

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RECEIVED SEP 3 0 1985

ROBERT DAVIS, ET AL.,)

PLAINTIFFS,)

V.)

TURNER & NEWALL, LTD., ET AL.,)

DEFENDANTS.)

CAUSE NO. 80-7220(4)

SAINT LOUIS, MISSOURI

MARCH 8-11, 1982.

EXCERPTS OF TRIAL
TESTIMONY OF

ARTHUR DAVID NICHOLAS JONES

TRANSCRIPT OF EXCERPTS OF PROCEEDINGS HAD IN THE
ABOVE-STYLED CAUSE BEFORE THE HONORABLE WILLIAM L. HUNGATE,
JUDGE OF THE DISTRICT COURT OF THE UNITED STATES, EASTERN
DISTRICT OF MISSOURI, EASTERN DIVISION, AND A JURY DULY
IMpaneled.

APPEARANCES

MR. JAMES E. HULLVERSON AND MR. RONALD L. MOTLEY,
ATTORNEYS FOR PLAINTIFFS

MR. JAMES J. SHOEMAKE, MR. SAMUEL C. ERLING, MR. STEPHEN
H. RINGKAMP, AND MR. R. BRUCE SHAW, ATTORNEYS FOR DEFENDANTS
TURNER & NEWALL LIMITED AND TURNER ASBESTOS FIBRES, LTD.

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FOR DEFENDANT ASBESTOS CORP., LTD.

MR. JOHN J. HORGAN AND MR. D. RAYMOND, ATTORNEYS FOR
DEFENDANT BILL ASBESTOS MINES, LTD.

MR. DAVID S. SLAVKIN, ATTORNEY FOR DEFENDANT HUXLEY
DEVELOPMENT CORP.

MR. FRANCIS H. KENNEDY, JR., MR. DAVID BEERS, AND
MS. NANCY SHEA, ATTORNEYS FOR DEFENDANT BRINCO ASBESTOS
CORP., LTD.

MR. HOWARD BUMAN, MR. ROBERT P. NUMRICH, AND MR. ROBERT
L. WILSON, ATTORNEYS FOR DEFENDANT JOHNS-MANVILLE SALES
CORPORATION

MR. GEORGE F. KOSTA, ATTORNEY FOR DEFENDANT SPECIAL
MATERIALS, INC.

MR. JOSEPH MUELLER, ATTORNEY FOR CERTAIN-TEED

PAT BAESKE

Certified Court Reporter
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TESTIMONY OF ARTHUR DAVID NICHOLAS JONES

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MARCH 8, 1982

ARTHUR DAVID NICHOLAS JONES,

... WAS SWORN AND TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SHOF MAKE:

Q. WOULD YOU STATE YOUR NAME FOR THE COURT AND
JURY, PLEASE?

A. MY NAME?

Q. WOULD YOU STATE YOUR NAME?

A. ARTHUR DAVID NICHOLAS JONES.

Q. AND WHERE DO YOU RESIDE, MR. JONES?

A. IN THE OUT--ON THE OUTSKIRTS OF MANCHESTER,
ENGLAND.

Q. AND ARE YOU NOW RETIRED, SIR?

A. 1 AM.

Q. AND ARE YOU RETIRED FROM TURNER AND NEWALL LIMITED?

A. YES.

Q. WOULD YOU TELL THE JURY, PLEASE, WHEN YOU PARTICIPATED

A. I RETIRED IN 1980.

Q. WHEN DID YOU FIRST JOIN TURNER AND NEWALL LIMITED?

A. I JOINED TURNER AND NEWALL LIMITED IN 1952.

Q. AND DID YOU REMAIN WITH THAT FIRM FROM 1952
UNTIL YOUR RETIREMENT IN 1980?

1 A. I DID.

2 Q. CAN YOU TELL THE JURY WHETHER OR NOT FOR 1947

3 1948 YOU WERE A PRACTISING LAWYER, BARRISTER, OR ETC.

4 A. YES, MORE OR LESS BETWEEN THOSE DATES.

5 Q. ALL RIGHT. DID THERE COME A TIME WHEN YOU

6 BECAME THE SECRETARY OF TURNER AND NEWALL LIMITED?

7 A. THERE DID.

8 Q. AND WHEN DID YOU BECOME THE SECRETARY?

9 A. THAT WAS IN 1953.

10 Q. ALL RIGHT. AND PRIOR TO THAT TIME WERE YOU

11 THE ASSISTANT SECRETARY?

12 A. I WAS.

13 Q. TELL THE COURT AND JURY, PLEASE, WHAT TURNER AND

14 NEWALL WAS AND IS AT THE TIME YOU JOINED IT?

15 A. AT THAT TIME TURNER AND NEWALL WAS A HOLDING

16 COMPANY.

17 Q. WHEN YOU SAY "HOLDING COMPANY," TELL THE JURY

18 WHAT YOU MEAN, PLEASE?

19 A. WELL, IT WAS THE COMPANY WHICH HELD THE SHARES

20 OF A NUMBER OF OTHER COMPANIES ENGAGED IN VARIOUS ACTIVITIES

21 BOTH IN THE U.K. AND OVERSEAS.

22 Q. LET ME TAKE THEM ONE AT A TIME, IF I MAY. DID

23 TURNER AND NEWALL LIMITED OWN THE STOCK OF COMPANIES OPERATING

24 IN THE UNITED KINGDOM?

25 A. IT DID.

1 Q. AND WAS THERE A NAME OR DESCRIPTION THAT
2 THE COMPANIES?
3 A. WE USED TO REFER TO THOSE AS THE HOME GROUP
4 COMPANIES.
5 Q. HOME GROUP. ALL RIGHT. AND DID TURNER AND
6 NEWALL OWN THE SHARES OF STOCK OF COMPANIES LOCATED OUTSIDE
7 THE UNITED KINGDOM?
8 A. IT DID.
9 Q. ALL RIGHT. AT ONE TIME WOULD THE--WOULD THAT
10 HAVE INCLUDED KEASBEY AND MATTISON?
11 A. YES, IT DID.
12 Q. AND WHERE WAS KEASBEY AND MATTISON LOCATED?
13 A. THEY WERE LOCATED IN AMBLER, PENNSYLVANIA.
14 Q. DID TURNER AND NEWALL, AS A HOLDING COMPANY,
15 OWN THE SHARES OF STOCK OF TURNER ASBESTOS FIBRES?
16 A. IT DID.
17 Q. AND WAS TURNER ASBESTOS FIBRES PART OF WHAT
18 YOU'VE DESCRIBED AS THE HOME GROUP OF COMPANIES?
19 A. YES, IT WAS.
20 Q. AGAIN, THAT MEANS IT WAS LOCATED IN GREAT BRITAIN.
21 A. IT WAS LOCATED IN GREAT BRITAIN.
22 Q. TO YOUR KNOWLEDGE WHERE WERE THE OFFICES OF
23 TURNER ASBESTOS FIBRES LOCATED?
24 A. THEIR OFFICES WERE LOCATED IN--ON ONE OF THE
25 FLOORS OF THE HEAD OFFICE BUILDING OF TURNER AND NEWALL.

1 LIMITED IN MANCHESTER, ENGLAND.

2 Q. WERE YOU ALSO THE SECRETARY FOR TURNER AND

3 NEWALL?

4 A. I WAS.

5 Q. WHAT YEAR DID YOU LEAVE THE EMPLOYMENT OF

6 TURNER AND NEWALL, HOW MANY EMPLOYEES DID TURNER ASBESTOS FIBERS

7 A. PROBABLY ABOUT A DOZEN, PERHAPS ONE OR TWO MORE;

8 ABOUT A DOZEN.

9 Q. WOULD THAT HAVE INCLUDED THE SECRETARIES?

10 A. NO, IT WOULDN'T, IN FACT.

11 Q. ALL RIGHT. THERE WERE 12 PEOPLE EMPLOYED AT TURNER

12 A. I BEG YOUR PARDON. YOU'RE USING THE TERM

13 "SECRETARIES" AS MEANING THE LADY SECRETARIES?

14 Q. YES.

15 A. I WAS WONDERING IF YOU MEANT ME AND MY ASSISTANT.

16 Q. NO.

17 A. THAT WOULD INCLUDE THE LADY SECRETARIES.

18 Q. AND THE CLERKS?

19 A. AND THE CLERKS.

20 Q. WHAT WAS THE BUSINESS OF TURNER ASBESTOS FIBERS,

21 WHICH IS A DEFENDANT IN THIS CASE? WHAT WAS THE BUSINESS OF

22 TURNER ASBESTOS FIBERS?

23 A. IT WAS SUBSTANTIALLY THE BROKERING ARM FOR

24 FIBER, BROKERING FIBER OF TURNER AND NEWALL LIMITED.

25 Q. AND WHAT DO YOU MEAN WHEN YOU SAY "THE BROKERING

1 Q. WHAT DOES IT MEAN TO BE A BROKER OF FIBER AS YOU
2 UNDERSTOOD IT?

3 A. IT MEANS IT WAS PART OF THE COMPANY'S RESPONSIBILITIES
4 TO BE AWARE OF FIBER SOURCES AND TO JOIN TOGETHER
5 THOSE WHO WISHED TO PURCHASE AND THOSE WHO HAD FIBER TO SELL.

6 Q. ALL RIGHT. CAN YOU TELL THE COURT AND JURY
7 WHETHER OR NOT TURNER ASBESTOS FIBRES OWNED ANY MINES ANYWHERE?

8 A. NO, THEY DIDN'T.

9 Q. CAN YOU TELL THE COURT AND JURY, TO YOUR KNOWLEDGE,
10 WHETHER OR NOT TURNER ASBESTOS FIBRES MINED ANY ASBESTOS
11 FIBER ANYWHERE?

12 A. NO, THEY DIDN'T.

13 Q. DID IT MINE ANY FIBER ANYWHERE?

14 A. NO.

15 Q. DID IT BAG ANY FIBER ANYWHERE?

16 A. NO.

17 Q. DID IT TRANSPORT FIBER ANYWHERE?

18 A. NO.

19 Q. ALL RIGHT. IN THE ORDINARY COURSE OF BUSINESS,
20 CAN YOU TELL THE COURT AND JURY WHETHER OR NOT TURNER ASBESTOS
21 FIBRES, ACTING AS A BROKER, WOULD EVER SEE ANY FIBER THAT
22 WAS SHIPPED TO ANY CUSTOMER IN THE UNITED STATES?

23 A. NO. IN THE ORDINARY COURSE OF EVENTS IT WOULD NOT.

24 Q. CAN YOU TELL THE COURT AND JURY WHETHER OR NOT
25 ANY BAG CONTAINING ASBESTOS FIBER WOULD BEAR THE NAME OF TURNER ASBESTOS FIBRES?

1 OF TURNER ASBESTOS FIBRES?

2 A. NO, IT WOULDN'T.

3 Q. OR TURNER AND NEWALL LIMITED?

4 A. NO, IT WOULDN'T.

5 Q. CAN YOU TELL THE COURT AND JURY WHETHER OR NOT

6 WHEN TURNER ASBESTOS FIBRES ACTED AS A BROKER FOR FIBER IN

7 THE UNITED STATES, WOULD THAT FIBER GO TO U.S. CUSTOMERS

8 WITHOUT GOING TO ENGLAND?

9 A. YES, IT WOULD.

10 Q. WOULD IT GO DIRECTLY FROM THE MINE TO THE CUSTOMER?

11 A. IT WOULD.

12 Q. ALL RIGHT. WHO ARE THE CUSTOMERS AND WHO WERE

13 THE CUSTOMERS, OF TURNER ASBESTOS FIBRES?

14 A. THEY WERE MANUFACTURING COMPANIES WHO USED

15 ASBESTOS FIBER IN THE COURSE OF THEIR MANUFACTURING PROCESSES.

16 Q. THE MANUFACTURING COMPANIES THAT USED ASBESTOS

17 FIBER, WERE THEY OWNED IN WHOLE OR IN PART BY TURNER AND

18 NEWALL LIMITED?

19 A. OH, NOT NECESSARILY.

20 Q. WERE SOME?

21 A. SOME WERE.

22 Q. AND SOME WERE NOT?

23 A. AND SOME WERE NOT.

24 Q. ALL RIGHT. I BELIEVE YOU TESTIFIED THAT AT NO

25 POINT IN TIME TURNER AND NEWALL LIMITED OWNED THE SHARES OF

1 KLASBEY AND MATTISON; IS THAT CORRECT?

2 A. YES.

3 Q. AND KLASBEY AND MATTISON WAS LOCATED IN THE

4 PENNSYLVANIA. IS THAT CORRECT?

5 A. YES.

6 Q. DO YOU KNOW, TO YOUR OWN KNOWLEDGE, WHETHER
7 NOT KLASBEY AND MATTISON WAS FOUNDED AS AN AMERICAN COMPANY.

8 A. YES, IT WAS.

9 Q. HAS IT ALWAYS HAD ITS PRINCIPAL PLACE OF BUSINESS
10 IN AMBER, PENNSYLVANIA?

11 A. TO THE BEST OF MY KNOWLEDGE, YES.

12 Q. CAN YOU TELL THE COURT AND JURY WHEN TURNER

13 NEWALL LIMITED FIRST ACQUIRED ANY INTEREST, OWNERSHIP

14 INTEREST IN KLASBEY AND MATTISON?

15 A. THAT WOULD BE ABOUT 1934.

16 Q. ALL RIGHT. AT THE TIME THAT TURNER AND NEWALL
17 ACQUIRED AN OWNERSHIP INTEREST IN KLASBEY AND MATTISON ABOUT
18 1934, DID KLASBEY AND MATTISON OWN THE BELL MINES?

19 A. IT DID.

20 Q. ALL RIGHT. AND CAN YOU TELL THE COURT AND JURY
21 WHETHER OR NOT, AFTER TURNER & NEWALL ACQUIRED OWNERSHIP OF
22 THE BELL MINES, IT WAS SEPARATED OUT AND APART FROM KLASBEY
23 AND MATTISON?

24 A. YES. YES, IT WAS.

25 Q. CAN YOU TELL THE COURT AND JURY WHETHER OF THE

1 KEASBEY AND MATTISON WAS EVER A PART OF THE HOME GROUP
2 COMPANIES THAT YOU EARLIER DESCRIBED?
3 A. OH, NO, NEVER.
4 Q. CAN YOU TELL THE COURT AND JURY WHETHER OF THE
5 FULL MILES OF QUEBEC WERE EVER A PART OF THE HOME GROUP THAT
6 YOU'VE EARLIER DESCRIBED?
7 A. NO, THEY WEREN'T EITHER.
8 Q. CAN YOU TELL THE COURT AND JURY WHETHER OF THE
9 THE OFFICERS OF KEASBEY AND MATTISON, PRESIDENTS, VICE
10 PRESIDENTS, MANAGERS, WERE AMERICANS OR BRITISH?
11 A. THEY WERE AMERICANS.
12 Q. CAN YOU IDENTIFY FOR THE JURY WHO SOME OF THE
13 PRESIDENTS WERE, SIR, TO YOUR MEMORY?
14 A. WELL, OUR FIRST ONE WHEN I JOINED WAS MR.
15 ERNEST MUEHLECK.
16 Q. MUEHLECK? ALL RIGHT.
17 A. AND I THINK AFTER HIM, MR. R. R. PORTER.
18 Q. HOW ABOUT A MR. BARGE? DO YOU RECOGNIZE THAT
19 NAME?
20 A. BARGE?
21 Q. B-A-R-G-E. WAS HE A VICE PRESIDENT?
22 A. HE WAS A VICE PRESIDENT. I DON'T THINK WE WERE
23 EVER PRESIDENT, UNLESS MY MEMORY TREATS ME FALSE.
24 Q. WERE ANY OFFICERS OF TURNER AND NEWALL LIMITED
25 OR TURNER ASBESTOS FIBRES EVER OFFICERS OF KEASBEY AND MATTISON?

1 A. NO, THEY WERE NOT.
2 Q. WERE THERE--STRICTLY THAT.
3 BASED ON YOUR CUSTODY OF THE RECORDS OF THE--
4 AND NEWALL, CAN YOU TELL THE COURT AND JURY WHETHER OR NOT
5 ANY TURNER AND NEWALL PERSON EVER SAT ON THE BOARD OF LEASBEY AND
6 MATTISON?
7 A. YES, THEY DID.
8 Q. AND HOW MANY WOULD THAT HAVE BEEN?
9 A. WELL--
10 Q. AT ANY ONE TIME?
11 A. AT ANY ONE TIME, ONE.
12 Q. ONE TURNER AND NEWALL REPRESENTATIVE. AND--
13 WAS THE SIZE OF THE BOARD OF DIRECTORS OF LEASBEY AND MATTISON--
14 A. WELL, IT VARIED OVER THE YEARS, BUT THERE--
15 WERE FIVE OR SIX OTHERS.
16 Q. OF THE FIVE OR SIX OTHERS, WERE THEY AMERICANS?
17 A. THEY WERE ALL AMERICANS, YES.
18 Q. CAN YOU TELL THE COURT AND JURY WHETHER OR NOT
19 THE TURNER AND NEWALL REPRESENTATIVE ATTENDED EVERY BOARD
20 MEETING OF LEASBEY AND MATTISON?
21 A. NO, HE DID NOT.
22 Q. WOULD YOU TELL THE COURT AND JURY, BASED ON YOUR
23 REVIEW OF THE RECORDS, WHETHER OR NOT THE TURNER AND NEWALL
24 REPRESENTATIVE ATTENDED LESS THAN 20 PERCENT OF ALL SUCH
25 BOARD MEETINGS?

1 A. YES, I SHOULD THINK HE PROBABLY ATTENDED TO THE
2 TEN PERCENT.
3 Q. DID KEASBEY AND MATTISON HAVE ANY OFFICE
4 WHERE IN GREAT BRITAIN?
5 A. NO.
6 Q. WAS IT STRICTLY A UNITED STATES OPERATION?
7 A. IT WAS INDEED, YES.
8 Q. DID KEASBEY AND MATTISON MAINTAIN ITS OWN BANK
9 ACCOUNTS?
10 A. IT DID.
11 Q. ITS OWN PENSION PLAN?
12 A. YES.
13 Q. ITS OWN WORKMEN'S COMPENSATION PLAN.
14 A. YES.
15 Q. ITS OWN BOOKS AND RECORDS OF ACCOUNTS?
16 A. YES.
17 Q. DID KEASBEY AND MATTISON HAVE ANY OFFICE
18 EMPLOYEES WHO WERE REGULARLY BASED IN ENGLAND?
19 A. NO, IT DIDN'T.
20 Q. WHO PAID THE EMPLOYEES OF KEASBEY AND MATTISON?
21 A. KEASBEY AND MATTISON ITSELF.
22 Q. DID TURNER AND NEWALL EVER PAY THESE EMPLOYEES?
23 A. NO, NEVER.
24 Q. HOW WAS THE CAPITAL EXPANSION OF KEASBEY AND
25 MATTISON FINANCED?

1 A. THAT WAS FINANCED FROM FUNDS GENERATED BY KEASBEY
2 AND MATTISON ITSELF.
3 Q. NOT BY TURNER AND NEWALL?
4 A. NOT BY TURNER AND NEWALL.
5 Q. OKAY. TO YOUR KNOWLEDGE, DID TURNER AND NEWALL
6 DIRECT THE CUSTOMERS TO WHOM KEASBEY AND MATTISON WOULD
7 ITS PRODUCTS?
8 A. NOT AT ALL.
9 Q. WERE THERE COMMUNICATIONS BETWEEN KEASBEY AND
10 MATTISON AND TURNER AND NEWALL OR TURNER ASBESTOS FIBRES?
11 A. THERE WERE.
12 Q. AND BASED ON YOUR YEARS WITH THE COMPANY, WHAT
13 WAS THE NORMAL MANNER OF SUCH COMMUNICATION?
14 A. THEY WERE PRIMARILY BY AIR MAIL LETTER.
15 Q. ALL RIGHT. DID TURNER AND NEWALL PERSONNEL, FROM
16 TIME TO TIME, TRAVEL TO KEASBEY AND MATTISON IN THE UNITED
17 STATES?
18 A. YES, THEY DID.
19 Q. CAN YOU TELL THE COURT AND JURY WHETHER OR NOT
20 KEASBEY AND MATTISON HAD ANY DIRECTION FROM TURNER AND NEWALL
21 ON THE AMOUNT OF MONEY IT WOULD SPEND FOR RAW MATERIALS?
22 A. NO, IT HADN'T AT ALL. IT HAD A FREE HAND.
23 Q. AND WOULD THAT EXPENDITURE EACH YEAR NUMBER
24 MILLIONS OF DOLLARS?
25 A. YES, IT WOULD.

1 A. NOW, IN THE REGULAR COURSE OF BUSINESS, DID YOU
2 MAINTAIN THE BOOKS AND RECORDS OF TURNER AND NEWALL.

3 A. I DID.

4 Q. AND TURNER ASBESTOS FIBRES?

5 A. YES.

6 Q. AND WERE THOSE RECORDS KEPT AND MAINTAINED IN
7 THE REGULAR COURSE OF THE BUSINESS?

8 A. THEY WERE.

9 Q. ALL RIGHT. AND WERE YOU THE CUSTODIAN OF THESE
10 BOOKS AND RECORDS AT THE TIME YOU RETIRED?

11 A. I WAS. I WAS THE CUSTODIAN.

12 Q. FOR BOTH OF THOSE ENTITIES?

13 A. FOR BOTH OF THEM.

14 Q. I'LL SHOW YOU WHAT'S HERETOFORE BEEN MARKED

15 "EXHIBITS, AS TURNER AND NEWALL EXHIBITS" THROUGH."

16 I'LL ASK YOU IF YOU CAN TELL THE COURT AND JURY
17 WHAT THESE ARE?

18 MR. SHOEMAKE: IF YOU'LL BEAR WITH ME ONE MOMENT, I'LL
19 HOLD UP, I'LL FISH THEM OUT OF THE FILES.

20 Q. (BY MR. SHOEMAKE) I'LL SHOW YOU THESE
21 EXHIBITS AND ASK YOU TO TELL THE COURT AND JURY WHETHER
22 THESE ARE CORRESPONDENCE BETWEEN KEASLEY AND MATTISON AND
23 TURNER AND NEWALL OR ONE OF ITS SUBSIDIARIES?

24 A. YES, SIR, THESE ARE ALL COPIES OF CORRESPONDENCE
25 BETWEEN TURNER BROTHERS ASBESTOS COMPANY LIMITED AND KEASLEY

1 ALICE MATTISON.

2 Q. AND AS THE SECRETARY OF TURNER AND NEWALL, DID
3 YOU HAVE THE CARE, CUSTODY AND CONTROL OF SUCH DOCUMENTS, SIR?

4 A. YES, I DID, BECAUSE ONE COPY WAS SENT EITHER TO
5 MY CHAIRMAN AND SUBSEQUENTLY REACHED ME, OR TO ME DIRECT.

6 I'M SURE TO HAVE COPIES OF ALL THESE.

7 Q. NOW, I DIRECT YOUR ATTENTION TO THE FIRST EXHIBIT
8 WHICH IS "I," AND THAT PURPORTS TO BE--

9 MR. SHOEMAKE: MAY I APPROACH THE WITNESS, YOUR HONOR?

10 THE COURT: YOU MAY.

11 MR. SHOEMAKE: NEVER MIND, I HAVE A COPY; THANK YOU,

12 SIR.

13 THE COURT: ALL RIGHT.

14 Q. (BY MR. SHOEMAKE) THAT PURPORTS TO BE A LETTER
15 FROM ELSELY AND MATTISON TO A MR. MORLING; IS THAT CORRECT,

16 SIR?

17 A. YES, THAT'S CORRECT.

18 Q. WHAT'S THE DATE ON THIS DOCUMENT?

19 A. JULY 12, 1954.

20 Q. ALL RIGHT.

21 MR. SHOEMAKE: AND YOUR HONOR, I MOVE FOR THE ADMIS-

22 AT THIS TIME INTO EVIDENCE EXHIBITS "I" THROUGH "U" IN THEIR

23 ENTIRETY. THE WITNESS HAS IDENTIFIED THEM.

24 MR. HUNNICH: SUBJECT TO THE OBJECTION WE MADE

25 EARLIER, YOUR HONOR.

1 THE COURT: THE OBJECTION IS OVERRULED. THEY WILL BE
2 RECEIVED.

3 MR. SHOEMAKE: THANK YOU, YOUR HONOR.

4 Q. (BY MR. SHOEMAKE) AND THE LETTER IS FROM KEENE
5 AND MATTISON; IS THAT CORRECT, SIR?

6 A. YES.

7 Q. AND WHO IS--IS THAT FROM MR. MUEHLECK AT KEENE
8 AND MATTISON?

9 A. THIS WAS FROM MR. MUEHLECK, YES.

10 Q. WAS HE THE PRESIDENT?

11 A. HE WAS THE PRESIDENT.

12 Q. WOULD YOU PLEASE READ THE FIRST PARAGRAPH OF
13 THAT LETTER TO THE JURY, PLEASE?

14 A. "THANK YOU FOR YOURS OF JULY 7TH, FROM WHICH I
15 AM HAPPY TO LEARN THAT TWO ARTICLES ON THE WORK OF DOCTOR
16 FLEM AND BEATTIE WILL BE APPEARING IN THE JULY ISSUE OF THE
17 'ARCHIVES OF INDUSTRIAL HEALTH AND OCCUPATIONAL MEDICINE' IN
18 THIS COUNTRY. WE WILL BE HAPPY TO COMPLY WITH YOUR REQUEST
19 TO MEET THE CHARGE OF--" I'M AFRAID I CAN'T READ THE PRECISE
20 AMOUNT--"FOR TWO HUNDRED COPIES OF EACH ARTICLE AND WILL
21 PROBABLY RETAIN TWENTY-SIX COPIES.

22 "NO DOUBT, THE ASBESTOS TEXTILE INSTITUTE WILL
23 WISH TO PURCHASE ADDITIONAL COPIES, AND THROUGH MR. WHEATON OF,
24 I AM ADVISING THEM OF THE PUBLICATION OF THE ARTICLES. IN THE
25 MEANTIME, THAT IS, UNTIL PUBLICATION, WE WILL RESTRICT CIRCULATION.

1 OF THE ARTICLES TO THE INTERESTED MEMBERS OF OUR OWN ORGANIZATION.

2 Q. DO YOU KNOW WHO THE DOCTORS KNOX AND BEATTIE
3 REFERRED TO IN THAT LETTER ARE?

4 A. YES, I DO.

5 Q. WHO ARE THEY, SIR?

6 A. WELL, DOCTOR KNOX WAS A DOCTOR AT ROCHEDALE,
7 ENGLAND, WHOSE SERVICES WERE RETAINED BY THE COMPANY IN THE
8 FIELD OF ASBESTOS AND HEALTH PRECAUTIONS OF ONE KIND OR
9 ANOTHER. AND DOCTOR BEATTIE WAS A UNIVERSITY DOCTOR WHO
10 COLLABORATED WITH HIM IN THE WRITING OF THESE TWO ARTICLES.

11 Q. I'LL SHOW YOU, MR. JONES, WHAT HAVE PREVIOUSLY
12 BEEN MARKED FOR IDENTIFICATION AS TURNER AND NEWALL TRIAL
13 EXHIBITS TRIPLE-D AND TRIPLE-E AND ASK YOU TO LOOK AT THESE
14 EXHIBITS, SIR.

15 A. (THE WITNESS LOOKED AT THE EXHIBITS.)

16 Q. CAN YOU TELL US WHETHER OR NOT THOSE EXHIBITS,
17 TRIPLE-D AND TRIPLE-E, WERE KEPT AND MAINTAINED BY YOU IN
18 THE REGULAR COURSE OF BUSINESS?

19 A. YES, THEY WERE.

20 Q. AND IS DEFENDANT'S EXHIBIT DDD AN ARTICLE BY
21 DOCTORS KNOX AND BEATTIE?

22 A. YES.

23 Q. AND THE SAME FOR DEFENDANT'S EXHIBIT TRIPLE-E?

24 A. YES, THAT'S RIGHT.

25 Q. ALL RIGHT.

1 MR. SHOEMAKE: YOUR HONOR, I MOVE FOR THE ADMISSION
2 INTO EVIDENCE DEFENDANT'S EXHIBITS DDD AND EEE. THEY HAVE BEEN
3 HERETOFORE MARKED.

4 THE COURT: THEY WILL BE RECEIVED.

5 MR. SHOEMAKE: THANK YOU. MAY I READ, YOUR HONOR, FROM
6 THE FOOTNOTE IN TRIPLE-D?

7 THE COURT: PROCEED.

8 MR. SHOEMAKE: "WE WISH TO EXPRESS OUR THANKS TO THE
9 DIRECTORS OF TURNER BROTHERS ASBESTOS COMPANY LIMITED FOR THEIR
10 SUPPORT IN CARRYING OUT THIS STUDY AND FOR A GRANT TO MEET
11 THE EXPENSES INVOLVED. WE ARE GRATEFUL TO THE PATHOLOGISTS
12 WHO SUPPLIED US WITH THE MATERIAL FROM WHICH THE STUDY WAS
13 MADE AND WITH THE PATHOLOGICAL REPORTS. DETAILS OF COURSE
14 OF EMPLOYMENT WERE OBTAINED BY THE COOPERATION OF THE PERSONNEL
15 MANAGERS WHOM WE WISH TO THANK FOR THEIR HELP."

16 Q. (BY MR. SHOEMAKE) CAN YOU TELL THE COURT AND JURY,
17 SIR, WHETHER OR NOT, WHEN REPRESENTATIVES OF TURNER AND NEWELL
18 LIMITED, OR TURNER ASBESTOS FIBRES VISITED KEASBEY AND MATTHEWS
19 IN THE UNITED STATES, WHETHER RECORDS WERE KEPT OF THOSE
20 VISITS, TRIP REPORTS?

21 A. YES, THEY WERE.

22 Q. AND DO YOU HAVE--DID YOU KEEP AND MAINTAIN THE
23 RECORDS OF SUCH TRIP REPORTS?

24 A. I DO.

25 Q. ALL RIGHT. I'LL SHOW YOU WHAT HAVE HERETOFORE

1 WILL MARKED AS TURNER AND NEWELL TRIAL EXHIBITS RESPECTIVELY.
2 6-K AND 6-L, AND ASK YOU IF YOU CAN TELL THE COURT AND JURY
3 WHAT THESE ARE, PLEASE?

4 A. THE FIRST OF THESE, 6-K, IS A COPY OF A REPORT
5 A VISIT MADE BY DOCTOR J.F. KNOX TO KEASBEY AND MATTISON ON
6 OCTOBER 7, 1952. AND THE SECOND ONE, 6-L, IS A REPORT
7 OF A VISIT BY DOCTOR KNOX TO KEASBEY AND MATTISON, AUGUST
8 THROUGH 5, 1960.

9 Q. ALL RIGHT. THANK YOU.

10 MR. SHIDEMAKE: YOUR HONOR, MAY I HAVE ABOUT FIVE MINUTES
11 TO GET THESE EXHIBITS TOGETHER? IF NOT, I CAN PROCEED, IF IT
12 WOULD BE MORE CONVENIENT.

13 THE COURT: LET'S SEE IF WE CAN PROCEED FOR A FEW
14 MINUTES.

15 MR. SHIDEMAKE: O.K., THANK YOU.

16 Q. [BY MR. SHIDEMAKER] I HAD HERETOFORE SHOWN YOU
17 EXHIBIT "R," SIR, WHICH IS A LETTER DATED JANUARY 29, 1959, TO
18 TURNER BROTHERS FROM R. R. PORTER. AND I ASK YOU IF THAT LETTER
19 MAKES REFERENCE TO PRECIPITATORS, SIR?

20 A. YES, THAT'S RIGHT. IT REFERS TO THERMAL PRECIPIT-
21 TATORS.

22 Q. NOW, THAT'S FROM MR. PORTER, WHO WAS THEN THE
23 PRESIDENT OF KEASBEY AND MATTISON?

24 A. YES.

25 Q. AND TELL THE COURT AND JURY, WHAT IS A THERMAL

1 PRECIPITATOR?

2 A. WELL, A THERMAL PRECIPITATOR IS A DEVICE FOR MEASURING
3 A DUST COUNT.

4 Q. DUST COUNT OF ASBESTOS FIBERS IN THE AIR?

5 A. WELL, IF YOU TAKE A DUST COUNT, YOU GET ALL
6 FIBERS THERE ARE AROUND, AND THEN YOU HAVE TO SORT OUT WHICH
7 WHICH.

8 Q. INCLUDING ASBESTOS FIBERS?

9 A. INCLUDING ASBESTOS.

10 Q. WOULD THE SAME BE TRUE FOR THE OTTWAY THERMAL
11 PRECIPITATOR?

12 A. I'M SURE THAT'S RIGHT. I'M NOT FAMILIAR WITH THE
13 NAME OTTWAY MYSELF, BUT THAT'S WHAT THERMAL PRECIPITATORS ARE.

14 Q. I HERETOFORE HAD YOU IDENTIFY EXHIBITS "S," "T,"
15 AND "U," WHICH PURPORT TO BE CORRESPONDENCE--LET ME SHOW YOU FRESH
16 ONES AND I'LL TAKE THEM BACK--PURPORT TO BE CORRESPONDENCE FROM
17 MR.--TO MR. PORTER FROM TURNER BROTHERS ASBESTOS.

18 A. WHICH EXHIBIT NUMBER WAS THAT?

19 Q. I'M SORRY, I'M AT "S," "T," AND "U."

20 A. OH, YES.

21 Q. LET ME GIVE YOU THESE, SIR. THESE ARE ALSO MARKED
22 AS "S," "T" AND "U." DO YOU HAVE THEM?

23 A. THEY AREN'T HERE, I DON'T THINK. ARE THESE THE
24 ONES?

25 Q. YES.

1 A. YES.

2 Q. WHAT WAS THE DATE OF EXHIBIT S?

3 A. THIRD FEBRUARY, 1959.

4 Q. AND IT'S ADDRESS TO MR. PORTER?

5 A. IT IS ADDRESSED TO MR. PORTER.

6 Q. AND WHAT IS THE SUBJECT UNDERLINED AT THE :

7 OF THAT LETTER?

8 A. WELL, I REGRET TO SAY THERE ISN'T A SUBJECT

9 UNDERLINED--I MEAN ON THE LETTER ITSELF?

10 Q. YES.

11 A. ASBESTOSIS.

12 Q. HOW ABOUT FOR EXHIBIT "T"? IS THAT A LETTER TO

13 MR. PORTER?

14 A. THAT'S TO MR. PORTER, YES.

15 Q. WHAT'S THE DATE ON THAT LETTER?

16 A. THAT'S TENTH FEBRUARY 1959.

17 Q. AND WHAT'S THE SUBJECT UNDERLINED IN THE CENTER

18 OF THAT LETTER?

19 A. THAT, AGAIN, IS ASBESTOSIS.

20 Q. AND HOW ABOUT EXHIBIT "U"?

21 A. YES.

22 Q. WHAT IS THAT--WHAT'S THE SUBJECT OF THAT LETTER?

23 A. THAT, AGAIN, IS--THAT'S ADDRESS BY MR. PORTER TO

24 SECRETARY TO MR. WADDELL.

25 Q. WHAT'S THE DATE?

1 A. IT'S DATED FEBRUARY 18, 1959.
2 Q. WHAT'S THE SUBJECT?
3 A. AGAIN, THE SUBJECT IS ASBESTOSIS.
4 Q. ALL RIGHT. NOW, CAN YOU TELL THE COURT
5 WHETHER OR NOT YOU, IN THE NORMAL AND REGULAR COURSE OF
6 BUSINESS, RECEIVED COPIES OF A REGULAR BASIS OF THE MINUTES
7 OF THE BOARD MEETINGS OF KEASBEY AND MATTISON?
8 A. YES, I DID.
9 Q. AND DID YOU MAINTAIN THOSE RECORDS IN THE
10 ORDINARY COURSE OF BUSINESS?
11 A. YES, I DID.
12 Q. ALL RIGHT, SIR. AND DID YOU RETAIN CUSTODY
13 OF THOSE RECORDS DURING THE TIME THAT YOU WERE THE SECRETARY
14 OF TURNER AND NEWALL LIMITED?
15 A. YES.
16 MR. SHOEMAKE: YOUR HONOR, THIS IS GOING TO TAKE A
17 LITTLE WHILE TO GET THESE RECORDS TOGETHER IS THE REASON
18 I SUGGESTED--
19 THE COURT: WE WILL TAKE A TEN-MINUTE RECESS DURING
20 WHICH COUNSEL--ANY COUNSEL WHO HAVE EXHIBITS THAT THEY WISH
21 TO PRESENT WILL HAVE THEM READY SO WHEN WE GET TO THEM,
22 WE WON'T HAVE TO WAIT.
23 WE'LL BE IN RECESS.
24 (RECESS.)
25

1 DIRECT EXAMINATION (CONTINUED)

2 BY MR. SHOEMAKE:

3 Q. MR. JONES, SIR, I BELIEVE YOU TESTIFIED THAT
4 AMONG THE DOCUMENTS THAT YOU KEPT IN THE REGULAR COURSE OF
5 BUSINESS AS SECRETARY OF BOTH TURNER AND NEWALL AND TURNER
6 ASBESTOS FIBRE WERE THE MINUTES OF THE BOARD OF DIRECTORS
7 MEETINGS OF KEASBEY AND MATTISON; IS THAT CORRECT?

8 A. YES, THAT'S RIGHT.

9 Q. I SHOW YOU, SIR, WHAT HAS BEEN MARKED PREVIOUSLY
10 FOR IDENTIFICATION AS TURNER AND NEWALL TRIAL EXHIBITS "Z,"
11 DOUBLE-A, DOUBLE-B, DOUBLE-C, DOUBLE-D, DOUBLE-E, DOUBLE-G,
12 DOUBLE-H, DOUBLE-I, DOUBLE-J, DOUBLE-K, DOUBLE-L, DOUBLE-M,
13 DOUBLE-N, DOUBLE-O, DOUBLE-P, DOUBLE-Q, DOUBLE-R, DOUBLE-S,
14 DOUBLE-T, DOUBLE-U, DOUBLE-V, DOUBLE-W, DOUBLE-X, DOUBLE-Y
15 AND TRIPLE-A, AND ASK YOU TO EXAMINE THESE EXHIBITS AND TELL
16 US WHETHER OR NOT THOSE ARE EXCERPTS OF THE MINUTES OF THE
17 BOARD OF DIRECTORS MEETINGS OF KEASBEY AND MATTISON THAT
18 YOU CAN MAINTAIN?

19 THE COURT: MR. ROMAN?

20 MR. ROMAN: I'D JUST LIKE TO SEE WHAT HE'S HANDLED
21 TO THE WITNESS WHEN THE WITNESS IS FINISHED WITH THEM. IT AT
22 TO GO BEYOND WHAT WE'VE JUST DISCUSSED.

