

FILE NAME: Johns-Manville (JMA)

DATE: 1942

DOC#: JMA266

DOCUMENT DESCRIPTION: Legal Department Report

AL 100061085

PROGRESS REPORT
SECRETARY AND LEGAL DEPARTMENT
FOR THE YEAR 1942.

1. General

Economic Conditions

Government

The first full year of war was characterized by the creation of new Government wartime agencies, by the expansion of those theretofore created, and by the ever-increasing mass of rules and regulations governing purchases and sales, prices and profits, wages and salaries, and other intimate details of business administration. Notable among these new Government controls were the Emergency Price Control Act of 1942, administered by the Office of Price Administration; the so-called Renegotiation Law; the Presidential decree establishing the new National War Labor Board; and the Anti-inflation Law, enacted by Congress under threat of executive action.

These developments placed an unusual burden on the Legal Department, since it was necessary to digest and analyze not only the laws themselves but the mass of orders, regulations and rules issued thereunder and having themselves the force and effect of law.

250

Employee Relations

259

Safety and Health

The Company has for many years considered it desirable that asbestosis be compensated as an occupational disease. In all important locations, except New Jersey, the laws so provide.

Compensation Legislation(N.J.)

We made strenuous efforts during 1942 to secure the enactment by the New Jersey Legislature of a bill which would make asbestosis a compensable occupational disease. The group which joined with John-Manville in sponsoring this legislation were very nearly successful but, by reason of a combination of mischances and the opposition of the potent N.J. Manufacturers Association, our efforts were finally defeated. They will, however, be resumed during 1943.

Compensation Legislation (Quebec)

Considerable progress was made during 1942 in laying the groundwork for a change in the Quebec Workmen's Compensation law which would separately list asbestosis as a compensable disease and effect other desirable changes in the law. The present law purports to cover asbestosis as a form of silicosis. This classification is unscientific as well as unfair to employers who are confronted with the lesser hazard of asbestosis. It is hoped that 1943 will see the enactment of amendatory legislation.

Dust Research

In May arrangements were concluded with Dr. Leroy U. Gardner of Saranac Laboratory for experimental investigation of the effects of inhaled diatomaceous earth. The cost of this program will be \$5,000 and the experiments, which are still in progress, have already revealed some facts that will be helpful in connection with the Company's dust elimination program.

Dr. Garner has completed his experiments of several years duration covering the effects of inhaled asbestos dust and his final report will probably be published in 1943. The expenses of this project were shared with a group of asbestos textile manufacturers.

7. Profits

740 Expenses - kinds

742 Travel and entertainment

Following the transfer of Mr. Aring to Mr. Lea's responsibility there was a very marked decrease in expenses for entertainment and travel theretofore charged to the Legal Department.

744 Professional Services

Legal fees and expenses totaled upwards of \$145,000 against a budgeted \$120,000. This was considerably more than double the amount paid for such services during any of the last fifteen years and was primarily attributable to the \$90,637 payment to General Counsel for their successful defense of the treble damage action brought by the W. G. Kushn companies. Another large and unusual item was the \$20,402 payment to Cadwalader, Wickersham & Taft for our share of their fee and expenses in connection with the defense of the Federal Trade Commission proceeding against Donald Tulloch, Jr. and his licensees under the Toohey patent.

Stover License (Magnesia)

Under pressure from the Anti-Trust Division, Mr. Stover eliminated all provisions of his license relating to price control. Although the Division made no promises, Mr. Stover was under the impression that if price control were removed the Government would drop the matter.

National Labor Relations Board

During August the Legal Department (Mr. Fisk) represented the Company in the N.L.R.B. proceeding in Waukegan which involved a petition by an A.F. of L. union for certification as the collective bargaining agent of the guards and watchmen at Waukegan. The Board subsequently handed down a decision favorable to the petitioners.

Private Suits

Festmoreland vs. Johns-Manville et al (Kuehn)

Following a trial which lasted nearly two months, we obtained a favorable jury verdict on February 27th. The plaintiffs have appealed to the C.C.A.

Kompanies (California Edw.Co.) vs. Johns-Manville et al.

This case is still pending but has been inactive since March, when the depositions of the plaintiffs were taken. Neither of the J-M defendants has filed an answer and a stipulation has been obtained extending our time for answering until 15 days after receipt of written notice. Both the plaintiffs' original attorneys have entered the Army. Their successor is not much interested. Counsel considers the claim spurious.

Common Law Asbestosis Claims

Claims for disability resulting from dust diseases are no more important than claims for other types of injuries in those States where dust diseases are compensable pursuant to occupational disease laws. However, past experience proves they can become a serious menace where subject to common law adjudication.

New Jersey is about the only important State which does not yet make these diseases compensable. During 1942 only one case arose where it looked as if we might be confronted with litigation. We considered it unwise to take the issue to Court, and therefore settled for \$7,250.

A revival in New Jersey of the old "silicosis racket" is to be feared if it ever becomes necessary to release any considerable number of employees and if we have not succeeded by that time in having the law amended so as to make these diseases compensable.

Vandiver Brown.