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Compensation

Dockworkers land asbestos-related diseases

Researcher Martin Stower relates how dockworkers were kept in ignorance for many years about asbestos-related diseases which could be caused by unloading asbestos cargoes. His work for the Society for the Prevention of Asbestosis and Industrial Diseases also revealed that barristers may give misleading advice to dockworkers seeking compensation from ports authorities.

Doubts regarding the safety of asbestos were raised at least as early as 1898, but it was not until 1965 that the hazardous nature of asbestos became known to dockworkers. When this happened, pressure was brought to bear, and more adequate precautions were introduced with respect to packaging and handling asbestos cargoes. Previously, asbestos had been transported in porous hessian sacks, as if it were no more dangerous than coffee beans.

Asbestos-related illnesses (such as asbestosis, mesothelioma and lung cancer) usually develop years after the time of exposure; the effects of conditions before the mid-1960s are only now becoming apparent.

Doctors attached to the port authorities must have observed the effects of asbestos on dockers, and should certainly have recognised what they saw, since the symptoms of asbestosis were known in 1924. Asbestos was recognised as a cause of lung cancer in 1955 and the link between asbestos and mesothelioma (a cancer of the lung's lining) came to light in 1960.

False assumptions

Dockers who have become ill through exposure to asbestos and who now seek compensation face many obstacles. These include false assumptions about:

- the conditions under which dockers worked while handling asbestos cargoes and the resulting exposure to asbestos dust; and,
- the medical and scientific evidence available *at the time* which made the dangers of this exposure very clear.

Absence of legal precedent for this type of claim by a docker has been a major stumbling block, but the Society for the Prevention of Asbestosis and Industrial Diseases has had some success in obtaining payments for relatives.

Before shipping to this country, asbestos is broken into light fluffy clumps of fibre. Asbestos is naturally fibrous because of its crystalline structure; it will readily break into smaller and smaller fibres. Because of this fibrillar structure, the presence of visible airborne fibres is considered a sure sign that the invisible and dangerous respirable fibres are also present.

Before 1965, asbestos was usually packed in hessian sacks which allowed fibres to escape. Sometimes, paper sacks were used, but these were easily damaged in transit and during loading and unloading, with consequent release of fibres. Asbestos has even been shipped loose, as ballast.

Because of its volume, an asbestos cargo was stowed in every odd space available to maintain profits. Places considered impractical for more expensive goods were often used for asbestos. A favourite stowage was a ship's tank. Usually this carried some kind of oil—linseed, palm oil or perhaps diesel fuel.

On 25 May 1965, news reached men in South West India Docks that The Port of London Authority had raised the hourly rate on asbestos "by *two* bob an hour!"—a 50 per cent increase. The Authority was going to provide masks to wear, and the two shillings were to make up for the inconvenience of wearing them!

Amid the euphoria, someone began to raise awkward questions. A meeting was held and they got the answers.

"You can get a disease of the lung from asbestos. It is called asbestosis. The medics have known about it for years. An Act was passed on it in 1931. Once contracted, you have 15 to 25 years to live. You die slowly."

Within a few months, asbestos cargoes were blacked by the whole of the dock workforce. They refused to handle it in its former, exposed state and demanded that it be packed in plastic bags to be placed in drums and strapped to fork-lift boards.

Conflict developed between the PLA, the

A day in the life of Ben

Ben Morris worked in the South West India Docks on the Isle of Dogs. He contracted pleural asbestosis in 1966. Ben's brother described a typical day's work, unloading a tank of asbestos.

The tank was fitted with a water-tight metal cover measuring about 9 feet × 9 feet. When the cover was removed entry was by a steel ladder welded to one of the sides. The compartment within would be about 18 feet square and 50 to 70 feet deep. This would hold about 400 to 500 tons of asbestos.

Pay for asbestos work was about 4 shillings an hour in 1965 and was considered poor, even before dockers learnt of the dangers involved.