23 THE COURT: MR. SHOEMAKE, WERE COPIES OF THESE EXHIBITS
24 FURNISHED TO ALL THE PARTIES?

25 MR. SHOEMAKE: YES, YOUR HONOR.

 THE COURT: IN THE PRETRIAL MATERIAL?

1 MR. BOWMAN: YES, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 THE WITNESS: YES. THESE ARE EXTRACTS FROM MINUTES OF
4 MEETINGS OF PLASPEY AND MATTISON KEPT IN MY CUSTODY.

5 THE COURT: MR. BOWMAN, DO YOU CARE TO SEE THOSE?

6 MR. BOWMAN: YES, SIR. THANK YOU.

7 MR. SHOEMAKE: MAY I BE SEATED WHILE HE'S LOOKING AT THEM?

8 THE COURT: (NODDED IN THE AFFIRMATIVE.)

9 (PAUSE.)

10 THE COURT: MR. BOWMAN, ARE WE READY TO PROCEED?

11 MR. BOWMAN: MAY I BE HEARD ON THE SIDE?

12 THE COURT: YOU MAY.

13 (A DISCUSSION WAS HELD OFF

14 THE RECORD AT THE BENCH.)

15 THE COURT: MR. SHOEMAKE, YOU MAY PROCEED.

16 MR. SHOEMAKE: THANK YOU, YOUR HONOR.

17 Q. (BY MR. SHOEMAKE) DID I UNDERSTAND YOUR ANSWER
18 TO BE, SIR, THESE ARE EXTRACTS FROM THE MINUTES OF PLASPEY
19 AND MATTISON BOARD OF DIRECTORS MEETINGS THAT YOU'VE KEPT AND
20 MAINTAINED IN THE REGULAR COURSE OF BUSINESS?

21 A. YES, THAT'S RIGHT.

22 Q. AND WHAT PERIOD OF TIME IS COVERED BY EXHIBITS
23 "2" THROUGH TRIPLE-A, GENERALLY?

24 A. WELL, GENERALLY SPEAKING, FROM ABOUT 1934, WHEN
25 THE SHARES IN THE COMPANY WERE FIRST ACQUIRED, UNTIL
AROUND '62.

1 Q. WHEN TURNER AND NEWALL SOLD KEASBEY AND MATTHEW.
2 A. YES.
3 Q. ALL RIGHT, IF.

4 I WOULD DIRECT YOUR ATTENTION, MR. JONES--STIPUL
5 THAT.

6 MR. SIDEMAKE: YOUR HONOR, I WOULD MOVE FOR THE ADMISSION
7 INTO EVIDENCE OF EXHIBITS "Z" THROUGH TRIPLE-A THAT I'VE
8 HERETOFORE READ AND SHOWN THE WITNESS.

9 THE COURT: ALL RIGHT. OBJECTION? MR. MORRIS.

10 MR. MORRIS: I OBJECT ON BEHALF OF DEFENDANT ASBESTOS
11 CORPORATION LIMITED, YOUR HONOR, TO EXHIBITS EE, HH, KK, LL,
12 AND MM. THE BASIS OF MY OBJECTION, IF I CAN, IS THAT THEY ARE
13 HEARSAY; THAT NO PROPER FOUNDATION HAS BEEN OR WILL BE LAID
14 FOR THEM; AND THAT THEY ARE HEARSAY WITHIN HEARSAY; AND THAT THERE
15 IS NO PROPERLY QUALIFIED CUSTODIAN AND NOT THE BEST--WELL, WITH
16 THOSE--THOSE ARE NOT THE ORIGINALS.

17 THE COURT: ARE THERE OTHER OBJECTIONS?

18 MR. WILSON: YOUR HONOR, JOHNS-MANVILLE WOULD ADOPT
19 THAT OBJECTION ALSO AND ALSO THAT THESE ARE COPIES AND NOT
20 THE BEST EVIDENCE IN THIS CASE. THEY ARE NOT THE ORIGINALS
21 OF THE DOCUMENTS, WHICH ARE AVAILABLE.

22 MR. MORRIS: JOIN IN THAT ONE ALSO, YOUR HONOR.

23 THE COURT: THANK YOU. THEN I TAKE IT THAT THE EXHIBITS
24 EXCEPT FOR THE FIVE WHICH WE'VE DISCUSSED A FEW TIMES HERE--
25 DOUBLE-E, DOUBLE-H, DOUBLE-K, DOUBLE-L, DOUBLE-M--THEY ARE

1 OBJECTED TO. THE OTHERS ARE RECEIVED WITHOUT OBJECTION.

2 OVER OBJECTION, THOSE WILL BE RECEIVED.

3 MR. SHOEMAKE: THANK YOU, YOUR HONOR.

4 Q. (BY MR. SHOEMAKE) I WOULD DIRECT YOUR ATTENTION,
5 SIR, TO EXHIBIT CC. DO YOU HAVE THAT EXHIBIT, SIR?

6 A. I HAVE.

7 Q. I DIRECT YOUR ATTENTION TO THE BOTTOM OF THE PAGE
8 WHICH IS TITLED "OCCUPATIONAL DISEASE." DO YOU SEE THAT, SIR?

9 A. I DO.

10 Q. AND WOULD YOU READ THAT PARAGRAPH, PLEASE, TO THE
11 JURY?

12 A. "THIS REPORT WAS THOROUGHLY DISCUSSED BY THE
13 BOARD AND MR. MUEHLECK STATED THAT HE FELT THAT THE REPORT
14 OF THE X-RAYS MADE OF OUR EMPLOYEES WAS A COMPLEMENT TO THE
15 MANAGEMENT'S EFFORTS IN CONNECTION WITH DUST REGULATION IN
16 OUR PLANTS. HE RECOMMENDED THAT EVERYTHING POSSIBLE BE DONE
17 TO MAINTAIN THE HIGH STANDARDS ESTABLISHED BY THE COMPANY."

18 Q. ALL RIGHT, THANK YOU.

19 I WOULD DIRECT YOUR ATTENTION TO EXHIBIT MM,
20 MR. JONES, TO THE SECOND PAGE, SIR, AND ASK YOU IF THE SECOND
21 PAGE DOES NOT REFER TO EXPENDITURES APPROVED TO ELIMINATE DUST
22 AT THE DRY SCRAP BINS AT THE SAINT LOUIS PLANT?

23 A. YES, IT DOES.

24 Q. THANK YOU, SIR.

25 I WOULD NEXT DIRECT YOUR ATTENTION, MR. JONES,

1 100-10111- TURNER AND LEWAL EXHIBIT LL. DO YOU HAVE THAT

2 ONE, SIR?

3 A. I HAVE.

4 Q. AT THE BOTTOM OF THE FIRST PAGE IS TITLED "REGULATIONS,
5 REGULATIONS, OCCUPATIONAL DISEASE." WOULD YOU READ THAT
6 SENTENCE, SIR, THAT CONSTITUTES THAT PARAGRAPH?

7 A. "IT WAS STATED THAT THE POLICY OF HAVING ALL NEW
8 EMPLOYEES X-RAYED BEFORE BEGINNING WORK HAS BEEN CARRIED OUT
9 SINCE DECEMBER 1, 1946."

10 Q. ALL RIGHT. AND THE LAST PAGE, SIR, OF THAT
11 EXHIBIT, PAGE NUMBER 10--NOT THE CHART; PAGE NUMBER 10--IT'S
12 THAT MAKE REFERENCE, SIR, TO--UNDER MISCELLANEOUS, TO
13 EXPENDITURES AT ALL PLANTS AT AMBLER AND SAINT LOUIS, FOR
14 PURPOSE OF TAKING DUST COUNTS IN CONFORMITY WITH THE STATE
15 CODE AND THE ASBESTOS TEXTILE INSTITUTE?

16 A. YES, IT DOES.

17 Q. THANK YOU, SIR. AND THESE, AGAIN, ARE "HILL
18 OF HILL AND MATTISON; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. NOW, SIR, WITH REGARD TO EXHIBITS DOUBLE-E, DOUBLE-
21 H, DOUBLE-K, DOUBLE-L AND DOUBLE-M--

22 A. I'VE GOT DOUBLE-E.

23 Q. DOUBLL-E.

24 A. DOUBLE-M.

25 Q. AND DOUBLL-H.

1 A. DOUBLE-H. YES, I'VE GOT DOUBLE-E, DOUBLE-H.
2 Q. DO THOSE MINUTES, SIP, CONTAIN ATTACHED TO THEM
3 RECORDS SHOWING THE INVENTORY OF ASBESTOS AT VARIOUS--AT THE
4 KEASBY AND MATTISON FACILITIES IN THE UNITED STATES AT
5 THOSE--AT WHATEVER TIME THEY PURPORT TO REPRESENT?
6 A. YES, THEY DO. SAVE ANY--I HAVE THREE OF THESE,
7 DOUBLE-L, DOUBLE-H, DOUBLE-M. THERE WAS A FOURTH; WASN'T
8 THERE? THESE THREE DO.
9 Q. DOUBLE-E, DOUBLE-H, DOUBLE-K--
10 A. AND DOUBLE-K. YES, I HAVE DOUBLE-K AND DOUBLE-H.
11 HAS THE SAME STATEMENT ON THE BACK.
12 Q. DO THOSE INVENTORY SHEETS THAT ARE ATTACHED TO
13 THOSE FIVE EXHIBITS--DOUBLE-E, DOUBLE-H, DOUBLE-K, DOUBLE-L,
14 DOUBLE-M--FROM REVIEW OF THOSE, ARE YOU ABLE TO TELL WHO
15 SUPPLIER OF EACH--OF THE FIBER IN INVENTORY MAY BE?
16 MR. MORRIS: I'M GOING TO OBJECT, YOUR HONOR, TO THE
17 USE OF THE SPECIFIC PORTIONS OF THESE EXHIBITS FOR THE
18 EXACT SAME REASONS THAT I PREVIOUSLY MENTIONED TO THE
19 GENERAL EXHIBIT.
20 THE COURT: THE OBJECTION WILL BE OVERRULED.
21 MR. NUMRICH: JOHNS-MANVILLE JOINS IN THAT OBJECTION.
22 THE COURT: MR. NUMRICH, OVERRULED.
23 THE WITNESS: YES, I CAN GENERALLY, BUT IN NOT ALL
24 CASES.
25 MR. SHOEMAKE: ALL RIGHT.

1 THE WITNESS: THERE ARE SOME THAT ARE REFERRED TO MERELY
2 BY INITIALS WITH WHICH I AM NOT FAMILIAR.

3 Q. (BY MR. SIDEMAN) ARE YOU FAMILIAR WITH JONES-
4 MANVILLE?

5 A. CERTAINLY.

6 Q. ARE YOU FAMILIAR WITH BELL?

7 A. YES.

8 Q. ARE YOU FAMILIAR WITH ASBESTOS CORP.?

9 A. YES.

10 Q. AND WHAT ARE THE--WHAT IS THE IDENTIFICATION
11 JONES-MANVILLE IN THOSE INVENTORY DESIGNATIONS?

12 A. JMN-5-R; JMD-6-D. THERE IS ONE, I THINK, WHICH
13 IS JMD, TOO, BUT IT COULD BE JMO. I THINK IT'S JMD-4-M.

14 Q. AND HOW ABOUT THE DESIGNATION WITH REGARD TO
15 ASBESTOS CORPORATION?

16 A. THAT CAN BE IDENTIFIED BY THE FACT THAT AFTER
17 THE FULL DESCRIPTION IS THE--ARE THE LETTERS "C-O-R-P.",
18 CORP., FOR SHORT.

19 Q. IS THAT, AS YOU UNDERSTAND IT, THE DESIGNATION
20 FOR ASBESTOS CORP.?

21 A. YES. YES, THAT INDICATES THAT THE FIBER BELONGS
22 TO IS THEIRS.

23 Q. AND IS THERE A DESIGNATION FOR BELL MINES?

24 A. YES. IN EACH CASE, AFTER THE TYPE DESIGNATION,
25 APPEARS THE WORD "BELL'S."

1 Q. IS IT YOUR UNDERSTANDING THAT THAT RELATES TO
2 THE MINUTES?

3 A. YES, IT IS.

4 Q. DOES THAT--DO THOSE SHEETS THAT ARE ATTACHED TO
5 THOSE FIVE EXHIBITS, SIR, FOR THE TIME SPECIFIED IN THOSE
6 SHEETS, SHOW THE INVENTORY AT THE SAINT LOUIS KEASBEY-
7 MATTISON PLANT?

8 A. YES, THEY DO.

9 Q. AND WOULD THEY SHOW FOR THAT SPECIFIC TIME THE
10 AMOUNT OF FIBER ON HAND IN INVENTORY FROM THE--FROM THE
11 PARTICULAR SUPPLIERS?

12 A. YES. THAT'S RIGHT.

13 Q. JOHNS-MANVILLE. WOULD THAT BE CORRECT?

14 A. YES.

15 Q. ASBESTOS CORP. WOULD THAT BE CORRECT?

16 A. YES.

17 Q. BELL MINES. WOULD THAT BE CORRECT?

18 A. YES.

19 Q. ALL RIGHT.

20 AND DO I UNDERSTAND, SIR, WHETHER OR NOT IN THE
21 OF YOU, THAT IT WAS A REGULAR PART OF THE MINUTES TO HAVE
22 SUCH ATTACHMENTS OF INVENTORY TO THE KEASBEY-MATTISON--

23 MR. ROMAN: I OBJECT TO THAT. IT'S LEADING AND
24 SUGGESTIVE.

25 MR. HOEMAK: I'LL REPHRASE IT.

1 THE COURT: THE QUESTION IS WITHDRAWN.

2 Q. (BY MR. SHOEMAKE) CAN YOU TELL THE COURT AND
3 JURY, IF, WHETHER OR NOT THE SUMMARY OF INVENTORY THAT YOU
4 IDENTIFIED ON THOSE FIVE EXHIBITS, WHETHER OR NOT THOSE
5 SUMMARIES WERE ATTACHED TO THE MINUTES THAT YOU REGULARLY
6 RECEIVE FROM KEASBEY AND MATTISON?

7 A. YES, THEY WERE.

8 MR. SHOEMAKE: JUST ONE MOMENT, YOUR HONOR.

9 (PAUSE.)

10 MR. SHOEMAKE: THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 CROSS-EXAMINATION

13 BY MR. MOTLEY:

14 Q. MR. JONES, MY NAME IS RON MOTLEY. I, ALONG WITH
15 MR. HULLVERSON, REPRESENT THE PLAINTIFFS WHO ARE SEATED--
16 SOME OF THEM ARE IN THE BACK OF THE ROOM.

17 FROM YOUR REVIEW OF THE RECORDS WHICH YOU HAVE
18 INDICATED, COULD YOU TELL THE JURY WHO THE PRINCIPAL SUPPLIERS
19 OF ASBESTOS FIBER WERE TO THE SAINT LOUIS SHINGLE PLANT OF
20 KEASBEY AND MATTISON FROM THE YEARS 1939 TO 1957?

21 MR. MORRIS: OBJECT, YOUR HONOR.

22 MR. ROMAN: I MAKE THE SAME OBJECTION, I ASSUME.

23 MR. MORRIS: THIS GOES TO THE VERY SUBJECT WE'RE TALKING
24 ABOUT.

25 THE COURT: ALL RIGHT. OBJECTION OVERRULED.

1 MP. MORRIS: CAN WE MAKE A RECORD?

2 THE COURT: I THOUGHT WE DID. WE CAN MAKE ANOTHER ONE.
3 COME AROUND, PAT.

4 (A BENCH CONFERENCE WAS HELD AS FOLLOWS:)

5 MP. MORRIS: IT'S MY UNDERSTANDING THE QUESTION JUST
6 ASKED OF THIS WITNESS WAS: "WHO WAS THE PRINCIPAL SUPPLIER
7 OF ASBESTOS" DURING A CERTAIN PERIOD OF YEARS. AND I BELIEVE
8 THE QUESTION ASKED HIM WHETHER OR NOT HIS KNOWLEDGE WAS BASED
9 ON REVIEW OF CERTAIN RECORDS.

10 WE HAVE NOT BEEN SHOWN--WE, ASBESTOS CORPORATION,
11 LIMITED, HAVE NOT BEEN SHOWN ANY OF THOSE RECORDS EXCEPT
12 FOR THE FIVE EXHIBITS WE'VE HAD ON THE RECORD AND TALKED ABOUT
13 OF THE RECORDS SO FAR. WE HAVE NOT BEEN SHOWN ANY RECORDS IN HIS
14 KNOWLEDGE, OBVIOUSLY, COMES FROM RECORDS THAT HAVE NOT BEEN
15 PRODUCED IN COMPLIANCE WITH THE PRETRIAL ORDER.

16 WHAT THEY'RE ACCOMPLISHING IN THIS RESPECT IS
17 THAT THEY ARE GETTING IN EVIDENCE FROM EXHIBITS THEY DID
18 NOT PRODUCE. THEY ARE JUST TURNING AROUND AND SAYING, "WELL,
19 HAVE YOU READ THE RECORDS THAT WE DID NOT GIVE THESE PEOPLE,
20 AND CAN YOU TELL US WHAT'S IN THOSE RECORDS." I DON'T SEE
21 ANY BIT OF DIFFERENCE THAN LETTING THEM PUT THEM IN.

22 THE COURT: MR. BOMAN?

23 MR. BOMAN: I HAVE THE SAME OBJECTION, SIR. THIS IS
24 WHAT YOU RULED OUT ALLOWING SHOEMAKE TO SHOW THAT THE MAN
25 HAD A SUMMARY OF ALL OF THESE RECORDS.

1 THE COURT: IF THIS WITNESS QUALIFIES AS AN OFFICER
2 AND SECRETARY IN THE CORPORATION WITH MANY YEARS OF EXPERIENCE
3 THERE AND IF HE HAS PERSONAL KNOWLEDGE OF THESE FACTS, THEN
4 TELL ME WHY HE CAN'T TESTIFY?

5 MR. MORRIS: I DON'T THINK THE QUESTION WAS ABOUT
6 PERSONAL KNOWLEDGE. IT WAS HIS VIEW OF THE RECORDS.

7 THE COURT: WE'VE HAD A LOT OF DISCUSSION ABOUT THE
8 BUSINESS RECORD ACT AND HEARSAY. AND GENTLEMEN, I
9 THINK WE ALL KNOW THAT HEARSAY FLIES RIGHT THROUGH THE
10 BUSINESS RECORDS ACT. AND THE IDEA OF ORIGINAL FLIES RIGHT
11 BY, TOO. YOU CAN USE DUPLICATES UNLESS THERE'S A REASON TO
12 ASSEPT THE ORIGINALS ARE INACCURATE.

13 I MAY BE WIDELY OVERLOOKING WHAT YOU ARE SAYING,
14 BUT I CANNOT SEE IT. I THINK THIS GENTLEMAN IS QUALIFIED
15 TO TESTIFY AS TO WHAT HE KNOWS FROM HIS PERSONAL KNOWLEDGE
16 AND IF HE DERIVES IT AS AN OFFICER OF THE CORPORATION FROM
17 THE EVERY DAY RECORDS OF THAT CORPORATION OVER A PERIOD OF
18 DECADES. AND I THINK IT'S LIKE THE HEAD OF GENERAL MOTORS
19 OR ANYTHING ELSE.

20 MR. MORRIS: HIS KNOWLEDGE, YOUR HONOR, WHAT HE'S TESTIFY-
21 ING TO IS WHAT WAS IN THE RECORDS. THE BEST EVIDENCE IS WHAT
22 IN THE RECORDS.

23 THE COURT: BUT THE BEST EVIDENCE RULE STEPS ASIDE
24 WHEN WE GET INTO ORDINARY BUSINESS RECORDS, AND IT MAY STEP ASIDE
25 ON ANCIENT DOCUMENTS.

1 MR. MORRIS: BUT IT DOES NOT STEP ASIDE FROM MY
2 CLIENT'S POINT OF VIEW. MY CLIENT SAYS, "I WAS ENTITLED
3 SEE THE RECORDS ON WHICH THIS MAN--" WE HAVE TO RELY ON
4 HIS VERACITY.

5 THE COURT: WAS THERE A REQUEST FOR DOCUMENTS DURING
6 THIS TWO-YEAR CASE? WAS THERE AN ATTEMPT TO DEPOSE THIS
7 WITNESS WHO'S LISTED?

8 MR. MOTLEY: NO, YOUR HONOR. NEVER.

9 THE COURT: THAT'S YOUR ANSWER.

10 MR. MORRIS: BUT THERE WAS, IN COMPLIANCE WITH THE
11 PRETRIAL ORDER ON WHICH WE RELIED, THERE WAS A LISTING OF
12 ALL EXHIBITS.

13 THE COURT: HE'S NOT BEING ALLOWED TO OFFER ANY
14 NOT SHOWED YOU BUT I CANNOT STOP HIM FROM TESTIFYING THAT
15 HE KNOWS PERSONALLY.

16 MR. MORRIS: LET THE RECORD SHOW THIS IS HEARSAY
17 IT'S ALSO AN ABUSE OF DISCRETION BY THE COURT IN REFUSING
18 THE PRETRIAL COMPLIANCE.

19 THE COURT: PROCEED.

20 (THE BENCH CONFERENCE CONCLUDED.)

21 MR. ROWMAN: MAY I ASK THAT THE QUESTION BE REAP
22 TO THE WITNESS, PLEASE?

23 THE COURT: ALL RIGHT.

24 MR. MOTLEY: WOULD YOU LIKE FOR ME TO REPEAT THE QUESTION

25 THE COURT: NO.

1 THE REPORTER: "FROM YOUR REVIEW OF THE RECORDS, W
2 YOU HAVE INDICATED, COULD YOU TELL THE JURY WHO THE PRINCIPAL
3 CONTRIBUTORS OF ASBESTOS FIBER WERE TO THE SAINT LOUIS SHIP
4 PLANT OF YEA BEY AND MATTHESON FROM THE YEARS 1939 TO 1957?"

5 MR. MOTLEY: YES, SIR.

6 THE COURT: READY? YOU MAY ANSWER.

7 THE WITNESS: YES. I THINK I WOULD HAVE TO LOOK BACK
8 THROUGH ALL OF THESE IN ORDER TO DO THAT.

9 MR. MOTLEY: I DIDN'T HEAR WHAT HE SAID.

10 THE WITNESS: I HAVE TO LOOK BACK AT EACH OF THEM.
11 THE INFORMATION IS UNDOUBTEDLY THERE. BUT I HAVE TO FIND

12 Q. (BY MR. MOTLEY) ALL RIGHT, SIR. HAVE ANY SUMMARIES
13 BEEN PREPARED BY YOU THAT WOULD REFRESH YOUR RECOLLECTION
14 THAT REGARD

15 A. YES.

16 MR. DEMAN: I OBJECT TO THAT, IF THE COURT PLEASES.
17 THAT'S THE SAME POINT RULED ON PREVIOUSLY.

18 MR. MORRIS: SAME POINT, YOUR HONOR.

19 THE COURT: WHAT HAS NOT BEEN FILED AS EXHIBITS HAVE NOT
20 BEEN RECEIVED IN EVIDENCE. BUT YOU MAY REFRESH YOUR RECOLLECTION.
21 I THINK THAT'S UNDER THE RULES OF EVIDENCE.

22 THE WITNESS: YES, THE--

23 MR. MORRIS: WAIT. I WOULD LIKE TO SEE WHAT HE'S
24 LOOKING AT. WE HAVEN'T HAD AN OPPORTUNITY TO LOOK AT THE
25 SUMMARIES.

*this would be
admissible*

1 THE COURT: I TAKE IT HE IS GOING TO REFRESH HIS
2 RECOLLECTION, AND THEN TESTIFY FROM HIS RECOLLECTION.

3 MR. MOTLEY: YES, SIR.

4 THE COURT: IT'S HARD TO SEE HIS RECOLLECTION. I DON'T
5 THINK WE'RE INTRODUCING THIS DOCUMENT.

6 MR. MOTLEY: NO, I'M NOT INTRODUCING IT.

7 THE COURT: SUSTAIN THE OBJECTION TO THE RECEIPT OF
8 THIS DOCUMENT.

9 MR. MORRIS: I'D LIKE TO--MAY I ASK A QUESTION BY
10 WAY OF VOIR DIRE, YOUR HONOR, TO SEE WHERE THIS DOCUMENT CAME
11 FROM?

12 THE COURT: YOU MAY CROSS-EXAMINE ON THIS ISSUE, BUT
13 WE'VE VOIR DIERED QUITE A BIT TODAY.

14 MR. MORRIS: LET THE RECORD SHOW THAT THIS IS GRO
15 HEARSAY, AND IT IS OUTSIDE THE PRETRIAL RECORD; THAT MY CLIENT,
16 ANDERSON CORPORATION, HAS NEVER SEEN THESE RECORDS NOR IN
17 BEEN THIS SUMMARY, AND IT HAS NOT HAD A CHANCE TO DEFEND
18 IN THAT RESPECT.

19 THE COURT: ALL RIGHT. THE RECORD WILL SHOW WHAT THE
20 RECORD SHOWS.

21 MR. WILSON: YOUR HONOR, IF I MAY, I OBJECT TO THE
22 FOUNDATION. MR. MOTLEY HASN'T LAID A PROPER FOUNDATION BY
23 HAVING THE WITNESS SAY WHO PREPARED IT, WHEN IT WAS PREPARED,
24 ET CETERA.

25 THE COURT: I THINK HE'S TRYING TO GET HIS PAST RECOLLECT

1 REFRESHED, IF I UNDERSTAND HIM, AND I DON'T THINK--THERE
2 RULES FOR ALL THESE OTHER GAMES, BUT THAT'S NOT THE ONE WE
3 DEALING WITH NOW.

4 OBJECTION OVERRULED. PROCEED.

5 THE WITNESS: THIS IS A SUMMARY OF THOSE INVENTORY LISTS
6 TO WHICH WE REFERRED TO.

7 MR. MOTLEY: YES.

8 THE WITNESS: AND IT COVERS THE YEARS 1939 THROUGH 1957
9 INCLUSIVE, AND IT SHOWS THAT THE THREE LARGEST--

10 MR. MORRIS: ONE MORE OBJECTION, YOUR HONOR.

11 THE COURT: YES.

12 MR. MORRIS: I WOULD LIKE TO SEE WHETHER OR NOT THE
13 WITNESS MADE THAT SUMMARY OR DID SOMEBODY ELSE?

14 THE WITNESS: THE SUMMARY WAS MADE BY SOMEBODY ELSE.

15 MR. MORRIS: ALL RIGHT. MY OBJECTION STILL STANDS.

16 THE COURT: ALL RIGHT.

17 Q. (BY MR. MOTLEY) FROM YOUR PERSONAL RECOLLECTION,
18 SIR, FROM YOUR REVIEW OF THE RECORDS, CAN YOU TELL US WHO
19 PRINCIPAL SUPPLIERS OF ASBESTOS FIBER WERE TO THE SAINT
20 LOUIS SHINGLE PLANT FROM 1939 TO 1957?

21 A. THEY WERE BELL, JOHNS-MANVILLE AND ASBESTOS
22 CORPORATION.

23 Q. IF THE LAWYER FOR--

24 MR. BUMAN: JUST A MINUTE, PLEASE. I MOVE THAT THAT
25 TESTIMONY BE EXCLUDED AND THE JURY INSTRUCTED TO DISREGARD IT.

1 THIS WAS NOT DONE OF HIS OWN KNOWLEDGE AND ...
2 THE REVIEW OF THOSE RECORDS THAT ARE NOT ADMITTED.

3 THE COURT: OBJECTION OVERRULED.

4 MR. MORRIS: I JOIN IN THE OBJECTION, YOUR HONOR.

5 THE COURT: OBJECTION OVERRULED.

6 Q. (BY MR. MOTLEY) IF THE LAWYER FOR JOHNS-MANVILLE
7 TOLD THIS JURY IN HIS OPENING STATEMENT THAT THEY ONLY SUPPLIED
8 ONE PERCENT OF THE ASBESTOS FIBER, WOULD YOUR RECOLLECTION
9 GIVE WITH THAT, SIR?

10 MR. BOMAN: I OBJECT TO THE FORM OF THE QUESTION.
11 IT'S ARGUMENTATIVE.

12 THE COURT: YOU MAY--

13 MR. MOTLEY: ALL RIGHT. I'LL REPHRASE IT.

14 THE COURT: REPHRASE IT.

15 Q. (BY MR. MOTLEY) FROM YOUR RECOLLECTION, WAS THE
16 AMOUNT THAT JOHNS-MANVILLE SUPPLIED MORE OR LESS THAN ONE
17 PERCENT TO THAT SHINGLE PLANT?

18 A. MORE.

19 Q. IF THE LAWYER FOR ASBESTOS CORPORATION LIMITED
20 SAID THEY DIDN'T SELL ANY FIBER TO THAT PLANT UNTIL THE
21 1970'S--

22 THE COURT: JUST A MOMENT.

23 MR. MORRIS?

24 MR. MORRIS: YES. I WANT TO OBJECT TO ANY COMMENT
25 ABOUT THE LAWYER'S OPENING STATEMENTS. THIS WITNESS IS NOT

1 CHALLENGED TO DO THAT.

2 THE COURT: THAT OBJECTION WILL BE SUSTAINED. DO YOU
3 HAVE WANTED THE COURT SEE THE DOCUMENT WITH WHICH YOU'RE DEALING
4 AT THIS POINT.

5 (A DOCUMENT WAS GIVEN TO HIS HONOR.)

6 THE COURT: THE COURT BELIEVES THE OTHER PARTY SHOULD
7 HAVE AN OPPORTUNITY TO HAVE THIS. WOULD YOU MAKE A COUPLE OF
8 COPIES OF THIS AND THEY MAY CROSS-EXAMINE FROM IT, ALSO.

9 Q. (BY MR. MOTLEY) WERE SALES MADE BY ASBESTOS
10 CORPORATION, LIMITED, FROM YOUR PERSONAL RECOLLECTION, SIR,
11 PRIOR TO THE 1970'S TO THE SAINT LOUIS PLANT?

12 A. YES, THEY WERE.

13 Q. AND WERE--HOW WOULD YOU CHARACTERIZE THEM AS
14 MINOR, SUBSTANTIAL, OR HOW?

15 A. WELL, I WOULD CHARACTERIZE THEM AS SUBSTANTIAL.
16 THE ACTUAL FIGURES ARE ON THIS PIECE OF PAPER.

17 Q. NOW, YOU, SIR, WERE, I BELIEVE YOU SAID,
18 SECRETARY OF TURNER AND NEWALL LIMITED; IS THAT CORRECT?

19 A. YES.

20 Q. AND I BELIEVE YOU DESCRIBED TURNER-NEWALL LIMITED
21 AS A HOLDING COMPANY; IS THAT CORRECT?

22 A. YES.

23 Q. EXACTLY WHAT DID YOU HOLD?

24 A. WE HELD THE SHARES IN, FIRST OF ALL, THE COMPANY
25 WHICH FORMED THE HOLDING COMPANY, AND SECONDLY, OF THE COMPANY

1 WILL IT FORMED THE OVERSEAS COMPANIES.

2 Q. YES, SIR. YOU HELD SHARES?

3 A. WE HELD SHARES.

4 Q. ALL RIGHT, SIR. AND IF A PROFIT WAS MADE, WOULD
5 YOU GET TO HOLD THE PROFIT?

6 A. WELL, THE COMPANIES, WHEREVER, WHETHER IN THE U.K.
7 OR OVERSEAS.

8 Q. WHERE DID TURNER-NEWALL LIMITED GET ITS MONEY
9 FROM THEN?

10 A. IT GOT THE DIVIDEND.

11 Q. THE DIVIDEND?

12 A. YES.

13 Q. SO THAT IF THERE WAS A PROFIT AND A DIVIDEND
14 DECLARED, ULTIMATELY THE PROFIT ENDED UP WITH TURNER-NEWALL
15 LIMITED, IS THAT CORRECT?

16 MR. SHIDEMAKE: I OBJECT AS TO THE FORM, YOUR HONOR.

17 THE COURT: PARDON ME?

18 MR. SHIDEMAKE: OBJECTION AS TO THE FORM OF THE QUESTION.

19 IT'S --

20 THE COURT: OBJECTION SUSTAINED.

21 Q. (BY MR. MOTLEY) MR. JONES, IF KEASBEY AND MARLIS
22 MADE A PROFIT, WOULD THERE BE A DIVIDEND DECLARED?

23 A. ONE WOULD NORMALLY EXPECT IT, BUT I DON'T THINK
24 IT NECESSARILY FOLLOWS. DEPENDS ON THE SIZE OF THE PROFIT.

25 Q. YES. LET'S ASSUME THERE WAS ONE MADE THAT WAS

1 BIG ENOUGH TO INTEREST YOU IN LONDON. WHO WOULD GET THE
2 THE DIVIDEND? TURNER-NEWALL LIMITED?
3 A. TURNER-NEWALL WOULD GET THE DIVIDEND--
4 Q. ALL RIGHT.
5 A. --ON THE SHARES THAT IT OWNED.
6 Q. AND IT OWNED WHAT PERCENT OF THE SHARES OF
7 KEASELY-MATTISON?
8 A. YES. EITHER DIRECTLY OR INDIRECTLY, A HUNDRED
9 PERCENT.
10 Q. IT WOULD END UP GETTING A HUNDRED PERCENT OF THE
11 DIVIDEND; RIGHT?
12 A. YES.
13 Q. ALL RIGHT. NOW--
14 A. BUT NOT OF THE PROFIT.
15 Q. BUT NOT OF THE PROFIT?
16 A. NO.
17 Q. ARE YOU FAMILIAR, SIR--
18 MR. MOTLEY: MAY I APPROACH THE WITNESS, YOUR HONOR?
19 THE COURT: YES.
20 Q. (BY MR. MOTLEY) --WITH WHAT'S BEEN PREVIOUSLY
21 IDENTIFIED AS A BOOK CALLED "TURNER AND NEWALL, THE FIRST
22 FIFTY YEARS"? ARE YOU FAMILIAR WITH THAT?
23 A. DO I WHAT? I'M FAMILIAR WITH IT, YES.
24 Q. YES. INDEED, IT WAS PREPARED WHILE YOU WERE
25 SECRETARY OF THE CORPORATION; WAS IT NOT?

1 A. IT WAS.

2 Q. NOW, MAY I HOLD IT, SIR, AND LET ME ASK YOU IF
3 YOU WILL AGREE WITH THIS: HAVE YOU EVER HEARD TURNER-NEWALL
4 REFERRED TO ITS POPULAR DESIGNATION AS THE "ASBESTOS GIANT"?

5 A. I HAVE.

6 Q. YOU HAVE?

7 A. YES.

8 Q. IS TURNER-NEWALL THE ASBESTOS GIANT?

9 A. I SUPPOSE IT'S AMONG THE LARGEST COMPANIES.
10 WHETHER IT WOULD BE FAIR TO CALL IT THE ASBESTOS GIANT TODAY,
11 I CAN'T SAY, REALLY.

12 Q. YOU DON'T AGREE IT'S THE ASBESTOS GIANT TODAY,
13 BUT IN 1970, WHEN THIS WAS WRITTEN, IT WAS THE ASBESTOS GIANT.
14 IS THAT CORRECT?

15 A. IT WAS SO CALLED THROUGH THE '60'S.

16 Q. THROUGH THE '60'S. WHO WAS YOUR PRINCIPAL
17 COMPETITOR? JOHNS-MANVILLE CORPORATION?

18 A. YES.

19 Q. DO YOU KNOW WHETHER OR NOT JOHNS-MANVILLE
20 CORPORATION BECAME THE ASBESTOS GIANT IN THE '70'S AND YOUR
21 COMPANY CAME IN SECOND? OR HOW WOULD YOU DESCRIBE IT?

22 A. I DON'T HONESTLY KNOW.

23 Q. NOW, MR. JONES, IN 1970, THIS DOCUMENT REFLECTS
24 SALES IN 1970 OF ONE HUNDRED AND THIRTEEN MILLION POUNDS.
25 HOW MUCH WOULD THAT BE IN AMERICAN DOLLARS?

1 A. ON A TWO-TO-ONE BASIS, AROUND ABOUT TWICE THAT.

2 Q. TWO HUNDRED AND TWENTY-SIX MILLION DOLLARS?

3 A. YES.

4 Q. THIS DOCUMENT, PAGE 66 OF IT, SIR, LISTS--

5 MR. MOTLEY: MAY I APPROACH THE WITNESS, YOUR HONOR?

6 THE COURT: YOU MAY.

7 Q. (BY MR. MOTLEY) --THE VARIOUS COMPANIES WHICH

8 TURNER-NEWALL OWNED. DO YOU SEE THAT, SIR?

9 A. YES.

10 Q. HOW MANY OF THOSE COMPANIES WERE--ARE THERE

11 THAT WERE LOCATED IN THE UNITED KINGDOM?

12 A. ALL THESE ARE IN THE UNITED KINGDOM.

13 Q. YES, SIR. HOW MANY OF THEM ARE? HOW MANY

14 ARE THERE LISTED THERE?

15 A. TWELVE.

16 Q. TWELVE. NOW, THE NEXT PAGE, IF YOU WOULD TURN

17 IT OVER, PLEASE, SIR, DOES THAT LIST THE COMPANIES OWNED BY

18 TURNER-NEWALL THROUGHOUT THE REST OF THE WORLD?

19 A. YES.

20 Q. AND HOW MANY OF THOSE ARE THERE?

21 A. FORTY-ONE.

22 Q. FORTY-ONE.

23 AND WHAT PARTS OF THE WORLD DO THEY EXIST IN?

24 A. CANADA, INDIA, THE REPUBLIC OF SOUTH AFRICA,

25 RHODESIA, ZAMBIA, NIGERIA, ITALY, THE FEDERAL GERMAN REPUBLIC,

1 THE U.S.A., NEW ZEALAND, THE REPUBLIC OF IRELAND, AUSTRALIA,
2 MEXICO, FRANCE, BELGIUM, HOLLAND, SPAIN, LUXEMBOURG.

3 Q. NOW, MR. JONES, TURNER AND NEWALL OWNED THE
4 IN A NUMBER OF MINES THAT PRODUCED ASBESTOS FROM THE EARTH;
5 DID IT NOT?

6 A. IT DID.

7 Q. AND THOSE MINES WERE LOCATED IN WHAT COUNTRIES,
8 SIR?

9 A. PRIMARILY RHODESIA, ZIMBABWE, NOW SWAZILAND,
10 CANADA.

11 Q. CANADA. IN FACT, TURNER-NEWALL OWNED A HUNDRED
12 PERCENT OF THE STOCK OF BELL ASBESTOS MINES, WHO THIS GENTLEMAN
13 REPRESENTS, IS THAT CORRECT?

