it gets very confusing - there was a company in the United States called Ferodo & Asbestos Inc.

Q In New Jersey I'm talking.

A I know nothing about it except that it existed.

Q Yes, I see.

A There was a company in the United Kingdom called Ferodo Limited which was purchased by T & N some time after

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when you are estimating and guessing and I appreciate that because unless you say you are approximating, guessing, estimating, whatever term you may choose, I will assume you are giving evidence that you can say with some certainty, but please advise me when you are making an estimate, sir.

A OK.

Q Now let me just square up this last exchange between Mr. Affleck and myself. You were aware, sir, that Bell was a member of the Quebec Asbestos Mining Association. Is that so?

A Yes.

Q And you were aware, sir, that Cassiar was an associate member of that same organisation?

A I knew they had some sort of relationship. What their legal position was, whether they called it associate member or corresponding member I don't know. It was less than full membership; it meant that they could get information from QAMA.

Q And in fact I don't want to take you through the passages but you have previously testified roughly that they didn't have a voting membership. Is that about right, sir?

A I had forgotten that but now you mention it I think that is correct, that they didn't have a voting membership.

Q In 1964, and I appreciate from prior testimony, Sir

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apart from the effect on profit did not concern me.

Q I understand that but I feel obliged to advise you that I believe I will be able to turn up a document in due course which will show that this rather one exceptional document, at least, "exceptional" meaning not routine, not in a paper flow that is continuous as far as we can see, that there was a breakdown in sales geographically across Canada. So I'll come to that in due course and perhaps your memory can be refreshed.

A Thank you.

Q Now I want to ask you a number of questions, sir, about asbestos fibre from Bell. It was chrysotile, was it?

A All Bell's production was chrysotile.

Q And where did it go generally speaking, sir?

MR. APPLEBY: I don't want you to guess, Sir Ralph. If you're not able to answer that question without guessing don't do it.

THE WITNESS: Bell's sales were roughly in two parts, not necessarily equal parts. One is to manufacturing, or was to manufacturing companies which T & N owned in the United Kingdom or elsewhere in the world and the other was to other customers. The sales to T & N owned companies were organised through Raw Asbestos Distributors. The sales to other customers were looked after, organised entirely by Bell themselves.

MR. CAMP: Was one of the companies that Bell sold fibre to

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Atlas?

A I think Atlas must certainly have purchased some fibre from Bell.

Q Was one of the companies that Bell sold fibre to J. W. Roberts?

A I don't know but it wouldn't surprise me. I don't know.

Q I think I'll be able to turn up a document to show that.

A Right.

Q That would not surprise you, Sir Ralph?

A No.

Q Now you mentioned it sold fibre to the T & N companies via Raw Asbestos Distributors. That indeed was another T & N company, was it not?

A Yes.

Q And Raw Asbestos Distributors was in effect a service organisation of T & N to centralise supply of asbestos fibre to T & N manufacturing interests?

A It was a service company or, to put it another way, it was not intended to be a profit earning company. It received no more than enough to cover its costs of operation and acted as a service company for the various companies who received the fibre.

Q Sir, I'm also informed, and please correct me if I'm wrong, that Bell acquired fibre from time to time to sell to other T & N companies. Is that so?

A That's correct. If other T & N companies - when I say

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T & N companies I mean companies in which T & N owned 100 per cent of the shares - when they wanted fibre which for some reason Bell could not supply but some other Canadian mining company could supply then Bell would try to arrange that supply through Raw Asbestos Distributors for that company.

Q Bell would serve as a form of a marketing arm then, would it?

A Service arm. Bell inevitably knew these other mining companies and the simplest way of finding out, "Could you let us have 1,000 tonnes," or whatever, "of this type of fibre?" was through Bell. It was a service.

Q Now, sir,, I think you said that T & N became a public company in the mid-30s?

A Mid-20s. I think 1922. It was near then but like all these dates I could be a bit wrong.

Q Does T & N, is it required to file an annual report in a public filing system as a result of being a public company?

A Yes, yes.

Q And does T & N keep a record of its public annual reports?

A I should think they must.

Q Again, Mr. Affleck, I'm going to ask that that be produced, those annual public reports be produced. They have not yet been produced.

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I will be asking for the names, addresses and, I think, telephone numbers of specific individuals.

MR. AFFLECK: Well, yes. With respect to the names and addresses of particular individuals probably I'm going to have no difficulty with that; I'm not so sure that I'm obliged to give you a list of all witnesses that are material to the litigation but I'll take that under advisement when you make the request.

MR. CAMP: And it so happens we have a copy of the Rules and some laws that I think will satisfy you on how ---

MR. AFFLECK: Very obliging of you.

MR. CAMP: Fine. (to the witness) Next, Sir Ralph, is a chap A. N. Marshall, who we believe was with J. W. Roberts from 1959 and after. Does that name ring a bell, sir?

A He certainly was, I can't confirm the dates but he certainly was with them and that might well be right on dates.

Q And do you know if that gentleman's still alive, sir?

MR. AFFLECK: He is.

THE WITNESS: I believe him to be. He is? You know, I don't know. I believe him to be.

MR. AFFLECK: He is the last time I saw him.

MR. CAMP: Was there another gentleman by the name of N. A. Morling who was on both the J. W. Roberts Board and the T & N Board who had responsibility for J. W. Roberts?

A Yes, at one time Mr. Morling was the Turner & Newall

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director with responsibility for J. W. Roberts. He may well have been on the J. W. Roberts Board as well, I can't remember.

Q So that is a definite memory you have of ---

A Yes, they did respond to him at one time.

Q And we believe that he was instrumental in T & N matters including J. W. Roberts matters from approximately 1957 to 1967. Does all of that sound about right, sir?

A It's about right. He went on to the Turner & Newall Board at exactly the same time that I did. As to the date of his retirement from it, 1967 could be right, I don't know. I think it's about then.

Q Is Mr. Morling still alive, sir?

A As far as I know.

Q Next, was there a Mr. Nils, N-I-L-S, Pehrson, I believe it's pronounced, P-E-H-R-S-O-N?

A Pehrson.

Q Pehrson.

A Yes. He was not a director of Turner & Newall but at one stage he was actively engaged with J. W. Roberts but I don't know to whom on the Turner & Newall Board he would have responded at that time, there must have been somebody, but TBA, Turner Brothers Asbestos, and J. W. Roberts worked closely together in various respects and Mr. Pehrson was on the Board of Turner Brothers Asbestos and I think it's right that at one stage J. W. Roberts

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Q All right. Let me search back again and just ask a couple of questions about your late father. I understand he was a medical doctor.