Four pairs

"Eight of us work, split into four pairs, one pair to each corner of the tank. Another four men go into the barge placed between the ship and the quayside and the ganger stays on deck to give signals to the final member of the gang, the crane driver.

8.05 a.m. Ship's crew takes off tank-top.

8.15 a.m. We begin to break down through the top layers of bagwork, using snotters (a single rope with a loop at each end) about 15 feet long. They will hold an average of 15-18 bags of asbestos. At this point, there is no need for the ganger to signal since the crane driver has all of us in view.

9.45 a.m. Mobile arrives. "Mobile" is yelled out joyfully upon sighting the blue Port of London Authority van which fetches tea urns and sandwiches for the gangs working on the ships. We have now reached a depth of 10 feet in the tank, and because we are close to the engine room, the temperature is hovering around 100°F. This, coupled with the work effort has caused most of us to strip down to the minimum beneath the boiler suits we have been issued with.

The sun is shining, but there is a cool wind blowing across the deck; so, because our bodies are sweat-drenched, we decide to consume "mobile" within the tank. The ganger lowers tea urns, mugs and sandwiches on a rope, and we settle back gratefully on the soft bags to rest while we eat and drink. Naturally, Ben and I work as a pair, and sit together chatting over the meal.

Facing him, I see a reflection of what I must look like. His sweat is impregnated with asbestos fibres and is congealing on his face. He has false-grey eyebrows, eyelashes and hair.

He blows the off-white dust off the surface of his mug of tea, before raising it to his lips where a small triangular shaped crust is forming in each corner. As he moves, the missing buttons allow a view of his upper bare chest showing a woolly texture of fibres

Ellerman Line (responsible for the ships carrying asbestos) and the Transport and General Workers Union.

An *Occupational health circular* was issued to dockers via pay packets, dated 27 September 1966 and signed by Dr A. M. Lawrence-Smith, Principal Medical Officer of the PLA Medical Department. This glibly reassuring document dismissed the suggestion that asbestos cargoes held any dangers for those handling them.

Questionable

Among other questionable assertions, it was stated that mesothelioma "occurs only where crude asbestos is processed and a particular variety and grade of dust, not found in commercial cargo, is released into the air." This statement contradicted the crucial paper on the subject which had been published six years previously by Dr J. C. Wagner and colleagues.[1]

Wagner's report implied that asbestos must be considered a potential mesothelioma carcinogen:

(1) during and after mining processes;
(2) during and after "cobbing" to free asbestos fibres from adhering rock; and,
(3) during transport in hessian sacks—the same sacks of asbestos handled by dockers when they arrived in British ports.

By 1966, the work of Wagner *et al* had been widely publicised, and should have been known to the PLA Medical Department, when Dr Lawrence-Smith wrote his circular.

A report by the Employment Advisory Service, *Mesothelioma Register 1967-68*, mentions four dockers with "definite" mesothelioma and definite occupational exposure to asbestos. The cases may well have been known to the PLA Medical Department in 1966.

Regarding asbestosis, Dr Lawrence-Smith stated that: "No cases of this serious complaint have ever occurred in the Port of London Authority's service". It is odd that such cases started to occur, or at least to be recognised, as soon as the dockers themselves knew what they were dealing with.

Felt severe pain

On 28 May 1966, Ben Morris, who had worked for the PLA at South West India Docks and had often unloaded asbestos, felt a severe pain in the lower left side of his chest. A series of examinations were made by Dr Capel at the London Chest Hospital beginning on 15 June 1966. On 5 April 1967, Dr Capel was on vacation and Ben was examined by a junior doctor. Reading from the files, he told Ben that he had asbestosis. By 7 April 1967, the news had reached the South West India Docks.

