PLAINTIFF'S EXHIBIT tabbies WV-000101

PLAINTIFF'S EXHIBIT tabbies 00207.00

HOBART & MINARD

GEORGE S. HOBART
DUANE E. MINARD
RALPH E. COOPER

AUGUSTINE J. KELLY
JOHN J. GAFFEY
S. ADDISON HOBART

LEFCOURT BUILDING
1180 RAYMOND BOULEVARD
NEWARK, NEW JERSEY

TELEPHONE
MARKET
2-6184
2-6185
2-6186

Dec. 13, 1934.

Re preliminary study of Metropolitan Life Insurance Company

Mr. Vandiver Brown,
Attorney, Johns-Manville Corporation,
22 E. 40th Street,
New York City.

Dear Mr. Brown:

I received your letter of December 10th with enclosures, including proof of the preliminary study entitled, "Effects of the Inhalation of Asbestos Dust on the Lungs of Asbestos Workers". I have carefully examined the proof and return same.

In reading this proof I have compared it with the paper of the same title which was prepared by the Industrial Health Service of the Metropolitan about three years ago. I submit the following suggestion (For convenience of reference I have numbered my comments in red pencil in the margin of the several pages of the galley proofs):

(1) Gal. 11. At the end of the paragraph which discusses the "variables" upon which the progress of the disease is influenced, the following sentence appears: "It might well be assumed that similar variables would influence the occurrence of asbestosis." You will recall that in dealing with the New Jersey Legislative Commission which has had charge of the proposed new legislation in New Jersey whereby silicosis is to be added to the list of occupational diseases for which compensation is required under the terms of the compensation statute, we have consistently urged that there is a substantial difference between silicosis and asbestosis — both as to the clinical nature of the disease and as to the reasonable probability of its incidence; and you will also recall that in particular we have urged that asbestosis should not at the present time be included in the list of compensation diseases, for the reason that it is only within a comparatively recent time that asbestosis has been recognized by the medical and scientific professions as a disease — in fact one of our principal defenses in actions against the company on the common law theory of negligence has been that the scientific and medical knowledge has been insufficient until a very recent period to place upon the owners of plants or factories the burden or duty of taking special precautions against the possible onset of the disease to their employees.

04037045

I, therefore, dislike to have this report suggest that asbestosi might be assumed to be 'similar' to silicosis, either as to the period

PLAINTIFF'S EXHIBIT
207.0
2 of 3

of time within which it might develop, or as to the dosage received by the lungs, or as to the quantity of dust, etc.

(2) Gal. 11. At the bottom of this galley I observe that there is set forth in a note (instead of in the body of the article) the statement that appears in the Report of 1931 relating to the enlargement of the particles and the use of logarithms. (See p. 7 of Report of 1931) As a matter of curiosity I wonder why this statement (which seems to me quite important) is put in a note instead of in the body of the article. If the authors prefer to have it in the form of a note, of course, their judgment should control, as it has no particular bearing in any event upon the points in which the company is interested.

(3) Gal. 12. The last paragraph on this galley has a summary of the dust counts with respect to the several plants. I notice that it is stated that plant E "was unnecessarily dusty". I understand this does not in any way refer to any plant of Johns-Manville, but I am wondering whether the proprietor of plant E has had an opportunity to review the comment. It strikes me that the report would serve every purpose if we leave out in the first line of the paragraph on that galley the words "was unnecessarily dusty". However, that is a matter with which we are indirectly concerned and I merely suggest it for consideration It is the same expression which appears in the Report of 1931 at page 11.

Galley 13. No comment.

(1) Gal. 14. The word "death" should be inserted after the words "6 of 36" in the third paragraph of subtitle "Insurance Claims". You have already called attention to this in your letter of December 10 to Dr. Lanza.

(3) Gal. 14 under subtitle "Conclusions".

No. 1. I agree with your suggestion in letter to Dr. Lanza of December 10th that there should be added to this conclusion a statement similar to that which appeared (at p. 20) in the Report of 1931, namely, "clinically, it is of a type milder than silicosis" — or, if the doctors do not want to make the statement in that positive form, it might be as follows (as suggested in your letter): "Clinically, from this study it appeared to be of a type milder than silicosis"; or, if that is too strong, it might be set forth as follows: "So far as indicated by the study, asbestosis is of a type (or appears to be of a type) milder than silicosis". The exact wording is not important, except that I think it would be desirable (if the doctors are satisfied that such is the fact), to have some expression comparing asbestosis with silicosis and indicating that there is a real difference between the two diseases, so far as scientific knowledge now indicates. Of course, here again I have in mind the probability that the New Jersey Commission will introduce a bill in the Legislature which opens in January of 1935; and if it is the policy of Johns-Manville to oppose any bill that attempted to include asbestosis, as compensable, it would be very helpful to have an official report to show that there is a substantial difference between asbestosis and silicosis; and by the same token it would be troublesome if an

PLAINTIFF'S EXHIBIT 207.0 3 of 3

official report should appear from which the conclusion might be drawn that there is very little if any difference between the two diseases.

No. 2. I understand that the statement as to the cardiac enlargement is correct from a scientific standpoint, and I do not see how we can consistently object to it.

No. 3. I agree that the word "preliminary" is superfluous.

No. 4. O. K.

No. 5. This reads the same as on page 21 of the Report of 1931 and, hence, it may be a little late to object. However, I point out that as No. 5 now reads the inference might be drawn that asbestosis does add to the mortality of tuberculosis cases. But that inference does not seem to be justified from this study. I am wondering if it would be a more accurate scientific statement if there were omitted from No. 5 the last three words, to-wit "other than tuberculosis".

No. 6. This is the same as set forth on page 21 of Report of 1931, with the exception that the Report of 1931 at the end of the sentence has the words "than free silica (SiO_2)" and the galley proof has the words "than granite dust". Here again it may be a little late to criticize the statement, but I do not like the suggestion that there is a possibility that asbestosis may cause pneumoconiosis more readily than granite dust. The reason I object is that many cases of silicosis are supposed to originate in granite dust and this statement as it now reads suggests that a possibility that a pneumoconiosis may arise more readily from asbestos than granite dust. I think we should, if possible, eliminate all that part of conclusion No. 6 following the semi-colon after the words "of air" in line 2 of the conclusion.

No. 7. This is the same as in the Report of 1931. No comment.

(6) Calls 14 and 15 subtitle "Recommendations".

In my copy of the Report of 1931 I have a pencil memo. as to recommendation No. 4 to insert the word "possible" before the word "effects" so as to have it read "as well as studies on the possible effects of asbestosis on the heart and circulation". I do not think the point is of much importance, but I call attention to it so that it is not overlooked.

I agree with the other suggestions in your letter to Dr. Lanza of December 10th.

Very truly yours,

04037047

0052