14 A. RIGHT.

15 Q. AND DID TURNER AND NEWALL OWN ANY MINES WHICH
16 PRODUCED BLUE ASBESTOS FIBER?

17 A. NOT FOR MANY YEARS.

18 Q. AT ONE TIME THEY DID?

19 A. AT ONE TIME THEY DID.

20 Q. YOU MENTIONED THAT TURNER-NEWALL ONLY HAD ONE
21 MEMBER OF THE BOARD OF DIRECTORS OF KEASBEY AND MATTISON;
22 DID I UNDERSTAND YOU CORRECTLY?

23 A. THAT'S RIGHT.

24 Q. AND WHO WAS THAT GENTLEMAN, SIR?

25 A. THAT WAS--DO WE TAKE THIS VARIOUS STAGES?

1 A. YES.

2 A. FROM THE TIME THAT I FIRST JOINED THE COMPANY.

3 Q. 1952?

4 A. --IT WAS A GENTLEMAN CALLED SIR WALKER SHEPHERD.

5 Q. HE WAS ALSO CHAIRMAN OF THE BOARD OF THE CARPENTERS

6 COMPANY, TURNER AND NEWALL; WASN'T HE?

7 A. YES, HE WAS.

8 Q. SO HE WAS CHAIRMAN OF THE BOARD OF TURNER AND

9 NEWALL AND ALSO A MEMBER OF THE BOARD OF DIRECTORS OF KEASLEY

10 AND MATTHEWS; IS THAT CORRECT?

11 A. THAT'S RIGHT.

12 Q. ALL RIGHT. NOW, DID TURNER AND NEWALL ALSO OWN

13 STOCK IN MR. BEERS' CLIENT, CASSIAR?

14 A. YES, THEY DID.

15 Q. AND DID A MEMBER OF TURNER-NEWALL'S BOARD OF

16 DIRECTORS ALSO SIT ON THE BOARD OF DIRECTORS OF MR. BEERS'

17 CLIENT?

18 A. YES.

19 Q. AND WHO MIGHT THAT HAVE BEEN?

20 A. WELL, THAT VARIED. THERE WERE TWO, I THINK--

21 Q. TWO YOU HAD?

22 A. --AT TIMES. CERTAINLY AT ONE STAGE, SIR WALKER

23 WAS; SIR RALPH BATEMAN WAS.

24 Q. SIR RALPH BATEMAN?

25 A. RALPH BATEMAN.

1 Q. DID HE BECOME CHAIRMAN OF THE BOARD OF TURNER
2 AND NEWALL, THE HOLDING COMPANY, ALSO?

3 A. YES, HE DID.

4 Q. AND WHEN THE -- KEASBEY AND MATTISON WAS SOLD IN
5 THE UNITED STATES IN 1962 OR '3; WAS IT NOT?

6 A. YES.

7 Q. AND ONE OF THE PLANTS WAS SOLD TO A COMPANY CALLED
8 CERTAIN-TEED; WAS IT NOT?

9 A. IT WAS.

10 Q. THE PLANT HERE IN SAINT LOUIS?

11 A. YES.

12 Q. AND WHEN THE PLANT IN SAINT LOUIS WAS SOLD TO
13 CERTAIN-TEED, TURNER AND NEWALL WAS THE MAJOR STOCKHOLDER IN
14 CERTAIN-TEED; WAS IT NOT?

15 A. IT HAD A SUBSTANTIAL HOLDING.

16 Q. WELL, IF THAT LITTLE BOOK SAID THEY WERE THE MAJOR
17 SHAREHOLDER, YOU WOULDN'T DISAGREE WITH THAT; WOULD YOU?

18 A. I WOULDN'T KNOW WHETHER THEY WERE THE MAJOR.
19 BUT THEY HAD A SUBSTANTIAL HOLDING. I DON'T REMEMBER IT OFF THE
20 TOP OF MY HEAD. BUT I -- IT'S A MATTER OF RECORD.

21 Q. DID THE CHAIRMAN OF THE BOARD OF TURNER AND NEWALL
22 SIT ON THE BOARD OF DIRECTORS OF CERTAIN-TEED?

23 A. YES, SIR. AT ONE TIME, HE DID.

24 Q. NOW, THIS TURNER ASBESTOS FIBRE COMPANY THAT THEY
25 WERE -- BY THE WAY, HOW MANY EMPLOYEES, WHEN YOU LEFT

1 TURNER NEWALL IN 1980, HOW MANY EMPLOYEES, WORLDWIDE, DID
2 TURNER NEWALL HAVE IN ALL ITS AFFILIATE COMPANIES? DO YOU
3 KNOW?

4 A. AGAIN, IT'S A MATTER OF RECORD. I CAN'T REMEMBER
5 THE PRECISE FIGURE.

6 Q. WELL, FIVE HUNDRED, TEN THOUSAND?

7 A. OH, WE'RE TALKING OF SOMEWHERE IN THE--MAYBE
8 THIRTY, FORTY THOUSAND.

9 Q. THIRTY OR FORTY THOUSAND EMPLOYEES AROUND IN
10 WORLD?

11 A. YES.

12 Q. AND AT THEIR HEADQUARTERS AT TURNER AND NEWALL
13 LIMITED, HOW MANY PEOPLE WERE THERE?

14 A. I'M NOT CERTAIN OF THIS, BUT I WOULD HAVE THOUGHT
15 AROUND A HUNDRED AND THIRTY.

16 Q. A HUNDRED AND THIRTY?

17 A. YES.

18 Q. AND THEY WERE CORRESPONDING WITH AND PARTICIPATING
19 IN THE BUSINESS ACTIVITIES OF ALL THE SUBSIDIARIES; IS THAT
20 CORRECT?

21 A. THEY WERE CORRESPONDING WITH THE COMPANIES.

22 Q. YES.

23 A. THEY DID VERY LITTLE PARTICIPATING.

24 Q. EXCEPT IN THE DIVIDENDS?

25 A. WELL, THEY WERE THE STOCKHOLDERS.

1 Q. YOU PARTICIPATED IN THE DIVIDENDS; DID YOU?

2 A. THEY WERE THE STOCKHOLDERS.

3 Q. YES. AND YOU--LET ME ASK YOU ABOUT ONE OR TWO
4 DOCUMENTS, SIR, THAT HAVE BEEN PREVIOUSLY IDENTIFIED.

5 MR. MOTLEY: MAY I APPROACH THE WITNESS, YOUR HONOR?
6 THE COURT: YOU MAY.

7 THE WITNESS: I RETURN YOU THESE.

8 Q. (BY MR. MOTLEY) THANK YOU.

9 HAVE YOU SEEN THOSE HERETOFORE?

10 A. I HAVEN'T SEEN THESE BEFORE, NO.

11 Q. TO WHOM IS THAT CORRESPONDENCE DIRECTED?

12 A. THIS IS ADDRESSED TO A MR. MICHAEL F. HOWE, WHO
13 WAS THEN THE CHAIRMAN OF ASBESTOS FIBRES.

14 Q. ALL RIGHT. AND DID ANYBODY WITH TURNER-NEWALL
15 RECEIVE A COPY OF IT?

16 A. YES.

17 Q. WHO WAS THAT?

18 A. THEN CHAIRMAN, MR. R. M. BATEMAN.

19 Q. MR. BATEMAN?

20 A. YES.

21 Q. HE WAS CHAIRMAN OF THE HOLDING COMPANY; IS THAT
22 CORRECT?

23 A. ACTUALLY, LOOKING AT THE DATES OF THE LETTER, I
24 DON'T THINK HE WAS CHAIRMAN UNTIL LATER. HE WAS PROBABLY
25 DEPUTY CHAIRMAN.

1 HE WAS DEPUTY CHAIRMAN. HE WAS THE NUMBER TWO
2 IN THE HOLDING COMPANY?

3 A. YES.

4 Q. SO AT LEAST THE NUMBER TWO MAN IN THE HOLDING
5 COMPANY KNEW, AS OF THE DATE OF THAT LETTER, WHICH IS WHAT,
6 SIR? NINETEEN WHAT?

7 A. 1965.

8 Q. 1965, ABOUT THE SAINT LOUIS PLANT HERE RECEIVING
9 TURNER-NEWALL --TURNER ASBESTOS FIBRES SHIPPED ASBESTOS TO
10 THIS PLANT; IS THAT CORRECT?

11 A. WELL, I BELIEVE SO, YES. AGAIN, I DON'T KNOW
12 THAT THEY DID IT FROM MY OWN KNOWLEDGE.

13 Q. YES, SIR. BUT DOES THAT LETTER REFLECT, SIR,
14 THAT MR. BATEMAN, THE VICE-CHAIRMAN OF TURNER-NEWALL, RECEIVED
15 A COPY OF A LETTER THAT RELATED TO TURNER ASBESTOS FIBRES
16 SHIPPING ASBESTOS FIBERS TO THE SAINT LOUIS PLANT?

17 A. THAT'S RIGHT. OUGHT I TO READ THIS, YOU THINK?

18 Q. YOU CERTAINLY CAN IF YOU LIKE. IT'S BEEN READ
19 TO THE JURY ONCE.

20 A. YES.

21 Q. ARE YOU AWARE, SIR, OF AN ORGANIZATION KNOWN AS
22 THE ASBESTOS INTERNATIONAL ASSOCIATION?

23 A. WELL, I KNOW NOTHING ABOUT THEM.

24 Q. SIR?

25 A. I HAVE HEARD THE NAME, BUT I KNOW NOTHING ABOUT

1 THEIR ACTIVITIES.

2 Q. DO YOU KNOW WHETHER OR NOT TURNER-NEWALL IS A
3 MEMBER OF THE ASBESTOS INTERNATIONAL ASSOCIATION?

4 A. I'M NOT SURE THEY WERE; WERE THEY?

5 Q. SIR?

6 A. I DON'T KNOW--I DON'T RECOLLECT THAT THEY WERE.

7 Q. YOU DON'T?

8 A. THEY MAY HAVE BEEN, BUT I'M--

9 Q. ALL RIGHT, SIR.

10 MR. MOTLEY: EXCUSE ME, YOUR HONOR.

11 NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: ALL RIGHT. MR. BEERS.

13 CROSS-EXAMINATION

14 BY MR. BEERS:

15 Q. MR. JONES, MY NAME IS DAVID BEERS. I REPRESENT
16 BRITISH MINING.

17 YOU STARTED--YOU BECAME SECRETARY OF TURNER AND
18 NEWALL LIMITED IN 1953; IS THAT RIGHT?

19 A. THAT'S RIGHT.

20 Q. NOW, DID YOU ALSO SAY YOU WERE ALSO SECRETARY OF
21 ANOTHER ONE OF THE TURNER AND NEWALL GROUP?

22 A. YOU'RE REFERRING TO THE TURNER ASBESTOS FIBRES?

23 Q. WAS THAT THE COMPANY YOU WERE SECRETARY OF?

24 A. THAT'S RIGHT. I WAS OF OTHERS AS WELL, BUT

25 CERTAINLY OF T.A.F..

1 Q. ALL RIGHT. NOW, WHEN WERE YOU SECRETARY OF TURNER
2 ASBESTOS FIBRES?

3 A. DURING THE WHOLE PERIOD THAT I WAS SECRETARY
4 OF TURNER AND NEWALL.

5 Q. I SEE. NOW, WHAT OTHER MEMBERS OF THE TURNER-
6 NEWALL GROUP WERE YOU ALSO SECRETARY OF?

7 A. ALL THE OTHER HOME GROUP COMPANIES, THE MEMBERS
8 OF THE GROUP THAT WERE REGISTERED IN THE U.K.

9 Q. ANY OTHERS?

10 A. NO.

11 Q. NOW, WHEN YOU BECAME SECRETARY OF TURNER-NEWALL
12 LIMITED, WHO WAS CHAIRMAN OF TURNER-NEWALL LIMITED?

13 A. SIR WALKER SHEPHERD.

14 Q. WAS SIR WALKER PRESIDENT--EXCUSE ME, CHAIRMAN
15 OF ANY OF THE OTHER TURNER-NEWALL GROUP COMPANIES?

16 A. YES, HE WAS.

17 Q. CAN YOU TELL ME WHICH ONES?

18 A. ALL--

19 Q. WELL--

20 A. KEASBEY-MATTISON.

21 Q. HE WAS CHAIRMAN OF KEASBEY AND MATTISON?

22 A. YES, HE WAS.

23 Q. ALL RIGHT. NOW, WAS HE ALSO CHAIRMAN OF TURNER
24 ASBESTOS FIBRES?

25 A. I DON'T REMEMBER THAT BECAUSE THERE WAS CERTAIN...

1 A TIME WHEN THIS WAS ONE OF THE--AT ONE TIME THE CHAIRMAN
2 OF TURNER AND NEWALL CUSTOMARILY WAS. BUT THERE CAME A TIME
3 WHEN HE NO LONGER WAS.

4 Q. BUT THERE WAS A TIME--

5 A. I DON'T--

6 Q. --IN YOUR CAREER WHEN THE CHAIRMAN OF TURNER-
7 NEWALL LIMITED WAS CUSTOMARILY THE CHAIRMAN OF TURNER ASBESTOS
8 FIBRES?

9 A. THAT'S RIGHT, YES.

10 Q. ALL RIGHT. WHO WAS THE PRESIDENT OF TURNER-
11 NEWALL LIMITED WHEN YOU GOT THERE?

12 A. WELL, WE DIDN'T HAVE THE APPOINTMENT OF PRESIDENT.

13 Q. DID TURNER ASBESTOS FIBRE HAVE A PRESIDENT WHEN
14 YOU GOT THERE?

15 A. NO.

16 Q. I SEE. DID TURNER-NEWALL LIMITED LATER GET A
17 PRESIDENT?

18 A. THEY HAD AN HONORARY PRESIDENT AT ONE TIME,
19 WHO WAS A RETIRED CHAIRMAN.

20 Q. I SEE.

21 A. BUT IT WAS NEVER AN ACTIVE APPOINTMENT.

22 Q. WAS THERE AN HONORARY CHAIRMAN--EXCUSE ME. STRIKE
23 THAT.

24 WAS THERE EVER A PRESIDENT OF TURNER ASBESTOS
25 FIBRES?

1 A. NO, THERE WASN'T.

2 Q. ALL RIGHT. NOW, LET'S JUST TAKE FROM '53--JUNE
3 MAY 1953. CAN YOU TELL ME ANY OTHER INDIVIDUALS WHO
4 BOTH OFFICERS OF TURNER-NEWALL LIMITED AND OFFICERS OF TURNER-
5 ASBESTOS FIBRES?

6 A. YES. THERE WAS THE DEPUTY CHAIRMAN, WHO'S
7 USUALLY A MEMBER OF THE BOARD OF TURNER ASBESTOS FIBRES.

8 Q. WAS HE AN OFFICER--OH, I SEE. WAS HE ALSO DE-
9 CHAIRMAN OF TURNER ASBESTOS FIBRES?

10 A. I'M NOT SURE THERE WAS SUCH AN APPOINTMENT.

11 Q. BUT HE WAS ON THE BOARD?

12 A. HE WAS ON THE BOARD.

13 Q. OKAY. ANY OTHERS?

14 A. THERE WAS A MR. MICHAEL HOWE TO WHOM THIS LETTER-
15 IS ADDRESSED.

16 Q. OKAY.

17 A. AND I THINK THAT REPRESENTS THE LOT. VERY SMALL
18 BOARD.

19 Q. I'M SORRY?

20 A. A VERY SMALL BOARD.

21 Q. NOW, WAS THERE ANYONE ON THE BOARD OF TURNER
22 ASBESTOS FIBRES WHO WAS NOT ON THE BOARD OF TURNER-NEWALL
23 LIMITED?

24 A. YES. MICHAEL HOWE, HIMSELF, WAS NEVER A MEMBER
25 OF THE TURNER-NEWALL BOARD.

1 Q. BUT HE WAS AN OFFICER OF THE TURNER-NEWALL
2 LIMITED?
3 A. NO, HE WASN'T.
4 Q. I SEE. WHAT--
5 A. HIS JOB WAS TO RUN THE AFFAIRS OF--HE WAS AL-
6 THE GENERAL MANAGER. THEY ARE NOT SO CALLED, BUT HE WAS GENERAL
7 MANAGER OF TURNER ASBESTOS FIBRES.
8 Q. I SEE. ALL RIGHT. NOW, WHAT ABOUT TURNER
9 BROTHERS ASBESTOS? WAS THE--WERE THERE ANY OFFICERS OF
10 TURNER BROTHERS ASBESTOS WHO WERE ALSO OFFICERS OF TURNER-
11 NEWALL LIMITED?
12 A. YES. FOR A TIME THE CHAIRMAN OF TURNER BROTHER
13 ASBESTOS--THE CHAIRMAN OF THAT COMPANY WAS AT ONE TIME A
14 MEMBER OF THE TURNER-NEWALL BOARD.
15 Q. AND WHO WAS THAT?
16 A. WELL, IT VARIED.
17 Q. ALL RIGHT. LET ME WITHDRAW--
18 A. IT WOULD HAVE BEEN A MAN CALLED MOHRLING.
19 Q. DID MR. MOHRLING--WAS HE EVER ON THE BOARD OR
20 AN OFFICER OF TURNER ASBESTOS FIBRES?
21 A. NEVER.
22 Q. OKAY. NOW, TURNER ASBESTOS FIBRES WASN'T ALWAYS
23 A SEPARATE CORPORATION; WAS IT?
24 A. NO, IT WASN'T.
25 Q. WAS IT AT ONE TIME MERELY A DEPARTMENT OF
TURNER AND NEWALL LIMITED?

1 A. AT ONE TIME IT WAS, YES.
2 Q. DO YOU REMEMBER WHEN THAT WAS?
3 A. 1930'S?
4 MR. BEERS: EXCUSE ME, YOUR HONOR.
5 MR. MOTLEY: PAGE 62.
6 MR. HULLVERSON: PAGE 62.
7 MR. MOTLEY: PAGE 62, MR. BEERS.
8 MR. BEERS: I KNOW. WHAT DID YOU DO, EAT IT? I KNOW,
9 YOU GOBBLED IT UP.
10 MR. MOTLEY: HERE YOU GO.
11 (A DOCUMENT WAS GIVEN TO MR. BEERS.)
12 Q. (BY MR. BEERS) NOW, WOULD YOU JUST READ THAT
13 BOTTOM PARAGRAPH ON PAGE 62 TO US? READ IT OUT LOUD.
14 A. "ANY COMPANY OWNING--" THAT'S THE ONE?
15 IS IT "ANY COMPANY OWNING INTERDEPENDENT MINING"?
16 Q. EXCUSE ME. YES.
17 A. "ANY COMPANY OWNING INTERDEPENDENT MINING AND
18 MANUFACTURING UNITS HAS TO INSURE EFFECTIVE COMMUNICATION
19 AND COOPERATION BETWEEN THEM. RESPONSIBILITY FOR THE
20 MAINTENANCE OF SUCH LINKS AND FOR THE SALES OF FIBER FROM THE
21 GROUP'S MINES TO INTERNAL AND EXTERNAL CONSUMERS LIES WITH
22 TURNER ASBESTOS FIBRES LIMITED, WHICH ASSUMED ITS TITLE IN
23 1963. PREVIOUSLY, THE ORGANIZATION HAD EXISTED IN MULTIFARIOUS
24 GUISES: SOMETIMES AS A T & N HEAD OFFICE DEPARTMENT, SOMETIMES
25 AS A SEPARATE COMPANY."

1 Q. THAT'S ENOUGH.
2 A. THAT'S ENOUGH?
3 Q. SURE. NOW, DO YOU RECOGNIZE THAT AS A PAGE FROM
4 "TURNER AND NEWALL, THE FIRST FIFTY YEARS"?
5 A. YES, I DO.
6 Q. AND DO YOU AGREE WITH THE STATEMENT IN THAT P
7 A. THAT'S RIGHT, YES.
8 Q. NOW--
9 A. I'M NOT SURE IF I WOULD AGREE WITH THE STATEMENT
10 "MULTIFARIOUS," WHICH MEANS IT SWITCHES FROM ONE TO ANOTHER.
11 IN FACT, IT WAS A SEQUENCE.
12 Q. IT WAS ORIGINALLY--
13 A. FROM THE DEPARTMENT TO A COMPANY, AND THAT COMPANY
14 CHANGED ITS NAME TO T.A.F..
15 Q. I SEE. BUT ORIGINALLY IT WAS NOT A SEPARATE
16 COMPANY; IT WAS JUST PART OF TURNER-NEWALL LIMITED?
17 A. THAT'S RIGHT.
18 Q. ALL RIGHT. NOW, YOU REFERRED IN YOUR TESTIMONY,
19 IN YOUR ANSWERS TO QUESTIONS BY MR. SHOEMAKE--I THINK I GOT
20 THIS RIGHT--AS TURNER ASBESTOS FIBRES AS, QUOTE, "THE BROKERING
21 ARM OF ASBESTOS FIBER OF T & N."
22 A. YES.
23 Q. DO YOU REMEMBER THAT?
24 A. YES.
25 Q. WHAT DID YOU MEAN BY THAT?

1 A. WELL, IT ACTED AS A BROKER OF FIBER, AND IT
2 IDENTIFIED THE FIRMS OF COMPANIES IN WHICH T & N OWNED MINING
3 COMPANIES IN WHICH T & N HAD AN INTEREST AND ALSO OF OTHER
4 IT WAS THEIR JOB, REALLY, TO KNOW WHERE FIBER PARTICULAR
5 TYPES WAS TO BE OBTAINED, AND TO JOIN UP THE PEOPLE WHO WERE
6 ABLE TO SUPPLY THOSE VARIOUS FIBERS WITH OTHERS WHO WISHED TO
7 BUY THEM. THIS IS WHAT I MEAN BY "BROKERING JOB."

8 Q. THEN, I THINK YOU SAID THAT THIS JOB WAS TO
9 OUT AND BROKER OR GET FIBER, AS YOU PUT IT, FIBER, QUOTE, "WHICH
10 WE WISHED TO PURCHASE." THAT'S WHAT I TOOK DOWN IN MY NOTES.
11 DO YOU REMEMBER THAT?

12 A. WELL, I THINK NOT WHICH WE WISHED TO PURCHASE,
13 COMING FROM MY MOUTH. IT WOULD BE WHICH A CUSTOMER OF T.A.N.
14 WISHED TO PURCHASE.

15 Q. YOU DIDN'T SAY "WHICH WE WISHED TO PURCHASE"?

16 A. I DON'T REMEMBER SAYING THAT.

17 Q. NOW, WHEN--DURING THE PERIOD OF THE '30'S,
18 '40'S, AND '50'S, UNTIL '62 WHEN TURNER-NEWALL OWNED KEASBEY AND
19 MATTISON, WAS KEASBEY AND MATTISON FREE TO BUY FIBER ON THE
20 OPEN MARKET?

21 A. OH, YES.

22 Q. AND DID IT BUY MUCH FIBER ON THE OPEN MARKET?

23 A. I DON'T THINK IT DID, IN FACT.

24 Q. I SEE. WHERE DID IT BUY THE BULK OF ITS FIBER?
25 HOW DID IT ARRANGE FOR THE FIBER THAT IT WANTED TO BUY ON A

1 YEARLY BASIS?

2 A. WELL, IT BOUGHT A LOT OF IT. STUFF WAS BOUGHT
3 FROM DELL DIRECT. WHEN YOU SAY "HOW DID IT GET ITS FIBERS,"
4 IT GOT SOME OF ITS FIBERS DIRECT FROM SUPPLIERS ON THE NORTH
5 AMERICAN CONTINENT, IN THE WIDEST SENSE. FROM OTHER SOURCES,
6 IT OBTAINED ITS FIBERS THROUGH THE BROKERING ACTIVITIES OF
7 T.A.F..

8 Q. FOR EXAMPLE, IF IT WANTED SOME SOUTH AFRICAN
9 FIBER --

10 A. THAT'S RIGHT.

11 Q. --IT WOULD BUY IT FROM TURNER ASBESTOS FIBERS?

12 A. YES.

13 Q. OR IT WOULD BUY IT FROM TURNER-NEWALL LIMITED
14 DURING THAT PERIOD IN WHICH T.A.F. WAS JUST A DEPARTMENT OF
15 TURNER-NEWALL LIMITED; IS THAT CORRECT?

16 A. THAT'S RIGHT.

17 Q. NOW, IN '62, WHEN TURNER-NEWALL SOLD THE PIPE
18 PLANTS TO CERTAIN-TEED, WAS THERE ANY ARRANGEMENT BETWEEN
19 TURNER AND NEWALL AND CERTAIN-TEED REGARDING THE PURCHASE OF
20 FIBER BY CERTAIN-TEED?

21 A. YES, THERE WAS.

22 Q. WHAT WAS THAT ARRANGEMENT?

23 A. AS FAR AS I RECALL IT, THERE WAS AN AGREEMENT
24 UNDER WHICH CERTAIN-TEED AGREED TO BUY CERTAIN FIBERS FROM
25 TURNER AND NEWALL--NOT FROM TURNER-NEWALL, BUT FROM TURNER-NEWALL

1 SOURCES, YOU UNDERSTAND ME.

2 Q. FROM TURNER AND NEWALL SOURCES?

3 A. THAT'S RIGHT. THAT'S FROM COMPANIES EITHER WHICH
4 TURNER-NEWALL HAD A SHAREHOLDING INTEREST IN, OR OTHER COMPANIES
5 WHICH T.A.F., THEMSELVES, MIGHT USE AS A SOURCE FOR THE FIBER
6 REQUIRED. DEPENDS ON WHAT WAS WANTED.

7 Q. SO CERTAIN-TEED, IN A WORD, HAD TO BUY FROM--WELL,
8 STRIKE THAT. STRIKE THAT.

9 HOW LONG DID THAT ARRANGEMENT LAST, OR HOW LONG
10 WAS IT SUPPOSED TO LAST?

11 A. I HAVE AN IDEA IT CAME TO AN END SOMETIME
12 ABOUT THE MIDDLE '70'S.

13 SO UNDER THAT ARRANGEMENT, CERTAIN-TEED HAD TO BUY
14 ALL ITS FIBER EITHER FROM TURNER-NEWALL COMPANY OR THROUGH
15 TURNER-NEWALL?

16 A. WELL, I'M NOT SURE ABOUT ALL THE FIBER, BECAUSE--

17 Q. SUBSTANTIALLY ALL OR THE BULK OF IT?

18 A. I'M AFRAID I DON'T RECALL THE PRECISE DETAILS OF
19 THE AGREEMENT. BUT I KNOW THERE WAS AN AGREEMENT RELATING TO THE
20 BUYING OF THE FIBER.

21 Q. WHO WERE THE PARTIES TO THAT AGREEMENT? I ASSUME
22 CERTAIN-TEED ON ONE SIDE, BUT WHO WAS THE OTHER PARTY TO THAT
23 AGREEMENT?

24 A. I DON'T KNOW. I SHOULD HAVE THOUGHT THIS WAS A
25 MATTER OF RECORD. COULD WE CHECK ON THAT?

1 Q. IT WAS TURNER AND NEWALL LIMITED THAT SOLD THE
2 ASSETS TO CERTAIN-TEED; WASN'T IT?

3 A. WELL, WAS IT NOT K & M, IN FACT? T & N HAD
4 SHARES.

5 Q. I SEE.

6 A. AND WHAT WAS SOLD TO CERTAIN-TEED WAS ASSETS
7 AND NOT SHARES.

8 Q. I SEE. SO, YOU DON'T KNOW WHETHER THE AGREEMENT
9 BETWEEN CERTAIN-TEED FOR THE PURCHASE OF FIBER FOR THE
10 NEXT FEW YEARS WAS WITH TURNER-NEWALL LIMITED OR WITH T & N
11 ASBESTOS FIBERS?

12 A. I CAN'T RECALL.

13 Q. BUT YOU BELIEVE IT WAS FROM ONE OR THE OTHER?

14 A. THAT WOULD HAVE HAD TO BE SO.

15 Q. ALL RIGHT. NOW, DO YOU REMEMBER MR. MUEHLER,
16 WHO'S PRESIDENT OF DEASBEY AND MATTISON?

17 A. I DO.

18 Q. DID HE EVER WORK FOR TURNER-NEWALL?

19 A. DID HE?

20 Q. YES.

21 A. I HAVE THIS RECOLLECTION THAT AT ONE TIME HE
22 MAY HAVE SPENT SOME TIME WITH ONE OF OUR COMPANIES--

23 Q. HE WAS AN EMPLOYEE?

24 A. --BUT THIS IS NOT--THIS IS, AS IT WERE, VERY
25 MUCH HEARSAY BECAUSE IT IS SOMETHING THAT I GOT TOLD AT A

1 LATER STAGE. THIS WAS LONG BEFORE MY TIME.

2 Q. BUT THAT WAS YOUR UNDERSTANDING?

3 A. I THINK IT IS.

4 Q. NOW, COULD YOU FISH OUT FOR ME TURNER-NEWALL'S
5 EXHIBIT HH?

6 A. YES.

7 Q. COULD YOU TURN TO THE CHART ON THE LAST PAGE OF
8 THAT EXHIBIT, THE ONE THAT'S HEADED "RAW MATERIALS STOCKS
9 AS OF NOVEMBER 31, 1939"?

10 A. WE'RE ON TO THE WRONG DATE HERE. THIS IS HH.

11 THE COURT: HH IS EXHIBIT--HOLD ON.

12 MR. BELERS: I MADE A MISTAKE. IT'S EE. I APOLOGIZE.

13 THE COURT: EE.

14 Q. (BY MR. BELER) EE. SORRY, MR. JONES. IS THAT

15 THE INVENTORY--

16 A. YES, THAT'S RIGHT.

17 Q. AND YOU UNDERSTAND THAT WAS THE INVENTORY OF
18 KEASLEY AND MATTISON STOCKS AS OF NOVEMBER 31, 1939?

19 A. YES.

20 MR. HORGAN: THERE CAN'T BE A NOVEMBER 31ST, YOUR HONOR.

21 Q. (BY MR. BELERS) DOES IT SAY NOVEMBER 31ST?

22 A. THAT'S WHAT IT SAYS.

23 MR. HORGAN: I DON'T REALLY DOUBT IT--I DOUBT IT.

24 Q. (BY MR. BELERS) ALL RIGHT. BUT IT DOES SAY 1939?

25 A. IT DOES SAY 1939.

1 THE COURT THERE WAS A 1939.

2 Q. (BY MR. BEERS) COULD YOU TELL ME WHERE PLANTS
3 ONE AND TWO WERE?

4 A. I'M NOT SURE I CAN. I'M GUESSING. I'M NOT SURE
5 WHICH ONE IT WAS NOW. IT'S BEEN A LONG TIME SINCE I LOOKED
6 AT THEM.

7 Q. DO YOU KNOW WHICH PLANTS ARE REPRESENTED BY--WHICH
8 PLANTS WERE IN SAINT LOUIS?

9 A. YES, I DO. THAT WAS PLANT THREE.

10 Q. AND THAT IS THE SHINGLE PLANT; RIGHT?

11 A. YES, THAT'S RIGHT.

12 Q. ALL RIGHT. NOW, COULD YOU TELL ME--YOU SEE WHICH
13 THE LIST--IT SAYS "FIBER" AND HAS LISTS OF FIBERS WITH NUMBERS
14 AND LETTERS ON IT?

15 A. YES.

16 Q. WHAT'S NUMBER ONE CRUDE?

17 A. WELL, NOW, I'M AFRAID I'M NOT AN EXPERT ON THE
18 VARIOUS GRADES OF ASBESTOS.

19 Q. ALL RIGHT.

20 A. SOME OF THESE I CAN GIVE YOU HELP WITH, BUT SOME
21 OF THEM I CAN'T.

22 Q. I JUST WANT HELP WITH THE ONES YOU CAN BE HELPFUL
23 WITH. NUMBER ONE CRUDE YOU DON'T KNOW?

24 A. NO.

25 Q. HOW ABOUT C AND G-1?

1 A. YES, C. AND G. MARK WERE THE ONES THAT CAME FROM
2 WHAT WAS THEN RHODESIA, FROM SHABANI.

3 Q. AND WHO OWNED THAT MINE?

4 A. THE RHODESIAN MINING COMPANY, AFRICAN ASSOCIATED
5 MINES.

6 Q. DID TURNER-NEWALL HAVE ANY INTEREST IN THAT MINE?

7 A. YES, THEY DID.

8 Q. HOW MUCH?

9 A. WELL, THEY HAD A SHARE--THEY HAD A SHARE INTEREST
10 IN THE COMPANY, AFRICAN ASSOCIATED MINES.

11 Q. NOW, WHEN KEASBEY AND MATTISON BOUGHT THAT C. & G.
12 FIBER, WOULD IT HAVE BOUGHT THAT THROUGH SOME TURNER-NEWALL
13 ENTITY?

14 A. THEY BOUGHT THAT THROUGH WHAT IS NOW T.A.F..

15 Q. WHAT WAS THEN TURNER-NEWALL LIMITED?

16 A. WELL, YES. I SUPPOSE IN 1939 IT PROBABLY WAS.
17 I DON'T KNOW IF THEY MADE THE CHANGEOVER.

18 Q. HOW ABOUT A-3-K?

19 A. NO. I DON'T FIND ANY IDENTIFYING--ANYTHING TO
20 HELP.

21 Q. WHY DON'T YOU GO DOWN THE LIST AND TELL ME WHAT
22 THE NEXT ONE YOU RECOGNIZE?

23 A. WE COME TO A--ANOTHER C & G.

24 Q. THAT'S ANOTHER MINE IN WHICH TURNER-NEWALL
25 HAD AN INTEREST?

1 A. WELL, YES. THEY WERE ALL THAT SAME OLD
2 MINE, I THINK.

3 Q. YES.

4 A. S-4-K, I RATHER THINK WAS A BELL GRADE.
5 JMM WAS A JOHNS-MANVILLE GRADE. CYPRESS SPEAKS FOR ITSELF.

6 Q. IT MAY SPEAK FOR ITSELF FOR YOU, SIR, BUT WHO
7 OWNED THE CYPRESS MINE?

8 A. I DON'T KNOW WHO OWNED THE CYPRESS MINE. IT
9 WASN'T US. I DON'T KNOW WHO OWNED THAT.

10 Q. WOULD KEASBLY AND MATTISON HAVE BOUGHT THAT PAPER
11 THROUGH TURNER-NEWALL?

12 A. WELL, THEY WOULD HAVE BOUGHT IT THROUGH T.A.F.

13 Q. PROBABLY THROUGH TURNER-NEWALL LIMITED, I THINK.
14 YOU SAID, AT THIS TIME?

15 A. AT THIS TIME, YES.

16 Q. OKAY. HOW ABOUT SKIPPING DOWN TO T-4? WHAT'S
17 THAT?

18 A. T-4, I'M AFRAID I CAN'T HELP YOU WITH.

19 Q. JMM, I TAKE IT YOU KNOW WHAT THAT IS?

20 A. THAT'S RIGHT. JME, THAT'S JOHNS-MANVILLE.

21 Q. OKAY. HOW ABOUT SB-7-D?

22 A. NO.

23 Q. WELL, WHAT'S THE NEXT ONE?

24 A. I THINK I COULD BE MORE HELPFUL IF I WERE
25 TO TURN TO A LATER COPY OF THIS WHERE SOME OF THESE FIGURES

1 ACTUALLY HAVE THE NAMES. THESE CURIOUS CAPITALISTIC SING
2 HAVE NAMES ATTACHED.

3 Q. WE'LL DO THAT IN HALF A MINUTE.

4 BUT, ARE THERE ANY OTHERS ON THAT LIST THAT YOU
5 WOULD RECOGNIZE?

6 A. I DON'T KNOW.

7 Q. WOULD YOU TURN TO ONE WHERE YOU DO HAVE--WHERE
8 YOU SAID IT HAD THE NAMES. THAT WOULD BE HELPFUL.

9 A. I HAD THAT IN MY HAND A FEW MINUTES AGO.

10 Q. BEFORE YOU READ FROM IT, YOU'D BETTER TELL ME
11 WHAT IT IS TO MAKE SURE WE ALL HAVE IT, OR WE'RE SUPPOSED TO
12 HAVE IT.

13 THE COURT: MR. BEERS, MR. HULLVERSON?

14 THE WITNESS: IT'S--

15 THE COURT: JUST A MOMENT.

16 (A DISCUSSION WAS HELD OFF THE
17 RECORD AT THE BENCH.)

18 THE COURT: MR. JONES, CAN YOU ADVISE US WHICH
19 DOCUMENT YOU HAVE NOW GONE TO THAT'S MARKED AS AN EXHIBIT?

20 THE WITNESS: YES, YOUR HONOR. THIS IS T & N EXHIBIT

21 THE COURT: LL. ALL RIGHT. WITH THAT--

22 MR. BEERS: JUST MAKE SURE WE GOT THE RIGHT PAGE,

23 JUDGE.

24 (A DISCUSSION WAS HELD OFF THE
25 RECORD AT THE BENCH.)

1 MR. BEERS: OKAY, FINE, THANK YOU.

2 THE WITNESS: IT'S HEADED NOVEMBER 1946.

3 THE COURT: ARE WE ON THE SAME TRAIL?

4 MR. BEERS: YES, SIR.

5 THE COURT: OTHER COUNSEL UNDERSTAND WHERE HE IS
6 THEN? HE'S BEGINNING WITH LL.

7 AT THIS POINT, WE'RE GOING TO RISE FOR THE
8 DAY. COURT WILL ADJOURN AND BEGIN TOMORROW AT 9:00 A.M.

9 (THE COURT ADJOURNED FOR THE DAY.)