There followed a curious episode. On Monday 17 April 1967, the docks controversy reached the House of Commons. Mrs Joyce Butler, MP for Wood Green, asked the Minister of Labour if he was aware of the cancer risk to dockers handling asbestos. The Minister's written reply was made the basis of a leaflet issued by the Asbestos Information Committee, a public relations body funded by the asbestos industry.

For information

The leaflet was entitled *Asbestos and your health*, with a subtitle in capitals stating that "THIS LEAFLET HAS BEEN PREPARED FOR THE INFORMATION OF DOCK WORKERS".

The leaflet included a one-page report entitled, rather grandly, *Inquiry and conclusions on the medical aspects of working cargoes of asbestos by dockers of the Port of London* and signed by Drs A. M. Lawrence-Smith, Robert Murray and Kenneth Perry.

The *Medical Aspects* report was written on 14 April 1967, only nine days after Ben Morris was told he had asbestosis and three days before Joyce Butler's Parliamentary question. It consists of five paragraphs and a footnote.

Discussed the question

Paragraph 1 details the investigations undertaken by Drs Perry, Murray and Lawrence-Smith; these apparently consisted of meeting to discuss the question. They assert: "We have taken due count of published medical opinion and of official statements by HM Chief Inspector of Factories."

It is not clear that Dr Lawrence-Smith took account of Wagner's paper when he wrote his *Occupational health circular* the previous year; neither is it clear that the PLA Medical Department took account of the Chief Inspector's annual report for 1947. Despite that report's strong evidence of a link between asbestos and lung cancer, no warning was given to dockers; no steps were taken to improve packaging of asbestos cargoes; no efforts were made to minimise dockers' exposure to asbestos dust. This exposure worsened as asbestos imports increased.

Paragraph 2 states: "Our enquiries have found no case of injury to the health of a dockworker" caused by asbestos. Apparently, these enquiries failed to unearth anything about Ben Morris.

In paragraph 3, it states: "If bursting of bags occurs, then respiratory equipment would be advisable during cleaning-up operations." Dockers employed by the PLA have described their working conditions prior to 1966; bursting of bags was a regular occurrence and the presence of loose asbestos fibres was the rule rather than the

Morris, dockworker

mixed with the curly hair. Behind him, a single ray of sunshine has penetrated the opening above us and stands out against the stark shadow of the background. Within it are captured a million dancing flakes, spinning and weaving: shining specks of asbestos dust.

10.00 a.m. Resume unloading, ganger tells us the ship is working till seven. Does anyone want a relief at 5 pm? Two (from in tank) decide they do.

12.00-1.00 p.m. Dinner break.

2.00 p.m. We have now reached a depth of about 25 feet. Everyone is sprawled out on bagwork, thankful for the enforced lull when the barge changes. The atmosphere is like morning mist, because of the constant bombardment of dust from the "sets" of bags going up through the small opening.

The sacks containing the asbestos are rotten; they rip open at the touch of our hooks; the snotters cut through them as the weight is taken up by the crane. If the ganger is careless, the sets hit the combing of the tank, breaking sacks apart like stalks of celery. Older dockers used to think that the raw asbestos rotted the bags. We know different; the sacks are second-hand, used time and again until they reach this state.

2.45 p.m. Tea and cakes are lowered down. We smoke cigarettes quite freely, although smoking is prohibited throughout the dock. One could hardly imagine a copper coming down here for a "pinch".

Most men have bloodshot eyes and some take the opportunity of swilling their mouths out with a gulp of tea and spit out an evil grey mixture. We are now ankle-deep in the asbestos debris; it is harder to locate the corners of sacks.

5.00 p.m. "Reliefs" clamber down the steel ladder. The two men they are replacing have already done. The crane is held up till they reach the bottom, now 45 feet deep. They bring with them milk bottles full of hot tea and coffee to share among the gang. This is much appreciated by everyone. We are all parched, half-blinded and tired.

Standing by

6.40 p.m. Close down. The lighterman is ready to hatch up, and the seamen are standing by to replace the tank cover. Off with the boiler suit, a brief dusting down, and then the tedious haul back up the ladder.