A He was.

Q And he was an adviser to, a medical adviser to T & N for a period of time?

A No. I'll try to make an accurate statement of what he was. He was really a personal adviser to Sir Samuel Turner, who asked him to advise him on health matters, company health matters, and asked him to look at the plants, various plants, and make any comments he wanted. I don't know the consequences of that because I was too young to know anything about it. And subsequently he did work for Turner Brothers Asbestos. I don't know that he was ever, ever had an official position with Turner & Newall or with Turner Brothers. I don't know what the financial position was. He certainly did work for Turner Brothers. I would guess, and I stress guess, that he did it on some sort of an irregular consultancy basis.

Q Let me ---

A He was primarily a general practitioner.

Q Right. He had a practice in Rochdale?

A In Rochdale.

Q Right. There is documentation to show that he indeed did undertake the tour that you mentioned and it was in

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Q No.

MR. AFFLECK: No, sir. I don't know of such a file, I've heard of it, but there may be. I'll make some enquiries.

MR. CAMP (to the witness): Now I'd like to come to, I think it's affectionately called TBA, Turner Brothers Asbestos.

A Correct.

Q That is a company with which you had a long connection, sir?

A Quite long.

Q And it was a manufacturing company, sir?

A Certainly.

Q And what products did it manufacture?

A It made a range of textile asbestos products and it made a range of products with rubber and asbestos, not textile, and it also made a considerable range of products which were nothing to do with asbestos at all, such as conveyor belting for use in coal mines, quarries etc., rubber rings for all sorts of different purposes, rubber V belts for power driving, flat belting for power driving; all those had nothing to do with asbestos at all.

Q All right, and forgive me but when did you first become involved with Turner Brothers Asbestos? It looks to me like it was about 1948.

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A No, I spent a brief period with them from about ---

Q Oh, yes.

A --- 1936 to 1940. I know it went into the period after the war had begun.

Q Fine.

A I think it was about 1940 when I left them and went to Raw Asbestos Distributors.

Q Right, I apologise, sir.

A That's right.

Q You did tell me that sooner and I do have a note of it. And then you went back to them ---

A In 1948.

Q --- as a member of the Board in 1948.

A Until, I think it was 1951, I think it was 1951, it was about three or four years.

Q Now can you tell me, please, sir, and I only confine these questions, please, to products which incorporated asbestos in one way or another, how many employees Turner Brothers, TBA, had in that endeavour, and I don't expect a precise number from you, just an estimate.

A I might be wildly out. In the, I can't divide it between asbestos products and non asbestos products, I can only give you a wild guess at the total and that's probably the order of 750. That might be out.

MR. AFFLECK: And you haven't restricted your question as to time at all.

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Q I see.

A But obviously it could be.

Q Now TBA was the repository, as I understand it, of knowledge, a growing body of knowledge about the hazards of asbestos. Is that so, sir?

A I think TBA were the leaders in this country and perhaps in the world of acquiring that knowledge.

Q Is it fair to say that it was the designated company within the T & N group to be the repository of knowledge relating to asbestos?

A I think that's fair.

Q And by that I meant the hazards associated with asbestos.

A I think that's fair.

Q Now in 1931, and you may or may not be able to confirm this, was there a Medical Director associated with either TBA or T & N?

A I have no idea in 1931.

Q I assume ---

A I should say that it was normal in later years for each factory to have its designated medical doctor; that was a doctor not usually in the employ of the company who was called in when the company needed medical help, on any matter at all.

Q How did TBA keep records relating to this growing knowledge or, as I've called it, repository of the

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did you not concern yourself with that?

A You can't possibly concern yourself with everything, there is a limit, and it never fell within my responsibility. When I was in fact at TBA I was a Sales Director; production and things that went on in the factory were outside my responsibility completely. When I moved to TAC on the asbestos cement side there was virtually no risk there, we weren't dust creators. It's simple: once you'd wetted your fibre, which is what you do in making asbestos cement, there is no risk because there's no dust, and when I went to T & N I was never responsible for the companies such as TBA who had the concern. So it never happened to fall within my responsibility.

Q I think you've answered this and if you have I apologise for asking it again but am I correct in saying that there was no director of T & N who was specifically designated as the person responsible for health risks associated with asbestos?

A That's correct. I never knew of one.

Q Am I also, however, correct in saying the director of T & N who was responsible for TBA would be the person who would generally speaking on the Board of T & N be the most knowledge on this subject?

A I don't think it follows because the knowledge would be within TBA and the director, the T & N director

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were medically examined on engagement and the plant doctor would do that.

Q I'm going to ask you again, Sir Ralph, through your counsel to make a search for any of these pure medical files which may exist in relation to any of the plants or of course any of the Turner & Newall group of companies.

MR. AFFLECK: By "pure medical files" you mean files kept by doctors who consulted to these various factories?

MR. CAMP: Or files kept by the factories for the companies.

MR. AFFLECK: All right, we will consider if we want to do that.

MR. CAMP (to the witness): I want to come forward now in this same vein, Sir Ralph, to Dr. John Knox. What position did he hold with what company, sir, or can you be so precise?

A I can get, I think, near to it. He was my father's Dr. Bateman's partner, he was also my personal doctor, and when my father retired, well, before my father retired he and Dr. Knox had worked together to some extent on the question of asbestos and health risks and when my father retired Dr. Knox was given a more formal position with TBA than my father had had. I was not at TBA at the time so I can't give you the precise details but I'm fairly sure it was some sort of quite clear cut consultancy on the matter. I don't believe he was ever

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a salaried official of Turner & Newall, I think he was a consultant being paid a fee, and he continued with that, I think until he died, certainly until shortly before he died.

Q When did he die, sir, approximately?

A I'd say not less than 10 years ago and it may be 15 years ago.

Q This is going to be a silly question and forgive me but since he was your doctor I assume that you thought highly of him?

A He was exactly the sort of man I liked because the more ill you were the more concerned he was; if you had a trifle he wasn't interested. He was very, he was cold blooded in his approach to these matters, he wasn't emotional at all, but he was very, very thorough, very thorough indeed, and he told you the truth absolutely coldly without wrapping it up. I thought very well of him. He was a personal friend but apart from that I thought he was a very fine personal physician.

Q Did he also have a research bent or a kind of scientific bent, sir?