10 :: :: :: :: ::

11 MARCH 9, 1982

12 THE COURT: MR. JONES; MR. JONES, WE HAVE A NEW
13 DAY, SO WOULD YOU PLEASE BE SWORN AGAIN?

14 ARTHUR DAVID NICHOLAS JONES (CONTINUED),
15 WITNESS ON BEHALF OF THE DEFENDANTS TURNER AND NEWALL, WAS
16 RESWORN AND TESTIFIED AS FOLLOWS:

17 THE COURT: YOU MAY RESUME INQUIRY, MR. BEERS.

18 MR. BEERS: THANK YOU, YOUR HONOR.

19 CROSS-EXAMINATION

20 BY MR. BEERS:

21 Q. MR. JONES, DO YOU HAVE COPIES BEFORE YOU OF THE
22 EXHIBITS WE WERE TALKING ABOUT LAST NIGHT, EE TO MM?

23 A. I HAVE NO COPIES BEFORE ME AT THE MOMENT.

24 THE COURT: THE CLERK HAS THEM.

25 Q. (BY MR. BEERS) NOW, AS I RECALL, WHEN WE FIRST MET

1 LAST NIGHT, YOU WERE FISHING OUT ONE OF THE LATER STOCK

2 INVENTORY RECORDS THAT YOU SAID WOULD SHOW THE NAMES OF THE

3 COMPANIES SUPPLYING THE FIBER; DO YOU REMEMBER THAT?

4 A. I DO.

5 Q. DO YOU REMEMBER WHICH ONE THAT WAS THAT YOU HAD

6 SELECTED? WAS IT HH?

7 A. I THINK IT WAS KK. THE HH COPY HAS GOT SOME

8 CUT OFF.

9 MR. MORRIS: AS I RECALL, IT WAS LL; WASN'T IT?

10 THE COURT: THE LAST LAUGH OF THE DAY. IT WAS LL.

11 MR. BEERS: THAT WAS BEFORE I MOVED FOR THE MISTRIAL.

12 THE COURT: THAT'S RIGHT, WHICH I HAVE UNDER ADVISEMENT.

13 MR. BEERS: I THOUGHT THAT HE HAD REJECTED THAT

14 SUGGESTION.

15 THE COURT: OH, ALL RIGHT.

16 MR. BEERS: AND IT WAS HH?

17 THE WITNESS: YOUR HONOR, IF I COULD GO BACK, THE K

18 I DID START WITH, BUT THE PHOTOGRAPH THAT HAS BEEN TAKEN, IT

19 CUTS OFF SOME OF THE LETTERS.

20 MR. BEERS: ALL RIGHT.

21 THE WITNESS: AND THE NEXT ONE, LL, IS PERFECTLY CLEAR.

22 THE COURT: MR. BEERS, I'M NOT TRYING TO DIRECT

23 YOU AS TO WHICH ONE TO GO TO.

24 MR. BEERS: GO TO THAT ONE. THAT'S FINE.

25 Q. (BY MR. BEERS) NOW, YOU SEE ON THE LEFT-HAND

1 COLUMN THE LIST OF FIBERS?

2 A. I'M SORRY, I FIND IT A LITTLE DIFFICULT TO FIND
3 THEM IT IS, YES. THANK YOU.

4 THE COURT: NOW, JUST TO CLARIFY FOR THE COURT, WHEN
5 ONE ARE WE NOW STARTING WITH?

6 MR. BEERS: AM I CORRECT THAT WE ARE STARTING WITH LL,
7 AND THE LAST PAGE OF WHICH IS HEADED "RAW MATERIAL STOCKS,
8 NOVEMBER 1944," AND HAS, UP IN THE UPPER TOP RIGHT CORNER,
9 "K & M COMPANY." DO YOU SEE THAT?

10 THE WITNESS: YES, I DO.

11 Q. (BY MR. BEERS) AND THESE--JUST TO MAKE SURE WE'RE
12 ALL TALKING ABOUT THE SAME THING, THESE ARE, AS YOU UNDERSTAND
13 IT, THESE ARE INVENTORY RECORDS OF FIBER STOCKS ON HAND AT THE
14 VARIOUS KEASBEY AND MATTISON PLANTS THROUGHOUT THE UNITED
15 STATES THAT WERE SENT TO TURNER AND NEWALL LIMITED OR TO T.A.I.,
16 ALONG WITH THE REGULAR BOARD MINUTES OF KEASBEY AND MATTISON;
17 IS THAT CORRECT?

18 A. YES, THAT'S CORRECT.

19 Q. ALL RIGHT.

20 Q. THIS IS, IN FACT, NOVEMBER '46.

21 Q. I'M SORRY, YOU'RE ABSOLUTELY RIGHT. I MISREAD IT.
22 NOW, DOWN THE LEFT-HAND COLUMN IS A LIST OF FIBER
23 TYPES; IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. ALL RIGHT. AND WE WON'T READ ALL OF THEM, "

1 LET'S JUST TAKE THE NUMBERS ONE, TWO AND THREE CRUDE.

2 NUMBER ONE AND TWO CRUDE, WHOSE FIBER WAS THAT?

3 A. ONE AND TWO IS BELL'S.

4 Q. AND WHAT'S NUMBER ONE CRUDE-CRL?

5 A. THAT I DON'T RECALL.

6 Q. OKAY. WHY DON'T YOU SKIP DOWN TO S-4-K; WHOSE
7 FIBER IS THAT?

8 A. S-4-K IS BELL'S.

9 Q. IS THERE ANOTHER S-4-K RIGHT ABOVE IT?

10 A. YES, THERE IS.

11 Q. WHOSE IS THAT?

12 A. THAT'S CORPORATION.

13 Q. ASBESTOS CORPORATION?

14 A. ASBESTOS CORPORATION.

15 Q. JMD-4-M?

16 A. JMD-4-M, THAT'S JOHNS-MANVILLE.

17 Q. ALL RIGHT. NOW, WOULD YOU SKIP DOWN TO--WOULD
18 YOU SKIP DOWN TO ANY FIBER TYPE WHICH WAS PURCHASED FOR
19 KEASBEY AND MATTISON AND SUPPLIED TO KEASBEY AND MATTISON
20 BY ARRANGEMENT OF EITHER T & N OR T.A.F.?

21 A. YES. THE FIRST ONES THAT WOULD UNDOUBTEDLY FALL
22 INTO THAT CATEGORY ARE THE C & G GRADES, BECAUSE THOSE YOU
23 WILL RECALL, ARE THE ONES THAT COME FROM THE SHABANI MINE IN
24 AFRICA.

25 Q. AND THAT'S A MINE THAT WAS OWNED OR CONTROLLED

1 BY TURNER AND NEWALL?

2 A. TURNER AND NEWALL HELD STOCK IN THE COMPANY THAT
3 OWNED IT.

4 Q. WAS IT CONTROLLING STOCK?

5 A. IT WAS CONTROLLING STOCK.

6 Q. NOW, BY THE WAY, WHEN KEASBEY AND MATTISON
7 SOME FIBER THAT ORIGINATED FROM, SAY, THE SHABANI MINE, THE
8 C & G FIBER OR ANY OF THE OTHERS THAT WERE SUPPLIED BY A MINE
9 OWNED OR CONTROLLED BY TURNER AND NEWALL, WHO DID KEASBEY
10 AND MATTISON PAY? WHO INVOICED KEASBEY AND MATTISON?

11 A. WELL, I'M NOT SURE I CAN ANSWER THAT OF MY OWN
12 KNOWLEDGE, BUT I WOULD ASSUME THAT IT WENT TO THE MINE, IN THE
13 OF THE BROKERAGE ACTIVITY.

14 Q. BUT YOU DO NOT KNOW?

15 A. I DON'T KNOW THAT, NO.

16 Q. NOW, LET ME ASK YOU THIS QUESTION: IF YOU WERE
17 AN OFFICIAL OF TURNER AND NEWALL WHO RECEIVED THESE MINUTES
18 OR THIS STOCK SHEET, AND YOU LOOKED DOWN THIS LIST, THIS WOULD
19 TELL YOU, WOULD IT NOT, THAT C & G FIBER SUPPLIED BY OR ACQUIRED
20 THROUGH TURNER AND NEWALL, WAS BEING USED AT THE PLANTS LISTED
21 IN THE VARIOUS COLUMNS; WOULDN'T IT?

22 A. YES, IT WOULD.

23 Q. AND ARE THERE OTHER SHEETS IN YOUR--DURING YOUR
24 EMPLOYMENT AT TURNER AND NEWALL?

25 A. YOU MEAN OTHER SHEETS LIKE THIS?

1 Q. YES.

2 A. OH, EVERY MONTH. THIS WAS A REGULAR ATTENDANCE
3 TO THE MONTHLY BOARD MEETINGS.

4 Q. AND THEY WOULD SHOW AT WHICH PLANTS THE
5 FIBER GRADES WERE USED?

6 A. YES, THEY WOULD.

7 Q. SO THAT YOU KNEW FROM LOOKING AT THESE SHEETS
8 THAT C & G FIBER AND OTHER FIBER THAT WAS SUPPLIED BY
9 THROUGH TURNER AND NEWELL WAS BEING USED AT THE CANTON
10 PEASELY AND MATTISON PLANTS IN THE UNITED STATES?

11 A. THAT'S RIGHT.

12 Q. THE AMBLER PLANT?

13 A. YES.

14 Q. THE SAINT LOUIS PLANT?

15 A. YES.

16 Q. THE SANTA CLARA PLANT?

17 A. YES.

18 Q. SANTA CLARA, CALIFORNIA, RIGHT?

19 A. (NO RESPONSE.)

20 Q. LET'S LOOK AT MM. WHAT'S THE LATEST ONE WE HAVE
21 HERE, MR. JONES? WELL, LET ME JUST ASK YOU THIS QUESTION: DO
22 YOU KNOW WHAT PLANT SEVEN WAS?

23 A. I DON'T THINK I DO. I'M SORRY.

24 Q. YOU HAVE NO IDEA WHAT PLANT SEVEN WAS?

25 A. I DON'T REMEMBER THE INDIVIDUAL ONES.

Q. OKAY. BUT YOU DO REMEMBER THAT THERE WERE PLANT
IN AMBLER, HILLSBORO, TEXAS?

1 A. AMBLEM, SAINT LOUIS, SANTA CLARA.
2 Q. RIVERSIDE?
3 A. NOT RIVERSIDE. WELL, RIVERSIDE IS NOT A NAME
4 I'M FAMILIAR WITH.
5 Q. I'M SORRY. YES.
6 A. HILLSBORO, THAT'S RIGHT. ANOTHER ONE IN HI.
7 Q. AND IT'S PERFECTLY OBVIOUS FROM THESE MONTHLY
8 REPORTS THAT FIBER SUPPLIED BY OR ARRANGED BY TURNER AND NEWALL
9 OR T.A.F. WAS BEING USED IN EACH OF THESE VARIOUS PLANTS FROM
10 MONTH TO MONTH?
11 A. WELL, THIS WOULD SHOW WHICH PLANT IT WAS BEING
12 USED IN.
13 Q. RIGHT. AND THERE ARE OTHER RECORDS FOR EVERY
14 MONTH THROUGHOUT YOUR CAREER THAT WOULD SHOW THE SAME?
15 A. THERE WERE.
16 Q. WERE THERE--DID CERTAIN-TEED SEND YOU RECORDS
17 LIKE THIS AFTER 1962?
18 A. NO.
19 MR. BEERS: MAY I HAVE JUST A MOMENT?
20 THE COURT: YES, MR. BEERS.
21 (PAUSE.)
22 MR. BEERS: I BELIEVE THAT'S ALL, YOUR HONOR.
23 THE COURT: THANK YOU. MR. MORRIS?
24 MR. MORRIS: I WANT TO APPROACH THE BENCH JUST A MINUTE.
25 THIS IS NOT ANYTHING TO DO WITH THE CASE.

1 (A DISCUSSION WAS HELD OFF

2 THE RECORD AT THE BENCH.)

3 CROSS-EXAMINATION

4 BY MR. MORRIS:

5 Q. MR. JONES, I'VE GOT A SERIES OF QUESTIONS TO ASK
6 YOU HERE, SIR, AND THE FIRST QUESTIONS, OR THE FIRST BUNCH OF
7 QUESTIONS I WANT TO ASK YOU ARE ABOUT THE FIVE EXHIBITS--AND
8 I THINK THEY'LL BE EE, HH, KK, LL AND MM. CAN YOU PICK THOSE
9 OUT? THOSE ARE THE ONES WITH SHEETS--THE INVENTORY SHEETS
10 ON THE BACK.

11 A. LL, MM, KK. THERE WAS ONE MORE; WASN'T THERE?

12 THE COURT: EE, HH, KK, LL AND MM.

13 THE WITNESS: SORRY ABOUT THIS. I HAD THESE IN SOME
14 OF ORDER LAST NIGHT. I'VE GOT ALL OF THEM EXCEPT HH. WAIT
15 A MINUTE. HH, YES.

16 MR. MORRIS: GOT IT?

17 THE WITNESS: ALL RIGHT. I NOW HAVE HH, KK, LL AND MM.

18 THE COURT: EE.

19 THE WITNESS: AND EE. YES, I HAVE THEM.

20 THE COURT: MR. MORRIS?

21 Q. (BY MR. MORRIS) FIRST OF ALL, TURN TO MM AND
22 SEE WHETHER OR NOT YOUR COPY, OR YOUR SHEET, THE LAST SHEET
23 IS LEGIBLE, MM--ON EXHIBIT MM?

24 A. YES, IT IS.

25 Q. COULD I SEE YOUR COPY OF MM JUST A SECOND, SIR?

1 A. THAT'S MM.

2 Q. NOW, MR. JONES, WITH REGARD TO EACH ONE OF THE
3 FIVE EXHIBITS THAT WE'RE TALKING ABOUT HERE--LE, HH, LL, ...
4 AND MM--WOULD YOU TELL US THE DATE OF EACH INVENTORY SHEET
5 YOU'RE STARTING WITH LE, ARE YOU?

6 A. WELL, I'LL GET THEM IN ORDER SO WE CAN GET THEM
7 IN PROPER ORDER. STARTING WITH LE, THE DATE IS--THIS IS THE
8 FAMOUS NOVEMBER 31ST. IT SAYS NOVEMBER 31, 1939.

9 Q. NOVEMBER 31ST OF '39. NOW, BEFORE YOU GO ON,
10 TELL ME WHETHER OR NOT ON THAT ONE THE WORD "CORP." IS THERE?

11 A. NO, IT'S NOT.

12 Q. SO "CORP." IS NOT ON THE NOVEMBER '39; IS THAT
13 RIGHT?

14 A. YOU UNDERSTAND, DO YOU, THAT WHEN WE WERE TALKING
15 ABOUT THIS YESTERDAY, I ASKED TO GO TO ONE OF THE LATER LISTS
16 BECAUSE THEY HELP BY ADDING NAMES LIKE "CORP." IT DOESN'T
17 FOLLOW THAT THERE IS NO CORPORATION FIBER IN THIS CASE. I
18 DON'T KNOW THAT.

19 Q. I UNDERSTAND. BUT YOU RECOGNIZE CORPORATION
20 FIBER, YOU SAY, BY THE WORD "CORP."?

21 A. YES, I DO.

22 Q. ALL RIGHT. AND WITHOUT THE WORD "CORP.," YOU
23 DON'T KNOW WHERE THE FIBER CAME FROM?

24 A. NO, I DON'T, UNLESS--THERE WERE ONE OR TWO
25 WHERE I DO KNOW, LIKE S-4-K IS BELL'S. BUT THAT'S FORTUITOUS.

1 THAT I HAPPEN TO KNOW THAT. OTHERWISE, I RELY ON THE
2 THE COURT: IF YOU WOULD MOVE THE MICROPHONE OVER
3 LITTLE BIT. I THINK SOME OF THEM ARE HAVING A LITTLE TROUBLE
4 HEARING YOU, MR. JONES.
5 Q. (BY MR. MORRIS) BUT TO BE CLEAR, THE WORD "CORP."
6 DOES NOT APPEAR ON THERE?
7 A. NO, IT DOESN'T.
8 Q. AND WITHOUT THAT WORD, YOU CANNOT STATE THAT
9 ANY ON-HAND AT THAT TIME, AS YOU INTERPRET THOSE RECORDS, WAS
10 FROM A.C.L.; IS THAT RIGHT?
11 A. THAT'S RIGHT.
12 Q. ALL RIGHT. NOW, LET'S GO TO THE NEXT ONE.
13 A. THIS IS HH, AND THE DATE IS--STOCKS AS OF
14 MAY 31, 1941.
15 Q. I GUESS MAY DOES HAVE 31 DAYS; DOESN'T IT?
16 I THINK IT DOES; I'M NOT SURE. AND DOES THE WORD "CORP."
17 APPEAR THERE?
18 A. NO, IT DOESN'T.
19 Q. OKAY. AND I PRESUME THE SAME IS TRUE, WITHOUT
20 THE WORD "CORP.," YOU CANNOT DEFINITELY SAY THAT A.C.L. FIBER
21 IS REPORTED TO HAVE BEEN ON HAND?
22 A. NO, I CAN'T SAY THAT.
23 Q. ALL RIGHT. NOW, GO TO THE NEXT ONE, IF YOU WOULD
24 AND I BELIEVE THAT WOULD BE PROBABLY KK.
25 A. YES, THE NEXT ONE IS KK AND THE DATE IS OCTOBER
1941.

1 Q. IS THERE ANY OTHER THING BESIDES JUST THE

2 STOCK? IS THERE --

3 A. THAT'S ALL. I'M SORRY, YOU MEAN PAW PAW
4 STOCK?

5 Q. NO. I MEANT, IS THERE A DATE LIKE--WOULD THAT
6 BE THE END OF THE MONTH. IS THAT WHAT THAT WOULD BE? DO
7 YOU KNOW?

8 A. I SHOULD THINK IT PROBABLE, BUT I DON'T KNOW FOR
9 CERTAIN.

10 Q. NOW, ON THAT--

11 A. NO, ORDINARILY THERE WOULD BE A DATE ON WHICH
12 THESE THINGS ARE COUNTED AND IT WOULD PROBABLY BE THE END OF
13 THE MONTH.

14 Q. ON THAT ONE, I THINK THE WORD "CORP." DOES APPEAR

15 A. YES, IT DOES.

16 Q. OKAY. LET'S GO TO THE NEXT ONE.

17 A. THE NEXT ONE IS LL, AND THE DATE OF THAT IS
18 NOVEMBER 1946.

19 Q. AND DOES THE WORD "CORP." APPEAR THERE?

20 A. THE WORD "CORP." DOES APPEAR THERE, YES.

21 Q. AND I THINK THE LAST ONE IS MM; IS THAT RIGHT?

22 A. HUM?

23 Q. THE LAST ONE IS MM, THE LAST OF THESE FIVE?

24 A. THE LAST ONE IS MM; THAT'S THE LAST. AND THAT
25 DATE IS APRIL 1947.

Q. AND DOES THE WORD "CORP." APPEAR THERE?

1 A. AND THE WORD "CORP." APPEARS THERE.

2 Q. OKAY. NOW, IN RELATION TO THOSE FIVE EXHIBITS
3 THAT WE'RE TALKING ABOUT--FIVE AND THE OTHER FOUR THAT
4 WE'RE TALKING ABOUT--THE RAW MATERIAL REPORT ON THE BACK OF
5 EACH ONE OF THOSE, I WANT TO FIND OUT, MR. JONES, WHAT IT
6 ABOUT THAT AND HOW THAT REPORT CAME TO YOUR HANDS. IT'S MY
7 UNDERSTANDING THAT YOU ARE WHAT? AN OFFICER OF TURNER AND
8 NEWELL, ISN'T THAT RIGHT--OR WERE?

9 A. YES. I WAS THE SECRETARY; THE TERM "OFFICER"
10 WAS A TERM OF ART WITH US.

11 Q. ALL RIGHT. AND YOU WERE THE SECRETARY. WERE
12 THESE PAPERS MAILED TO YOU?

13 A. YES, THEY WERE MAILED TO ME.

14 Q. AND DID THEY COME FROM KEASBEY AND MATTISON?

15 A. YES, THEY DID.

16 Q. AND WE'RE TALKING ABOUT, AGAIN, ALL FIVE OF
17 THESE EXHIBITS, THE FIRST ONE BEING IN '39 AND THE LAST ONE
18 BEING IN '47, I BELIEVE IT WAS. DO YOU KNOW THE NAME OF THE
19 PERSON AT KEASBLY AND MATTISON WHO GATHERED THIS MATERIAL THAT IS
20 IN THE REPORT?

21 A. WELL, CAN I JUST PUT WHAT I SAID, LAST QUESTION,
22 RIGHT? OF COURSE, ALL THESE ARE BEFORE THE TIME THAT I WAS
23 SECRETARY. WHEN YOU WERE ASKING ME ABOUT THE PROCEDURE IN
24 GENERAL TERMS, THAT'S WHAT I WAS SPEAKING OF. NOW, I DON'T KNOW
25 WHO COMPILED THESE PARTICULAR RETURNS, UP TO 1947.

1 Q. YOU DO NOT KNOW WHO THAT WAS?
2 A. NO.
3 Q. WELL, DO YOU KNOW, IN THE ORDINARY COURSE OF YOUR
4 BUSINESS, THE NAME OF THE PERSON THAT COMPILES THESE REPORTS
5 AT K.M. EVEN AFTER YOU CAME TO TURNER AND NEWALL?
6 A. WELL, THERE WAS A PERIOD IN WHICH I KNEW THE
7 PERSON WHO DID COMPILE THEM.
8 Q. AND WHAT PERIOD WAS THAT?
9 A. I SUPPOSE IT WOULD PROBABLY BE THE LATE '50'S,
10 AND THROUGH THE '60'S, WHERE NO DOUBT THIS PARTICULAR PERSON
11 TOOK ON THAT JOB.
12 Q. OKAY; THROUGH THE LATE '50'S--THE LATE '50'S AND
13 THROUGH THE '60'S; CORRECT?
14 A. YES.
15 Q. UP UNTIL THE LATE '50'S AND THROUGH THE '60'S,
16 DID YOU KNOW THE PERSON THAT GATHERED THAT MATERIAL?
17 A. NO, I DIDN'T.
18 Q. ALL RIGHT. DID YOU KNOW THE WAY IN WHICH THE
19 REPORT WAS PUT TOGETHER AT K.M.?
20 A. NO, THAT WAS OUTSIDE MY KNOWLEDGE.
21 Q. THAT WAS OUTSIDE YOUR KNOWLEDGE?
22 A. YES.
23 Q. ALL YOU REALLY KNOW, THEN, I TAKE IT, MR. TURNER,
24 IS THAT BEFORE YOU STARTED, IN YOUR FILES RESIDED SEVERAL
25 THESE REPORTS, THE MINUTES WITH THESE REPORTS, THE CORPORATE

1 MINUTES, WITH THESE REPORTS ATTACHED TO THEM; IS THAT RIGHT?

2 A. THAT'S RIGHT.

3 Q. YOU HAVE NO KNOWLEDGE OF WHAT WAS GOING ON -- HOW
4 THOSE SHEETS WERE MADE UP, OR ANYTHING AS TO THEIR EXISTENCE
5 EXCEPT THEY DID EXIST IN YOUR FILES; IS THAT CORRECT?

6 A. THAT'S RIGHT.

7 Q. OKAY. NOT, BUT--

8 A. BUT YOU UNDERSTAND, THEY WERE COLLECTED FOR A
9 PURPOSE, AND THAT PURPOSE WAS WELL KNOWN TO ME.

10 Q. ALL RIGHT. NOW, I WANTED TO ASK YOU, THOUGH --
11 I'M SPEAKING ONLY OF THE SHEETS ON THE BACK, NOT THE CORPORATE
12 MINUTES, YOU SEE. ALL RIGHT? NOW, WHAT USE DID
13 T & N MAKE WITH THE INVENTORY SHEETS?

14 A. T & N ITSELF MADE PRACTICALLY NO USE OF THE SHEET
15 THAT I KNOW OF.

16 Q. ALL RIGHT. SO, IN FACT, FROM T & N'S POINT
17 VIEW, OR FROM TURNER AND NEWALL'S POINT OF VIEW, THOSE SHEETS
18 CAME TO YOU OR YOUR PREDECESSOR AND RESIDED IN A FILE AND
19 SERVED NO REALLY ACTIVE PURPOSE; ISN'T THAT CORRECT?

20 A. THIS PARTICULAR SHEET. YOU HAVE TO UNDERSTAND
21 THAT THE MINUTES OF THE BOARD MEETING WERE ONE OF OUR PREVIOUS
22 WAYS OF DISCOVERING WHAT WAS GOING ON IN A COMPANY IN WHICH WE
23 HAD A FINANCIAL INTEREST.

24 Q. I UNDERSTAND THAT. I UNDERSTAND. BUT I'M
25 TALKING ABOUT--

1 A. AND I USED THEM EVERY MONTH. I HAD TO PREPARE THEM.
2 IT WAS ONE OF MY JOBS.

3 Q. YES, SIR. YOU'RE TALKING ABOUT THE BOARD
4 MINUTES, THE REPORTS, NOT THE INVENTORY SHEETS?

5 A. WELL, THE INVENTORY SHEET WAS ATTACHED TO
6 MINUTES BECAUSE IT WAS ONE OF THE DOCUMENTS BEFORE THE BOARD
7 EACH MONTH; THE BOARD HAD TO LOOK AT IT. IT'S NOT
8 DISASSOCIATED IN ANY WAY FROM THE MINUTES.

9 Q. ALL RIGHT. BUT THEY DIDN'T USE IT, DID THEY?

10 A. I'M SURE KEASBEY AND MATTISON USED IT.

11 Q. I'M NOT TALKING ABOUT KEASBEY AND MATTISON.
12 I'M TALKING ABOUT T & N, WHERE YOU WERE. DID THEY USE IT?
13 DIDN'T YOU TESTIFY, SIR, YESTERDAY AND JUST NOW THAT THE
14 INVENTORY SHEET WAS PUT IN A FILE AND NOT USED?

15 A. WELL, I PUT MY COPY IN THE FILE AND DIDN'T USE
16 IT. BUT WITHIN THE OFFICE, OF COURSE, IT WAS A VERY CLEAR
17 INDICATION OF KEASBEY AND MATTISON'S NEEDS. IT WAS OF
18 GREAT INTEREST TO T.A.F., WHO WERE RESPONSIBLE FOR MEETING THOSE
19 NEEDS.

20 Q. I THOUGHT THAT T & N REALLY DIDN'T HAVE THAT
21 MUCH TO DO WITH MEETING THE NEEDS. I THOUGHT THAT WAS WITH
22 ANOTHER ORGANIZATION?

23 A. T.A.F.

24 Q. YES.

25 A. YES, THIS IS WHAT I WAS SAYING. IT WAS T.A.F.'S
PURPOSE.

1 Q. I'M NOT TALKING ABOUT T.A.F. WE'RE GOING
2 TALK ABOUT T.A.F. IN JUST A MINUTE. I'M TALKING ABOUT, IN
3 TURNER AND NEWALL.
4 A. YES.
5 Q. TURNER AND NEWALL MADE NO USE OF THOSE SHEETS;
6 ISN'T THAT RIGHT?
7 A. THAT'S RIGHT.
8 Q. AND YOU WANT TO TALK ABOUT AN ORGANIZATION
9 CALLED T.A.F., OR TURNER ASBESTOS FIBERS; IS THAT RIGHT?
10 A. THAT'S RIGHT.
11 Q. NOW, THE QUESTION I HAVE FOR YOU, MR. JOHNS, IS,
12 THE RECORDS THAT WE'RE SEEING, OR THE COPIES THAT WE'RE SEEING
13 HERE IN COURT TODAY, ARE THOSE T.A.F. RECORDS OR ARE THEY
14 T & N RECORDS?
15 A. THEY ARE T & N RECORDS.
16 Q. SO WE HAVE NOT SEEN THE T.A.F. RECORDS; HAVE WE?
17 WHATEVER T.A.F. GOT, WE HAVE NOT SEEN HERE; HAVE WE?
18 A. NO, YOU HAVEN'T.
19 Q. ALL RIGHT. SO, WHAT WE HAVE SEEN ARE THE T & N
20 RECORDS AND THE T & N RECORDS ARE WHAT RESIDES IN THE FILES AND
21 ARE NOT USED; ISN'T THAT CORRECT?
22 A. YOU ASKED ME THIS PARTICULAR RECORD.
23 Q. YES, INVENTORY RECORDS.
24 A. THE OTHER ONES, OF COURSE, WERE OF INTEREST TO ME
25 BUT I DIDN'T MAKE ANY USE OF THIS PARTICULAR ONE.

1 Q. ALL RIGHT. THAT'S EXACTLY WHAT I'M TRYING TO
2 MAKE OUT, IS WHETHER OR NOT T & N AND YOU MADE ANY USE
3 INVENTORY SHEET?
4 A. THE ANSWER IS NO, WE DIDN'T.
5 Q. ALL RIGHT. NOW, YOU WERE, AT THE SAME TIME--AND
6 TO GET ON TO THIS OTHER SUBJECT--YOU, AT THE SAME TIME, WERE
7 AN OFFICER--IF SECRETARY, I GUESS, IS THE RIGHT WORD--FOR
8 ANOTHER ORGANIZATION CALLED T.A.F.; IS THAT RIGHT?
9 A. THAT IS RIGHT.
10 Q. ALL RIGHT. NOW, T.A.F., AS I UNDERSTOOD FROM YOU
11 SAID YESTERDAY, WAS INTERESTED IN THAT INVENTORY SHEET, A COPY
12 OF IT, A SEPARATE COPY FROM WHAT T & N HAD; ISN'T THAT CORRECT?
13 A. THAT IS CORRECT.
14 Q. AND BECAUSE THEY WERE INTERESTED IN SUPPLYING
15 FIBER; ISN'T THAT CORRECT?
16 A. THAT'S CORRECT.
17 Q. ALL RIGHT. BUT I WANT TO JUST ASK YOU ABOUT
18 T & N RECORDS NOW, BECAUSE THAT'S WHAT WE'VE GOT HERE. IS
19 THAT CORRECT, MR. JONES?
20 A. THAT'S CORRECT.
21 Q. ALL RIGHT. HAVE YOU PROVIDED ANYBODY WITH
22 COPIES OF T.A.F. RECORDS, BY THE WAY, THAT YOU KNOW ABOUT
23 THIS LAWSUIT?
24 A. NO. I DON'T KNOW THAT--I AM NOT AWARE OF THAT.
25 Q. OKAY. SO FAR AS YOU'RE ALL CONCERNED, IS THAT

1 STILL IN ENGLAND SOMEWHERE; IS THAT RIGHT? IF THERE ARE ANY
2 RECORDS?

3 A. THAT'S RIGHT.

4 Q. NOW, MR. JONES, LET ME ASK YOU A QUESTION: YOU
5 SAID THAT YOU RECOGNIZED MY CLIENT BY VIRTUE OF THE WORD
6 "CORP.," C-O-R-P?

7 A. YES.

8 Q. IS THIS JUST SOMETHING YOU PICKED UP IN THE COURSE
9 OF YOUR BUSINESS AS SECRETARY OF THE TURNER AND NEWALL, OR IS
10 IT SOMETHING THAT YOU'VE COME TO KNOW IN A SPECIAL WAY SOMEHOW?

11 A. NO, THIS IS SOMETHING THAT ONE COMES TO LEARN
12 IN THE ORDINARY COURSE OF EVENTS. YOU SEE THE WORD "CORPORATION"
13 ON THE LIST AT REGULAR TIMES AND I SUPPOSE AT SOME TIME, SOMEONE
14 HAVE ASKED WHO THEY WERE AND FOUND OUT. BUT ALL THESE NAMES
15 ARE FAMILIAR TO ME THAT WE JUST LOOKED AT.

16 Q. WELL, YOU'RE IN THE ASBESTOS BUSINESS, SO I
17 SPEAK, AND I GUESS THAT IS THE BUSINESS OF TURNER AND NEWALL,
18 IS THE ASBESTOS BUSINESS; CAN WE SAY THAT?

19 A. AMONG OTHER THINGS, YES.

20 Q. SO, YOU'RE IN THE ASBESTOS BUSINESS. SO I
21 PRESUME THAT YOU BECAME FAMILIAR WITH THE NAMES OF DIFFERENT
22 COMPANIES THAT WORK IN ASBESTOS; IS THAT RIGHT?

23 A. YES, THAT'S RIGHT.

24 Q. I PRESUME--WELL, LET ME ASK YOU: DID YOU EVER
25 HEAR OF THE ASBESTOS CORPORATION OF AMERICA; IS THAT ONE THAT

1 IS FAMILIAR TO YOU?

2 A. WELL, THE ASBESTOS CORPORATION, AS I REMEMBER IT,
3 WAS A CANADIAN COMPANY. AM I WRONG ABOUT THAT?

4 Q. I'M JUST ASKING YOU IF YOU REMEMBER THAT NAME.
5 DO YOU HAVE ANY RECOLLECTION OF THE NAME ASBESTOS CORPORATION
6 OF AMERICA?

7 A. NO, I DON'T.

8 Q. DO YOU HAVE A RECOLLECTION OF THE NAME ASBESTOS
9 LIMITED?

10 A. NO, I DON'T THINK I EVER CAME ACROSS THAT NAME
11 EITHER.

12 Q. ISN'T IT A FACT, MR. JONES, THAT IN REVIEWING
13 THESE RECORDS, ISN'T IT A FACT THAT YOU WERE TOLD THAT
14 MEANT ASBESTOS CORPORATION LIMITED, IN GETTING READY FOR
15 THIS LAWSUIT?

16 A. NO, THAT'S NOT TRUE. I'VE KNOWN THAT FOR YEARS.

17 Q. DO YOU HAVE A RECOLLECTION ALL THE WAY BACK TO
18 1939, OR TO 1947, AS TO WHAT THE WORD "CORP." STOOD FOR IN
19 THOSE RECORDS?

20 A. WELL, I KNEW WHAT IT STOOD FOR AT THE TIME THAT I
21 WAS THERE, AND I MAKE THE ASSUMPTION THAT THAT'S WHAT IT STOOD
22 FOR BEFORE THE TIME THAT I WAS THERE.

23 Q. AND YOU'VE HAD NOBODY TELL YOU THAT OR REFRRESH
24 YOUR RECOLLECTION. THIS IS ALL FRESH IN YOUR MEMORY; IS THAT
25 RIGHT?

1 A. NO. THE ASBESTOS CORPORATION, IF I'VE GOT IT
2 RIGHT, WAS A NEIGHBOR OF BELL'S, AND HAS BEEN WELL KNOWN TO ME
3 FOR YEARS.

4 Q. IT'S MY UNDERSTANDING THAT ASBESTOS CORPORATION
5 LIMITED IS A NEIGHBOR OF BELLS?

6 A. YES. WELL, I DIDN'T REALIZE THAT IT PROBABLY
7 WAS AN AMERICAN COMPANY AND NOT A CANADIAN ONE.

8 Q. DID THLSE INVENTORY SHEETS, THE RAW MATERIAL
9 INVENTORY SHEETS, SEPVE ANY PURPOSE TO T & N, NOT T.A.F.,
10 BUT T & N?

11 A. NO, TO THE BEST OF MY KNOWLEDGE, THEY DIDN'T.

12 Q. ALL RIGHT.

13 A. COULD I ADD THAT A COPY OF THESE MINUTES WAS
14 ALSO SENT, NOT ONLY TO ME, BUT TO THE DIRECTOR WHO WAS IN THE
15 BOARD FROM TIME TO TIME OF KEASBEY AND MATTISON. AND I'M NOT
16 ABLE TO SAY WHAT USE HE MADE OF THEM.

17 Q. BUT YOU ARE ABLE TO SAY WHAT USE YOU AND
18 AROUND YOU MADE OF THEM?

19 A. THAT'S RIGHT, I AM.

20 Q. ALL RIGHT. NOW--

21 THE COURT: JUST A MOMENT. SEE IF YOU CAN ADJUST THIS,
22 PLEASE, BAILIFF.

23 (THE MICROPHONE WAS ADJUSTED.)

24 Q. (BY MR. MORRIS) DO YOU KNOW, OF YOUR OWN
25 KNOWLEDGE AS AN EMPLOYEE OF T & N, WHY THE RAW MATERIALS REPORT

1 WERE ATTACHED TO THE T & N RECORDS THAT WERE SENT BY YEASREY
2 AND MATTISON. DO YOU KNOW OF YOUR OWN KNOWLEDGE WHY THEY WERE
3 ATTACHED?

4 A. YES. THEY WERE ATTACHED BECAUSE THEY WERE PART
5 OF THE RECORDS OF THE MEETING.

6 Q. AND HOW DO YOU KNOW THAT, SIR?

7 A. WELL, IF I HAD A COPY, WHICH I'M SURE WE HAVE
8 PRESENT, OF A SET OF MINUTES, YOU WOULD SEE THAT NOT ONLY DID
9 EACH MINUTE HAVE A SERIAL NUMBER, BUT IT ALSO HAD AN AGENDA
10 NUMBER ATTACHED TO IT. AND IF YOU'LL LOOK AT THESE DOCUMENTS
11 THAT WE'VE BEEN LOOKING AT, YOU'LL SEE THAT THEY ALL BEAR AN
12 AGENDA NUMBER "2(D2)," SO YOU CAN LINK THEM UP.

13 Q. OKAY.

14 A. AND IT WAS, OF COURSE, VITAL THAT ANY MINUTE
15 THAT AM CROSS SHOULD BE ACCOMPANIED BY THE DOCUMENT IT
16 REFERS. OTHERWISE, IT MIGHT WELL BE MEANINGLESS.

17 Q. ALL RIGHT. NOW, I WANT TO THEN GO TO THOSE
18 EXHIBITS WHICH, ACCORDING TO MY NOTES, WERE LISTED AS
19 "2" THROUGH TRIPLE-A, WHICH I THINK, AGAIN, ARE ALL MINUTES.
20 ARE THEY NOT, OF YEASREY AND MATTISON. ACCORDING TO THE LIST OF
21 EXHIBITS FILED BY TURNER AND NEWALL, I BELIEVE THESE ARE ALL

22 A. I SEEM TO RUN OUT AT "Q."

23 Q. 'Q'?

24 A. YES. MAYBE--IF YOU'LL FORGIVE ME FOR A MOMENT,
25 I'LL JUST HURRY THROUGH THEM.

1 THE COURT: I'M ADVISED THAT NOT ALL OF THE EXHIBITS
2 WERE DELIVERED TO THE CLERK, SO WE MAY NOT HAVE THEM
3 THAT CORRECT? IF THEY'VE BEEN RECEIVED IN EVIDENCE, COUNSEL
4 THEN HAVE THE RESPONSIBILITY TO SEE THE CLERK HAS THEM. THEY
5 ARE HER RESPONSIBILITY AFTER THAT.

6 MR. SHOEMAKE: ARE WE TALKING ABOUT--

7 THE COURT: ARE WE TALKING ABOUT DOUBLE-Q? OR WHAT ARE
8 WE TALKING ABOUT?

9 MR. MORRIS: WE'RE TALKING ABOUT, YOUR HONOR,
10 YESTERDAY A WHOLE HANDFUL OF EXHIBITS WERE DELIVERED TO THIS
11 WITNESS AND I HAVE THEM DOWN AS BEGINNING WITH "Z" AND GOING
12 ALL THE WAY THROUGH TRIPLE-A. AND ON THE--

13 THE COURT: THROUGH THE DOUBLE LETTERS AND THEN ON TO
14 TRIPLE-A?

15 MR. MORRIS: AND THEY ARE LISTED ON THE PRETRIAL--

16 THE COURT: THE CLERK IS IN AGREEMENT WITH YOU,
17 BUT SHE HAS NOT RECEIVED THEM ALL.

18 MR. SHOEMAKE: YOU DON'T HAVE THEM? THEY WERE RECEIVED
19 INTO EVIDENCE.

20 THE WITNESS: I HAVE THE DOUBLE-A ONES HERE AND I
21 REMEMBER THOSE. I HAD THEM YESTERDAY. MAYBE IT'S IN THIS BOX
22 SOMEWHERE.