As the cold air enters our lungs attuned to 100 degrees of heat for 9½ hours, we feel a bit high. We stand for a few moments to recuperate. The ganger, leaning back on the ship's rail, looks at us. "Shipworker reckons we are going to No. 3 tank tomorrow," he murmured. "It is full of the blue stuff (blue asbestos, crocidolite). He might want us to work all night."

exception. None of this useful advice was forthcoming from the PLA Medical Department, when it really mattered.

In 1968, after an unsuccessful appearance before the DHSS Pneumoconiosis Panel, Ben Morris decided to claim compensation from the PLA. The case was put in the hands of the legal department of the Transport and General Workers Union and handled by solicitors Pattinson and Brewers.

Mistaken ideas

In 1969, the solicitors received a discouraging barrister's opinion which suggested that Ben's claim was unlikely to succeed. The barrister revealed several seriously mistaken ideas (in italics below) about dockers' work, which coloured his opinion:

"(1) irregular contact with asbestos."

Asbestos was certainly imported regularly and imports climbed steeply throughout the 50s and early 60s. All imported asbestos passed through docks and was handled by dockers. The adjective "irregular" should be changed to "frequent". When contact did occur, there was heavy exposure to asbestos dust; the dangerous fibres remained in the lungs to do their damage afterwards.

"(2). contact more or less in the open air (as distinct from a workroom)"

Dockers have described how they actually worked *inside* a ship's hold or ship's tank and manhandled dusty sacks of asbestos before they were lifted by crane.

"(3) contact in the main involving handling bagged asbestos—that is to say, no process such as mixing, grinding, chipping, etc."

Wagner's paper of 1960, which connected asbestos and mesothelioma, described cases of mesothelioma among men who had contact with hessian sacks containing asbestos. Often these sacks were destined for this country where they would be handled by dockers.

In 1964, W. Glyn Owen published a paper which mentioned two mesothelioma patients, women who had worked in sack repair factories.[2] They had handled dusty, used hessian sacks, some of which had carried asbestos.

A similar case in London was reported by Newhouse and Thompson in 1965[3].

The Asbestos Information Committee saw fit to discuss this case in the leaflet *Asbestos and your health*: "there is no real proof that this docker's wife contracted mesothelioma from these circumstances". When judging the AIC claim, it should be examined in the context of nine reported mesothelioma victims who had similar exposure.

The 1931 regulations prohibited use of permeable sacks within asbestos factories, but the hessian sacks handled by the women had carried asbestos to the factories. Subsequently, the sacks were emptied and sold off.



London Chest Hospital X-ray of dockworker who developed asbestosis

When full, the sacks had travelled from Canada or South Africa and, in British ports, they had been handled by dockers. When empty, the sacks were still impregnated with lethal asbestos fibres.

This evidence, that the sacks handled by dockers carried a mesothelioma hazard, was available when Dr Lawrence-Smith claimed: "The commodity, as found in ship's cargo, involves no occupational risk of mesothelioma."

Made the link

The barrister advising the TGWU legal department in 1967 evidently believed that no link between asbestos and mesothelioma was known until 1965. Of course, this is untrue. Wagner's paper made this link in 1960.

Enquiries have failed to reveal why the TGWU legal department accepted such an inaccurate barrister's account, both of a docker's work and of the risk involved, since Ben's case was not carried further.

Unfortunately, knowledge of this issue in legal circles has not improved, as shown in a barrister's opinion obtained recently (from the same address).

Philip Willson worked for the PLA on the same dock for 40 years, first as a docker and then as a quay foreman. He frequently handled asbestos. In 1981, he died of mesothelioma (pulmonary asbestosis was also revealed). Mrs Willson suffered and died from the same disease (see News, page 12).