A Not that I know of.

MR. CAMP: I promised to quit at 5 and I'm happy to do that.

MR. AFFLECK: All right, thank you.

MR. CAMP: Sir Ralph, thank you, we'll see you on the morrow, at 9.30.

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those processes. That's the only one that comes to mind but I'm not saying it's the only one that happened.

Q Now I'm also advised that the primary reason or I think, as you once put it, the principal reason for T & N purchasing Keasbey & Mattison was to acquire the Bell Mine in Canada. Does that ring true, sir?

A I would have to say that that took place, the purchase, before I had anything to do with it, before I was on the Board of T & N, before I had any real knowledge of T & N's affairs, but I think it's a fair assumption for me to have made that that was the reason.

Q And I believe I covered this, and forgive me if I'm repeating myself, but that Atlas became a division of Bell, I believe in 1963, and you remained on the Finance Committee of Atlas as well as remaining a director of Bell at the same time.

A Could you repeat that date, please?

Q I think it was 1963 that Atlas was made a division of Bell, the Board of Atlas was collapsed or retired, a Finance Committee of Atlas remained in place and you, as I understand it, sir, were on the Finance Committee of Atlas as well as the Board of Directors of Bell.

MR. AFFLECK: There was a whole lot of fact in there that you want the witness to respond to. Is it the date that you're particularly concerned about or all of those things?

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original purpose is sound then surely the question should be permitted?

MR. AFFLECK: Well, that's why I said a moment ago that what I was just saying now was in addition to what I had said before because I don't agree with you that the original purpose for asking the question is sound.

MR. CAMP: OK, well, I prefer not to debate the legal issues with you on the record at this time.

MR. AFFLECK: No, quite right. I thought you did want to a moment ago but that's fine.

MR. CAMP (to the witness): Sir Ralph, did you ever attend any of the meetings of the Quebec Asbestos Mining Association?

A Yes.

Q And can you tells me approximately how often, sir?

A I think four.

Q In addition I think you have agreed that Bell was a member of that association?

A Yes.

Q And Bell was represented from time to time on that association, and please agree with me if you can, sir, by George Smith at one time?

A Yes.

Q By F. P., and I understand P. stands for Parker, Smith.

A Correct, yes.

Q And by William Smith.

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first begin to appreciate in your mind that there was a difference between the hazardous nature of different kinds of asbestos?

MR. AFFLECK: And you mean Sir Ralph personally?

THE WITNESS: I'm going to have to give you a date which may be out by several years, it's a long way back to remember and it's very difficult, as I've said, because it's a moving process in your mind it's very difficult to pin it and say, "This was the time," but I would say 1970, that's as near as I could get and it might be several years different either way.

MR. CAMP: And it was about 1970 when you, your best estimate that you arrived at the conclusion that crocidolite was more hazardous than, say, chrysotile?

A Roughly, yes.

Q Sir, am I correct in saying that when you joined the T & N organisation in 1931 you hold the view it was known at that time that asbestos product was, that asbestos was hazardous?

A I couldn't put it quite that way; I could say I knew that it was wise to take precaution against inhaling asbestos dust.

MR. AFFLECK: Sorry, do you mean does he know now looking back to 1931 or did you mean at the time he joined he was then aware of the possible hazard.

MR. CAMP: No, in 1931.

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A I was then aware that it was wise at that time to take precautions against inhaling asbestos dust and I was also aware that the knowledge was imprecise.

Q What is it, sir, that led you to that conclusion in 1931?

A I knew that in certain processes the operatives were advised and required to wear masks.

Q Does the document which I have learned to call the Price Merewether report mean anything to you, sir?

A The names are vaguely familiar; the document doesn't mean anything to me.

Q Am I correct in saying, sir, that from 1931 onwards at the time, throughout the period of time that you were with T & N, that you gained a greater and greater appreciation of the hazardous nature of asbestos?

A Everybody did.

Q Including you, sir?

A Including me.

Q And again coming back to a line of questioning yesterday, that the focus of this knowledge reposed in Turner Brothers Asbestos.

A Correct.

Q Now why was it with Turner Brothers Asbestos rather than with J. W. Roberts, for instance? I was pondering that last night.

A Because Turner Brothers Asbestos was a very much bigger

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Q And specifically at the Rochdale plant, sir?
A Primarily.
Q And does it relate primarily to illnesses and deaths suffered by Rochdale employees over the years?
MR. AFFLECK: Do you mean the acquisition of knowledge of the adverse effects of exposure to asbestos came through the illness of employees as opposed to some more scientific method?
MR. CAMP (to the witness): Why don't I ask you perhaps an easier question. How did you come to the knowledge, and I appreciate it was imprecise to begin with and grew over time but how did you come to the knowledge of the hazardous nature of asbestos?
A I personally?
Q Yes.
A By information given to me in one way or another from other people in T & N companies.
Q Can you give me some examples of who those other people were, sir?
A Members of the Board of TBA; other T & N directors who had a closer relationship to TBA than I did.
Q Can you give me some names first of all of persons on TBA Board of Directors who had a perhaps closer or better understanding of the hazardous nature of asbestos than you did, sir?
A Mr. Morling; Mr. Waddell.

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Q Mr. Marshall?
A I don't remember ever discussing the subject with Mr. Marshall in any way.
MR. AFFLECK: You're not thinking of Marshall as being with TBA?
THE WITNESS: He was with J. W. Roberts.
MR. CAMP: I'm sorry, I was confused.
A No, he was with J. W. Roberts but I don't remember ever discussing the matter with him; Mr. Sutcliffe, very little from Mr. Sutcliffe because his contact with TBA was short and not very close; but the other, but Mr. Morling and Mr. Waddell.
Q And similarly, sir, who on the T & N Board of Directors was more knowledgeable on the subject of asbestos hazards than you?
A The same two.
Q Am I correct in my assumption that the Board of Directors of TBA would make it their business to investigate and discuss the hazardous nature of asbestos from time to time?
A They would keep a continuous watch on that matter.
Q And similarly the Board of Directors of T & N, sir?
A No, I can only remember very few occasions on which that subject was discussed by the Board of T & N.
Q I think you said yesterday T & N was more concerned with profitability and the like.

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A T & N was a holding company and therefore - I assume you realise what I mean by holding, we were a shareholding company - and consequently we acted as shareholders and we did not interest ourselves in operational matters.

Q Would the Board of Directors of TBA act habitually with an agenda and with a Secretary who kept minutes and recorded matters, sir?