23 MR. MORRIS: MAYBE WE CAN GET BY WITHOUT THEM. LET'S
24 SEE IF WE CAN.

25 THE COURT: BUT THE COURT TAKES AN INTEREST WITH THE

1 THE COURT: HE HASN'T RECEIVED THEM. THE COURT: HE
2 HAD TO BE RECEIVED IF EXHIBIT, BUT THE CLERK
3 RECEIVED THEM.

4 THROUGH WHAT LETTER HAVE WE RECEIVED THEM?

5 "I" THROUGH "U" WERE RECEIVED INCLUSIVE; TRIPLE-
6 AND TRIPLE-L WERE RECEIVED; DOUBLE-E-"Z" THROUGH TRIPLE-A, THE
7 WERE ADMITTED, BUT NOT RECEIVED.

8 MR. SHOENAKEL: WE DIDN'T TAKE THEM BACK FROM THE
9 WITNESS YESTERDAY, SO I DON'T KNOW WHERE THEY ARE.

10 THE COURT: WELL, SHE HAS ALL THAT WE RECEIVED, BUT
11 SHE DOES NOT BELIEVE THAT SHE RECEIVED THEM ALL.

12 THE WITNESS: I'VE GOT "Z" SINGLE-Z NOW.

13 MR. MORRIS: LET'S DO THE BEST WE CAN WITH WHAT WE'VE
14 GOT.

15 MR. SHOENAKEL: EXCUSE ME, YOUR HONOR. WE HAVE AN EXTRA
16 COPY OF THOSE EXHIBITS IF COUNSEL WOULD LIKE THEM.

17 THE COURT: THEY SHOULD BE DELIVERED TO THE CLERK AT
18 ONCE, PLEASE.

19 YOU GO AHEAD, MR. MORRIS, IF WE DON'T DISRUPT.

20 MR. MORRIS: OKAY.

21 Q. (BY MR. MORRIS) MR. JONES, IF I'M RIGHT IN
22 LOOKING AT THE PRETRIAL COMPLIANCE HERE, DO YOU HAVE "Z" IN YOUR
23 HAND THERE?

24 A. I HAVE.

25 Q. IS THAT--WHAT IS THAT, SIP, MINUTE NUMBER 30
SAYS HERE?

1 A. YES.

2 Q. WHAT IS THAT?

3 A. DO YOU MEAN THE SUBSTANCE OF THE MINUTE?

4 Q. NO, WHAT IS IT?

5 A. IT'S A COPY OF THE MINUTES. IT'S A COPY OF A

6 PAGE OF THE MINUTES OF A MEETING OF KEASBEY AND MATTISON.

7 THE COURT: PARDON ME, NOW. THERE WE ARE. "Z" IS IN THE

8 FILE, BUT IT'S NEVER BEEN DELIVERED FORMALLY TO THE CLERK.

9 GO AHEAD, BUT I JUST--COUNSEL, WHEN WE COMPLETE THIS WITNESS.

10 I WANT YOU TO PLEASE CHECK AND BE SURE THAT ALL THOSE THAT

11 HAVE BEEN RECEIVED HAVE BEEN DELIVERED TO THE CLERK. AND THAT

12 WILL APPLY THROUGHOUT THE TRIAL.

13 MR. MORRIS: OKAY.

14 THE COURT: SORRY, MR. MORRIS.

15 MR. MORRIS: THAT'S ALL RIGHT.

16 Q. (BY MR. MORRIS) AND THEN, CAN YOU LOOK AT THE

17 EXHIBITS THAT YOU DO HAVE THERE, BEGINNING WITH "Z," AND THEN

18 STARTING WITH DOUBLE-A AND GOING ALL THE WAY THROUGH TO

19 DOUBLE-Z. AND IF YOU DON'T HAVE THEM ALL, LOOK AT WHAT YOU

20 DO HAVE AND TELL US WHETHER OR NOT, EXCEPT FOR THOSE FIVE

21 THAT WE'VE ALREADY TALKED ABOUT, THERE ARE INVENTORY SHEETS

22 ATTACHED TO THE REST OF THEM, THE REST OF THE MINUTES?

23 A. THERE AREN'T.

24 Q. THERE ARE NOT?

25 A. NO, THERE ARE NOT. I KNOW THAT THERE ARE NOT.

1 SOME OF THEM. DO YOU WISH ME TO GO THROUGH AND TELL YOU WHICH
2 ONES? FOR EXAMPLE, I HAVE AA IN FRONT OF ME, AND THERE IS NO
3 INVENTORY SHEET ON THE BACK OF THAT.

4 Q. HAVE YOU HAD A CHANCE TO LOOK AT THOSE TO SEE
5 WHETHER OR NOT ON ANY OF THEM, EXCEPT THE FIVE THAT WE HAVE
6 TALKED ABOUT--THAT WOULD BE EC AND HH AND KK AND LL AND MM--
7 WHETHER ANY OF THEM HAVE INVENTORY SHEETS ATTACHED BESIDES
8 THOSE FIVE?

9 A. WELL, I HAVE HAD AN OPPORTUNITY OF LOOKING AT
10 THESE TO REALLY COMPARE THEM WITH THE ORIGINALS, BUT I CAN'T
11 REMEMBER THAT THOSE ARE THE ONLY ONES. WOULD YOU LIKE ME TO
12 SLIP THROUGH AND BE SURE?

13 Q. IF YOU WOULD LIKE TO AND IF WE COULD TAKE THE
14 TIME.

15 THE COURT: SURE.

16 THE WITNESS: THERE'S NONE ON "A," NONE ON "B," NONE ON
17 "C"--DOUBLE-C, THAT IS--OR "D." THERE WAS ONE ON "E," NOT ON "F."

18 Q. (BY MR. MORRIS) HOW ABOUT "F"? WAS THERE ONE?

19 A. I DON'T THINK I HAVE AN "F."

20 THE COURT: WE'RE MISSING "F."

21 THE WITNESS: MY PAPERS GO STRAIGHT FROM DOUBLE-E TO
22 DOUBLE-A TO DOUBLE-G. I HAVE NO "F." THERE IS AN INVENTORY
23 ON "G"; THERE IS AN INVENTORY ON "K"--WE'VE JUST BEEN LOOKING AT
24 IT--AND "L"--WE'VE JUST BEEN LOOKING AT IT--AND "M." NOT ON "N."
25 NOT ON "O," NOT ON DOUBLE-N, NOT ON DOUBLE-O, NOT ON DOUBLE-P, E.

1 DOUBLE-P, NOT ON DOUBLE-P, NOT ON DOUBLE-S, NOT ON DOUBLE-T,
2 NOT ON DOUBLE-U, NOT ON DOUBLE-V, NOT ON DOUBLE-W, NOT ON
3 DOUBLE-X, NOT ON DOUBLE-Y. AND THE LAST ONE IS TRIPLE-A, A.
4 THERE IS NOT ONE ON THAT.

5 Q. (BY MR. MORRIS) I HAD A "Z," DOUBLE-Z. THERE IS
6 ONE LISTED ON HERE. DO YOU HAVE A DOUBLE-Z?

7 A. NO.

8 MR. MORRIS: IS THERE A DOUBLE-Z?

9 MR. SHOEMAKE: (SHOOK HIS HEAD IN THE NEGATIVE.)

10 THE COURT: THERE IS NO DOUBLE-Z. ALL RIGHT.

11 I TAKE IT--JUST FOR THE RECORD CLARIFICATION, WE HAVE DEALT WITH
12 "Z" THEN THE DOUBLE LETTER ALPHABET, EXCEPT TWO LETTERS
13 WERE REMOVED FROM IT--"Z" AND I DON'T RECALL THE OTHER--AND
14 TRIPLE-A. AM I WITH TRIPLE-A?

15 MR. MORRIS: THAT'S RIGHT.

16 THE COURT: IN SOME CASES, WE SIMPLY SAID "B" OR "E,"
17 WE DIDN'T SAY ALL LETTERS. THANK YOU.

18 Q. (BY MR. MORRIS) ISN'T THAT CORRECT, MR. JONES,
19 THAT IN EACH CASE, YOU WERE LOOKING AT A DOUBLE LETTER EXCEPT
20 THE FIRST "Z" AND THE LAST TRIPLE-A?

21 A. THAT IS CORRECT.

22 Q. NOW, I BELIEVE YOU TESTIFIED, MR. JONES, THAT
23 INVENTORY SHEETS WERE ATTACHED EACH MONTH WHEN THOSE THINGS
24 CAME TO YOU; IS THAT RIGHT?

25 A. YES, THAT'S RIGHT.

1 Q. DO YOU KNOW WHY THESE WERE PRODUCED IN COURT
2 WITH THE INVENTORY SHEETS ATTACHED?

3 A. NO, I DON'T.

4 Q. ISN'T IT TRUE THAT THESE EXHIBITS--I HAVE THAT
5 THERE WERE TWENTY-SEVEN, BUT THERE IS LESS THAN THAT; MAYBE
6 TWENTY-FIVE OR SOMETHING LIKE THAT--ISN'T IT TRUE THAT EACH
7 ONE OF THESE EXHIBITS ARE A REPORT OF THE BOARD MEETING OF
8 K.M.C.; ISN'T THAT CORRECT?

9 A. SOME OF THEM ARE MINUTES. FOR EXAMPLE, THE FIRST
10 ONE IS A MINUTE, BUT THEY ARE ALL EITHER MINUTES OR ANNEXED--
11 COPIES OF ANNEXED REPORTS.

12 Q. ALL RIGHT. AND IF YOUR COPIES ARE LIKE THE COPIES
13 THAT I HAVE HERE, EVEN ALL OF THE REPORTS--EVEN ALL OF THE
14 MINUTES ARE NOT THERE; ARE THEY? LIKE WE BEGIN ON PAGE FIVE
15 IN SOME INSTANCES, PAGE NINE IN OTHERS; ISN'T THAT CORRECT?

16 A. OH, YES, THAT'S CORRECT. THEY'RE ALL EXTRACTS.

17 Q. SO WHAT HAS COME INTO COURT HERE IS ONLY A PARTIAL
18 REPRODUCTION OF THE MINUTES, AS WELL AS THE INVENTORY SHEETS,
19 ISN'T THAT CORRECT?

20 A. WELL, THAT'S RIGHT, AS FAR AS THESE DOCUMENTS ARE
21 CONCERNED.

22 Q. NOW, DID YOU HELP PREPARE THESE MATERIALS FOR
23 THIS CASE? DID YOU HELP PUT THOSE EXHIBITS TOGETHER?

24 A. WELL, TO THE EXTENT THAT I HAVE LOOKED AT THE
25 ORIGINAL MINUTES IN ORDER TO SEE THAT THESE ARE, IN FACT,

1 WERE THEY ARE, WHAT THEY PURPORT TO BE, YES.

2 Q. ALL RIGHT. AND WHEN YOU LOOKED AT WHATEVER
3 LOOKED AT, WAS THERE MORE THERE THAN WHAT HAS BEEN INTRODUCED
4 AS EXHIBITS HERE?

5 A. OH, YES.

6 Q. NOW, WE'RE ABOUT READY TO GO ON TO ANOTHER
7 SUBJECT, MR. JONES. AND THAT SUBJECT IS THE SUMMARY TO WHICH
8 I MADE SOME SMALL OBJECTION YESTERDAY, AS I RECALL. AND DO
9 YOU HAVE A COPY OF THAT SUMMARY THAT YOU WERE USING YESTERDAY?

10 A. NOT NOW.

11 Q. WHAT DID YOU DO WITH IT? WHERE CAN WE GET A
12 COPY FOR YOU?

13 MR. HORGAN: I HAVE A COPY OF IT.

14 (THE DOCUMENT WAS GIVEN TO MR. MORRIS.)

15 MR. MORRIS: MAY I HAVE IT MARKED?

16 MR. HORGAN: YOU MAY USE IT; I'D LIKE TO HAVE IT FOR

17 MR. MORRIS: I'D LIKE TO HAVE IT MARKED JUST FOR
18 IDENTIFICATION PURPOSES SO THAT WHEN I ASK THE WITNESSES TO
19 LOOK AT IT, WE'LL KNOW

20 THE COURT: YOU HAVE NO OBJECTION, MR. HORGAN? WE'LL MARK
21 YOU ANOTHER COPY.

22 MR. HORGAN: NO OBJECTION.

23 THE COURT: THE COURT HAD COPIES MADE AND DELIVERED TO
24 ALL COUNSEL YESTERDAY. I DON'T KNOW WHERE THEY ALL WENT.

25 MR. MORRIS: I'VE GOT MINE, BUT I MADE SOME MARKS ON IT.

1 THE COURT: YOU MAY HAVE THIS. MR. HORGAN, YOU HAVE

3 MR. HORGAN: IT'S NOT IN EVIDENCE. I WOULD OBJECT TO
4 IT BEING IN EVIDENCE.

5 THE COURT: THAT'S COMES LATER.

6 MR. HORGAN: YES, SIR. I JUST WANT TO WARN HIM.

7 THE COURT: HOW DO YOU PROPOSE TO MARK IT, MR. MORRIS?

8 MR. MORRIS: YOU CAN MARK IT AN A.C.L. EXHIBIT; MAKE
9 IT 10 IF YOU WANT.

10 (THE DOCUMENT WAS MARKED AS AN EXHIBIT.)

11 Q. (BY MR. MORRIS) MR. JONES, I'M GOING TO GIVE
12 A COPY OF THE SUMMARY THAT YOU HAD YESTERDAY. AND FOR--
13 STRICTLY FOR RECORD PURPOSES, SO THAT WHEN WE TALK ABOUT THIS
14 THING, WE'LL HAVE SOME WAY TO IDENTIFY IT, WE HAVE CALLED THAT
15 A.C.L. EXHIBIT 10. YOU CAN SEE THAT WRITTEN ON THERE?

16 A. YES.

17 Q. NOW, FOR THE RECORD, WOULD YOU TELL US WHAT
18 A.C.L. EXHIBIT 10 IS?

19 A. A.C.L. EXHIBIT 10 IS A STATEMENT OF THE
20 PERCENTAGES OF FIBER IN STOCK AT PLANT THREE OF DIFFERENT--OF
21 FIBER FROM THESE SOURCES: BELL, JOHNS-MANVILLE, CORPORATION
22 AND OTHERS. THAT'S HOW IT'S DIVIDED. AND IT RUNS THROUGH FROM
23 FOUR MONTHS OF THE YEAR 1939 THROUGH TO 1957.

24 Q. ALL RIGHT. NOW, YOU SAID THAT THIS SUMMARY,
25 EXHIBIT 10, A.C.L. EXHIBIT 10, IS EXPRESSED IN PERCENTAGES;

1 IT'S RIGHT.

2 IT'S RIGHT.

3 Q. ALL RIGHT. NOW, I WAS UNDER THE IMPRESSION, AT THE

4 TIME, THAT IT WAS A SUMMARY OF SOME RECORDS. ARE

5 THERE SOME RECORDS SOMEWHERE THAT EXPRESS IN PERCENTAGES

6 THAT YOU KNOW ABOUT?

7 A. NO. THERE ARE NO RECORDS WHICH WERE EXPRESSED

8 IN PERCENTAGES.

9 Q. IN FACT, THEN--

10 A. WOULD YOU LIKE ME TO TELL YOU HOW THIS WAS

11 COMPILED?

12 Q. I MAY WANT TO ASK YOU THAT, BUT WE'LL SEE WHEN

13 WE GET THERE.

14 THE SUMMARY IS NOT ACTUALLY, THEN, A SUMMARY OF

15 RECORDS; IS IT?

16 A. NO, STRICTLY SPEAKING, IT ISN'T.

17 Q. SOMEBODY HAD TO GO THROUGH A MATHEMATICAL CALCULATION

18 TO COME TO THESE PERCENTAGES; DIDN'T THEY?

19 A. THEY DID.

20 Q. NOW, DO YOU KNOW WHO THAT WAS?

21 A. I DO.

22 Q. WHO WAS IT?

23 A. I CAN'T RECOLLECT THE NAME OF THE LADY, APART

24 FROM THE FACT IT WAS NANCY--

25 Q. IT WAS A SECRETARY OR A PARALEGAL FROM SULLIVAN

1 AND CROMWELL?

2 A. THAT'S IT.

3 Q. ISN'T THE YOUNG LADY SITTING OUT HERE? NO, SHE'S
4 NOT HERE. SHE'S NOT HERE. BUT YOU WOULD RECOGNIZE HER BECAUSE
5 SHE'S A VERY PRETTY YOUNG LADY, AND IF SHE WAS SITTING THERE,
6 WE'D ALL KNOW IT.

7 THE COURT: THEY'RE ALL PRETTY UNDER THE LAW TODAY.

8 Q. (BY MR. MORRIS) IS HER FIRST NAME NANCY?

9 A. IT IS.

10 Q. YES. AND SHE IS THE ONE WHO DID ALL OF THIS;
11 ISN'T THAT RIGHT?

12 A. SHE IS.

13 Q. AND SHE DID--AND YOU DID NOT DO IT; DID YOU?

14 A. I DIDN'T DO IT YEAR BY YEAR AS SHE HAD DONE.

15 Q. SHE DID THAT?

16 A. YES, BUT I'VE MADE A NUMBER OF CROSS-CHECKS
17 AN INDIVIDUAL YEAR SO I'M ENTIRELY FAMILIAR WITH WHAT, IN
18 FACT, HAS BEEN DONE.

19 Q. WAS IT DONE UNDER YOUR DIRECTION?

20 A. I DID IT.

21 Q. I'M TALKING ABOUT THE GATHERING OF THESE FIGURES?

22 A. OH, NO, NOT THE GATHERING OF THE FIGURES.

23 Q. FOR THIS SUMMARY, THAT WAS NOT DONE UNDER YOUR
24 DIRECTION?

25 A. NO.

1 Q. NOW, YESTERDAY YOU TESTIFIED, MR. JONES, YOU
2 THAT THIS SUMMARY REFRESHED YOUR RECOLLECTION AND THAT YOU WERE
3 ABLE TO SAY FROM THIS SUMMARY THAT A.C.L., AMONG OTHERS, WAS
4 ONE OF THE FINGER SUPPLIERS IN THE PERIOD OF TIME THAT IS
5 PURPORTED TO BE SHOWN ON THAT SUMMARY?

6 A. THAT'S RIGHT.

7 Q. SO THE PURPOSE OF THIS SUMMARY FOR YOUR USE YESTER
8 DAY WAS TO REFRESH YOUR RECOLLECTION; IS THAT RIGHT?

9 A. NOT THIS SUMMARY PARTICULARLY. THIS SUMMARY
10 RECORDS THE END PRODUCT OF A LOT OF PAPERS WHICH I DID LOOK
11 THROUGH TO REFRESH MY RECOLLECTION.

12 Q. AND YESTERDAY, DIDN'T YOU ASK FOR THIS SUMMARY SO
13 THAT YOU COULD REFRESH YOUR RECOLLECTION? DON'T YOU
14 REMEMBER THAT?

15 A. I DON'T. I REMEMBER A SUMMARY BEING HANDED TO
16 ME.

17 Q. SO YOUR TESTIMONY NOW IS THAT YOU DID NOT NEED THE
18 SUMMARY TO REFRESH YOUR RECOLLECTION?

19 A. WELL, I NEEDED A SUMMARY TO GET TO--REMEMBER WHAT
20 IT WAS THAT THE PERCENTAGES REPRESENTED. THIS IS A MOVING
21 FIGURE OF PERCENTAGES OVER THE YEARS. I HAD SEEN THIS PAPER,
22 OF COURSE, AND IN ORDER TO BE ABLE TO REFER TO THE MOVING
23 PERCENTAGES, I NEEDED THIS PAPER TO REFRESH MY RECOLLECTION.

24 Q. ALL RIGHT. NOW, LET ME ASK YOU ANOTHER QUESTION
25 ABOUT THIS SUMMARY, THEN. YOU SAID THAT YOU LOOKED AT SOME

1 RECORDS; IS THAT RIGHT?

2 A. YES.

3 Q. WHEN DID YOU DO THAT?

4 A. YESTERDAY MORNING.

5 Q. AND WHEN--AND YOU LOOKED AT THOSE RECORDS
6 YESTERDAY MORNING?

7 A. YES.

8 MR. MOTLEY: EXCUSE ME, YOUR HONOR. I BELIEVE
9 COUNSEL AND THE JURORS ARE HAVING GREAT DIFFICULTY IN HEARING
10 THE WITNESS. I DON'T KNOW IF IT'S THE AMPLIFICATION
11 SYSTEM OR HE'S SOFT SPOKEN.

12 THE WITNESS: I'LL GET A BIT CLOSER STILL TO THE MICROPHONE.

13 THE COURT: JUST A MOMENT. WE'LL CHECK IF IT'S WORKING.

14 IT IS MOST IMPORTANT THE JURY AND THE PEOPLE,
15 ALL THE LAWYERS AND THE PEOPLE HEAR YOU. SO PLEASE DO YOU--
16 MR. JONES. THANK YOU.

17 I'M SORRY, MR. MORRIS.

18 Q. (BY MR. MORRIS) MR. JONES, THOSE RECORDS THAT YOU
19 LOOKED AT YESTERDAY MORNING WERE NOT--I TAKE IT WERE SOMETHING
20 BESIDES THE EXHIBITS THAT ARE LYING THERE IN FRONT OF YOU,
21 INCLUDING THAT EE, HH, LL, KK AND MM?

22 A. YES, SIR.

23 Q. YOU LOOKED AT THINGS BESIDES THAT; IS THAT RIGHT?

24 A. YES.

25 Q. YOU LOOKED--DID YOU LOOK AT INVENTORY REPORTS?

1 A. WELL, I HAD ALL THE INVENTORY REPORTS.

2 Q. SO, IT IS CORRECT THAT WHAT YOU LOOKED AT AND
3 WHAT YOU REFRESHED YOUR MEMORY FROM WAS RECORDS OTHER THAN
4 THE EXHIBITS THAT ARE BEFORE YOU IN COURT HERE; IS THAT RIGHT?

5 A. THAT'S RIGHT.

6 Q. ISN'T IT TRUE THAT WHATEVER RECORDS YOU LOOKED AT,
7 THE AMOUNTS WERE EXPRESSED EITHER IN TONS OR POUNDS OR
8 SOMETHING LIKE THAT?

9 A. I THINK IN TONS THROUGHOUT.

10 Q. AND THEY WERE NOT IN ANY CASE, I TAKE IT,
11 EXPRESSED IN PERCENTAGES?

12 A. NO, THEY WEREN'T.

13 Q. I TAKE IT THAT YOU WERE NOT EVEN HERE, PROBABLY,
14 WHEN NANCY MADE UP THIS SUMMARY; IS THAT CORRECT?

15 A. THIS SUMMARY?

16 Q. YES.

17 A. THAT'S RIGHT.

18 Q. THE SUMMARY BEING A.C.L. EXHIBIT 10.

19 DID YOU HAVE ANYTHING TO DO WITH THE MAKING UP
20 OF THE LIST OF EXHIBITS SUBMITTED BY YOUR--WELL, BY YOUR
21 FORMER EMPLOYER, T & N, IN THE PRETRIAL COMPLIANCE? DID YOU
22 HAVE ANY PART IN THAT AS A BARRISTER, AS A LAWYER?

23 A. APART FROM BEING THERE TO PRODUCE IT. I--ALL
24 OF THESE DOCUMENTS, IN FACT, WERE FOUND AND PRODUCED DURING THE
25 TIME THAT I WAS SECRETARY, DESPITE THE FACT THAT I'M

1 NOW RETIRED AND, OF COURSE, I WAS INVOLVED IN THE SEARCHING.
2 A. AND NONE--AND MANY OF THOSE, AT LEAST, THERE I
3 NOTHING BEHINDS THE EVIDENTS THAT ARE LYING IN FRONT OF
4 YOU THERE, GOING FROM 'Z' THROUGH TRIPLE-A. THESE OTHER RE
5 HAVE NEVER BEEN SHOWN IN ANY PRETRIAL COMPLIANCE, ISN'T THAT
6 CORRECT, HAVE NEVER BEEN MADE AVAILABLE IN ANY PRETRIAL
7 COMPLIANCE; DO YOU KNOW THAT?

8 A. THIS IS NOT WITHIN MY KNOWLEDGE; I DON'T KNOW.

9 Q. YOU DON'T KNOW THAT BECAUSE YOU DIDN'T DO THE
10 ACTIVE PART OF IT; IS THAT RIGHT?

11 A. NO, THAT'S RIGHT.

12 Q. WOULD YOU REFER TO THE SUMMARY THAT WAS MADE FOR
13 YOU? JUST LOOK AT IT; I'M GOING TO ASK YOU A QUESTION
14 ABOUT IT.

15 A. YES.

16 Q. THERE AT THE VERY LAST ENTRY ON THE SUMMARY,
17 IS SOMETHING UNDER A COLUMN HEADED "TOTAL"; DO YOU SEE THAT?

18 A. YES.

19 Q. AND, OF COURSE, WE'VE ESTABLISHED THAT THIS
20 SUMMARY RUNS FROM 1939 TO 1957; IS THAT RIGHT?

21 A. THAT'S RIGHT.

22 Q. IN 1957, FOR EXAMPLE, IT SHOWS "CORP.," C-O-R-P-
23 AS .48--

24 MR. HORGAN: YOUR HONOR, I'M GOING TO OBJECT TO ANY
25 PERCENTAGES BEING READ AT THIS TIME FOR THE SIMPLE REASON THAT

1 THIS DOCUMENT HAS ALREADY BEEN OBJECTED TO. THE COURT HAS
2 SUSTAINED AN OBJECTION TO IT. AND THESE FIGURES WERE NOT
3 PREPARED BY MR. JONES, BUT WERE PREPARED BY SOMEBODY ELSE,
4 AND THEY ARE HEARSAY TO HIM. AND I'M GOING TO OBJECT TO ANY
5 READING OF ANY PERCENTAGES FROM THIS REPORT.

6 THE COURT: MR. MORRIS.

7 MR. MORRIS: YOUR HONOR, HE'S TESTIFIED HE'S REFRESHED
8 HIS RECOLLECTION. HE'S TESTIFIED THAT A.C.L. IS A MAJOR
9 SUPPLIER FROM THESE VERY FIGURES RIGHT HERE. NOW, HOW CAN
10 THAT BE--I THOUGHT IT WAS HEARSAY AT ONE TIME, TOO, BUT IT
11 WAS STILL USED AGAINST MY CLIENT AND, SURELY, I'VE GOT A RIGHT
12 TO ASK HIM QUESTIONS ABOUT IT.

13 MR. MOTLEY: WE MOVE FOR THE ADMISSION INTO EVIDENCE
14 THE FOUND, OF A.C.L. EXHIBIT NUMBER 10 AS A PLAINTIFF'S
15 EXHIBIT.

16 MR. HORGAN: THE COURT HAS ALREADY OVERRULED THAT
17 YESTERDAY, JUDGE.

18 THE COURT: BAILIFF--WE'LL TAKE A TEN-MINUTE RECESS.
19 THE BAILIFF WILL TAKE THE JURY TO THE JURY ROOM.

20 YOU MAY STEP DOWN, MR. JONES, IF YOU CARE TO,
21 DURING THIS PERIOD.

22 (THE WITNESS LEFT THE STAND.)

23 (RECESS.)

24 :: :: :: :: ::

25 THE COURT: BRING IN THE JURY.

1 (THE WITNESS RESUMED THE STAND;

2 THE JURY RETURNED TO THE COURTROOM.)

3 THE COURT: MR. MORRIS, YOU MAY RESUME.

4 MR. MORRIS: THANK YOU, YOUR HONOR.

5 CROSS-EXAMINATION (CONTINUED)

6 BY MR. MORRIS:

7 Q. WOULD YOU PULL OUT THIS SUMMARY THAT'S BEEN
8 MARKED ASBESTOS--A.C.L. EXHIBIT 10?

9 A. OH, YES. YES.

10 Q. ALL RIGHT. AND GOING DOWN TO THAT LAST--NEXT
11 TO THE LAST COLUMN, THE YEAR 1957, IF I'M LOOKING AT THAT
12 CORRECTLY, A.C.L., ACCORDING TO THE SUMMARY, HAD .48 OF ONE
13 PERCENT, LESS THAN A HALF OF ONE PERCENT; IS THAT RIGHT?

14 A. THAT'S RIGHT.

15 Q. NOW--AND THEN THERE IS A COLUMN THERE CALLED
16 "TOTAL." DO YOU KNOW WHAT THAT COLUMN STANDS FOR THAT'S
17 CALLED "TOTAL"?

18 A. THAT REPRESENTS A SINGLE FIGURE FOR THE WHOLE OF
19 THE PERIOD OF YEARS, THE YEARS COVERING 1939 TO 1957.

20 Q. IS THAT--DO YOU UNDERSTAND THIS SUMMARY TO BE
21 THE SINGLE FIGURES TO BE THE TOTAL PERCENTAGE APPLIED DURING
22 ALL THAT PERIOD OF TIME FOR EACH COMPANY?

23 A. WELL, FROM EACH COMPANY?

24 Q. YES.

25 A. FOR USE AT PLANT THREE?

1 Q. YES.

2 A. THIS IS RIGHT.

3 Q. FOR EXAMPLE, BEHIND THE WORD "CORP." OVER IN THAT
4 COLUMN THAT'S ENTITLED "TOTAL," THERE IS THE FIGURE 15.96
5 PERCENT; IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. WELL, DO YOU UNDERSTAND THAT TO BE THAT CORP.,
8 ACCORDING TO THIS SUMMARY--WHAT WE CALL CORPORATE, ASBESTOS
9 CORPORATION LIMITED--WHAT THEY SUPPLIED OR THEY HAD ON HAND
10 DURING THAT PERIOD OF TIME OF THE TOTAL OF ASBESTOS, 15.96
11 PERCENT WAS ASBESTOS CORPORATION LIMITED; IS THAT WHAT YOU
12 UNDERSTAND?

13 A. YES, THAT'S RIGHT. YOU USE THE WORDS "HAD ON
14 HAND," AND THAT REALLY IS RIGHT. BECAUSE, WHEN I ANSWERED
15 PREVIOUS QUESTION, YES, IT WAS--THE QUESTION WAS RELATED
16 USL. BUT, OF COURSE, ALL THESE ARE, IN FACT, FIGURES OF FIBER
17 ON HAND AS OF A DATE.

18 Q. RIGHT.

19 A. AND THIS IS THE SUMMARY.

20 Q. THAT'S WHAT WE'RE REALLY TALKING ABOUT IN THE
21 INVENTORY SHEETS AND EVERYWHERE ELSE?

22 A. THAT'S RIGHT.

23 Q. IS THE FIBER, AT LEAST AS FAR AS YOU KNOW, IS
24 SUPPOSED TO BE FIBER THAT IS THERE; IS THAT CORRECT?

25 A. THAT'S CORRECT.

1 Q. THAT'S WHAT YOU UNDERSTOOD THE REPORT TO REFLECT;
2 IS THAT CORRECT?

3 A. INDEED, YES.

4 Q. NOW, IN THAT SAME COLUMN, IN THAT SAME "TOTAL"
5 COLUMN, THERE, I SEE THAT BELL HAS 53.96 PERCENT; IS THAT
6 CORRECT?

7 A. THAT IS CORRECT.

8 Q. ALL RIGHT. AND THERE ARE OTHERS LISTED THERE.
9 AND THE 53.96 PERCENT WOULD BE MORE THAN HALF OF ALL OF THE
10 FIBER SUPPLIED DURING THAT WHOLE PERIOD OF 1939 TO 1957, IS
11 ALL OF THAT FIBER ON HAND? ON HAND, AGAIN, ALL OF THAT FIBER
12 ON HAND FROM THE PERIOD OF 1939 TO '57; IS THAT CORRECT?

13 A. THAT IS RIGHT.

14 Q. ARE YOU FAMILIAR WITH THE LAWYERS OUT THERE LIKE
15 SULLIVAN AND CROMWELL? IS THAT WHO THEY ARE?

16 A. SOME OF THEM.

17 Q. WELL, I WON'T ASK YOU ABOUT THAT.

18 MR. MORRIS: I THINK THAT'S ALL I HAVE, YOUR HONOR.

19 THE COURT: THANK YOU.

20 MR. HORGAN? MR. NUMRICH?

21 MR. NUMRICH: I THINK MR. HORGAN'S BEFORE ME.

22 THE COURT: THANK YOU, MR. NUMRICH.

23 MR. HORGAN: DO YOU HAVE THAT EXHIBIT?

24 THE COURT: WOULD YOU GIVE HIM BACK HIS PAPER, MR. MORRIS?

25 MR. MORRIS: I'LL GIVE HIM MINE, YOUR HONOR. THE

1 WELLS HAS STILL GOT HIS.

2 THE COURT: IF SOMEONE CAN SPARE ONE FOR A MOMENT, I'D
3 HAVE THE BAILIFF MAKE THREE OR FOUR COPIES.

4 CROSS-EXAMINATION

5 BY MR. MORGAN.

6 Q. I HAVE ONLY A COUPLE OF QUESTIONS, SIR, TO ASK
7 YOU.

8 THE EXHIBIT THAT WE'VE BEEN TALKING ABOUT, A.C.L.
9 EXHIBIT NUMBER 10, COVERS THE YEARS FROM 1939 TO 1957 AT THE
10 KEASBEY-MATTISON PLANT HERE IN SAINT LOUIS?

11 A. THAT'S RIGHT.

12 Q. AND THERE WERE TWO PLANTS HERE; WERE THERE NOT?

13 A. THERE WERE.

14 Q. AND THIS WAS PLANT THREE?

15 A. THIS WAS PLANT THREE.

16 Q. THAT WAS THE SHINGLE PLANT; WAS IT NOT?

17 A. THAT'S WHAT I GATHER, THE NAME BY WHICH IT WAS
18 KNOWN.

19 Q. DID YOU KNOW ANYTHING ABOUT PLANT NINE?

20 A. (NO RESPONSE.)

21 Q. DID YOU KNOW ANYTHING ABOUT PLANT NINE THAT WAS
22 HERE IN SAINT LOUIS?

23 A. OH, YES, THAT WAS THE PIPE PLANT.

24 Q. YES. DO YOU HAVE ANY FIGURES OR PERCENTAGES
25 THERE ON THE INVENTORIES OF PLANT NINE FROM 1939 UNTIL 19

1 A. WELL, WE HAVE THE BACKGROUND INFORMATION FOR
2 PLANT NINE. I'M NOT AWARE OF THE FACT THAT ANY PERCENTAGES
3 HAVE BEEN WORKED OUT.

4 Q. WELL, WAS THERE ANY PARTICULAR REASON WHY, IN
5 PREPARING THESE PERCENTAGE FIGURES ON PLANT THREE,
6 THAT THERE WERE NO PERCENTAGE FIGURES PREPARED WITH RESPECT
7 TO PLANT NINE, AS FAR AS YOU KNOW, SIR?

8 A. AS FAR AS I KNOW, NOT.

9 Q. IN OTHER WORDS, THE PEOPLE WHO SUPPLIED YOU WITH
10 THESE YEARLY PERCENTAGES AS TO PLANT THREE DID NOT SUPPLY
11 WITH ANY RESUME OF THE PERCENTAGES SUPPLIED TO PLANT NINE
12 DURING THOSE YEARS; IS THAT CORRECT?

13 A. WELL, THEY DID, IN FACT.

14 Q. SIR?

15 A. THEY DID, IN FACT, BUT THESE ARE NOT PERCENTAGES
16 I HAD TONNAGE FIGURES FOR BOTH PLANTS, BUT THE PERCENTAGES
17 I HAVE ONLY SEEN FOR PLANT THREE.

18 Q. ALL RIGHT. BUT YOU HAVE NOT, OR NOBODY HAS
19 PREPARED ANY PERCENTAGES FROM THE RECORDS OF PLANT NINE THAT
20 YOU KNOW ABOUT TODAY FOR PURPOSES OF TESTIFYING IN COURT?

21 A. NOT TO MY KNOWLEDGE.

22 Q. DO YOU HAVE ANY INDEPENDENT KNOWLEDGE OF WHAT
23 THE TOTAL TONNAGES WOULD HAVE BEEN DURING THOSE YEARS FOR
24 PLANT NINE FOR ALL OF THE ASBESTOS SUPPLIERS?

25 A. I COULDN'T TELL YOU WITHOUT REFRESHING MY

1 KNOWLEDGE, BUT THE FIGURES ARE THERE.

2 Q. THERE'S A LOT OF RECORDS YOU'D HAVE TO REVIEW.

3 A. THAT'S CORRECT.

4 Q. AND IT WOULD TAKE A LOT OF TIME, SIR?

5 A. NOT A LOT OF TIME, NO.

6 Q. WELL, WOULD IT TAKE MORE THAN 15 MINUTES?

7 A. PROBABLY NOT.

8 Q. NO? DO YOU HAVE THOSE RECORDS HERE?

9 A. I BELIEVE THEY'RE IN COURT.

10 Q. THEY'RE IN COURT. DO YOU KNOW WHETHER OR NOT
11 THEY'VE BEEN MARKED AND IDENTIFIED AS EXHIBITS YOURSELF?

12 A. NO, THEY HAVEN'T.

13 Q. WAS THERE ANY PARTICULAR REASON THAT YOU HAVE
14 NOT BEEN SUPPLIED OR CHECKED OVER ANY YEARLY PERCENTAGE SHEET
15 SHOWING THE AMOUNT OF ASBESTOS FROM ALL SOURCES WHICH WERE
16 ON INVENTORY DURING EACH OF THESE ACCOUNTING PERIODS OR
17 REPORTING PERIODS FROM 1939 TO 1957?

18 A. REALLY, ARE YOU ASKING WHY THE REFERENCES TO
19 "OTHER" ARE NOT SPELLED OUT SO WE KNOW WHO THE "OTHERS" WERE?

20 Q. I UNDERSTAND. BUT I'M ASKING, ARE THERE ANY
21 PARTICULAR REASONS NO YEARLY PERCENTAGE REPORTS SUCH AS YOU
22 HAVE RIGHT HERE WERE PREPARED WITH RESPECT TO PLANT NINE?

23 A. OH, NO, I'M NOT AWARE OF IT.

24 Q. ALL RIGHT. NOW, DO YOU YOURSELF HAVE ANY
25 KNOWLEDGE AS TO HOW LONG PLANT NINE WAS IN OPERATION?

1 A. NO, I COULDN'T GIVE YOU A DATE. IT SEEMS
2 IT'S BEEN IN OPERATION ABOUT AS LONG AS I RECALL, BUT THAT'S
3 NOT VERY HELPFUL.