As in the case of Ben Morris, a barrister's opinion was obtained, and he stated: "I have never before come across a case in which the handling of asbestos in its crude state has been found to have caused mesothelioma." Yet Wagner's paper, which linked mesothelioma with asbestos, dealt mainly with cases of this type. The source of the barrister's misinformation is revealed when he refers to the notorious PLA circular of 1966.

He states: "If the view expressed in that memorandum was wrong, it was in itself seriously misleading and would constitute clear evidence of negligence because it must have had the effect of lulling (Mr Willson) and his colleagues into a false sense of security." That the memorandum was wrong can be shown solely by reference to medical evidence available when it was written; it certainly seems to have misled the barrister!

References

1. Wagner, J. C. *et al*, "Diffuse pleural mesothelioma and asbestos exposure in the North Western Cape Province," *British Journal of Industrial Medicine* (1960).
2. Glyn Owen, W., "Diffuse mesothelioma and exposure to asbestos dust in the Merseyside area," *British Medical Journal* (1964).
3. Newhouse and Thompson, "Mesothelioma of pleura and peritoneum following exposure to asbestos in the London area," *British Journal of Industrial Medicine* (1965).

HS RAPID REPLY SERVICE circle number 24 on Inquiry Card

Ministers may relax health and safety law

Government ministers are considering a number of suggestions for relaxing health and safety legislation for small firms despite a riposte from the Health and Safety Commission.

The suggestions have been forwarded by a number of departments, including the Departments of Employment (DE) and Trade and Industry (DTI), to advise the Government on its policy of "easing the legislative and administrative burdens on small businesses".

HSC chairman Dr John Cullen said he was unaware of any *proposals* to relax safety rules but acknowledged that the HSC had been consulted about the "Rayner-style scrutiny".

He said the HSC was "giving its riposte" to the ideas floated. Both he and Health and Safety Executive director general John Rimmington agreed that it would be impractical to have small firms exempted from health and safety laws, he added.

The departments are keeping tight-lipped but *HS* has a copy of the *Synopsis of main findings* of a DE survey of 290 small firms.

This found that only one in nine small firms mentioned health and safety requirements as a burden. The main criticisms were that inspectors were inflexible or inconsistent, or that requirements were impractical. It was also argued that small firms had no influence over new legislation.

The DE report states: "We considered a variety of suggestions for radical deregulation. In the end, however, we concluded that all had more compelling arguments against."

It does, however, recommend some less drastic relaxations:

- raising the threshold for producing a written safety policy to firms with 20 employees (now five);
- repealing the requirement to notify the employment of young people;
- repealing the requirement to post up extracts of the Factories Act and the Offices, Shops and Railway Premises Act;
- prompt action on the Equal Opportunity Commission's recommendations on hours of work of women and young people.

It also suggested that a "simple pamphlet" should be published summarising health and safety requirements for small firms and that all legislative proposals should contain "a small firms impact analysis showing how small firms are expected to comply".

However, the Institution of Professional Civil Servants, which represents HSE inspectors, says that the DE team have discussed some more far-reaching problems which may also be considered by ministers. One of these is the requirement to guard all machines, which some small firms felt to be an unnecessary expense.

The IPCS argues that the requirement has existed since 1901 and is based on sound and reasonable experience, so it should not be changed "without any real proof of there being a real problem".

The DE team also discussed the possibility of shifting the burden of proof in legal proceedings from the accused to the prosecution, says the IPCS. But the union's view is that, since small firms are unlikely to be prosecuted, this change would be of little benefit and could be damaging.

The DE declined to comment on the contents of the report.

Cullen to open LISHE conference

Health and Safety Commission chairman Dr John Cullen is to give the opening address at the international conference on health and safety at work which accompanies LISHE '85 exhibition at Olympia in London.