A Yes.

Q And I take it those minutes would be reviewed and revised or approved from time to time by the Board?

A By the TBA Board.

Q And those minutes would of course be kept, they would be kept in a file?

A At TBA?

Q Somewhere.

A Yes, yes.

Q Mr. Affleck ---

MR. AFFLECK: You want them?

MR. CAMP: I want them.

MR. AFFLECK: I will look.

MR. CAMP: All right. (to the witness) Now similarly, Sir Ralph, I understand that although it was not discussed very often when it was discussed by T & N it would presumably be minuted?

A Yes.

Q Again, Mr. Affleck, I would like those minutes.

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the other might be that T & N had particularly requested him to carry out some overseas assignment for them.

Q In relation to, for instance, TBA?

A It might be in relation to anything.

Q When you were a Board member of TBA, and that would be, say, from 1948 to 1951, did you ever do any travelling as a Board member for TBA?

A Not outside the United Kingdom.

Q Am I right, sir, that when you were Sales Director for Home Sales and then I think you had other sales responsibilities from time to time, that there was indeed, there was literature that was created on behalf of TBA for ---

A Each associate reproduced its own sales literature.

Q To your memory, sir, did the sales literature ever warn persons about the hazardous nature of asbestos?

A I saw almost none of such literature after 1959 onwards. Up to that time I can't remember it warning.

Q So let me just confirm that evidence, sir, that up to 1959 when you last remember seeing literature, sales literature for T & N products, it contained no warning about the hazardous nature of asbestos?

A So far as I remember I saw none.

Q And thereafter you have no memory of seeing sales literature, as I understand you?

A That's correct.

MR. AFFLECK: We have looked for sales literature, I am instructed, and there's very little that's been found. You may have some yourself, I don't know.

MR. CAMP (to the witness): The sales literature which you saw up to 1959, sir, I take it that means sales literature in reference to all of the T & N companies?

A It means sales literature in relation to the company which I was at that time serving, and that means from 1948 to 1951 TBA and from 1951 to 1959 TAC. I would not normally see literature from any other Turner & Newall company.

Q Sir, with respect to Canadian subsidiaries, and I'm going to break this question down to ask a general question first, with respect to Canadian subsidiaries is it correct to say that Turner & Newall did not take any steps with respect to the monitoring or minimising of health risks to any of the North American subsidiaries?

A I don't remember T & N issuing any instructions to the Canadian subsidiaries on the matter of health.

Q Or to Keasbey & Mattison?

A Or to Keasbey & Mattison.

Q And similarly, sir, is it true to say that Turner Brothers Asbestos Company took no steps to monitor or minimise the health risks associated with the exposure to asbestos fibre with respect to any of the North American subsidiaries?

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MR. AFFLECK: We will go immediately to the library and ask for the great wad of papers. Perhaps you could do that.

MR. BURGOYNE: We have endless wads of paper.

MR. AFFLECK: We have endless wads of paper, that's right. Well, we'll do what we can; that looks like a pretty tough one but we'll try. I might say that it looks as if the letter was marked as an exhibit on that deposition ---

MR. CAMP: I may have other ways ---

MR. AFFLECK: --- and you may have a source.

MR. CAMP: I may have other sources but I do require that it come through you or I do require you to make a search and ---

MR. AFFLECK: Oh, I appreciate that but there may be other ways of finding it.

MR. CAMP: Yes, I may have additional ways of finding it. (to the witness) Sir Ralph, I take it from your answer that you concede, if that's the right word, that there was probably a great wad of papers handed to you that related to asbestosis and other health related claims?

A I've no reason to deny it but I can't remember it.

Q Assume that to be the case, sir, were you in the habit or custom of receiving such material?

A No.

Q I rather gather from that, and please correct me if I am wrong, that there would be a purpose behind providing

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you, that is, you, Sir Ralph, with that type of information and I gathered, perhaps wrongly, that you were a repository for such information.

A I don't think that can be a correct interpretation of the situation. I testified earlier that the channel, the sole channel of communication between the President of an overseas subsidiary, or indeed a United Kingdom subsidiary, and Turner & Newall was through his designated T & N director. I was the designated T & N director for Keasbey & Mattison, therefore it would be absolutely right and normal for Mr. Porter to pass me any papers. Similarly it would be right for me to pass them to Mr. Morling because Mr. Morling was the T & N director at that time who had, who collected information about such matters.

Q You have more or less taken my next question or two away from me. Is it fair for me to conclude that Mr. Morling was indeed more responsible if not the person then most responsible for the area of asbestos related health matters?

A He was the T & N nominated director for TBA and TBA was the repository of information about asbestos and health.

Q And I think you said yesterday that in your opinion TBA were probably the most experienced people in the world on that subject, sir.

A I think I did say that.

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Q Now did TBA also retain or at least partially fund and otherwise authorise scientists to study health and safety issues related to asbestos, sir?

A I believe they did.

Q And to your knowledge, sir, can you agree with me that Atlas did not have, did not undertake such matters?

A I don't believe that Atlas undertook outside research on these matters at all.

Q That would not be within their authority, so to speak?

A If they'd wanted authority to do it they'd have asked for it; they didn't ask for it.

Q And I take it the same would be true with, I think you've more or less confirmed this but the same was true with Bell, sir?

A Yes.

Q And the same was true with Keasbey & Mattison?

A During the short period I had anything to do with it, yes.

Q Sir Ralph, I am going to put a question and an answer to you and see if you still abide by this: page 552 of the September 28th, 1988 deposition. That was the continuation of Mr. Rogers' deposition. Do you remember that, sir?

A Yes, I do.

Q Question, line 8: "Let's just take the two manufacturing companies, Atlas and K & M," and I believe

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K & M stood for Keasbey & Mattison, sir.

A Correct.

Q "Those two companies relied on TBA to provide them with the equipment and the instructions on how to use the equipment and the back-up to be able to deal with asbestos health and safety issues in their plants, didn't they?" and then you answered: "That's not quite the position. The position was that in Atlas and in K & M it was their own responsibility to handle these matters and deal with them according to whatever regulations applied in their own countries which might or might not be the same as those applying in the United Kingdom and they knew that if they wanted information or guidance they could ask TBA for it but TBA was not responsible for the situation in either of those two companies." Is all of that, do you agree with that today, sir?

A I would reply exactly the same today.