4 Q. DURING THIS PARTICULAR TIME OF THESE PERCENTAGES,
5 WHAT WAS THE RELATIONSHIP, SAY, FROM 1939 TO 1957; WHAT WAS
6 THE RELATIONSHIP BETWEEN TURNER-NEWALL AND KEASBEY-MATTISON?

7 A. WELL, DURING ALL THAT TIME, TURNER AND NEWALL
8 WAS THE PREDOMINANT HOLDER OF KEASBEY AND MATTISON SHARES.

9 Q. SO, IT HAD THE MAJORITY OF THE SHARES; IS THAT
10 CORRECT?

11 A. YES.

12 Q. AND DURING THAT PERIOD OF TIME, WHAT WAS THE
13 RELATIONSHIP BETWEEN KEASBEY-MATTISON AND BELL ASBESTOS?

14 A. THEY WERE ABLE TO PURCHASE THEIR FIBER REQUIRE-
15 MENTS FROM BELL DIRECT WITHOUT USING THE BROKERING SERVICES
16 OF T.A.F., TURNER ASBESTOS FIBERS.

17 Q. DID, DURING THAT PERIOD OF TIME, OR ANY PART OF
18 THAT PERIOD OF TIME, DID KEASBEY-MATTISON OWN A MAJORITY OF
19 SHARES IN BELL ASBESTOS?

20 A. NO, THEY DIDN'T.

21 Q. DID THEY OWN ANY SHARES?

22 A. OH, JUST A MINUTE.

23 Q. FROM '39 TO--

24 A. NO, FROM '39 TO '57, KEASBEY AND MATTISON
25 NO FINANCIAL INTEREST IN BELL.

1 Q. ALL RIGHT. DID KEASBEY-MATTISON EVER ACQUIRE A
2 FINANCIAL INTEREST IN BELL, TO YOUR KNOWLEDGE?

3 A. IT WAS THE HOLDER OF THE SHARES OF THE COMPANY
4 THAT OWNED BELL IN THE YEARS BEFORE 1934.

5 Q. WHAT COMPANY WAS THAT?

6 A. HUH?

7 Q. YOU SAID IT WAS THE OWNER OF THE COMPANY?

8 A. YES, OF THE COMPANY WHICH OWNED THE BELL MINE
9 IN THE YEARS BEFORE 1934.

10 Q. ALL RIGHT. AND AFTER THAT, '34, IT NO LONGER
11 HAD ANY OWNERSHIP INTEREST?

12 A. NO, AFTER ITS SHARES WERE ACQUIRED BY TURNER AND
13 NEWALL--

14 Q. RIGHT.

15 A. --THEY HAD NO FURTHER DIRECT INTEREST IN
16 AT ALL.

17 Q. SO THEN TURNER-NEWALL HELD THE SHARES IN BELL
18 ASBESTOS, HAVING ACQUIRED THEM FROM KEASBEY-MATTISON; IS THAT
19 CORRECT?

20 A. THAT'S CORRECT.

21 Q. DID KEASBEY-MATTISON EVER THEREAFTER REACQUIRE
22 ANY SHARES IN BELL?

23 A. NO, THEY DIDN'T.

24 Q. THEN--NOW, WHAT I'D LIKE TO ASK YOU IS THIS: IS
25 THERE ANY PARTICULAR REASON THESE YEARLY PERCENTAGES ARE

1 LIMITED TO THE YEARS 1959 TO 1957?

2 A. NOT TO MY KNOWLEDGE.

3 Q. FOR EXAMPLE, IN OTHER WORDS, WHY DON'T WE HAVE
4 1958, '59, '60, '61, '62, '63, '64, '65, '66, '67, '68?

5 A. WELL, AFTER 1962, OR THEREABOUTS, WE CEASED TO
6 HAVE THESE RECORDS AT KEASBEY.

7 Q. SO, IN OTHER WORDS, IN '62 OR '63, CERTAINLY--TEED
8 ACQUIRED--

9 A. THAT IS CORRECT.

10 Q. --THE OWNERSHIP OF KEASBEY-MATTISON AND THERE
11 NEVER WOULD HAVE BEEN ANY REASON FOR THEM TO SUPPLY YOU WITH
12 THIS TYPE OF INFORMATION; IS THAT RIGHT?

13 A. THAT IS RIGHT.

14 Q. HAS THAT INFORMATION EVER BEEN SHOWN TO YOU AT
15 ANY TIME?

16 A. BY CERTAIN-TEED?

17 Q. YES.

18 A. NEVER.

19 Q. OR BY TURNER-NEWALL?

20 A. NEVER. I DON'T THINK TURNER AND NEWALL HAD IT.

21 Q. SO THEN THERE IS A PERIOD OF TIME FROM 1961 TO
22 1962 THAT KEASBEY-MATTISON DID OWN BELL, OR DID HAVE AN
23 INTEREST--STRIKE THAT--THAT TURNER-NEWALL HAD AN INTEREST IN
24 KEASBEY-MATTISON?

25 A. I'M SORRY. I'M UPSETTING THE STENOGRAPHER.

1 HAVING MY HAND HERE. MAY I HAVE THE QUESTION AGAIN?

2 Q. LET ME BACK UP--LET'S STRIKE IT. WHAT I WANT

3 TO KNOW THE KEASBEY-MATTISON WAS SOLD TO CERTAIN-TEED IN

4 1962. DO YOU KNOW OF ANY REASON THAT THERE IS NO ACCOUNT

5 FOR THE YEARLY PERCENTAGES OF ASBESTOS ON HAND IN INVENT

6 IN PLANT THREE IN THOSE YEARS OF 1957 TO 1962?

7 A. WELL, I WOULD HAVE EXPECTED THERE TO BE A 20

8 AT CERTAIN-TEED, BUT I PERSONALLY KNOW OF NONE.

9 Q. CERTAIN-TEED DIDN'T TAKE OVER UNTIL 1962; IS THAT

10 A. OH, I'M SORRY. WHICH DATES ARE WE AT NOW?

11 Q. OKAY. I'LL GET BACK TO IT. SO, IN OTHER W -DS,

12 YOUR RECORDS GO UP TO 1957 ON THIS SHEET, THESE YEARLY

13 PERCENTAGES?

14 A. WELL, I WOULD HAVE EXPECTED THEM TO GO UP

15 1962, IN FACT.

16 Q. YES, BUT THEY DON'T; DO THEY?

17 A. WELL, THEY STOP HERE.

18 Q. IN OTHER WORDS, THERE'S NO 1958, 1959, 1960.

19 1961, AND WHATEVER PORTION OF 1962 ARE NOT ACCOUNTED FOR ON

20 THIS SHEET?

21 A. NO, THEY'RE NOT.

22 Q. DO YOU KNOW WHY?

23 A. NO.

24 MR. MORGAN: I HAVE NO FURTHER QUESTIONS.

25 THE COURT: MR. NUMRICH.

CROSS-EXAMINATION

1
2 BY MR. NUMREICH:

3 Q. MR. JONES, I'M THE INFAMOUS JOHNS-MANVILLE
4 LAWYER THAT YOU KEPT HEARING REFERENCES TO YESTERDAY ABOUT
5 HIS OPENING STATEMENT. AND, FIRST OF ALL, I WANT TO--WHEN
6 WE'RE WITH THIS SUMMARY SHEET, LET'S STAY WITH IT FOR A
7 MINUTES.

8 NOW, AS I UNDERSTAND YOUR TESTIMONY, MR. JONES,
9 YOU HAD NO INDEPENDENT KNOWLEDGE OF THE PERCENTAGES REFLECTED
10 ON THIS SHEET BEFORE IT WAS HANDED TO YOU BY THE PARALEGAL FOR
11 TURNER AND NEWALL, OR SULLIVAN AND CROMWELL, WHO PREPARED IT;
12 IS THAT CORRECT?

13 A. THAT IS CORRECT.

14 Q. SO, WHEN YOU WERE FIRST SHOWN THIS SHEET, IT
15 DIDN'T REFRESH YOUR RECOLLECTION; DID IT?

16 A. NO, IT DID NOT.

17 Q. BECAUSE YOU DID NOT HAVE ANY RECOLLECTION--

18 A. OH, I DID BECAUSE I JUST FINISHED--

19 Q. HOLD IT--YOU DID NOT HAVE ANY RECOLLECTION OF
20 THE PERCENTAGES?

21 A. NOT OF THE PERCENTAGES, NO.

22 Q. THANK YOU. THAT'S WHAT I'M ASKING YOU ABOUT.

23 NOW, LET'S MOVE OVER TO THE "TOTAL" COLUMN AGAIN,
24 AND DOWN AT THE BOTTOM OF THE "TOTAL" COLUMN, IN REFERENCE
25 OVER ON THE LEFT-HAND SIDE OF THE PAGE--AND, AGAIN, FOR THE

1 RECORD, WE'RE TALKING ABOUT A.C.L. EXHIBIT 10--IT SAYS "ASBESTOS"
2 AND THEN IT GIVES A PERCENTAGE FIGURE. WHAT IS THAT PERCENT-
3 AGE FIGURE?

4 A. IS THAT THE FIGURE 4.10 PERCENT?

5 Q. YES. AND THAT'S REFERENCED DOWN AT THE BOTTOM
6 OF THE PAGE AS BEING ONLY FROM 1953 TO '57; IS THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. OKAY. NOW, IT SAYS "OTHER." NOW, WHO ARE THE
9 "OTHER" REFERENCED IN THIS SUMMARY SHEET?

10 A. WELL, THE ONLY WAY OF ANSWERING THAT WOULD BE
11 TO LOOK AT THE RECORDS, OF WHICH WE'VE HAD SPECIMENS ALREADY,
12 WHICH SHOW MONTH BY MONTH, A LONG LIST OF FIBERS THAT SHOW --
13 OR, YOU KNOW, A FEW OF THOSE.

14 Q. LET ME ASK YOU THIS, MR. JONES: THOSE "OTHER" I
15 ARE REFERENCED THERE AND NOT LISTED OUT INCLUDE TURNER
16 ASBESTOS FIBRE; DON'T THEY?

17 A. WELL, THEY WOULD HAVE INCLUDED FIBER WHICH WAS
18 PROCURED THROUGH THE SERVICES OF TURNER ASBESTOS FIBRES.

19 Q. AND THEY WOULD ALSO INCLUDE FIBER FROM THE C &
20 RHODESIA MINE?

21 A. WELL, THEY MIGHT--

22 Q. THAT TURNER ASBESTOS FIBRE HAD A MAIN INTEREST IN

23 A. WELL, IT'S POSSIBLE.

24 Q. AND ALSO OTHER TURNER AND NEWALL COMPANIES OR
25 MINES WHICH THEY HELD AN INTEREST IN?

1 A. IT COULD BE. I'M SAYING THIS BECAUSE I DON'T
2 KNOW FOR CERTAIN, BECAUSE I BELIEVE FROM TIME TO TIME, REARLY
3 AND MATTISON DID BUY FROM THOSE MINES.

4 Q. NOW, SO WE'RE STRAIGHT, THE "OTHER" IS NOT LISTED
5 OUT. IT JUST SAYS "OTHER," AND THAT'S A REFERENCE TO OTHER
6 COMPANIES?

7 A. THAT'S RIGHT.

8 Q. SO THE JURY IS CLEAR ON THAT.

9 NOW, WHAT PERCENTAGES ARE ACROSS FROM JOHN -
10 MALVILLE OR JM?

11 A. NINETEEN--19.58 PERCENT.

12 Q. NOW, I WANT TO GO BACK TO THOSE EXHIBITS, I
13 THROUGH DOUBLE-M THAT WE TALKED ABOUT BEFORE, AND I WANT
14 MAKE SURE THE JURY UNDERSTANDS THE TESTIMONY WHICH YOU'VE
15 UP TO THIS POINT IN TIME, MR. JONES, ABOUT WHAT EXACTLY IS
16 CONTAINED ON THESE SHEETS WITH REFERENCE TO RAW MATERIAL
17 STOCKS.

18 NOW, RAW MATERIAL STOCKS REFERENCES ONLY THE
19 FIBER ON HAND WHEN SOMEBODY WENT THROUGH AND APPARENTLY COMPILED
20 HOW MUCH FIBER WAS THERE; IS THAT CORRECT?

21 A. THAT'S SO.

22 Q. IT DOESN'T REFLECT SALES?

23 A. NO, IT DOESN'T.

24 Q. IT DOESN'T REFLECT PURCHASES?

25 A. WELL, IT HAS TO REFLECT PURCHASES.

1 Q. WELL, LET ME UNDERSTAND WHAT WE'RE TALKING
2 ABOUT HERE. WE'RE TALKING ABOUT JUST A FIGURE, WHATEVER IT
3 MIGHT BE, 60 TONS, 50 TONS, THAT SOMEBODY WENT THROUGH AND
4 COUNTED AND CAME UP WITH THAT FIGURE, THAT THAT IS WHAT WAS
5 THERE ON A PARTICULAR DAY IN A PARTICULAR YEAR?

6 A. THAT'S RIGHT.

7 Q. IT DOES NOT REFLECT THAT FIBER WAS PURCHASED
8 DURING THAT TIME PERIOD OR BETWEEN THE TIME PERIODS THAT
9 INVENTORY WAS TAKEN; DOES IT?

10 A. WELL, IT DOES, ACTUALLY; IF YOU LOOK AT THE
11 PREVIOUS MONTH AND THEN YOU LOOK AT THE MONTH THAT YOU'RE TALKING
12 ABOUT, YOU CAN SEE WHERE THE FIBER HAS EITHER COME INTO THE
13 PLANT OR GONE OUT. IF IT HAD GONE OUT, YOU WOULD USE THE
14 WORD "SALES." IT WOULD NOT BE A QUESTION OF SELLING; IT
15 WOULD BE A QUESTION OF USING. THEY EITHER USED THE STUFF
16 AND THE FIGURES WENT DOWN, OR THEY TOOK A FRESH DELIVERY AND
17 THE FIGURES WENT UP.

18 Q. WELL, MR. JONES, IF THE FIGURE REMAINED THE SAME,
19 YOU COULD NOT TELL WHETHER ANY FIBER WAS USED OR PURCHASED
20 DURING A CERTAIN TIME PERIOD; COULD YOU?

21 A. NO, YOU COULDN'T.

22 Q. AND SO, AS YOU LOOK AT THESE FIGURES, YOU CAN'T
23 TELL HOW MUCH FIBER WAS USED OR HOW MUCH FIBER WAS PURCHASED
24 DURING ANY PARTICULAR TIME PERIOD; CAN YOU?

25 A. NO, BUT THE DOCUMENT FROM WHICH THESE FIGURES

1 WERE COMPILED SHOWS EXACTLY THAT.

2 Q. BUT WE DO NOT HAVE THAT DOCUMENT EITHER.

3 A. NO.

4 Q. BECAUSE IT WAS NOT ATTACHED TO THE EXHIBIT
5 FURNISHED BY THE COMPANY THAT USED TO WORK FOR TURNER AND HEWAL
6 ISN'T THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. NOW, I'M INTERESTED IN PLANT NINE. AND YOU KNOW,
9 WE GO THROUGH ALL THESE DISCUSSIONS ABOUT PLANT THREE AND THEY
10 BRING YOU ALL THE WAY OVER HERE AND ASK YOU TO COMPILE ALL
11 THESE FIGURES FOR HALF OF THIS PLANT, AND YOU COME UP WITH A
12 FIGURE OF 19.58 PERCENT OF ASBESTOS FIBER USED BY MY CLIENTS
13 DURING THE 30-YEAR--OR 18-YEAR PERIOD, I GUESS--

14 MR. SHOEMAKE: EXCUSE ME, YOUR HONOR. I'M GOING TO
15 OBJECT. THIS IS NOT A QUESTION; IT'S A COMMENT.

16 MR. NUMRICH: IT WILL BE A QUESTION.

17 MR. SHOEMAKE: LET ME FINISH MY OBJECTION.

18 THE COURT: HE HAS TO FINISH HIS QUESTION AND THEN
19 YOU MAY MAKE AN OBJECTION.

20 MR. NUMRICH.

21 Q. (BY MR. NUMRICH) WELL, MR. JONES, ISN'T IT A
22 FACT THAT THE REASON THE PLANT NINE FIGURES WEREN'T--YOU WERE
23 NOT ASKED TO DO ANY COMPUTATION OF THE PLANT NINE FIGURES FOR
24 ALL THE PLANT NINE FIBER, OR ALMOST ALL OF THE PLANT NINE FIBER
25 CAME FROM TURNER ASBESTOS, TURNER BROTHERS ASBESTOS, OR --

1 OF THE WHOLLY-OWNED COMPANIES OR PARTIALLY OWNED COMPANIES
2 OF TURNER AND NEWALL?

3 A. IT WOULD HAVE COME FROM A MINING COMPANY. TWO OF
4 THE COMPANIES THAT YOU ACTUALLY NAMED BY NAME WERE MEMBERS OF
5 THE U.K. GROUP OF COMPANIES, AND IT WOULD CERTAINLY NOT HAVE
6 COME FROM ONE OF THOSE. IT COULD HAVE COME FROM A MINING
7 COMPANY THROUGH THE AGENCY OF T.A.F. OF COURSE, WHETHER IT
8 DID OR NOT, I DON'T KNOW.

9 Q. LET'S TAKE A LOOK AT DOUBLE-E AGAIN, MR. WATSON.
10 DO YOU SEE THAT?

11 A. YES, I HAVE DOUBLE-E.

12 Q. DO YOU SEE PLANT NINE?

13 A. YES.

14 Q. DO YOU KNOW THAT PLANT NINE IS THE OTHER MATTISON
15 MATTISON PLANT HERE IN SAINT LOUIS--OR WAS THE OTHER MATTISON
16 MATTISON PLANT HERE IN SAINT LOUIS?

17 A. YES, I DO KNOW THAT WAS PLANT NINE.

18 Q. WHERE IS--WHAT FIBER IS LISTED ON PLANT NINE?

19 A. WELL, THE FIRST ITEM IS 230.86 TONS.

20 Q. WHERE DOES THAT COME FROM?

21 A. I'M NOT SURE THAT I DON'T NEED A RULER, BUT IT
22 LOOKS TO ME AS THOUGH IT'S C & G-3; IS THAT RIGHT?

23 Q. THAT'S WHAT I HAVE, TOO.

24 A. YES, C & G-3

25 Q. NOW, WHAT'S THE NEXT FIGURE ON THERE?

3 Q. OKAY. LET'S GO TO DOUBLE-H.

4 MR. NUMRICH: YOUR HONOR, MAY I APPROACH THE WITNESS?
5 MY COPY OF THIS EXHIBIT IS NOT VERY GOOD.

6 THE COURT: YOU MAY, MR. NUMRICH. AND WE MAY HAVE A
7 RULER IF THAT WILL HELP ANY.

8 Q. (BY MR. NUMRICH) OKAY, NOW, MR. JONES, I AGAIN
9 WANT TO REFERENCE THE RAW FIBER STOCK DATED MAY 31 ATTACHED
10 TO T & N'S EXHIBIT HH. WHERE IS THE REFERENCE--WHAT
11 REFERENCE DO YOU SEE IN PLANT NINE TO ASBESTOS FIBER?

12 A. WELL, THE FIRST ONE IS 83.55 TONS.

13 Q. AND WHERE IS THAT FROM?

14 A. THAT'S C & G-3.

15 Q. AND WHAT'S THE NEXT ONE?

16 A. SEVENTY-SIX POINT FOUR THREE TONS, AND
17 C & G-4.

18 Q. I DON'T WANT TO BELABOR THE POINT, MR. JONES,
19 OF GOING THROUGH THE REST OF THESE, BUT ISN'T IT A FACT THAT
20 THE REST OF THESE WOULD SHOW AS EXHIBITS THAT WE HAVE
21 HERE--DOUBLE-L, DOUBLE-K, AND DOUBLE-M, OF WHICH MY COPY
22 OBLITERATED; I REALLY CAN'T MAKE OUT WHAT'S IN DOUBLE-M--BUT
23 ISN'T IT A FACT THAT ALMOST ALL OF THE FIBER MENTIONED AS
24 BEING IN STOCK AT SAINT LOUIS PLANT NINE IS C & G FIBER--
25 FIBER COMING FROM ONE OF THE TURNER AND NEWALL SUBSIDIARIES?

1 COMPANIES?

2 A. MAY I HAVE A LOOK BEFORE ANSWERING THAT QUESTION,
3 BECAUSE I DON'T KNOW.

4 Q. GO RIGHT AHEAD.

5 THE COURT: HERE'S A RULER IF THAT HELPS.

6 THE WITNESS: THANK YOU VERY MUCH, YOUR HONOR.

7 WE'VE GOT TO HH; WHICH WAS THE NEXT ONE?

8 Q. (BY MR. NUMRICH) I THINK KK WOULD BE THE NEXT
9 ONE.

10 A. KK, PLANT NUMBER NINE, THE FIRST ENTRY IS
11 TONS.

12 Q. WHERE DOES THAT COME FROM?

13 A. THAT COMES FROM CORPORATION, A.C.L.

14 Q. WELL, IT'S JUST IDENTIFIED ON THAT SHEET AS
15 "CORPORATE," ISN'T IT?

16 A. WELL, IT'S IDENTIFIED AS "CORP." THAT'S FINE.
17 BUT THAT'S WHO IT IS.

18 Q. WHAT'S THE NEXT ONE?

19 A. SIXTEEN POINT FIVE TONS, AND THAT'S "CORP.," TOO.

20 Q. WHAT IS THE NEXT ONE?

21 A. FIFTY-FIVE POINT FIVE FIVE TONS, AND THAT'S C & G-
22 AND THEN WE HAVE 16.7 TONS, C & G-4; 78.12 TONS, CAPE
23 ASBESTOS; 25.77 TONS, AMOSITE. WELL, THAT'S THE END OF THE
24 FIBER LIST. IT'S ALL RAW MATERIALS AFTER THAT.

25 Q. OKAY. THAT'S KK. THERE WAS NO MENTION OF

1 JOHNS-MANVILLE FIBER IN PLANT NINE ON THIS EXHIBIT; WAS THERE?
2 A. NO, THERE WASN'T.
3 Q. LET'S GO TO LL.
4 A. YES, I HAVE LL. DO YOU WANT ME TO GO THROUGH THE
5 LIST AGAIN?
6 Q. YES.
7 A. THE FIRST ITEM IS 9.4 TONS, WHICH IS COPPER TON.
8 THE NEXT ITEM IS 308.69 TONS, WHICH IS C & G-3. THE NEXT ONE
9 IS 49.78 TONS, WHICH IS CAPE ASBESTOS. THE NEXT ONE IS 7.55,
10 WHICH IS AMOSITE. THAT'S IT.
11 Q. AND NO MENTION OF JOHNS-MANVILLE ON THAT
12 WAS THERE?
13 A. NO MENTION OF JOHNS-MANVILLE.
14 Q. LET'S GO TO THE NEXT ONE, MM.
15 MR. NUMRICH: YOUR HONOR, MAY I APPROACH THE WITNESS?
16 THE COURT: YOU MAY.
17 MR. NUMRICH: BECAUSE I DO NOT HAVE A COPY OF THAT ONE.
18 Q. (BY MR. NUMRICH) MR. JONES, WHAT'S THE FIRST
19 LISTING THERE?
20 A. THIRTY-FOUR POINT TWO THREE TONS.
21 Q. AND WHERE IS THAT FROM?
22 A. BELL'S. OH, I'M SORRY. WE'RE ON PLANT SEVEN.
23 THERE. THIS IS PLANT NINE.
24 Q. OKAY.
25 A. PLANT NINE, THE FIRST ITEM IS 30 TONS, C & G-3.

1 THE NEXT ONE IS 58.91 TONS, CAPE ASBESTOS-S. THE NEXT ONE IS
2 17.48 TONS, O & M-3--THAT'S A NEW ONE TO ME COMPLETELY.
3 AND THE NEXT ONE IS 219.72 TONS, AMOSITE-M-1. AND THE NEXT
4 ONE IS 15.26 TONS, HVL-3.

5 Q. WHAT'S HVL-3? WHOSE FIBER IS THAT?

6 A. THAT'S A FIBER THAT COMES FROM A MINE CALLED
7 HAVILOCK IN SWAZILAND.

8 Q. WHO OWNS THAT MINE?

9 A. THAT'S ONE IN WHICH T & N HAD A PREDOMINANT
10 INTEREST, OR HAD AT THIS TIME.

11 Q. IS THERE ANY MENTION OF JOHNS-MANVILLE ON
12 THAT EXHIBIT?

13 A. NO MENTION OF JOHNS-MANVILLE THERE.

14 Q. JUST SO THE RECORD IS STRAIGHT, MR. JONES,
15 DON'T KNOW WHY THEY DIDN'T ASK YOU TO DO THE COMPUTATIONS ON
16 PLANT NINE; DO YOU?

17 A. NO.

18 Q. NOW, WHO'S THE PRESENT CORPORATE SECRETARY OF
19 TURNER AND NEWALL?

20 A. A MAN CALLED DODSON, CHRIS DODSON.

21 Q. AND AS I UNDERSTAND IT, MR. JONES, THE RECORDS--
22 WHERE DID THE RECORDS COME FROM THAT THESE COPIES THAT WE'RE
23 LOOKING AT WERE MADE FROM? WHERE DID THE MINUTES COME FROM?

24 A. THE MINUTES COME FROM TURNER AND NEWALL'S HEAD
25 OFFICE.

1 Q. AND YOU PULLED THOSE OUT APPARENTLY BEFORE YOU
2 RETIRED?
3 A. I DID.
4 Q. AND YOU WERE RESPONSIBLE FOR COMPILING AND PULLING
5 ALL THOSE EXHIBITS OUT. HOW MANY--FROM WHAT YEARS TO WHAT
6 YEARS DID YOU PULL OUT?
7 A. I SUPPOSE--I REALLY COULDN'T TELL YOU FOR CERTAIN,
8 BUT I SUPPOSE IT WOULD BE A COUPLE OF YEARS UP TO 1980, OR
9 CERTAINLY A YEAR AFTER 1980 WHEN I RETIRED.
10 Q. EXACTLY WHAT DATE DID YOU HAVE THE RECORDS IN
11 THE WAY BACK TO? THE '30'S OR '20'S?
12 A. WHAT?
13 Q. DID THE RECORDS THAT YOU PULLED OUT FOR THE
14 PEOPLE GO BACK TO THE '30'S AND THE '20'S?
15 A. OH, YES, THEY DID, THE '30'S ANYWAY.
16 Q. DID THEY GO BACK PRIOR TO 1939?
17 A. PRIOR TO 1939.
18 Q. NOW, YOU SAID YOU--GETTING BACK TO THE SUMMARY,
19 LET'S GET BACK TO THAT FOR A FEW MINUTES, MR. JONES. YOU SAID
20 THAT AFTER THIS SUMMARY WAS PREPARED BY A PARALEGAL FROM THE
21 SULLIVAN AND CROMWELL OFFICE IN NEW YORK, OR THE TURNER AND
22 NEWALL PEOPLE IN ENGLAND, YOU WERE HANDED THIS AND YOU SAID
23 YOU CROSS-CHECKED THESE NUMBERS TO VOUCH FOR THEIR ACCURACY;
24 IS THAT CORRECT?
25 A. NO, NOT THESE NUMBERS. THESE WERE COMPILED FROM

1 AN EXTRACT OF ALL THE STOCK INVENTORIES OVER THE RELEVANT
2 YEARS; AND THOSE EXTRACTS SHOWED THE TONNAGES, NOT THE
3 PERCENTAGES. AND FROM THOSE TONNAGES, THIS LIST OF PERCENTAGES
4 WAS BUILT UP.

5 Q. SO WE GO FROM THE RECORDS AVAILABLE AT TURNER
6 AND NEWALL TO AN EXTRACT PREPARED BY SOMEONE ELSE. DO YOU
7 KNOW WHO THAT SOMEONE ELSE WAS?

8 A. YES. THAT WAS THE--NANCY, AS WE REFERRED TO HER
9 EARLIER ON.

10 Q. THE PARALEGAL FOR SULLIVAN AND CROMWELL?

11 A. YES.

12 Q. AND THEN WE GO TO THESE FIGURES. AND DID YOU
13 CROSS-CHECK ON THE EXTRACTS? IS THAT WHAT YOU CROSS-CHECKED
14 ON?

15 A. YES, I CROSS-CHECKED ON THE EXTRACT.

16 Q. BUT YOU DIDN'T CROSS-CHECK ON THE PERCENTAGES.

17 A. NO, I DID NOT RECALCULATE THESE.

18 Q. BECAUSE I NOTICE DOWN ON THE TOTAL PARTS, DOWN
19 HERE WHERE IT SAYS "TOTAL," YOU WOULD THINK THOSE WOULD ADD
20 UP TO A HUNDRED PERCENT; WOULDN'T YOU?

21 A. YES. TOTAL?

22 Q. YOU'D THINK THEY WOULD ADD UP TO A HUNDRED
23 PERCENT?

24 A. I DON'T THINK YOU WOULD, WOULD YOU, BECAUSE THE
25 LAST FIGURE IS NOT FOR THE SAME PERIOD AS THE FIRST FOUR,

1 ACCORDING TO THE FOOTNOTE.

2 Q. SO YOU'D HAVE MORE THAN ONE HUNDRED PERCENT.
3 HOW CAN YOU HAVE MORE THAN ONE HUNDRED PERCENT OF FIDEP IN
4 STOCK AT A TIME?

5 A. IS IT MORE THAN ONE HUNDRED PERCENT?

6 Q. YES. IT'S 103 PERCENT.

7 A. I'M NOT SURE THAT'S NOT SURPRISING, IF YOU
8 PUT IN ONE FIGURE AT THE BOTTOM WHICH COVERS A PERIOD OF
9 FOUR YEARS.

10 Q. SINCE YOU DIDN'T PREPARE THIS LIST, I GUESS YOU
11 CAN'T SPEAK TO THE ACCURACY OF IT; CAN YOU?

12 A. I'M SURE THE FIGURES ARE ACCURATE. THE FACT TH.
13 ONE OF THE FIGURES HAPPENS TO RELATE TO A SLIGHTLY DIFFERENT
14 PERIOD FROM THE OTHERS IS FOUND TO UPSET THE STRICT EFFECT.

15 Q. BUT AS FAR AS YOUR TESTIMONY GOES, MR. JONES,
16 YOU CAN'T VOUCH FOR THE ACCURACY OF THESE FIGURES BECAUSE YOU
17 DID NOT CROSS-CHECK THEM; DID YOU?

18 A. THAT'S RIGHT. I DIDN'T.

19 Q. NOW, WHEN DID YOU RETIRE FROM TURNER AND NEWALL?

20 A. AT THE END OF APRIL 1980.

21 Q. NOW, WERE YOU A STOCKHOLDER IN THAT COMPANY?

22 A. I WAS.

23 Q. ARE YOU STILL A STOCKHOLDER IN THAT COMPANY?

24 A. I AM.

25 Q. HOW MUCH STOCK DO YOU HOLD?

1 MR. SHOEMAKE: I'M GOING TO OBJECT, YOUR HONOR.

2 THIS DOESN'T HAVE ANY RELEVANCY TO ANY OF THE ISSUES RAISED

3 BY THE PLEADINGS.

4 THE COURT: OBJECTION OVERRULED. HE MAY INQUIRE. IT'S

5 CROSS-EXAMINATION.

6 Q. (BY MR. NUMRICH) HOW MUCH STOCK DO YOU OWN

7 A. MY HOLDING IS ABOUT 1200 STOCK UNITS.

8 Q. IS THAT WHAT WE CALL 1200 SHARES IN THE UNITED
9 STATES?

10 A. TWELVE HUNDRED SHARES, YES.

11 Q. HOW MANY OUTSTANDING SHARES DO YOU HAVE?

12 A. I SHOULD SAY ABOUT--THE FIGURE THAT STICKS IN
13 MY MIND, AND I'M NOT SURE. I'M THINKING BACK TO THE
14 VERY LAST DAYS OF MY TENURE OF OFFICE, OR EARLIER. IT'S ABOUT
15 66,000, SAY 60,000.

16 Q. NOW, WERE YOU--WHEN YOU PULLED THESE RECORDS OUT
17 FOR TURNER AND NEWALL, WERE YOU ON SALARY FROM TURNER AND
18 NEWALL?

19 A. YES, I WAS.

20 Q. HOW MUCH WERE YOU MAKING THEN FROM TURNER AND
21 NEWALL?

22 MR. SHOEMAKE: YOUR HONOR, I'M GOING TO OBJECT TO HOW
23 MUCH HE MAKES. THIS HAS NO RELEVANCY TO ANY ISSUES AGAINST
24 T & N OR T.A.F.

25 THE COURT: THE COURT BELIEVES IN CROSS-EXAMINATION.

1 MR.'S ENTITLED TO ASK THESE QUESTIONS. OBJECTION OVERRULED.

2 THE WITNESS: MY SALARY AT THAT TIME WAS ABOUT 12,000
3 POUNDS PER ANNUM.

4 Q. HOW DOES THAT CONVERT TO AMERICAN DOLLARS?

5 A. ABOUT \$36,000.

6 Q. AND DID YOU ALSO HAVE BENEFITS WITH THAT?

7 A. WOULD YOU CALL BEING A MEMBER OF THE PENSION
8 FUND A BENEFIT?

9 Q. YES. THAT'S MY NEXT QUESTION.

10 A. YES.

11 Q. ARE YOU NOW A PENSIONER OF TURNER AND NEWALL?

12 A. I AM NOW ON PENSION FROM TURNER-NEWALL.

13 Q. AND ARE YOU BEING PAID TO TESTIFY HERE TODAY?

14 A. NO, I'M NOT.

15 Q. WERE YOUR EXPENSES PAID OVER HERE?

16 A. MY EXPENSES ARE BEING PAID.

17 Q. IS THAT YOUR WIFE BACK THERE WITH YOU, MR. JONES?

18 A. SHE'S WITH ME.

19 Q. WERE HER EXPENSES PAID?

20 A. HER EXPENSES ARE BEING PAID.

21 Q. NOW, GETTING BACK TO THE SALES PURCHASE RECEIPTS
22 FOR A COUPLE MORE QUESTIONS, OR THE STOCK RAW INVENTORY
23 WOULDN'T IT BE TRUE, MR. JONES, THAT THE ACTUAL SALES PURCHASE
24 RECORDS, INVOICES, OR WHATEVER YOU WANT TO TERM THEM, WOULD
25 BE THE BEST EVIDENCE AS TO HOW MUCH FIBER WAS SOLD TO

1 SAINT LOUIS TO BE USED IN PLANT THREE OVER ANY PERIOD OF TIME
2 WOULDN'T THAT BE THE BEST EVIDENCE?

3 A. I SUPPOSE IT PROBABLY WOULD, YES, BUT I'M NOT
4 SURE YOU CAN GET HOLD OF THESE, THE SALES INVOICES IN EVERY
5 CASE. IS THIS QUESTION DIRECTED SOLELY TO WHETHER SALES
6 INVOICES WOULD BE A BETTER RECORD OF WHAT THEY HELD?

7 Q. YES, SIR.

8 A. IT WOULD BE A BETTER RECORD, PERHAPS, OF WHAT
9 THEY HAD, BUT WHAT THEY HELD IS SHOWN--WHAT WAS, FROM TIME TO
10 TIME, IN THEIR WAREHOUSE IS SHOWN QUITE PRECISELY FROM THESE
11 DOCUMENTS.

12 Q. HOW ABOUT WHAT THEY BROUGHT FROM JOHNS-MANVILLE?
13 WOULDN'T THE SALES RECORDS BE THE BEST EVIDENCE OF WHAT
14 THEY BOUGHT FROM JOHNS-MANVILLE?

15 A. WELL, IF YOU HAVE A RECORD WHICH SHOWS PRECISELY
16 WHAT JOHNS-MANVILLE FIBER IS SITTING ON THE SHELF. ISN'T IT
17 THAT?

18 Q. EXCUSE ME. I DO NOT MEAN TO CUT YOU OFF, MR.
19 JONES, BUT MY QUESTION WAS--YOU CAN ANSWER IT YES OR NO:
20 WOULD THE SALES RECORDS BE THE BEST EVIDENCE OF WHAT WAS
21 PURCHASED FROM JOHNS-MANVILLE OVER ANY PERIOD OF TIME THAT YOU
22 WANT TO PICK OUT? YES OR NO?

23 A. I SUPPOSE THEY WOULD, YES.

24 MR. NUMRICH: THANK YOU.

25 THE COURT: NOW, MR. KOSTA, OR ANYONE ELSE WHO HAS

1 NOT INQUIRED?

2 MR. KOSTA: NO QUESTIONS, YOUR HONOR.

3 THE COURT: MR. SHOEMAKE.

4 MR. SHOEMAKE: A FEW QUESTIONS, YOUR HONOR.

5 REDIRECT EXAMINATION

6 BY MR. SHOEMAKE:

7 Q. MR. JONES, IF I HEARD YOU CORRECTLY, SIR, I
8 BELIEVE YOU SAID THAT YOU OWN APPROXIMATELY 1200 SHARES IN
9 TURNER AND NEWALL OUT OF 66,000. DID YOU MEAN 66 MILLION
10 SHARES ISSUED?

11 A. I'M SORRY, I DID; 66 MILLION, YES.

12 Q. ALL RIGHT. AND THE SHARES SELL FOR WHAT?
13 ABOUT A DOLLAR APIECE, TWO DOLLARS APIECE?

14 A. TWO AND A HALF.

15 Q. TWO AND A HALF DOLLARS APIECE. SO YOU'VE GOT
16 \$3,000 INVESTMENT, OR LESS THAN THAT, IN SHARES?

17 A. THAT'S THE BASE OF IT, YES.

18 Q. NOW, YOU WERE ASKED SOME QUESTIONS ON CROSS-
19 EXAMINATION WITH REGARD TO THE FACT THAT THESE MONTHLY
20 INVENTORY SHEETS WERE--THAT WE PRESENTED YOU WERE ONLY UP
21 THROUGH 1957. CAN YOU TELL THE COURT AND JURY WHETHER OR NOT,
22 AS A MATTER OF FACT, THERE CAME A PERIOD OF TIME WHEN KEASBEY
23 AND MATTISON NO LONGER KEPT ITS INVENTORY BY PLANTS, THAT IS.
24 INVENTORY IN SAINT LOUIS, INVENTORY IN PENNSYLVANIA, BUT KEPT
25 IT ON A NATIONWIDE BASIS INSTEAD?

1 A. I'M BOUND TO SAY I DON'T REMEMBER THAT.

2 Q. ALL RIGHT. NOW, I BELIEVE YOU SAID THAT TURNER
3 AND NEWALL WORLDWIDE HAS SOMETHING LIKE 40-45,000 EMPLOYEES
4 IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. ALL RIGHT. DO YOU KNOW WHETHER OR NOT IT HAS
7 ANY EMPLOYEES IN THE UNITED STATES?

