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BY MR. KLEEMAN:

Miss Donlon and Ladies and Gentlemen: I felt rather lonesome when I arrived. All my friends that were here at the symposium usually sit in the other side of the table, but I was interested in hearing my friend from Bethlehem state that he attempted to be impartial. I do not

think that impartiality can be carried into the courtroom by two attorneys. You must remember that we advocate the position of the individual or company that we presently represent, and we must, of necessity, present it in the most favorable light for our client.

We might say that the carrier's representative should be impartial in favor of the carrier and that the claimant's representative should be impartial in favor of the claimant.

One thing I'd like to state today, as a representative of the United Steelworkers of America, in Buffalo and no other part of the state, I only represent the Steelworkers in Buffalo, is that we are extremely grateful to Miss Donlon and the administration of the law in this state, for the tremendous advances that have been made in silicosis, and we, in steel in Buffalo, realize that without her assistance and without her real interest in the claimants, that it never would have occurred so fast.

Our position on that point also is not that this legislation is granting rights to the claimants, but that it is merely restoring rights which were, in effect, taken away when this common law was abolished in 1935, and he was compelled to seek redress under the Workmen's Compensation Law, and those rights are now fast being restored, and we thank MissDonlon for the work in that dorection.

Now, formally, it is my privilege today to outline the procedure followed by the United Steelworkers of America in its council, in presenting a claim for disability due to silicosis. I am not going into any other part of the workmen's compensation, but silicosis only, and I don't mean asbestosis or anthracosis or any other thing, just silicosis, and if the doctors have a knowledge of the purpose of or for which a medical report is made, it should be of material aid in his preparation.

In initiating our claim, the claimant files a paper which he signs, called a C-3, which is prepared by the Workmen's Compensation Board; it's just a form, and it is filled in and merely states therein that he has worked in a dusty atmosphere and he's got lung trouble, very general.

Immediately upon the filing of that C-3 form, it is referred to the full board of consultants. The case need not be controverted. It doesn't - it is not at that time examined by all members of the board, but only by one of the members, and we have found that that isn't entirely satisfactory, because it has made, in our experience, every compensation case where a claim for silicosis is made, a controverted case.

My friend from Bethlehem may well recall the case in which his doctors and my doctors all agreed that it was a total disability due to compensation, so he paid it. but

when it got to the board of chest consultants, they decided it was only partial disability and then nobody knew what to do, because we have a special fund that has to come into the matter, but in any event, today, substantially every silicosis case is a controverted case.

The claimant, the consultants then file a report. It is returned to Buffalo, filed, copies are given to all parties concerned, and the case is then ready to be placed on the calendar. The claimant's attorney must then proceed to prove the claim. Such proof requires the two major factors be established, that need not be asserted in the ordinary workmen's case. The first thing that we must do is prove that there was an exposure to injurious dust, within two years prior to the date of disability, and the second is that the claimant is totally disabled. Those are the two major difficulties in silicosis and other ordinary workmen's compensation claims, those are the differences.

Now, as to that first factor, the claimant is aided by the provisions of Section 47 of our law, which states that any exposure to the hazards of harmful dust in the employment for a period of sixty days after September 1st, 1935, shall be presumed, in the absence of substantial evidence to the contrary, to be an injurious exposure.

Thus, it is possible merely by having the claimant testify as to the nature of the dust, to establish an injurious

exposure, and it is then the obligation of the carrier to offer substantial evidence that such dust, for a variety of reasons, may not have been injurious. Commonly, if that point is in issue, the carrier offers evidence or attempts to, that the dust may not have contained silica or other injurious matter and that if they are there, that the concentration was of too low a dust count or the particles themselves too large.

It is most fortunate that Section 47 is in the law, for otherwise, it would be almost impossible for the claimant to prevail. No dust counts or particle size measurements are ever available to the claimant, who never has occasion to consider the matter until after the effect has been felt. On the other hand, the company man and many do, repeatedly have its plant examined, inspected and reports available. Usually, at least for the past several years - it's changing now - but usually such counts are not made until after the claim is filed, and unless the carrier or the employer can establish that the conditions under which the claimant worked, which remember, must go back over many years, he must establish that those conditions were substantially the same, as at the time of inspection, and if he does not do that, then these presumptions as to the injurious exposure will not have been overcome, and the claimant may then proceed to the question of total disability.