Q Sir, and I think I am putting to you evidence either identical or very similar to that which you have already given but I want to ask you if you can agree with me that in 1931 it was known when you joined the T & N group that you had to be very careful in handling asbestos fibre?

A I knew that precautions had to be taken.

Q And can you agree with me from your own personal

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that no warnings were ever provided by T & N to Keasbey & Mattison or to the customers of Keasbey & Mattison about asbestos?

A Not by T & N, no.

Q And you would know, sir, if T & N had ever given instructions along those lines?

A I would know if they'd given instructions from 1957 until I retired in 1976.

Q And can you agree with me, sir, that there was never any communication from T & N to Keasbey & Mattison or the customers of Keasbey & Mattison about the use of respirators?

A T & N sent no instructions on such matters to anybody at any time.

MR. AFFLECK: When you say T & N are you thinking of T & N as T & N alone or are you thinking of T & N and its related companies in the UK?

MR. CAMP: I think Sir Ralph is referring to T & N alone, as I understand.

A I was.

Q Yes.

A Yes, I was.

MR. AFFLECK: All right.

MR. CAMP: And you have said earlier that these subsidiary companies if they wanted could have gone to TBA and sought such information.

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Asbestos Company.

A Well, there is a merchandising company, or was in the United Kingdom called Central Asbestos Manufacturing which did no manufacture.

Q Was it associated with T & N ---

A No.

Q --- in some way or another?

A No.

Q That's fine.

A I don't think it can be the same one.

Q Now if you will turn to a black binder of documents that I have placed before you, Sir Ralph, and in particular turn first of all to tab 4. (Off the record) Sir Ralph, this may be laborious but have you ever heard first of all of a Dr. W. E. Cooke, with an 'e'?

A No.

Q OK. This is an article taken from the British Medical Journal and it's dated December 3rd, 1927. To your memory, sir, have you ever laid eyes on this article?

A I can't remember ever seeing it before.

Q All right. There is a reference in the article on the first page (indicating middle of left hand column) and I'll read it, I'm reading part of the sentence only: "Medical men have long suspected asbestos dust to be the cause of lung conditions in workers in badly ventilated factories ..." Does that accord, sir, with the

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understanding you had in 1931 when you started work with T & N?

A No, it doesn't. I have trouble about this word "long" suspected; it depends what "long" means.

Q All right.

A My understanding at that time was that the fears about on this subject were relatively new.

Q Otherwise you agree with that statement, sir?

A And I'm not sure what you mean by "medical men". Some medical men may have been concerned about the subject; I would think that most medical men would never have heard of it, never come across it; but some medical men provided you, I can interpret the length of time of their anxiety as something less than what I understand by "long". I must stress that in 1931 my knowledge on this subject was fragmentary, almost nil.

Q I appreciate that, sir. Could I have that marked as Exhibit 1, please, Madam Reporter?

(Article from British Medical Journal dated December 3rd, 1927 marked as Bateman Exhibit 1)

(Off the record)

Q At the foot of the right hand column of that article, Sir Ralph, under the very tiny print, "Clinical History of the Case," the first sentence reads: "The deceased, a woman aged 33 years, commenced work at the age of 13 years in an asbestos factory in which no provision was

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prove them. On that last document, for instance, I can't prove the truth of the facts.

MR. AFFLECK: OK, I understand what you're doing. That's Exhibit 2, is it, the one at tab 6?

MR. CAMP: Yes. Sorry, tab 5.

MR. AFFLECK: Tab 5.

(Document at tab 5 in folder marked as Bateman Exhibit 2)

MR. CAMP: The next document at tab 6, Sir Ralph, is I believe part of the clipping service which was provided to T & N, and I'm sorry, when I say T & N I don't know which particular unit or entity of T & N this was provided to and I guess my first question to you is can you help me out there because I will be referring to a number of these clippings?

A I am not aware that at any time when I could have known T & N, the holding company, had a clipping service on this sort of clipping. It wouldn't surprise me in the least for J. W. Roberts as the company concerned here to have one; it wouldn't surprise me for TBA to have one. I think it would be common practice in the subsidiaries in the United Kingdom for them to have clipping services on any time their name was mentioned.

Q Right, and if you will look at the news article itself, it appears to come from the Yorkshire Post and it refers to a Mrs. Margaret Marsden, apparently aged 34, who was

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employed as an asbestos worker by Messrs. Roberts, Armley Road, Leeds. Is that J. W. Roberts, sir?

A I can't think it's anybody else.

Q Had you ever seen this clipping before, sir?

A No, I had never seen this before.

Q And at the bottom paragraph you'll see it says: "This being the second suspected case of death from asbestos poisoning in Leeds within a few weeks the Coroner said he thought it would be desirable for him to pay a visit to the works." Now I appreciate that you would know nothing of the specificity but did coroners make it their business while you were associated with T & N to make such visits?

A I never heard of such a visit.

MR. CAMP: Mr. Affleck, I would note that we have not been provided with any record whatsoever relating to Mrs. Margaret Marsden and I take the position that all records relating to any workers whose health was affected by asbestos in any of the T & N companies is relevant and that includes any records relating to worker compensation, as we call it, and I am going to ask you to search and provide us with all such material, please.

MR. AFFLECK: I will consider that request.

MR. CAMP: Could we have that marked, please, Madam Reporter?

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bore you with too many more of these but this is another clipping from, the last one of these was 1928, this is 1929 and it referred to ---

MR. AFFLECK: The same person.

THE WITNESS: Same person.

MR. CAMP: --- the same person, right.

MR. AFFLECK: This one must be from the News of the World.

THE WITNESS: Well ---

MR. CAMP: I suspect the date on the one before is, or one of the two dates is wrong and I will skip it therefore.

MR. AFFLECK: You'll abandon that one?

MR. CAMP: Yes.

MR. AFFLECK: It was an immensely long inquest.

MR. CAMP (to the witness): Let's go over to the one at tab 8 and this one apparently, its date is unclear but I think it it's 1929. In any event it refers to a person, it appears to be Abraham Jowett, a 38 year old man, and he was employed by J. W. Roberts, and near the bottom, the second, the penultimate paragraph, it says: "An official of the firm said Jowett had been an asbestos worker for several years. There was asbestos dust floating in the air at the works but it was very slight and not perceptive." I have a couple of questions for you, Sir Ralph. Did you ever seen the works at the J. W. Roberts plant in Armley in Leeds at or about the time that you joined T & N?

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A No.

Q Did you ever see the works there?

A No.