8 A. NO, IT HASN'T.

9 Q. ALL RIGHT. CAN YOU TELL THE COURT AND JURY
10 REGARD TO KEEPING THESE RECORDS FOR PLANT THREE, THE SHIP
11 PLANT, FROM 1939 TO 1957, WHETHER OR NOT, WHEN YOU FIRST
12 STARTED KEEPING THESE RECORDS, THERE WAS EVEN A PLANT NINE
13 EXISTENCE IN SAINT LOUIS, IF YOU KNOW?

14 A. YES. I DON'T REMEMBER WHEN PLANT NINE CAME
15 INTO EXISTENCE.

16 Q. ALL RIGHT. DID I UNDERSTAND YOU CORRECTLY TO
17 SAY THAT KEASBEY AND MATTISON PURCHASED ITS FIBER DIRECTLY
18 FROM BELL MINES WITHOUT GOING THROUGH TURNER ASBESTOS FIBERS?

19 A. THAT'S RIGHT.

20 Q. NOW, THE DOCUMENTS THAT YOU REVIEWED TO REFRESH
21 YOUR RECOLLECTION ARE IN THE COURTROOM TODAY; IS THAT CORRECT?

22 A. THAT IS CORRECT.

23 Q. THAT IS, ALL THE INVENTORY LISTS FOR THE MONTHS
24 IN QUESTION FOR THE YEARS ARE IN THE COURTROOM; IS THAT
25 CORRECT?

1 A. THAT IS CORRECT.

2 Q. ALL RIGHT. AND IS THAT SUMMARY THAT YOU HAVE
3 FRONT OF YOU FROM WHICH--STRIKE THAT. AND THAT SUMMARY IS
4 PREPARED FROM THOSE RECORDS; IS THAT CORRECT?

5 A. THAT IS CORRECT.

6 MR. SHUEMAKE: YOUR HONOR, AT THIS TIME, I THINK I
7 WOULD ASK LEAVE TO FILE AS AN EXHIBIT ALL THE INVENTORY LIST
8 THAT ARE IN THE COURTROOM, BECAUSE OF THE RECORD THAT HAS
9 HERETOFORE BEEN MADE BY VARIOUS COUNSEL WITH REGARD TO THE
10 ACCURACY OF THE DOCUMENT THAT THE WITNESS HAS. I THINK IT
11 WOULD BE AN AID TO THE EFFECTIVE PROOF IN THIS CASE, AND I
12 DON'T SEE THAT IT WORKS INTO PREJUDICE. THE WITNESS HAS SO
13 TESTIFIED. AND I WOULD ASK TO BE ALLOWED TO FILE THAT SUMMARY
14 AS A CORRECTED INDEX. I BELIEVE THAT.

15 MR. MORRIS: I OBJECT, YOUR HONOR. THE REASON I OBJECT
16 IS BECAUSE, ON BEHALF OF A.C.L., IS THEY WERE NOT PROVIDED
17 AT A TIME WHEN, BY ORDER OF THE COURT, THEY SHOULD HAVE BEEN
18 PROVIDED, AND WHEN THERE WAS TIME TO DO SOMETHING WITH
19 THOSE RECORDS. IT IS TOO LATE AND I OBJECT. THEY'RE OUT OF
20 TIME.

21 THE COURT: MR. BEERS.

22 MR. BEERS: THE PRETRIAL ORDER, AS I UNDERSTAND, DOES
23 NOT BAR THE INTRODUCTION OF EXHIBITS AT A LATER TIME ON
24 REBUTTAL. CERTAINLY WE WOULD OFFER THEM ON BEHALF OF BRINCO
25 IN REBUTTAL TO A.C.L.'S PRESENTATION IN THIS CASE. MOREOVER,

1 MR. NUMRICH AND MR. MORRIS HAVE HAD THE FOUR OR FIVE SAMPLES
2 SINCE BEFORE THE BEGINNING OF THIS CASE AND HAVE HAD AMPLE
3 OPPORTUNITY TO RAISE THIS MATTER.

4 MR. MORRIS: THAT'S ALL WE HAD, THE FOUR OR FIVE
5 SAMPLES. THAT'S ALL OF IT.

6 THE COURT: MR. NUMRICH.

7 MR. NUMRICH: EXCUSE ME, YOUR HONOR. WHEN THE PRETRIAL
8 WAS FILLED WITH THE LISTS OF EXHIBITS, MR. JONES HAS TESTIFIED
9 THAT ALL THESE EXHIBITS WERE AVAILABLE TO TURNER AND NEWALL
10 TO MARK AS EXHIBITS. NOW, WE'RE IN THE FOURTH WEEK OF THIS
11 TRIAL AND NOW THEY WANT TO COME UP AND SHOVE THEM INTO
12 EVIDENCE. WE OBJECT FOR THE SAME REASONS WE OBJECTED BEFORE.

13 THE COURT: ANYONE ELSE WISH TO BE HEARD?

14 MR. MOTLEY.

15 MR. MOTLEY: YES, YOUR HONOR. I THINK COUNSEL FOR
16 JOHNS-MANVILLE AND ASBESTOS CORPORATION LIMITED, BY THEIR
17 CROSS-EXAMINATION, IF FOR NO OTHER REASON, HAVE OPENED THE
18 DOOR TO THE ADMISSION OF THESE RECORDS. AND I THINK IT WOULD
19 SHED LIGHT ON WHOSE FIBERS WERE IN THIS PLANT, AND IT IS
20 MATERIAL AND RELEVANT, AND WE WOULD LIKE TO HAVE THIS WITNESS
21 RETAINED UNTIL OUR REBUTTAL CASE, IN THE EVENT THE COURT
22 DEEMS IT INAPPROPRIATE, BECAUSE WE WANT TO OFFER THE RECORDS
23 INTO EVIDENCE.

24 MR. SHOEMAKE: I BELIEVE, UNDER RULE 1006, AS I READ IT,
25 SUMMARIES OF BACK-UP RECORDS, RELATING TO THOSE BEING IN THE

1 COURT: ..., ARE RELEVANT AND ADMISSIBLE. AND I WOULD AGAIN,
2 AS) LEAVE TO MARK THEM AS AN EXHIBIT.

3 THE COURT: THE COURT WILL GRANT LEAVE TO MARK IT AS
4 AN EXHIBIT WITHOUT RULING AT THIS TIME WHETHER OR NOT SUCH
5 AN EXHIBIT SHOULD BE ADMISSIBLE. I WANT TO UNDERSTAND THAT THE
6 ARE AVAILABLE AT THIS POINT TO ALL COUNSEL FOR EXAMINATION.
7 IS THAT CORRECT, MR. SHOEMAKE?

8 MR. SHOEMAKE: THEY'RE IN THE COURTROOM AND AVAILABLE.

9 THE COURT: AND CAN THIS WITNESS BE MADE AVAILABLE?
10 I TAKE IT HE CAN THROUGHOUT THE REMAINDER OF THIS TRIAL
11 TO THE PARTIES?

12 MR. SHOEMAKE: CAN YOU, MR. JONES?

13 THE WITNESS: CAN YOU GIVE ME ANY IDEA HOW LONG THAT'S
14 LIKELY TO BE?

15 THE COURT: WE HAVE SEVEN MORE QUESTIONS LIKE THAT
16 RIGHT OVER HERE.

17 MR. HULLVERSON: AS SOON AS WE RUN OUT OF JURORS.

18 THE COURT: THE COURT WOULD THINK THAT SHOULD INVOLVE
19 A WEEK, PROBABLY GOING TO INVOLVE A WEEK AND NOT MORE THAN
20 TWO WEEKS. THAT'S ABOUT THE BEST I CAN ESTIMATE, BECAUSE I
21 DON'T KNOW WHAT WILL GO ON.

22 MR. BEERS: IF THE COURT PLEASE, I'M SURE COUNSEL CAN
23 GET TOGETHER AND STIPULATE. WE CAN DEAL WITH THIS MATTER
24 AS FAR AS MR. JONES IS CONCERNED IN A LOT SHORTER TIME THAN
25 THAT.

1 THE COURT: COUNSEL WILL STIPULATE AS TO YOUR SCHEDULE.
2 PROVIDED YOU'RE NOT LEAVING FOR SIX MONTHS.

3 THE WITNESS: WELL, I THINK THAT WOULD PRESENT NO
4 PROBLEM IF IT COULD BE DONE IN A REASONABLY PRACTICABLE TIME.

5 THE COURT: SOMETHING WITHIN TWO WEEKS?

6 THE WITNESS I WOULD HOPE IT WOULD BE SOONER THAN THAT.

7 MR. BEERS: IF THE COURT PLEASE, I WOULD HOPE THAT WE
8 COULD DISPOSAL OF THIS MATTER IN THE NEXT DAY OR TWO.

9 THE COURT: I THINK IT'S PROBABLY GOOD TO HAVE A
10 RECESS AT THIS POINT. WE'LL TAKE A TEN-MINUTE RECESS AND
11 YOU'LL RESUME THE STAND.

12 (RECESS.)

13 :: :: :: :: ::

14 (THE JURY RETURNED TO THE COURTROOM;

15 THE WITNESS RESUMED THE STAND.)

16 THE COURT: MR. SHOEMAKE.

17 MR. SHOEMAKE: THANK YOU. JUST A COUPLE OF QUESTIONS,
18 YOUR HONOR.

19 REDIRECT EXAMINATION (CONTINUED)

20 BY MR. SHOEMAKE:

21 Q. MR. JONES, JUST SO THAT I'M CLEAR, SIR, THE
22 EXTRACT OF THE MINUTES OF KEASBEY AND MATTISON THAT YOU HAVE
23 WERE EXTRACTS TAKEN FROM THE COMPLETE SET OF MINUTES; IS THAT
24 CORRECT?

25 A. YES, THEY WERE.

1 Q. IN OTHER WORDS, YOU HAD--NOW, MR. JONES, I'M
2 GOING TO SHOW YOU, SIR, WHAT'S BEEN MARKED FOR IDENTIFICATION.
3 AS TURNER AND NEWALL EXHIBIT 6-M AND ASK YOU, SIR, IF THOSE
4 ARE THE INVENTORY SHEETS FOR THE YEARS IN QUESTION ABOUT WHICH
5 YOU'VE HERETOFORE TESTIFIED?

6 A. YOU WOULD NOT WANT ME TO GO THROUGH THEM ALL ONE
7 BY ONE; DO YOU?

8 Q. NO, SIR.

9 A. MAY I JUST EXAMINE THEM AND SEE? YES, THESE
10 ARE INDEED THE SCHEDULES FROM 1939 TO 1957.

11 Q. AND THOSE SCHEDULES WERE KEPT AND MAINTAINED IN
12 THE REGULAR COURSE OF BUSINESS BY YOU, SIR?

13 A. THEY WERE.

14 MR. SHOEMAKE: THANK YOU, YOUR HONOR.

15 THE COURT: ALL RIGHT. IS THERE FURTHER EXAMINATION?

16 MR. MOTLEY: YES, YOUR HONOR.

17 THE COURT: MR. MOTLEY, RECROSS.

18 RECROSS-EXAMINATION

19 BY MR. MOTLEY:

20 Q. MR. JONES, YOU LEFT TURNER AND NEWALL, I BELIEVE
21 YOU TOLD ME, IN APRIL 1980; IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. AND PRIOR TO THAT TIME, THERE WAS THIS COMPILATION
24 OF ALL THESE RECORDS WHICH ARE BACK THERE, I ASSUME IN THOSE
25 FILE CABINETS THAT ARE NOW IN THE COURTHOUSE; IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. AND PERSONNEL AT TURNER AND NEWALL, WITH YOUR
3 ASSISTANCE, WENT THROUGH THESE RECORDS AND PULLED TOGETHER
4 ALL OF THESE DOCUMENTS WHICH ARE REFLECTED BY WHAT'S IN THE
5 COURTROOM; IS THAT CORRECT?

6 A. THAT IS CORRECT.

7 Q. AND THEY WERE READILY AVAILABLE TO TURNER AND
8 NEWALL PERSONNEL; IS THAT CORRECT?

9 A. THEY WERE READILY AVAILABLE TO ME--

10 Q. YES.

11 A. --BUT ONCE THEY WERE TAKEN OUT AND PLACED, READY
12 FOR USE, THEY WOULD HAVE BEEN AVAILABLE TO OTHER PEOPLE.

13 Q. BUT THEY WERE AVAILABLE PRIOR TO YOUR LEAVING, AND
14 YOU MADE USE OF THOSE DOCUMENTS; IS THAT CORRECT?

15 A. NOT VERY MUCH, MYSELF, IN FACT.

16 Q. WELL, WHO DID YOU GIVE THEM TO?

17 A. I GAVE THEM TO THE REPRESENTATIVES OF SULLIVAN
18 AND CROMWELL.

19 Q. WHICH REPRESENTATIVES OF SULLIVAN AND CROMWELL
20 DID YOU GIVE THEM TO?

21 A. THEY VARIED. SOMETIMES--

22 Q. THERE'S ABOUT SIX LAWYERS SITTING BACK THERE IN
23 THE BACK OF THAT ROOM. I KNOW ONE OF THEM IS FROM ENGLAND.
24 BUT THE OTHER FIVE--ARE FOUR OF THEM FROM SULLIVAN AND
25 CROMWELL IN NEW YORK?

1 A. WELL, I CAN SEE THREE THAT I REMEMBER COMING FOR
2 FOR THIS PURPOSE AND TWO MORE THAT I DON'T THINK I DO REMEMBER.

3 Q. ONE OF THEM IS FROM SOUTH CAROLINA; I KNOW HIM.

4 A. WRITE HIM OFF THEN. ONE IS FROM THE U.K.,
5 ONE I DON'T KNOW, AND THE OTHERS I DO.

6 Q. HE REPRESENTS TURNER AND NEWALL ALSO. SO YOU
7 TURNED OVER THESE RECORDS TO SOME LAWYERS FROM SULLIVAN AND
8 CROMWELL WHO REPRESENT TURNER AND NEWALL'S INTERESTS IN THE
9 UNITED STATES; IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. DO YOU KNOW THE GENTLEMAN THAT'S SEATED THERE
12 IN THE FIRST ROW OF THE BENCH BACK THERE, MR. ATKINSON?

13 A. I DO.

14 Q. WOULD YOU TELL THE JURY WHO HE MIGHT BE?

15 A. HE'S TURNER AND NEWALL LIMITED'S SOLICITOR.

16 Q. WOULD YOU TELL THE JURY WHAT THAT MEANS?

17 A. I THINK IT'S THE EQUIVALENT OF WHAT YOU WOULD
18 CALL AN IN-HOUSE COUNSEL.

19 Q. HE'S A LAWYER?

20 A. HE'S A LAWYER.

21 Q. RIGHT. AND YOU'RE A LAWYER?

22 A. I WAS.

23 Q. YOU WERE?

24 A. THIRTY YEARS AGO.

25 Q. OKAY. BUT DO YOU HAVE LEGAL TRAINING?

1 A. YES.

2 Q. ALL RIGHT. NOW, WHEN TURNER AND NEWALL SOLD TO
3 KEASLEY AND MATTISON FACILITY HERE IN SAINT LOUIS TO CERTAIN-TEED
4 YOU WERE SECRETARY OF THE CORPORATION; IS THAT CORRECT?

5 A. I WAS.

6 Q. DO YOU HAVE KNOWLEDGE OF THAT TRANSACTION?

7 A. NOT VERY MUCH PERSONAL KNOWLEDGE.

8 Q. WELL, ALL THESE RECORDS THAT YOU REVIEWED, ARE
9 THEY RECORDS THAT WOULD REFLECT THAT TRANSACTION?

10 A. I'M NOT SURE THAT THE PAPERS RELATED TO THAT
11 TRANSACTION WERE REVIEWED.

12 Q. BUT THERE ARE PAPERS?

13 A. THERE ARE PAPERS TO THE PARTICULAR TRANSACTION.

14 Q. AND DO YOU NOT KNOW, SIR, AND THERE'S BEEN
15 TESTIMONY IN THIS CASE THAT THERE WAS A CONTRACT ENTERED INTO
16 BETWEEN TURNER AND NEWALL AND CERTAIN-TEED WITH RESPECT TO
17 THE SALE OF FIBER, OR THE BROKERAGE OF FIBER TO THE CERTAIN-TEED
18 PLANT BY THE TURNER-NEWALL GROUP?

19 A. YES, I WAS AWARE THAT THERE WAS AN AGREEMENT WITH
20 CERTAIN-TEED.

21 Q. AND THAT AGREEMENT PROVIDED THAT THE TURNER AND
22 NEWALL GROUP WOULD BROKER THE ASBESTOS FIBER THAT CAME TO
23 THE CERTAIN-TEED PLANT HERE IN SAINT LOUIS; IS THAT CORRECT?

24 A. WELL, AS FAR AS I CAN RECALL, I'M NOT ABLE--
25 HAVING BEEN INVOLVED PERSONALLY IN THAT TRANSACTION, I'M NOT

2 TO SPEAK TO THE DETAILS OF THE AGREEMENT.

3 Q. BUT THERE IS AN AGREEMENT?

4 A. THERE IS AN AGREEMENT.

5 Q. AND YOU'RE AWARE OF THAT?

6 I'M AWARE OF THAT.

7 Q. AND YOU'RE AWARE THERE WAS SOME AGREEMENT,

8 ALTHOUGH YOU DON'T KNOW THE SPECIFICS OF IT, FOR THE TURNER-
9 NEWALL GROUP TO PROVIDE BROKERING OF ASBESTOS FIBER TO
10 CERTAIN-TEED PLANT HERE IN SAINT LOUIS, IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. AND THESE RECORDS REFLECT, DO THEY NOT, STATE

13 THAT TURNER AND NEWALL DID BROKER FIBER TO THE SAINT LOUIS

14 PLANT OF CERTAIN-TEED; IS THAT CORRECT?

15 MR. SHENAKER: EXCUSE ME, YOUR HONOR. I'M GIVING T

16 OBJECT FOR TWO REASONS: ONE, THIS IS REPETITIOUS, IT'S BEEN

17 COVERED BEFORE; AND, TWO, IT'S BEYOND THE SCOPE OF THE

18 REDIRECT.

19 THE COURT: OBJECTION OVERRULED. IT'S CROSS-EXAMINATION.

20 Q. (BY MR. MOTLEY) IS THAT CORRECT, MR. JONES?

21 A. WELL, I'M NOT SURE THAT I CAN GO VERY MUCH

22 FURTHER ON THAT. FROM THE FIGURES WE LOOKED AT THIS MORNING,

23 I THINK IT SHOWED THAT THE MAJORITY OF THE TURNER-NEWALL SHARE OF

24 THE PICTURE WENT TO PLANT NUMBER NINE; DID IT NOT?

25 Q. NUMBER NINE, WHICH IS THE PIPE PLANT?

A. WHICH IS THE PIPE PLANT.

1 Q. AND THIS DOCUMENT HERE THAT WE'VE BEEN TALKING
2 ABOUT, THE COMPILATION THAT THE YOUNG LADY, NANCY, WHO WAS
3 OUT IN THE HALL--YOU SAW HER OUT IN THE HALL; DIDN'T YOU?

4 A. YES.

5 Q. --PREPARED, IS ABOUT THE SHINGLE PLANT; RIGHT?

6 A. IT IS.

7 Q. SO, THERE WERE TWO PLANTS, THE SHINGLE PLANT AND
8 THE PIPE PLANT. BUT YOUR DOCUMENTS DO SHOW THAT TURNER-
9 NEWALL'S GROUP WAS INVOLVED IN THE SALE OR THE BROKERING
10 OF ASBESTOS FIBERS THAT CAME TO THE SAINT LOUIS PLANT, THE
11 PIPE PLANT; IS THAT NOT CORRECT?

12 A. WELL, YES, CAME TO ONE OR THE OTHER OF THE PLANTS
13 THAT IS CORRECT.

14 MR. MOTLEY: MAY I APPROACH THE WITNESS, YOUR HONOR?

15 THE COURT: YOU MAY.

16 Q. (BY MR. MOTLEY) SIR, I'M GOING TO HAND YOU AN
17 AFFIDAVIT SIGNED BY THE SOLICITOR, MR. JOHN MASON ATKINSON,
18 ABOUT WHAT TURNER-NEWALL DID OR DID NOT DO IN THE STATE OF
19 MISSOURI AND ASK YOU TO LOOK AT PARAGRAPHS NUMBER 10 AND NUMBER
20 12 AND TELL THE JURY WHETHER OR NOT THAT IS A TRUE STATEMENT OF
21 WHAT TURNER-NEWALL DID OR DID NOT DO IN THE STATE OF MISSOURI?

22 A. YES, I READ THAT.

23 Q. THAT IS SIMPLY NOT TRUE; IS IT?

24 A. WELL, I'M NOT SURE THAT IT ISN'T. WHERE I
25 CERTAIN-TEED, IN FACT? THERE WAS AN AGREEMENT WITH CERTAIN-TEED

1 Q. SIR? MR. JONES, YOU JUST SAID THAT THERE WAS
2 AN AGREEMENT REACHED BETWEEN TURNER-NEWALL AND CERTAIN-TEED
3 THAT TURNER-NEWALL WOULD BROKER FIBER TO THE CERTAIN-TEED
4 PLANT IN SAINT LOUIS. DIDN'T YOU SAY THAT JUST A FEW MINUTES
5 AGO?

6 A. WELL, IF I DID, I'M NOT SURE THAT'S RIGHT. WHEN
7 YOU'RE MAKING AN AGREEMENT WITH THE COMPANY, IT DOESN'T SPECIFY
8 AS TO WHICH PLANT YOU SHOULD DELIVER, SIR.

9 Q. WELL, IF PARAGRAPH 12 SAYS THAT, "I GAVE
10 INSTRUCTIONS TO THE INDIVIDUALS RESPONSIBLE FOR SALES,
11 INCLUDING TURNER ASBESTOS FIBRES, MAINTAINED IN THE REGULAR
12 COURSE OF THEIR BUSINESS, AND CONTAINS ANY REFERENCE TO
13 ANY SALES TO ANY COMPANIES LOCATED IN MISSOURI, INCLUDING
14 THE SAINT LOUIS DIVISION OF CERTAIN-TEED CORPORATION," AND
15 THERE WERE NONE--AND I HANDED YOU THIS DOCUMENT YESTERDAY
16 AND I HAND IT TO YOU AGAIN, SIR, WHICH WAS PRODUCED BY
17 TURNER-NEWALL--DOES THAT NOT REFLECT, SIR, THAT THERE WERE
18 DOCUMENTS THAT SHOWED THAT TURNER ASBESTOS FIBRES WAS SOLD
19 FIBER TO THE SAINT LOUIS PLANT?

20 A. I DON'T THINK IT DOES; DOES IT?

21 Q. YOU DON'T? WELL, LET'S READ IT.

22 A. THIS IS STUFF THAT WE'RE SELLING TO CERTAIN-TEED;
23 WHERE CERTAIN-TEED DECIDED TO SEND IT AFTERWARDS DOES NOT
24 REALLY EMERGE; DOES IT?

25 Q. DID YOU LOOK AT THE NEXT LETTER, SIR?

1 A. I'M SORRY. I WAS LOOKING AT THE TOP ONE.

2 Q. ABOUT THE SAINT LOUIS PLANT.

3 MR. WILSON: MR. MOTLEY, FOR THE RECORD, WOULD YOU HAVE THE
4 THE EXHIBIT NUMBER SO THE RECORD IS CLEAR?

5 MR. MOTLEY: I DON'T KNOW WHAT IT IS. I WOULD LOVE TO
6 IF I KNEW IT. MAYBE SOMEBODY CAN GIVE IT TO ME.

7 MR. HORGAN: ISN'T IT MARKED ON THE DOCUMENT?

8 THE COURT: DOES IT HAVE AN EXHIBIT NUMBER, MR. JONES?
9 OR A LETTER?

10 THE WITNESS: YES, IT DOES, YOUR HONOR. HH-1.

11 THE COURT: HH-1, COUNSEL.

12 MR. WILSON: THANK YOU.

13 THE COURT: CERTAINLY.

14 THE WITNESS: YES, I SEE IT THERE. DO YOU WANT ME TO
15 READ ANY OTHER ONES FIRST?

16 Q. (BY MR. MOTLEY) ISN'T IT TRUE, MR. JONES, THAT
17 YOU HAD RECORDS THAT REFLECTED THAT TURNER ASBESTOS FIBERS
18 KNEW THAT FIBERS WERE BEING SHIPPED TO THIS SAINT LOUIS PLANT?
19 DON'T THOSE DOCUMENTS PROVE THAT?

20 A. THAT MUST BE SO.

21 Q. IT IS SO; IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. SO PARAGRAPH--THAT'S P711 IS THE DOCUMENT
24 NUMBER. SO WHEN MR. ATKINSON, THE LAWYER OF TURNER-NEWALL,
25 SAID THAT "IT WAS REPORTED TO ME BY THOSE TO WHOM THESE

1 EXHIBITIONS HAD BEEN SENT, THAT NONE OF THE EIGHT
2 COMPANIES, ONE OF THEM BEING TURNER ASBESTOS FIBRES, LIMITED
3 PARAGRAPH FOUR, HAS ANY RECORD OF ANY SALE AT ANY TIME TO
4 SAINT LOUIS DIVISION OF CERTAIN-TEED CORPORATION," THAT'S
5 FALSE; ISN'T IT?

6 A. NO, IT ISN'T. THIS ISN'T A SALE FROM
7 CERTAIN-TEED TO THE SAINT LOUIS PLANT.

8 Q. WHAT IS IT?

9 A. WELL, THIS IS A DIRECTION THAT STUFF THAT T.A.F. . .
10 WAS SELLING TO CERTAIN-TEED THAT WAS TO BE DELIVERED TO A PORT
11 THAT MADE IT AVAILABLE TO GO TO THE VARIOUS PLANTS. BUT IF
12 THEY CARED TO SPECIFY WHAT PORT THEY WANTED IT DELIVERED TO,
13 THAT'S THEIR BUSINESS.

14 Q. I SEE.

15 A. I MEAN, IT MAY BE A POSSIBILITY TO ARGUE THAT T.A.F. . .
16 KNEW THAT THAT WAS THE ULTIMATE DESTINATION ON THIS OCCASION.

17 Q. YES.

18 A. BUT AS FAR AS THEY WERE CONCERNED, THIS WAS MERELY
19 A SHIPPING DIRECTION.

20 Q. I SEE. NOW, MR. JONES, DO YOU KNOW THAT TURNER
21 AND NEWALL TOOK THE POSITION THAT THEY DIDN'T DO ANY BUSINESS
22 IN THE STATE OF MISSOURI IN THIS COURT?

23 A. I READ THAT, YES.

24 MR. SHOEMAKE: YOUR HONOR, I'M GOING TO OBJECT. THE
25 WITNESS IS RETIRED AND WHAT LEGAL POSITION WE'VE TAKEN IS . . .

1 RELEVANT TO THE TESTIMONY.

2 THE COURT: I THINK WE'VE EXPLORED THIS PARTICULAR
3 GROUND PRETTY WELL, MR. MOTLEY. I THINK HE'S ANSWERED THE
4 QUESTION.

5 MR. MOTLEY: MAY I GET AN ANSWER TO THAT QUESTION,
6 YOUR HONOR?

7 THE COURT: GET AN ANSWER AND THEN LET'S MOVE ON.
8 DON'T ASK HIM THE SAME QUESTION THREE TIMES.

9 Q. (BY MR. MOTLEY) DO YOU KNOW THAT TURNER AND
10 NEWALL, WHICH OWNED THE KEASBEY AND MATTISON PLANT LOCK,
11 STOCK AND BARREL, EVERY SHARE OF STOCK IN IT UNTIL 1962 WHEN
12 IT WAS SOLD TO CERTAIN-TEED, AND THEN OWNED SEVENTEEN PERCENT
13 OF THE STOCK OF CERTAIN-TEED AND HAD A CONTRACT TO BROKER
14 FIBER TO THE CERTAIN-TEED PLANTS IN SAINT LOUIS, AND AS THE
15 RECORDS REFLECT, SENT AGENTS OVER FROM ENGLAND TO SAINT LOUIS,
16 CLAIMED THEY NEVER HAD ANY CONTACT WITH THE STATE OF MISSOURI.
17 SIR? DID YOU KNOW THAT?

18 MR. SHOEMAKE: I'M GOING TO OBJECT TO THE FORM OF THE
19 QUESTION.

20 THE COURT: OBJECTION! SUSTAINED.

21 Q. (BY MR. MOTLEY) NOW, ALL OF THESE RECORDS,
22 MR. JONES, HOW MANY TONS OF ASBESTOS WERE SHIPPED BY EVERYBODY
23 INTO THE SAINT LOUIS PLANT? DO YOU KNOW?

24 A. I DO NOT.

25 Q. THOUSANDS OF TONS A YEAR?

1 A. THOUSANDS OF TONS.

2 Q. SIR? YOU WOULD AGREE WITH THAT?

3 A. I WOULD AGREE TO THAT.

4 Q. SO THOUSANDS OF TONS OF ASBESTOS FIBER WERE

5 SHIPPED IN HERE BY VARIOUS OF THESE ASBESTOS COMPANIES

6 YEAR FOR A THIRTY-YEAR PERIOD OF TIME; IS THAT CORRECT?

7 A. I DON'T THINK THERE ARE THOUSANDS OF TONS EVERY

8 YEAR. YOU'RE TALKING IN TERMS OF LOTS OF MAYBE TWO OR THREE

9 HUNDRED AND LESS. HOW MANY, I CANNOT SAY.

10 Q. SOME YEARS, THERE WERE THOUSANDS OF TONS

11 SOME YEARS IT MIGHT HAVE BEEN JUST ONLY A THOUSAND TONS.

12 A. I REALLY DON'T KNOW.

13 Q. WOULD THOSE RECORDS--

14 A. I'D HAVE TO LOOK BACK. THE RECORDS WOULD SHOW.

15 Q. WELL, YOU READ SOME RECORDS WHEREIN SOME COMPANIES

16 YOU HAD TWO HUNDRED AND SEVENTY-EIGHT TONS OF ONE COMPANY'S

17 ASBESTOS FIBER ON STOCK. DO YOU REMEMBER READING THAT?

18 A. THAT'S RIGHT.

19 Q. NOW, DO THOSE RECORDS SHOW FROM WHICH THIS

20 PERCENT COMPILATION WAS MADE, DO THEY SHOW MOVEMENTS; THAT IS,

21 ONE MONTH YOU HAD MORE JOHNS-MANVILLE ASBESTOS FIBER THAN THE

22 NEXT MONTH?

23 A. YES, THEY DO.

24 Q. SO THAT WOULD INDICATE THAT THEY WERE--JOHNS-

25 MANVILLE DIDN'T GIVE YOU THE ASBESTOS FIBER; DID THEY? THEY

1 SOLD IT TO YOU; DIDN'T THEY?

2 A. OH, YES.

3 Q. AND YOU WERE USING IT AT THIS PLANT; WEREN'T YOU

4 A. WELL, IT WAS BEING USED IN THIS PLANT, YES.

5 THAT'S WHAT THOSE SCHEDULES SHOW.

6 MR. MOTLEY: NO FURTHER QUESTIONS.

7 THE COURT: ANY FURTHER QUESTIONS OF THIS WITNESS?

8 MR. NUMRICH?

9 MR. MOTLEY: YOUR HONOR, WE WOULD--

10 REXCROSS-EXAMINATION

11 BY MR. NUMRICH:

12 Q. MR. JONES, THE RECORDS THAT MR. SHOEMAKE HAS
13 MARKED--I'VE RUN OUT OF "M'S." IS IT FIVE M'S OR THREE M'S?

14 MR. SHOEMAKE: SIX M'S.

15 THE COURT: SIX M'S, I THINK.

16 Q. (BY MR. NUMRICH) YOU SAID THEY RAN FROM 1939 TO
17 1957? THESE LAST RECORDS, MR. JONES?

18 A. OH, THIS LOT? YES, I'M SORRY. YES, THEY ARE.

19 Q. THEY RUN FROM 1939 TO 1957?

20 A. JANUARY 1939 THROUGH TO APRIL 1957.

21 Q. SO YOU SAID THERE ARE RECORDS GOING BACK BEFORE
22 1939. WHERE ARE THOSE RECORDS AT? WE KEEP GETTING THESE
23 RECORDS ENTERED PIECEMEAL. THAT'S THE REASON I'M ASKING.

24 MR. SHOEMAKE: I OBJECT TO THAT. YOUR HONOR, I'M GOING
25 TO OBJECT TO HIS CHARACTERIZATION OF THE RECORDS AS BEING

... OF THE INTERPOLATION.

... TARY. THAT'S A CONCLU

MR. NUMRICH: I THINK IT'S A FACT.

THE COURT: HE MAY THINK IT'S A FACT, BUT

THE COURT: THE JURY UNDERSTANDS THAT THE LATTER ARE

THE WITNESSES AND THE TESTIMONY IS NOT IN EVIDENCE.

THE COURT: IN CROSS EXAMINATION. OBJECTION, YOUR HONOR.

THE COURT: SUSTAIN OUR EXHIBIT COMMENTS AS WELL AS YOURS.

MR. BEERS: YES, YOUR HONOR.

Q. (BY MR. NUMRICH) WHERE ARE THE RECORDS REFER

TO IN '34, MR. BEERS?

A. WHERE ARE THEY?

Q. YES.

A. WELL, I CAN'T RECALL WHETHER THEY WERE THE

RECORDS I WAS LOOKING AT YESTERDAY. I THOUGHT THEY WERE BACK

TO THE TIME OF THE ACQUISITION IN '34.

Q. BUT THEY'RE NOT REFLECTED IN THOSE?

A. THEY'RE NOT REFLECTED IN HERE, NO.

MR. NUMRICH: I DON'T HAVE ANY MORE QUESTIONS.

MR. BEERS: I BELIEVE THAT'S IT, YOUR HONOR, FOR THIS

WITNESS.

THE COURT: THANK YOU.

MR. MORRIS: AS I UNDERSTAND IT, YOUR HONOR, THE WITNE

HAS NOT DEPARTED YET?

THE COURT: THAT'S THE COURT'S UNDERSTANDING.

1 MR. SHOEMAKE: HE'S STILL HERE.

2 THE COURT: NO. MR. MORRIS MEANS THAT IN THE LEGAL,
3 NOT THE ACTUAL SENSE.

4 AND, MR. JONES, YOU UNDERSTAND THAT YOU WILL
5 CERTAINLY BE AVAILABLE TOMORROW. AND AT THAT TIME, WE WILL
6 HAVE REACHED A DECISION WHETHER WE CAN TERMINATE YOUR
7 SERVICES OR WHAT WE MIGHT WORK OUT, IF WE NEED YOU AGAIN?

8 THE WITNESS: YES, I DO, YOUR HONOR.

9 THE COURT: WE THANK YOU, SIR. AND YOU MAY STEP
10 DOWN AT THIS TIME.

11 (THE WITNESS WAS TEMPORARILY EXCUSED.)

12 :: :: :: :: ::

13 MARCH 10, 1982

14 ARTHUR DAVID NICHOLAS JONES (CONTINUED),

15 WITNESS ON BEHALF OF DEFENDANTS TURNER AND NEWALL, WAS
16 RESWORN AND TESTIFIED AS FOLLOWS:

17 RECROSS EXAMINATION

18 BY MR. MORRIS:

19 Q. MR. JONES, WE WERE TALKING YESTERDAY, I BELIEVE
20 IT WAS, ABOUT A SUMMARY YOU MADE WHICH WE'D HAD MARKED AS
21 A.C.L. EXHIBIT 10, CERTAIN--NOT THAT YOU MADE BUT A SUMMARY
22 YOU REFERRED TO OF PERCENTAGES AND SO FORTH OF THE BULK OF
23 FIBER ON HAND AT THE PLANT HERE IN SAINT LOUIS, PLANT NUMBER
24 THREE IN SAINT LOUIS, FROM 1939 TO 1957. DO YOU REMEMBER THAT?

25 A. YES.

Q. AND YOU ALLUDED TO THE FACT THAT YOU HAD LOOKED

1. SOME RECORDS, REFRESHED YOURSELF FROM SOME RECORDS, ...
2. BELIEVED YOU IN CONNECTION WITH THAT SUMMARY; IS THAT CORRECT?
3. A. THAT'S RIGHT.
4. Q. NOW, I WAS UNDER THE IMPRESSION--AND IF I'M CORRECT--
5. PLEASE SAY SO--I THOUGHT THAT YOU SAID THAT THOSE WERE DEFINITIVE
6. RECORDS, THAT YOU REFRESHED YOURSELF FROM, THE OTHER MORNING,
7. AS A MATTER OF FACT?
8. A. WELL, AS FAR AS I WAS CONCERNED, THEY WERE. THE
9. WERE PART OF MINUTES WHICH CAME TO ME UNDER THE AUTHENTICATED
10. SIGNATURE OF THE CHAIRMAN.
11. Q. WELL, NOW, I'M GOING TO HAND YOU WHAT'S BEEN
12. MARKED AS DEFENDANT TURNER-NEWALL EXHIBIT 6 TIMES "M," 6 M'S,
13. AND ASK YOU WHETHER OR NOT THOSE RECORDS THAT HAVE BEEN LABELED
14. EXHIBIT "M" TIMES 6 ARE THE RECORDS YOU LOOKED AT?
15. A. THESE APPEAR TO ME TO BE COPIES OF THE SAME
16. RECORDS.
17. Q. NO, ARE THEY THE RECORDS?
18. A. I THOUGHT THE RECORDS I LOOKED AT WERE DONE IN
19. A PURPLE INK.
20. Q. YES, I DID, TOO. I HAD SEEN SOME RECORDS AT
21. ONE TIME. DID YOU SEE SOME RECORDS DONE IN PURPLE INK?
22. A. YES, I DID.
23. Q. WHAT ARE THOSE?
24. A. THESE ARE COPIES.
25. Q. SO THOSE ARE NOT THE RECORDS THAT YOU LOOKED AT?
A. THEY'RE NOT THE PHYSICAL PIECES OF PAPER ...

1 I LOOKED AT.

2 Q. WELL, ALL RIGHT. DID YOU--LET ME JUST PUT IT
3 TO YOU THIS WAY, MR. JONES: THE RECORDS THAT--THOSE ARE
4 RECORDS THERE--THEY APPEAR TO BE RECORDS OF THOSE INVENTORY
5 SHEETS OR RAW MATERIALS ON HAND, IS THAT RIGHT, COPIES OF
6 THOSE RECORDS; IS THAT RIGHT?