The two-day conference, on 18 and 19 April is co-sponsored by the Health and Safety Executive (HSE) and the Institution of Occupational Safety and Health *(see LISHE preview, page 40).*

VDU operators face health risk

By the deadline of 28 February 1985, *HS* had received 3,485 responses to the questionnaire *VDU operators and health hazards* published in *HS* January 1985 (pages 28 and 29). Social sciences researcher Jennifer Evans is engaged in analysing the responses with a view to publishing a full report in *HS* June 1985.

Meanwhile clerical workers' trade union APEX has issued its own report, which says that 64% of those surveyed complained that unsuitable lighting led to headaches.

Asbestos kills husband and wife

Colchester coroner Dr Charles Clarke found that Mrs Winifred Willson, wife of an East London docker, died last November as a result of an industrial disease, mesothelioma, when her only contact with asbestos dust had been in washing her husband's work clothes. Joseph Willson had died of the same disease in1981, and Dr Clarke also presided over his inquest.

Mr Willson worked for the Port of London Authority for 40 years, first as a docker and then as a quay foreman. He frequently handled cargoes of asbestos, and he carried home asbestos dust on his clothes and in his hair.

Dr Clarke took the unusual step of *instructing* the Pneumoconiosis Medical Panel to investigate Mrs Willson's death because the PMP had been unwilling to look at it since Mrs Willson was not exposed to asbestos dust during paid employment.

Mr & Mrs Willson's son, Peter, is seeking compensation for his mother's death from the Port of London Authority. He alleges that the PLA was negligent in inadequately informing dockers of the dangers of handling asbestos. He revealed that the PLA had not yet paid the £4,000 compensation that Mrs Willson had agreed to accept for the loss of her husband.

The Society for the Prevention of Asbestosis and Industrial Diseases said that Mrs Willson's case showed why mesothelioma should be investigated by electron microscopy, which is able to detect very small fibres of white asbestos that have often been missed.

SPAID secretary Nancy Tait said these investigations are needed to establish the connection between asbestos and mesothelioma. "Industrial injuries benefit is paid in only one-out-of-three of the 500 mesothelioma deaths every year. How many of the deaths for which no benefit is paid are due to non-occupational exposure to asbestos and how serious is the risk of such non-occupational exposure to the general community?" asked Mrs Tait.

(See feature on asbestos and dockworkers on pages 36 to 38).

National PCB survey demanded

Dutch-based transformer manufacturer Holec called a press conference at the House of Commons last month to demand a national survey to establish the location and age of all poly-chlorinated-biphenyl-filled transformers in the country.

Holec managing director Brian Beck pointed out the PCB was so highly toxic and carcinogenic that the European Communities had issued a Directive to member states banning its sale from 30 June 1986 onwards. Mr Beck's interest is in completely replacing ageing PCB-filled transformers with modern, safe equipment.

German Socialist Euro-MP Gerhard Schmid has called for a progressive ban on PCB-filled transformers. Herr Schmid said: "PCB transformers have been installed in areas where there are high fire risks and/or high safety requirements (Historic city centres, department stores, hospitals, old people's homes, etc). The transformer itself is not a primary fire source, but, if a fire in the vicinity exposes it to temperatures exceeding 300°C, the PCBs produce highly toxic poly-chlorodibenzofurances (PCDFs), putting firemen at acute risk and, in certain circumstances, contaminating wide areas. Fire brigades are therefore urging that PCB transformers be replaced.

Sizewell inquiry ends

The mammoth public inquiry into the proposed Sizewell B pressurised water nuclear reactor is at an end.

The final words came from the Central Electricity Generating Board, which asserted that there was "no reason for rejecting the proposed PWR power station on safety grounds". It said the 19 outstanding safety issues unresolved between the CEGB and the Nuclear Installations Inspectorate should be settled, at a cost of £4 million, by January 1986.

Lord Silsoe QC, for the CEGB, said the CEGB "rightly did not try to plan for a major nuclear accident. This was because for all practical purposes such accidents could be discounted, and because it was not reasonably practicable to plan for them".