Q Were you aware, sir, that slight and imperceptive dust, slight and imperceptive asbestos dust could be hazardous at or about the time you joined?

A I never was aware which particular sort of dust it was which caused the problem.

Q Could I have this marked as the next exhibit, please.

(Document at tab 8 marked as Bateman Exhibit 4)

Sir Ralph, do you have any reason to think that there was not a person named Abraham Jowett who died as a result of inhaling asbestos dust at the age of 38 who worked at the J. W. plant in Armley, Leeds?

MR. AFFLECK: I'm going to invite Sir Ralph not to answer that; that would be pure speculation. I can't imagine how the answer would assist anybody. We're not denying that such a man existed.

MR. CAMP: Well, that's the essence of my request; if that's the case, fine, and I assume, Mr. Affleck, that I don't need to keep repeating the request for any records relating to any of these deceased employees?

MR. AFFLECK: No, you don't need to keep repeating that request. Whether there is a record of anything in respect of Mr. -- what's his name?

THE WITNESS: Jowett.

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MR. AFFLECK: --- Abraham Jowett, whether there is any record that relates to him of course I don't know, I don't recall seeing it. If there is a record relating to him or others at the J. W. Roberts plant who had health problems relevant to this action I will look them up.

MR. CAMP: And, Mr. Affleck, I trust that the breadth of my request would include any record which would relate to this official of the firm who apparently testified and indicated that he had been a worker for several years and that the dust was very slight and not perceptive. I am interested in that sort of record as well and I trust that's appreciated by you.

MR. AFFLECK: Oh, I know what you're after. The likelihood of us finding something that's going to shed any light on that is slight and not perceptive but we'll see what we can do.

MR. CAMP: Thank you. Next is tab 9.

MR. AFFLECK: That's 8, that's 4, rather; now we're on to 9, Dr. Merewether.

MR. CAMP: This is the report that I misdescribed earlier as Merewether Price, sorry, I described it as Price Merewether and it appears as if I should have properly described it as Merewether Price. (to the witness) This is a report with which, I take it, Sir Ralph, you have had some familiarity, at least it has come to your attention over the years?

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A I'd heard of it, I certainly never saw it. When I say I'd heard of it, it would be more correct if I said I'd heard the name Merewether and knew that was the name of a man who was interested in this sort of subject.

Q You were aware, I take it, that Merewether, who was the Medical Inspector of Factories, had conducted some research into the asbestos industry?

A I knew that he was a man with some experience in this matter, that's about all I knew.

Q If you can just turn to page 4 of the document - yes, you'd better use that.

MR. AFFLECK: We'd better use the other one?

MR. CAMP: Yes.

MR. AFFLECK: This one's a bit grim. Yes, that's a letter that's got the name Bellhouse on the bottom of it?

MR. CAMP: Yes, it is. It's a covering letter from the apparently Chief Inspector of Factories and he reports in the second sentence that: "Dr. Merewether's investigations on the medical side are of great scientific value. They establish the facts that the inhalation of asbestos dust over a period of years results in the development of a serious type of fibrosis of the lungs, that the development of the disease varies in direct proportion to the length of the exposure to dust and that susceptibility to the disease is not affected either by age or sex." And my question to

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A I don't think I ever thought about it, I don't think I ever formed any opinion at all. I was working in the asbestos cement side and I think, as I testified earlier, the asbestos cement side was not really much concerned with this so I never thought about it.

Q Fair comment, indeed. I take it, though, sir, you will agree with me that somebody in T & N, at least one person in one or more of the T & N group of companies would have made it his business to carefully read and understand this report?

A Oh, yes, I'm sure they would.

Q In 1931 would it be Turner Brothers Asbestos who would then be the companies that had the repository of this information at that time?

A At that time, as I say, I was working on the asbestos cement side; I really didn't have any idea how the organisation worked. In fact, perhaps this will illustrated it, I was so green I didn't know what an invoice was. I didn't, I thought you had a bill when you owed some money, I didn't know what an invoice or an advice note was. I really knew nothing about this matter at all; I don't know what they did or where they kept any documents.

Q I think I've touched on this, Sir Ralph, but at any time during your career with T & N did you take it upon yourself personally to become acquainted with the

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literature on this subject, and I don't mean medical literature but general literature on the subject of the hazards associated with the inhalation of asbestos dust?

A Not really informed, no, I didn't.

MR. AFFLECK: When you say "acquainted" do you don't mean did he make a detailed study; did he have a sort of general idea of what was available.

MR. CAMP: Yes, that's the sense I meant.

A No, I didn't, no, I didn't.

Q You left that to others to ---

A I left that to others entirely.

Q And at the Board level I think I'm repeating your evidence but it would be Mr. Waddell and Mr. Morling that would be far more ---

A At different times, yes. Initially there's no doubt it was Mr. Morling; subsequently it was Mr. Waddell. As I said before, I think normally it was the director who was given responsibility for Turner Brothers Asbestos.

Q Sir Ralph, not necessarily with this report but let us just presume that there is an important document that dealt with health and safety matters of T & N workers: how would, if you know, sir, such a document be disseminated throughout those who would be interested in it within the T & N group of companies?

A Again having not been responsible for it myself, anything I say is in the nature of a guess, it's bound

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Q Now if you will turn to page 10, tab 10, I am sorry ---

MR. AFFLECK: Is this yours, by the way, that I am looking at, the Merewether report?

MR. CAMP: That's the exhibit itself, yes.

MR. AFFLECK: That's the exhibit. Is that my document or your document?

MR. CAMP: Sorry. Can we go off the record?

(Off the record)

(to the witness) Now, Sir Ralph, I appreciate that this next series of questions also applies to a moment in time before you were even employed with T & N but will you please understand that you are the only person at the moment that I am entitled to ask any questions of, so please understand my questions in that sense. This is apparently a file copy, well, to be more accurate, a photocopy of a file copy of a memorandum which is apparently signed by the Joint Secretary, and we are not certain who that was at the time but I am advised it may have been Mr. Shepherd, which encloses a copy of the document that we just marked as Exhibit 5, the Merewether Price report, and it appears to go to all directors, at least that is what is designated at the top, and I assume, and this is my first question, are you able to help me with that understanding or confirm it by anything that you see or read on that memorandum?

A Well, it says "All Directors"; I presume that means all

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directors of Turner & Newall, so I would expect it to be correct that this memorandum went to all directors of Turner & Newall.