This, of course, is primarily a medical question. Present medical opinion appears to be that silicosis, per se, is not usually disabling. Any disability presently is evaluated on the basis of complicating factors. The attorney for the claimant, therefore, must be able to establish by competent medical proof, either that the condition is complicated by infection, that emphysema exists or that there is a cardiac involvement.

Now, those are the only three involvements that I know about. There maybe some others, and you doctors are more familiar with that than I am, but those are the only three that we have been able to establish as being in any way effected or precipitated or aggravated by the harmful exposure to silica.

It is most important, therefore, that the attending physician, in reporting to the Workmen's Compensation Board, investigate and detail such complicated conditions and be prepared to support his opinion. Now, it is not necessary that the dust disease, in and of itself, that is the silicosis, be the sole cause of the disability, but it must be at least a contributing factor. Furthermore, unless the physician is ableto conclude that the claimant is totally disabled, then the claimant's proof must fail.

Now, in evaluating the degree of disability, it is usually necessary to take into consideration factors

other than the immediate effects of the disease itself and its complications; the age of the claimant is an important factor, as are other diseases from which he may suffer. The extent must be considered. It is proper for the physician to state that even though silicosis, in and of itself, only plays a part in the entire picture, thatnevertheless, if it is a contributing factor in the total disability, then the condition is at least in part related to the occupation.

Now, I have mentioned then infection, emphysema and cardiac involvement as complicating factors in silicosis. These appear to be the only conditions presently considered as complications, but we who have represented the United Steelworkers in the Buffalo area, have observed a significant number of cases in which individuals exposed to silica have also been found to be suffering from carcinoma of the lungs. No physician that I know of has yet expressed the opinion that exposure to silica has any connection with this.

We hope that future studies may throw a little further light onthis question, and I understand that in the earlier days of the symposium, the matter has again been discussed, that it still seems to be the consensus of opinion or almost the unanimous opinion that silica and carcinoma of the lung, there just seems to be no relationship, but I trust that the studies are not considered concluded.

Now, we also believe that this is a little bit beyond the presentation, but we believe in the Steelworkers, that compensation should be awarded for partial disability. We do not claim that the exact degree can ever be determined, but the exact degree of partial disability can never be evaluated in any case. It should be enough that silicosis, even though not totally disabled, effectively destroyed the earning capacity of the stone molder, the bricklayer or other mechanic in his skilled occupation and forces him to seek employment at lower wages in other occupations.

We hope, therefore, that there may soon be further development in the field of partial disability.

Now, on behalf of the United Steelworkers of America, I want to thank Doctor Vorwald and Miss Donlon for the opportunity of explaining a few of our problems to the members and outlining briefly our objectives in silicosis cases. Thank you very much. (Applause).

BY MISS DONLON:

Thank you, Mr. Tiernan, for helping to round out the presentation today of viewpoints. I don't know that it was altogether nice of you to give away your and Frank Barnako's problem, to Doctor Edgar Mayer, and the others of the board of chest consultants, but I think it's something for us all to have in mind, that this impartial board calls the shots as it sees it, and having examined the record and

found only a partial disability, that's what they said they did. I don't know what else you're going to do about it.

Now, we have one other speaker on the program this morning. He comes to you from across our northern border. He is known to a good many of you, I'm sure, as the distinguished Counsel to the Quebec Asbestos Producers Association with his office in Montreal, Quebec, and those of us on this side of the border, who are lawyers, and all the lawyers will recognize the distinction that he is a Q. C. - five years ago we would have said K. C, but as a woman I take a little bit of pride in remembering that now they are Queens Counsel. Mr. Ivan Sabourin.

BY MR. SABOURIN:

Mr. Chairman and Madam - Mademoiselle and Doctor Vorwald, Members of the Symposium, Ladies and Gentlemen: Ted Waters has asked me to be as brief as possible. I might skip a few parts of the notes I have, but in an effort at the same time not to break the continuity that I thought I should have.

Before couching these notes in final form, I have had the privilege of taking recognition of the texts of both my predecessors on this morning's program, Doctor Braun and Doctor Barnako. This should enable me, before discussion time, to address you without possibly repeating as much of what has already been stated.