Q If we look at some of those initials at the top you will see that it appears to be authored by WS/MD and do the initials WS generally accord with Mr. Shepherd?

A Are you looking at WS? Oh, MD presumably would be the typist, that's normal practice; WS would be Mr. Shepherd, yes.

Q Right. And then if we look at some of these initials at the top you see the right hand end of the first row of initials RHT.

A Yes.

Q That would presumably be Mr. R. H. Turner?

A Yes.

Q And the second initial, ST, would be Samuel Turner, presumably, sir?

A Correct.

Q CSB at the bottom underneath ST would be Mr. C. S. Bell?

A Correct.

Q And I don't think we need to go further but that would tend to confirm, would it not, that all of the then directors were provided with that report, sir?

A It would.

MR. AFFLECK: Or at least someone typed it.

MR. CAMP: When you became a member of the Board and moreover

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any Board meeting that you partook in, sir, to your memory?

A I have no memory of such.

Q And I think we have it established that you in your period with T & N never concerned yourself with the subject of medical research?

A That's correct..

MR. AFFLECK: I suppose "concerned yourself" is a phrase that has a variety of connotations to it.

MR. CAMP: I meant ---

MR. AFFLECK: He didn't have that responsibility?

MR. CAMP: Yes. We've finished that one. (Second bundle of documents produced and handed to witness and counsel)

(Off the record)

(to the witness) Sir Ralph, can you please turn to tab 75. This is a letter of March 8th, 1943 from Mr. Muehleck --- do you see that?

A Yes.

Q --- to Mr. W. W. F. Shepherd.

A Yes.

Q What capacity did Mr. Shepherd hold with T & N in March of 1943, sir?

A He was a director of T & N.

Q And --

A I can't remember dates. At one stage he was Deputy Chairman and he subsequently became Chairman. I believe

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at this date he was a director. I cannot remember whether or not he was by then Deputy Chairman but he was certainly a main Board director.

Q And he would presumably have had some responsibility over Keasbey & Mattison at that time?

A At that time he was the director, the T & N director to whom Keasbey & Mattison responded.

Q If you look at the very top of this document it has "(Blanket Licence No. B-1099)".

A Yes.

Q Do you have any idea what that refers to, sir? I don't.

A I have no idea. It's not apparent whether that was put on by Keasbey & Mattison or whether it was put on in T & N; it means absolutely nothing to me.

Q All right. In any event you will see that Mr. Muehleck, who I believe at this time was the President, was he not, of Keasbey & Mattison?

A Correct.

Q So the President of Keasbey & Mattison is writing to the T & N director and perhaps Deputy Chair or Chair of T & N ---

A Yes, not yet Chairman.

Q --- Deputy Chairman, and he is enclosing a copy of, enclosing a photostat to be more accurate, of an Outline of Proposed Monograph on Asbestosis, apparently authored by Dr. Gardner, and you will see that Mr. Muehleck says

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MR. CAMP (to the witness): Well, let me just sort of jump ahead with a very broad question because there is a whole series of correspondence which is to-ing and fro-ing between various agencies of the Crown in Britain trying to protect what appears, I'll adopt the term protect the interests of T & N in the spray process regarding ships, there appeared to be a lot of activity back and forth on that subject.

A I can't be aware of that, I mean, I am not aware of it because it was never within my realm of responsibility either from the point of view of Newalls or from the point of view of asbestos and health; but I must accept your statement, there was a lot of correspondence. I haven't seen it.

Q Could I have the document at 81 marked, please, Madam Reporter.

(Document at tab 81 marked as Bateman Exhibit 43)

(to the witness) Sir, the document at tab 82 is signed, it is a letter to the District Inspector of Factories and refers to the letter of March 21st.

A Yes.

Q And it is signed by, I believe, Mr. J. L. Collins.

A Correct.

Q What position did he hold with Newalls at that time, sir?

A I don't think he held any position with Newalls; he was

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Secretary of Turner & Newall.

Q I see, and certainly he would be in a position, having that capacity, to write to the District Inspector of Factories making a presentation on behalf of T & N.

A The Secretary of Turner & Newall with his staff provided a service to all subsidiaries in the United Kingdom on all legal matters and I think this would come within that field.

Q That is very helpful. Could I have that marked, please, Madam Reporter.

(Document at tab 82 marked as Bateman Exhibit 44)

I am going to take a long shot here, Sir Ralph: are you able to help me at all on what a Mark IV type respirator was?

A Which?

Q A Mark IV respirator. Does that ring a bell at all with you?

A No, I don't know anything about respirators, I don't know at all.

Q Do you understand this, Sir Ralph, at least I hope you do: does "respirator" mean more than simply a mask? Oh, maybe I should be even more precise: by "mask" I mean a filament over --

A Yes, a respirator is certainly a piece of equipment through which you can breathe; a mask is not necessarily a piece of equipment through which you can

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Kingdom in T & N stopped and that would be about that date, 1970, which I mentioned, which I said could be wrong.

Q Yes, I understand. The amosite that was incorporated in sprayed Limpet asbestos from time to time, where did it come from, sir?

A South Africa. The Republic of South Africa is, as far as I know, and was the only source of amosite fibre in the world.

Q And it's more specifically from the Transvaal region?

A Ahah. Some came from the Transvaal, some may have come from the Cape Province, I'm not sure; certainly the Transvaal.

Q And the crocidolite which was incorporated in sprayed Limpet asbestos, where did it come from, sir?

A The great bulk came from Cape Province but a small amount came from the Transvaal.

Q I take it that you would purchase as much of the chrysotile, amosite and crocidolite as you could from your own mines?

A Yes. The general practice was that if a fibre from T & N's mines was completely suitable then it would come from the T & N mines; if it wasn't then it would have to come from wherever you could get it.

Q T & N I think you have already confirmed did have mines in South Africa.

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A Yes, we did.

Q And those mines mined all of chrysotile, amosite and crocidolite.

A Not quite so. The chrysotile mines which T & N did have through subsidiaries in South Africa were worked out a good many years ago and that left them with active chrysotile mines in Southern Rhodesia and in Swaziland.

Q And so the mines that you owned in South Africa mined amosite and crocidolite?

A They mined amosite and crocidolite.

Q Did you ever visit those mines, Sir Ralph?

A Yes. They were in the Transvaal, yes.

Q Did those mines have some person designated as a Medical Health Officer or something like that?

A When I say that T & N mined there it's not a true statement. Tributors took the mines, the operation of the mines from the T & N company which owned them and themselves produced fibre from them, brought that fibre back to a mill or mills owned by a T & N subsidiary who then milled and bagged the fibre. The mining was not done directly by Turner & Newall or a Turner & Newall subsidiary.

Q But was effectively controlled by Turner & Newall?

A Because all the production came back to T & N.

Q And I had asked you, sir, if there were persons given the responsibility for safety and health in those

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that would be very much a matter for J. W. Roberts to ensure in the useability of their product that it was sufficiently unfriable, if there is such a word.

Q Did this friability concept ever find its way up to the T & N Board or did you ever ---

A I never heard of it, never heard of it.

Q I want to spend a few minutes, Sir Ralph, on warnings. The material that we have seen and that has been provided to us by T & N suggests that, let's just deal with sprayed Limpet asbestos, that J. W. Roberts never printed any warnings associated with the hazardous nature of that product. Do you agree with that, sir?

A I don't know. I certainly didn't see all their literature, in fact I'm quite certain I only saw a very, very small part of their literature, so what was on it I don't know, nor do I know details of what instructions were given to the spray operatives. So I can't answer your question.

Q All right. Did the subject of warnings ever, was it ever addressed by the T & N Board?

A I don't remember so.

Q While you were on the Board of Atlas was the subject of warnings ever addressed by that Board, sir?

A I rarely if ever attended an Atlas Board meeting. I saw the Board papers and the Board minutes. I don't remember its ever being mentioned there.

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Q And I don't mean to in any way diminish your prior evidence that you would have, management would have committee meetings with members of the workers and with union representatives on the subject of the hazardous nature of asbestos but I am more specifically interested in printed warnings on labels or printed in catalogues and the like and I ask you once again whether you have ever seen any such warning printed on any T & N literature at any time, sir?

A I have never seen any.

Q Do you have any reason to believe that such warnings were ever printed by T & N or any of its subsidiaries, sir?

A No.

Q Would there be a person who would be in a better position than you to answer those enquiries, Sir Ralph? Is there someone who was pinned with any particular responsibility in this area that we could explore this matter with?

A Hm. I don't know that there would. T & N itself didn't produce any literature, it didn't do any advertising, so it wouldn't be T & N itself. Each unit company, subsidiary, produced its own literature and what there would be in that literature I don't know. I've no idea what there was in the J. W. Roberts literature.

Q Do you anticipate, sir, that there would be files for

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is a reference to Dr. Knox who recently made the survey.

A Yes.

Q I take it, sir, there is no doubt in your mind but that Dr. Knox was competent to do that survey and would have taken it accurately as far as you're aware?

A Knowing his character I don't believe he would have agreed to undertake it unless he thought he was completely competent for it and I have no reason to believe that he wasn't.

Q Now the next document, Sir Ralph, at tab 127 is the First Interim Report of Asbestos and Pulmonary Cancer to the QAMA. This document comes from T & N's files. Did it ever come to your attention, sir?

A I don't remember ever seeing it.

Q Are you able to advise how it came to T & N?

A I cannot be certain. I can say how it is most likely to have done and that is through Bell Mines.

Q Right.

A But I cannot be certain. T & N was not a member of the Association.

Q I think we went over this but Bell would have received these minutes, you've already said that, from the QAMA.

A Yes.

Q And I take it you can agree that Bell would have received other important documents from the QAMA that were distributed to its members?

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A Yes.

Q At the end of the report under the heading Summary the last sentence reads, on page 8: "The final phases of this experiment will be of great importance," and it is an experiment on carcinoma, the incidence of pulmonary tumours in mice.

A Mmhm.

Q "Since since the most recent period when animals were killed for study the incidence of tumours had increased and the increase seems to be more pronounced among the animals exposed to asbestos dust than among the non exposed control animals." Are you aware of any follow-up that occurred?

A No, I'm not.

MR. AFFLECK: I'm not sure what you mean by "follow-up".

MR. CAMP: Well, it is talking about, "The final phases of this experiment will be of great importance ..." and it suggests rather strongly that there would be further phases and further information and I take it what Sir Ralph is saying - (to the witness) - that you're not aware of any of that, sir.

A I'm not aware of it.

Q Could I have that marked, please, Madam Reporter.

(Document at tab 127 marked as Bateman Exhibit 67)

Sir, you attended approximately four QAMA meetings and I believe you said that you attended them because you

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the right, he implies they have the right to decide what amount of advertising to give and he tells them this is what it'll be.

Q Right, that's sufficient for my purpose. Could I have that marked, please, Madam Reporter.

(Document at tab 133 marked as Bateman Exhibit 70)

Sir Ralph, would you turn to document 136, please. This is a study, "Mortality from lung cancer among asbestos workers" by Knox and by R. Doll. We of course know about Dr. Knox. Have you heard of Mr. Doll, sir?

A I've heard of him. He later became Sir Richard Doll, a highly respected scientist who studied silicosis and allied subjects.

Q Right. You will see it starts off by noting that there have been, I think, 59 cases of lung cancer. In the third line: "The large number of cases suggests but does not prove that lung cancer is an occupational hazard of asbestos workers."

A Correct.

Q Was that the sort of sentiment that you had at or about 1952?

A I doubt if I had ---

MR. AFFLECK: 1952?

THE WITNESS: I doubt if I had any sentiment on the subject then; I don't think I new anything about it at all.

MR. CAMP: I think you just indicated to me earlier that

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cancer in the late 40s was first raised as a matter that you heard about.

A I said I believed it was in the late 30s that I heard, first heard of the question of cancer in relation to asbestosis.

MR. AFFLECK: Mr. Camp, you said 1952. Is this document dated in some way 1952?

MR. CAMP: No, but a subsequent copy of it is. I'll bring you to that in a moment.

MR. AFFLECK: I'm surprised to hear that. All right, we'll see what turns up. I thought it was later.

MR. CAMP: Yes. I might be wrong by a year but not much. (to the witness) In any event let me ask you to turn to page 5, Sir Ralph, and the last paragraph: "From the data it can be concluded that lung cancer was a specific industrial hazard of asbestos workers and that the risk among men employed for 20 or more years may have been in the order of 10 times that experienced by the general population." Is that a statement that you were familiar with at or about ---

A No, I had no idea what the figures were or were suggested as.

Q To your knowledge was Dr. Knox still employed by TBA or consulted for TBA at that time?

MR. AFFLECK: That time being?

THE WITNESS: 1952?

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