7 A. YES, THAT'S RIGHT.

8 Q. "M" TIMES G, THE EXHIBIT WE'RE TALKING ABOUT.
9 IT'S ON THE LITTLE BLUE LABEL THERE IN FRONT?

10 A. YES.

11 Q. OKAY. YOU'VE HAD MUCH EXPERIENCE; AS A MATTER OF
12 FACT, YOU WERE THE SECRETARY OF T & N FOR A NUMBER OF YEARS,
13 AND HAVE, I SUPPOSE, HAD MUCH EXPERIENCE IN KEEPING RECORDS.
14 NOW, IF A RECORD, A PIECE OF PAPER, WERE 40 YEARS OLD, WOULD
15 YOU ANTICIPATE THAT IT WOULD BE SOMEWHAT DIFFERENT LOOKING
16 PERHAPS, THAN A PIECE OF PAPER, A NEW PIECE OF PAPER MADE
17 A WEEK AGO?

18 A. I THINK IT VERY PROBABLY WOULD.

19 Q. AND YOU REALLY CAN'T TELL THAT FROM COPIES. CAN
20 YOU, FROM PHOTOCOPIES SUCH AS EXHIBIT 6, CAN YOU--NOT EXHIBIT
21 6, BUT EXHIBIT 6 TIMES "M"?

22 A. YOU CAN'T TELL. I CAN'T TELL THE AGE OF THIS
23 DOCUMENT BY LOOKING AT THIS ALONE.

24 Q. RIGHT. NOW, ASSUMING THAT THAT'S WHAT'S BEEN
25 PROVIDED TO THE DEFENDANTS, AND PARTICULARLY MY CLIENT,

1 DEFENDANT A.C.L. IN THIS CASE, THERE IS NO WAY OF TELLING FROM
2 THOSE PHOTOCOPIES WHAT THE ORIGINAL RECORD IS LIKE; IS THAT RIGHT?

3 A. WELL, I SHOULD HAVE THOUGHT IF YOU READ THE
4 PHOTOCOPIES, YOU HAVE THE INFORMATION YOU REQUIRE.

5 Q. I COULDN'T TELL WHAT THE ORIGINAL PIECE OF PAPER
6 LOOKED LIKE, THOUGH, COULD I, FROM THOSE PHOTOCOPIES THERE?

7 MR. SHOEMAKE: YOUR HONOR, WE WILL STIPULATE THAT
8 LOOKING AT THE PHOTOCOPIES YOU COULDN'T TELL WHAT THE ORIGINALS
9 LOOKED LIKE. THESE ARE PHOTOCOPIES.

10 THE COURT: ALL RIGHT.

11 Q. (BY MR. MORRIS) DO YOU AGREE WITH THAT, MR. JONES?

12 A. I'M SORRY, IS IT--MY AGREEING WITH YOU OR THE
13 OBSERVATION MADE?

14 Q. EITHER ONE. I THINK WE'RE BOTH SAYING THE
15 SAME THING.

16 A. I THINK THAT'S RIGHT.

17 Q. OKAY. I THINK WE ALL AGREE.

18 DIDN'T YOU--DID YOU, WHEN YOU EXAMINED THESE
19 OTHER RECORDS--AND I BELIEVE YOU SAID YOU DID JUST WITHIN
20 RECENT DAYS ONE MORNING HERE; IS THAT RIGHT?

21 A. THAT'S RIGHT.

22 Q. THEY WERE HERE IN THE COURTROOM?

23 A. WELL, THEY WEREN'T IN THE COURTROOM WHEN I
24 EXAMINED THEM.

25 Q. OH, THEY WERE NOT. BUT THEY WERE HERE IN THE

1 CITY SOMEWHERE?

2 A. YES, THEY WERE.

3 MR. MORRIS: THAT'S ALL I HAVE.

4 THE COURT: THANK YOU. ANY OTHER QUESTIONS?

5 MR. NUMRICH.

6 RECROSS-EXAMINATION (CONTINUED)

7 BY MR. NUMRICH:

8 Q. MR. JONES, WHERE ARE THE ORIGINALS NOW?

9 A. IN THE COURTROOM.

10 Q. WELL, I WAS TOLD BY TURNER AND NEWALL COUNSEL
11 YESTERDAY THAT THEY WEREN'T IN THE COURTROOM. THEY DON'T
12 KNOW WHERE THEY ARE NOW. AND WE WERE HANDED THESE IN LIEU
13 OF THEM AND SAID THESE WERE COPIES.

14 MR. SHOEMAKE: I'M GOING TO OBJECT TO THE FORM OF
15 QUESTION. HE'S ASKING THE WITNESS WHAT TURNER AND NEWALL
16 COUNSELL SAID TO HIM. THIS WITNESS IS NOT PRIVY TO THAT.

17 THE COURT: MR. NUMRICH.

18 MR. NUMRICH: YOUR HONOR, YESTERDAY WHEN THESE
19 WERE BROUGHT UP, WE WERE TOLD THAT THE ORIGINALS WERE HERE IN
20 THE COURTROOM. THAT'S WHAT YOU SAID.

21 THE COURT: THAT MAY BE THE COURT'S RECOLLECTION.
22 DOES ANYONE HAVE A DIFFERENT RECOLLECTION? THAT IS THE COURT'S
23 RECOLLECTION, THAT THE ORIGINALS WERE HERE IN COURT. YES.
24 MR. NUMRICH.

25 Q. (BY MR. NUMRICH) NOW, MR. JONES, ARE THE

1 ORIGINALS HERE IN THE COURTROOM?

2 A. TODAY?

3 Q. ARE THEY?

4 A. I DON'T HONESTLY KNOW. I ASSUMED THEY WERE.

5 MR. NUMRICH: WELL, I DON'T KNOW, YOUR HONOR. I THINK THAT

6 THAT'S WHAT WE WERE SUPPOSED TO BE GIVEN TO LOOK AT, THE

7 ORIGINALS. THAT WAS MY RECOLLECTION OF WHY WE HAD MR. JONES

8 STAY HERE.

9 THE COURT: THANK YOU, COUNSEL.

10 MR. WILSON: YOUR HONOR, IF I MAY MAKE A STATEMENT FOR

11 THE RECORD ON THAT? I ASKED LAST NIGHT AT THE END OF COURT

12 AND I WAS TOLD THESE RECORDS ARE IN ENGLAND, THE ORIGINAL TO

13 THOSE COPIES.

14 MR. SHOEMAKE: THE ORIGINALS FROM WHICH THOSE EXHIBITS

15 WERE COPIES ARE NOT IN THE COURTROOM; THEY'RE IN ENGLAND,

16 THE ORIGINALS.

17 THE COURT: WELL, THE COURT WOULD INQUIRE, THE COURT

18 HAD UNDERSTOOD--I DON'T REMEMBER EVERYTHING TOTALLY ACCURATELY--

19 BUT I HAD UNDERSTOOD THAT AT THE BEHEST OF MORRIS AND NUMRICH

20 OVER SOME OBJECTIONS--AND THEY HAVE RUN OVER A PERIOD OF TWO

21 DAYS, PROBABLY--THAT THE ORIGINALS WERE AVAILABLE HERE FOR

22 EXAMINATION AND THAT THEY WOULD HAVE THAT OPPORTUNITY. AND

23 I GUESS THE COURT'S QUESTION IS: WHAT DO WE MEAN WHEN WE

24 SAY THE ORIGINALS ARE HERE IF THEY'RE NOT HERE?

25 MR. SHOEMAKE: JUDGE, IF I MAY, I THINK MAYBE SOME OF

1 THE CONFUSION, AND MAYBE IT'S ON MY PART, IS THAT THE ORIGINALS
2 THAT I THINK I HAD REFERENCED TO WERE THE EXTRACTS FROM THE
3 MINUTES THAT THE WITNESS TESTIFIED TO, SOME OF THOSE ORIGINALS
4 WERE IN THE BACK OF THE COURTROOM. NOW, IF I STATED THAT
5 THESE ORIGINAL RECORDS WERE IN THE COURTROOM, I MISSTATED.
6 THESE ARE COPIES OF THE ORIGINALS WHICH ARE IN ENGLAND.

7 THE COURT: DOES ANYONE HAVE ANY OTHER QUESTIONS FOR
8 MR. JONES?

9 MR. BEERS: YES, I HAVE ONE, YOUR HONOR.

10 THE COURT: MR. BEERS.

11 RECROSS-EXAMINATION

12 BY MR. BEERS:

13 Q. DO YOU HAVE ANY REASON TO BELIEVE--WHAT'S THE
14 EXHIBIT NUMBER ON THAT?

15 A. SIX-M.

16 Q. MMMMM. DO YOU HAVE ANY REASON TO BELIEVE THAT
17 THOSE ARE NOT TRUE AND ACCURATE COPIES OF THE ORIGINALS?

18 A. NONE AT ALL.

19 MR. BEERS: THANK YOU.

20 MR. MORRIS: WELL, YOU KNOW, THEN, I'D LIKE TO ASK
21 ANOTHER QUESTION.

22 MR. SHOEMAKE: WELL, I'D LIKE TO ASK A QUESTION.

23 FURTHER REDIRECT EXAMINATION

24 BY MR. SHOEMAKE:

25 Q. YOU HAD THE CARE, CUSTODY AND CONTROL OF THE

1 RECORDS WHILE YOU WERE THE SECRETARY OF TURNER AND NEWALL;
2 IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. AND AGAIN, ARE YOU SATISFIED, SIR, BASED ON
5 YOUR POSITION AS SECRETARY OF THE COMPANY, THAT THAT COPY
6 IS A TRUE AND ACCURATE REPRODUCTION OF THE ORIGINAL?

7 A. I AM SO SATISFIED.

8 THE COURT: ANY OTHER QUESTIONS FOR MR. JONES?

9 MR. HULLVERSON.

10 FURTHER RECROSS-EXAMINATION

11 BY MR. HULLVERSON:

12 Q. MR. JONES, LOOKING AT WHAT YOU'VE ALREADY
13 AT, EXHIBIT A.C.L.-10, THAT'S A COLLECTION--THAT'S A COMPILED
14 AS I UNDERSTAND IT, THAT YOU MADE FROM ALL THESE RECORDS
15 WE'RE TALKING ABOUT IN ORDER TO SHOW THE FIBERS AND THE
16 PERCENTAGE OF FIBERS WHICH WERE REFLECTED AT THE SAINT L
17 PLANT; CORRECT?

18 MR. HORGAN: I OBJECT TO THE FORM.

19 MR. MORRIS: I OBJECT TO THE FORM.

20 MR. HORGAN: I OBJECT TO THE FORM OF THE QUESTION ON
21 THE GROUND THAT THIS WITNESS DID NOT PREPARE THIS REPORT AND
22 SAID SO.

23 THE COURT: LET'S HAVE THE QUESTION BACK, PLEASE.

24 MR. MORRIS: I JOIN IN THE OBJECTION.

25 MR. HULLVERSON: I'LL WITHDRAW IT.

1 THE COURT: QUESTION IS WITHDRAWN.

2 Q. (BY MR. HULLVERSON) WHAT IS THAT, SIR?

3 A. THIS IS A LIST OF THE PERCENTAGES YEAR BY YEAR
4 OF THE FIBER PROVIDED TO PLANT NUMBER THREE BY THREE MAJOR
5 PRODUCERS, AND AS A FOURTH GENERAL HEADING BY OTHERS.

6 Q. AND YOU WERE READING FROM THAT YESTERDAY, AS I
7 RECOLLECT, OR WHENEVER IT WAS, SIR; WERE YOU NOT?

8 A. I WAS.

9 Q. AND PLANT THREE, DOES THAT REFER TO THE SAINT
10 LOUIS PLANT, SIR?

11 A. IT DOES.

12 Q. AND IN ADDITION TO THAT, DOES THAT--DID THE
13 OTHERS ALSO INDICATE THAT TURNER-NEWALL, THROUGH ITSELF OR
14 ONE OF ITS SUBSIDIARIES, WAS SENDING FIBER INTO THE SAINT
15 LOUIS PLANT?

16 A. NO, THIS PAPER DOESN'T ON THE FACE OF IT.

17 Q. BUT THE OTHER ONES YOU DEMONSTRATED TO US DO SO
18 INDICATE; IS THAT CORRECT, SIR?

19 A. INDEED THEY DO.

20 Q. SIR, ARE YOU AWARE OF THE FACT THAT TURNER-NEWALL
21 ORIGINALLY WAS FIGHTING TRYING THIS LAWSUIT IN MISSOURI ON
22 THE THEORY THAT THEY DID NOT SEND ANY FIBERS HERE TO MISSOURI?

23 A. I DID NOT.

24 Q. WERE YOU AWARE OF THAT? YOU DID NOT KNOW THAT,
25 SIR; IS THAT CORRECT?

1 A. NO.

2 Q. WERE YOU AWARE THAT WE READ CERTAIN PORTIONS OF
3 TESTIMONY TO YOU YESTERDAY--AND I WON'T REPEAT THOSE, BECAUSE
4 TO DO WITH WHAT THEY WERE TALKING ABOUT--BUT IF TURNER-NEWALL
5 IN A PRETRIAL ORDER NOTE INDICATED TURNER-NEWALL KNOWS OF NO
6 SALES OF ANY OF ITS ASBESTOS OR ASBESTOS PRODUCTS TO THE CERTA
7 TEED PLANT IN MISSOURI--IF THEY MADE THAT STATEMENT, WOULD YOU
8 SAY THAT WAS INACCURATE, SIR?

9 A. WOULD YOU MIND REPEATING THAT AGAIN? BECAUSE I
10 THINKING BACK TO YESTERDAY, THE FIGURES THAT I READ--THE FIGURE
11 THAT I READ, WERE THEY NOT, IN FACT, AT THE REQUEST OF WHO
12 WAS THEN CROSS-EXAMINING THE FIGURES FOR PLANT NINE? I
13 OUGHT TO GET THAT RIGHT. I'M NOT SURE OF THIS.

14 Q. PLANT NINE IS IN SAINT LOUIS; ISN'T IT, SIR?

15 A. OH, YES.

16 Q. ALL RIGHT.

17 A. YOU'RE SPEAKING OF SAINT LOUIS?

18 Q. YES, SIR.

19 A. RIGHT THERE, IT SAYS "TOTAL."

20 Q. I'M SORRY, WHETHER IT SAYS PLANT THREE OR PLANT
21 NINE, TURNER-NEWALL, WE ESTABLISHED, DID SEND FIBERS IN
22 HERE; CORRECT?

23 A. YES, WE HAVE. THAT'S RIGHT.

24 Q. AND IF THEY SAID T & N KNOWS OF NO SALE OF ANY
25 OF ITS ASBESTOS OR ASBESTOS PRODUCTS TO THE CERTAIN-TEED PLANT

1 IN MISSOURI, THAT WOULD HAVE BEEN INACCURATE; WOULD IT BE, SIR?

2 A. IT SOUNDS TO BE, YES.

3 Q. NOW, I THINK YOU READ--YOU HAVE READ SOME

4 THOSE PERCENTAGES FOR US; HAVE YOU NOT, SIR?

5 A. YES, I HAVE.

6 Q. I WOULD LIKE TO ASK YOU TO READ ALL OF THEM

7 MR. HULLVERSON: OR, IN ORDER TO SAVE TIME, ASK C

8 IF THEY WOULD AGREE TO THE FIGURES INSTEAD OF HAVING HIM

9 HERE AND READ EACH ONE, EACH PERCENTAGE. I WOULD LIKE TO ASK

10 IF WE CAN AGREE TO WHAT THEY ARE AS DEMONSTRATED ON THE

11 PAPER.

12 MR. MORRIS: I WOULD AGREE.

13 MR. SHOEMAKE: WE WOULD SO AGREE.

14 MR. HORGAN: THEY'VE ALREADY BEEN READ. I SEE NO REASON

15 TO READ THEM AGAIN.

16 MR. HULLVERSON: I DID NOT THINK ALL OF THEM HAD BEEN

17 READ.

18 MR. MORRIS: WE HAVE NOT AGREED TO THAT PIECE OF PAPER

19 IN EVIDENCE. I'LL AGREE TO IT IF IT CAN BE STIPULATED I

20 DON'T WAIVE ANY OBJECTION I'VE MADE.

21 THE COURT: THAT'S UNDERSTOOD. YOU OBJECT TO ITS

22 ADMISSION AS AN EXHIBIT; IS THAT THE CASE?

23 MR. MORRIS: YES, SIR.

24 THE COURT: ALSO, MR. NUMRICH HAS THE SAME OBJECTION.

25 MR. NUMRICH: YES, YOUR HONOR.

1 THE COURT: THE RECORD WILL SO INDICATE.

2 THE QUESTION ARISES THAT THIS MIGHT BE
3 REPETITIVE, AND THE COURT WILL INQUIRE OF COUNSEL IF THIS
4 HAS BEEN DONE BEFORE, WHY--

5 MR. HULLVERSON: I WON'T REPEAT. ALL I'M TRYING TO DO--

6 THE COURT: PARDON ME. MR. MORRIS?

7 MR. MORRIS: I ASK FOR A.C.L. AND BELL TO BE READ.

8 THE COURT: THEY HAVE NOT ALL BEEN READ.

9 MR. HULLVERSON: ALL I'M REQUESTING IS: INSTEAD OF
10 ASKING THE WITNESS TO TAKE EACH LINE AND EACH PERCENTAGE, I
11 CAN TREAT IT AS THOUGH IT HAS BEEN READ IN EVIDENCE FOR THE
12 PURPOSES OF OUR USE LATER.

13 MR. HORGAN: YES, BECAUSE WE'VE ALREADY OBJECTED TO
14 THE DOCUMENT AS SUCH AND THE COURT OVERRULED. SUBJECT TO
15 THAT, YOUR HONOR, SURE.

16 THE COURT: MR. NUMRICH.

17 MR. NUMRICH: YOUR HONOR, I DO HAVE SOME QUESTIONS
18 WITH REGARD TO THOSE EXHIBITS NOW THAT HE'S IDENTIFIED WHAT
19 THEY ARE.

20 FURTHER RECROSS-EXAMINATION

21 BY MR. NUMRICH:

22 Q. MR. JONES, YESTERDAY WE TALKED ABOUT THE FACT
23 THAT THESE COMPUTATIONS, WHICH ARE EVIDENCED ON A.C.L. EXHIBIT
24 10, DO NOT REFLECT ANY FIBER THAT WENT INTO PLANT NINE IN THE
25 SAINT LOUIS PLANT; IS THAT CORRECT?

1 A. THAT'S CORRECT, YES.

2 Q. AND WE ONLY HAD FIVE EXHIBITS YESTERDAY WITH THE 31

3 RAW MATERIAL STOCKS ON THEM; DIDN'T WE?

4 A. WE DID.

5 Q. AND NOW WE HAVE ESSENTIALLY EXHIBITS--OR RAW

6 MATERIAL STOCK REPORTS RUNNING FROM MID-1939 TO 1957;

7 DON'T WE?

8 A. WE DO.

9 Q. AND WE HAVE, ON THOSE SHEETS, REFLECTED THE

10 AMOUNT OF FIBER SENT INTO PLANT NINE FROM THE VARIOUS

11 MANUFACTURERS, MINES, OR WHATEVER--WHOEVER WAS SENDING THE

12 FIBER IN; DON'T WE?

13 A. WE DO.

14 Q. NOW, DO YOU REMEMBER YESTERDAY WHEN WE WENT

15 THROUGH THESE, ONE BY ONE, AND FOUND OUT IF JOHNS-MANVILLE

16 HAD SENT ANY FIBER INTO PLANT NINE?

17 A. YES.

18 Q. I'D LIKE YOU TO LOOK AT THEM AGAIN, STARTING

19 FROM 1939, TO SEE--FOR THE YEAR 1939, DO YOU SEE ANY JOHNS-

20 MANVILLE FIBER GOING INTO PLANT NINE?

21 A. I'M LOOKING AT THE FIRST PAGE, WHICH IS

22 JANUARY ONLY.

23 Q. YES, SIR. YOU DON'T HAVE TO--AT THIS POINT

24 TIME, MR. JONES, YOU DON'T HAVE TO REFLECT WHO ELSE MIGHT

25 SENT FIBER IN THERE, JUST WHETHER OR NOT JOHNS-MANVILLE DID.

1 A. NO. ON THIS, THE FIRST MONTH, THE FIBER IS NOT
2 DIVIDED AS BETWEEN THE SUPPLIERS. IT IS DIVIDED INTO, I THINK,
3 THREE DIFFERENT TYPES OF FIBER: CRUDE, SPINNING, SHINGLE
4 FIBER.

5 Q. MR. JONES, I REALIZE THE FIRST FIVE OR SIX PAGES
6 DON'T REFLECT ANY--DON'T GIVE ANY PARTICULAR TYPE OR GRADE OF
7 FIBER OR THE NAME OF THE COMPANY WHO MIGHT HAVE SHIPPED THAT
8 FIBER III. WHY DON'T WE GO DOWN ABOUT FIVE OR SIX PAGES INTO
9 THAT FIRST--

10 A. THAT'S RIGHT. WE REALLY CAN'T DEDUCE ANYTHING
11 FROM THE FIRST PAGE.

12 Q. THAT'S RIGHT. GO DOWN TO THE FIRST ONE AND
13 IDENTIFY IT AS TO WHAT MONTH AND YEAR IT IS.

14 A. YES. THE FIRST ONE THAT SHOWS THE INDIVIDUAL
15 NAMES OF THE FIBERS IS SEPTEMBER THE 30TH, 1939.

16 MR. NUMRICH: YOUR HONOR, MAY WE APPROACH THE
17 BENCH WITH MR. HULLVERSON?

18 (A DISCUSSION WAS HELD OFF
19 THE RECORD AT THE BENCH.)

20 THE COURT: COUNSEL HAVE SOME PLANS TO WHICH I THINK
21 THEY'VE ALL AGREED, HOPEFULLY, WILL EXPEDITE THE MATTER AND
22 TO MAKE IT CLEAR SO--HOPEFULLY, AS CLEAR AS POSSIBLE, AND SAVE
23 THE JURY'S TIME. WOULD YOU STATE WHAT WE UNDERSTAND THE
24 AGREEMENT IS, MR. NUMRICH?

25 Q. (BY MR. NUMRICH) MR. JONES, THE PROCESS THAT WE

1 WENT THROUGH YESTERDAY ON BEHALF OF MY CLIENT, JOHNS-MANVILLE,
2 WAS TO GO THROUGH, ON THE FIVE SHEETS THAT WE HAD ON PLANT
3 NINE, TO DETERMINE WHETHER OR NOT JOHNS-MANVILLE EVER HAD ANY
4 FIBER WHICH WAS IDENTIFIED UNDER RAW MATERIAL STOCK REPORTS
5 IN PLANT NINE FOR THE YEARS THAT WE HAD. I THINK WE HAD
6 '39, '40, '41, '43, '45 AND '47.

7 NOW, I WOULD LIKE YOU, THIS EVENING, IF YOU
8 WOULD, RATHER THAN SIT HERE AND TAKE THE JURY'S TIME WHILE
9 WE GO THROUGH EACH ONE OF THESE, IS TO GO THROUGH THIS EVENING
10 AND DETERMINE WHETHER OR NOT JOHNS-MANVILLE HAD ANY STOCK AT
11 ANY TIME IN PLANT NINE AS REFLECTED ON THOSE SHEETS WHICH
12 YOU HAVE IDENTIFIED.

13 A. YES.

14 MR. HORGAN: WOULD YOU DO THE SAME THING FOR BELL,
15 SO IT IS ALL DONE AT ONE TIME?

16 THE WITNESS: CERTAINLY, IF YOU WISH.

17 THE COURT: MR. MORRIS, DO YOU HAVE ANY QUESTIONS?

18 MR. MORRIS: NO.

19 THE COURT: ANYONE ELSE?

20 MR. NUMRICH: AND, MR. JONES, I WOULD LIKE YOU TO MAKE
21 A NOTATION, JUST ANY MONTH AND YEAR AND AMOUNTS THAT YOU FIND
22 SUCH FIBERS OF JOHNS-MANVILLE IN PLANT NINE.

23 MR. HORGAN: AND BELL, TOO, IN PLANT NINE.

24 THE WITNESS: YES.

25 THE COURT: THE ROOMS ARE CHEAPER BY THE WEEK HERE.

1 MR. MOTLEY: BY THE MONTH, JUDGE.

2 THE COURT: MR. NUMRICH, DOES THAT SEEM PRETTY WELL TO
3 CLARIFY IT?

4 MR. NUMRICH: YES, YOUR HONOR. IF HE CAN BE BACK
5 HERE AT 9:00 O'CLOCK, WE COULD DETERMINE WHAT HE FOUND OUT.

6 MR. SHOEMAKE: YOUR HONOR, CAN WE APPROACH THE BENCH
7 FOR A MOMENT?

8 (A DISCUSSION WAS HELD OFF
9 THE RECORD AT THE BENCH.)

10 THE COURT: I TAKE IT, WITH YOUR ASSIGNMENT, MR. JONES,
11 THAT YOU'RE TO BE RELIEVED AT THIS POINT FOR THE REST OF THE
12 DAY.

13 IS THAT RIGHT, COUNSEL?

14 AND WE WOULD LIKE YOU HERE AT 9:00 IN THE
15 MORNING AND THEN WE'LL RESUME ON THIS QUESTION.

16 THE WITNESS: YES, YOUR HONOR.

17 THE COURT: THANK YOU VERY MUCH.

18 (THE WITNESS WAS TEMPORARILY EXCUSED.)

19 * * * * *

20 MARCH 11, 1982

21 ARTHUR DAVID NICHOLAS JONES (CONTINUED),

22 WITNESS ON BEHALF OF DEFENDANTS TURNER AND NEWALL, WAS
23 RESWORN AND TESTIFIED AS FOLLOWS:

24 FURTHER RECROSS-EXAMINATION (CONTINUED)

25 BY MR. NUMRICH:

1 Q. MR. JONES, DO YOU HAVE BEFORE YOU THAT EXHIBIT

2 6-M?

3 (A DOCUMENT WAS HANDED TO THE WITNESS.)

4 DO YOU HAVE IT BEFORE YOU NOW, MR. JONES?

5 A. I HAVE.

6 Q. MR. JONES, THAT EXHIBIT 6-M, AGAIN, FOR THE

7 JURY'S INFORMATION, ARE COPIES OF THE RAW MATERIAL STOCK

8 REPORTS WHICH YOU HAVE TESTIFIED WERE ATTACHED TO MINUTES OF

9 THE KEASBEY-MATTISON MEETINGS WHICH WERE SENT TO YOU IN YOUR

10 CAPACITY AS THE CORPORATE SECRETARY FOR TURNER-NEWALL; IS THAT

11 CORRECT, SIR?

12 A. THAT'S CORRECT.

13 Q. AND THOSE RAW MATERIAL STOCK INVENTORY REPORTS

14 RUN FROM THE YEARS 1939, I BELIEVE, SEPTEMBER 1939, OR IS IT

15 JANUARY 1939, SIR?

16 A. JANUARY.

17 Q. THROUGH WHAT DATE?

18 A. THROUGH TO APRIL 1957.

19 Q. NOW, AS FOR PLANT NINE, WHICH WAS THE PIPE PLANT

20 AT SAINT LOUIS, THERE WOULD BE ADDITIONAL RECORDS, SIR, WHICH

21 REFLECT RAW INVENTORY STOCK REPORTS FOR THE YEARS 1957 TO

22 1962; WOULD THERE NOT?

23 A. YES, THERE WOULD.

24 Q. AND THAT'S BECAUSE THE SHINGLE PLANT CLOSED DOWN

25 SOMETIME AROUND 1957 OR '58 AND THE PIPE PLANT CONTINUED IN

1 OPERATION UNTIL 1962 WHEN KEASBEY-MATTISON WAS SOLD TO
2 CERTAIN-TEED; ISN'T THAT RIGHT?

3 A. I DIDN'T REMEMBER THE DATES OF THE CLOSURE OF
4 THE SHINGLE PLANT. I DIDN'T RECALL THE DATE OF CLOSURE OF THE
5 SHINGLE PLANT.

6 Q. WELL, THEN, I TAKE IT YOUR TESTIMONY WOULD BE
7 THE RAW MATERIAL STOCK REPORTS, WHICH WOULD RUN FROM 1957
8 TO 1962, MIGHT HAVE SOME ADDITIONAL FIBER COUNTS FOR PLANT
9 THREE, AS WELL AS PLANT NINE; OR DO YOU KNOW?

10 A. NO, I DON'T KNOW.

11 Q. WELL, IN ANY EVENT, YOU WOULD HAVE RAW MATERIAL
12 STOCK REPORTS RUNNING FROM '57 TO '62 FOR PLANT NINE?

13 A. WELL, I DON'T EVEN KNOW THAT THROUGH TO '62. I
14 KNOW THAT THERE WERE SUBSEQUENT RAW MATERIAL INVENTORY REPORTS

15 Q. AND YOU RECEIVED THOSE AS PART OF THE--ATTACHMENT
16 TO THE KEASBEY-MATTISON MINUTES FROM UP UNTIL 1962 WHEN IT
17 WAS SOLD TO CERTAIN-TEED?

18 A. YES, INDEED, THAT'S RIGHT.

19 Q. NOW, THOSE RECORDS FROM '57 TO '62, I TAKE IT,
20 ARE NOT HERE IN THIS COURTROOM?

21 A. THEY'RE NOT, NO, NOT TO MY KNOWLEDGE.

22 Q. HAVE YOU EVER REVIEWED THOSE RECORDS?

23 A. I HAVEN'T.

24 Q. BUT THOSE RECORDS DO EXIST AND, SUPPOSEDLY, I
25 ASSUME, THEY'RE OVER IN ENGLAND AS PART OF THE TURNER-NEWALL

2 Q. YOU APPRECIATE THEY DON'T GIVE--THEY
3 DON'T ANY LONGER LIST THE TYPES OF FIBER AND THE DETAILS.
4 SO THEY DON'T HELP VERY MUCH. I IMAGINE THAT'S WHY THEY'RE
5 NOT HERE.

6 Q. WELL, YOU DON'T KNOW THAT FOR A FACT, THOUGH,
7 DO YOU, SIR?

8 A. WHAT? THAT THEY DON'T? I KNOW THAT THE SYSTEM
9 CHANGED, IF THAT'S WHAT YOU MEAN.

10 Q. WELL, DID IT CHANGE IN 1957?

11 A. YES.

12 Q. DO YOU KNOW THAT FOR A FACT?

13 A. YES.

14 Q. NOW, I'D LIKE TO SPEAK TO THE RECORDS THAT ARE
15 IN FRONT OF YOU. AS WE LEFT YESTERDAY, I ASKED YOU TO GO
16 THROUGH THOSE RECORDS AND IDENTIFY ANY LISTINGS FOR JOHNS-
17 MANVILLE FIBER IN PLANT NINE.

18 MR. MORRIS: YOUR HONOR, ON BEHALF OF DEFENDANT A.C.L.,
19 I'D LIKE TO OBJECT TO THE TESTIMONY OF ANY OF THE CONTENTS
20 OF THOSE RECORDS FOR THE SAME REASON THAT I OBJECTED TO THE
21 RECORDS BEFORE, FOR THE VARIOUS REASONS. THEY ARE HEARSAY,
22 NO PROPER FOUNDATION; AND I ASK THE COURT THAT THE INFORMATION
23 SOUGHT FROM THE RECORDS NOT IN ANY WAY BE BINDING UPON THE
24 DEFENDANT A.C.L.

25 THE COURT: OBJECTION OVERRULED.

1 Q. (BY MR. NUMRICH) DID YOU DO THAT, MR. JONES?
2 A. YES, I DID.
3 Q. AND DID YOU FIND ANY LISTINGS FOR JOHNS-MANVILLE
4 FIBER IN PLANT NINE?
5 A. I FOUND ONE.
6 Q. WHEN WAS THAT, SIR?
7 A. THAT WAS JULY AND OCTOBER 1952.
8 Q. AND HOW MUCH FIBER WAS LISTED?
9 A. THE FIBER WAS 29.55 TONS.
10 Q. WOULD YOU PLEASE TURN TO THAT PARTICULAR RAW
11 MATERIAL STOCK INVENTORY SHEET?
12 A. YES, I'M ON JULY 1952 NOW.
13 Q. AND WHAT TYPE OF JOHNS-MANVILLE FIBER IS LISTED
14 AS 29.55 TONS?
15 A. THIS IS DESCRIBED AS D-4-M, JM.
16 Q. NOW, I'D LIKE YOU TO TURN TO THE NEXT RAW
17 INVENTORY STOCK REPORT FOR AUGUST OF 1952.
18 A. YES.
19 Q. AND WITH REGARD TO THAT JOHNS-MANVILLE FIBER
20 THAT YOU JUST MENTIONED, HOW MANY TONS ARE LISTED FOR AUGUST
21 OF 1952?
22 A. TWENTY-NINE POINT FIVE FIVE.
23 Q. IS THAT THE SAME AMOUNT AS JULY?
24 A. THAT'S THE SAME AMOUNT AS JULY.
25 Q. NOW, I'D LIKE YOU TO TURN TO THE AUGUST RAW

1 INVENTORY SHEET FOR 1952?

2 A. YES.

3 Q. WHAT'S LISTED FOR THAT SAME FIBER FOR JOHNS-
4 MANVILLE?

5 A. AGAIN, 29.55.

6 Q. I'D LIKE YOU TO TURN TO SEPTEMBER 1952.

7 A. YES.

8 Q. AND WHAT FIBER--WHAT AMOUNT OF FIBER--THAT SAME
9 JOHNS-MANVILLE FIBER IS LISTED?

10 A. STILL 29.55.

11 Q. SO, FOR THAT FOUR-MONTH PERIOD OF TIME, THEY HAD
12 29.55 TONS OF JOHNS-MANVILLE FIBER IN THEIR PLANT NINE WHICH
13 WERE NOT USED OVER THAT PERIOD OF TIME?

14 A. THAT'S RIGHT.

15 Q. NOW, APPARENTLY IN THE NEXT MONTH, WHICH WOULD
16 HAVE BEEN WHAT? NOVEMBER, SIR?

17 A. NOVEMBER '52.

18 Q. AND IS THERE A LISTING FOR ANY JOHNS-MANVILLE
19 FIBER THERE?

20 A. NO; IT HAD BEEN USED BY THEN.

21 Q. IS THERE A LISTING FOR ANY JOHNS-MANVILLE FIBER
22 IN ANY YEAR SUBSEQUENT TO OCTOBER OF 1952?

23 A. NO, THERE ISN'T.

24 Q. SO THE ONLY RECORDS OF JOHNS-MANVILLE FIBER WE
25 HAVE FOR THIS 18-YEAR PERIOD IN PLANT NINE IS 29.55 TONS FOR

1 THE FOUR-MONTH PERIOD IN 1952; IS THAT CORRECT?

2 A. YES, THAT'S CORRECT.

3 Q. MR. JONES, WOULD YOU AGREE THAT 29.55 TONS
4 WOULD REPRESENT A PERCENTAGE OF CERTAINLY LESS THAN ONE PER CENT
5 OF THE TOTAL FIBER USED OR IN STOCK AT PLANT NINE OVER THAT
6 18-YEAR PERIOD?

7 A. WELL, I CAN'T--I HAVEN'T REDUCED IT TO A
8 PERCENTAGE. IT IS A SMALL PERCENTAGE, AN INSIGNIFICANT
9 PERCENTAGE.

10 Q. IT'S A VERY SMALL AMOUNT; ISN'T IT, SIR?

11 A. IT IS.

12 Q. NOW, IF PLAINTIFFS IN THIS PARTICULAR ACTION,
13 LIKE MR. DAVIS, HAD TESTIFIED--NOW, MR. DAVIS HAS TESTIFIED
14 PREVIOUSLY HE ONLY WORKED IN PLANT NINE COMMENCING SOMETIME
15 IN THE MID-40'S. AT LEAST BY YOUR RECORDS, SIR, MR. DAVIS
16 WOULD NOT HAVE BEEN EXPOSED TO ANY JOHNS-MANVILLE FIBER WHILE
17 WORKING IN PLANT NINE FROM ANY TIME IN THE LATE 1930'S,
18 1940'S, UP UNTIL JULY OF 1952, ACCORDING TO YOUR RECORDS;
19 WOULDN'T THAT BE RIGHT, SIR?

20 A. THAT WOULD BE RIGHT.

21 Q. AND ANY POTENTIAL EXPOSURE OF MR. DAVIS TO ANY
22 JOHNS-MANVILLE FIBER WOULD HAVE ONLY BEEN FOR THAT FOUR-
23 MONTH PERIOD OF TIME; IS THAT CORRECT, SIR?

24 A. THAT IS CORRECT.

25 Q. NOW, AFTER 1957, WE, OF COURSE, DON'T HAVE ANY

1 RECORD FOR PLANT NINE, UP UNTIL 1962 WHEN IT WAS SOLD, AS YOU
2 TESTIFIED; IS THAT RIGHT?

3 A. THAT'S RIGHT.

4 Q. NOW, GETTING BACK TO THAT 29.55 TONS, MR. JONES,
5 WHICH REMAINED IN THE PLANT NINE INVENTORY RECORDS FOR A
6 FOUR-MONTH PERIOD OF TIME AND NEVER CHANGED, I'D LIKE TO ASK
7 YOU A SERIES OF QUESTIONS THAT RELATE TO THAT. DO YOU KNOW
8 HOW THOSE PERCENTAGE FIGURES WHICH YOU ARRIVED AT, AS IDENTIFIED
9 ON THAT A.C.L. EXHIBIT 10, WERE COMPILED? HOW DID THEY GO
10 ABOUT COMING UP WITH THOSE PERCENTAGES?

11 A. HOW DID THEY ARRIVE AT THE PERCENTAGES?

12 Q. YES, SIR. BECAUSE YOU DID NOT DO THE ACTUAL
13 FIGURING YOURSELF; DID YOU?

14 A. I DID NOT DO THE FIGURING MYSELF, NO. THEY ARE
15 DONE YEAR BY YEAR, AND I THINK I'M RIGHT IN SAYING THE
16 PERCENTAGE WAS TAKEN MONTH BY MONTH AND THEN MADE UP FOR A
17 YEAR.

18 Q. CAN YOU BE A LITTLE BIT MORE SPECIFIC AND TELL
19 THESE JURORS HOW IT WAS COMPILED, IF YOU KNOW?

20 A. WELL, THIS REPRESENTS THE AMOUNT IN STOCK AT A
21 PARTICULAR MOMENT. THERE ARE, IN THE COURSE OF ONE YEAR,
22 12 MOMENTS WHEN YOU COULD LOOK AT A PIECE OF PAPER TO SEE
23 THE AMOUNT OF STOCK. AND SO, ON EACH OF THOSE YOU CAN
24 EXPRESS THAT AS A PERCENTAGE OF THE TOTAL AMOUNT IN STOCK, AND
25 THEN YOU CAN REDUCE THAT PERCENTAGE TO A FIGURE FOR THE YEAR.

1 Q. WELL, DOESN'T THAT 29.55 TONS OF JOHNS-MANVILLE
2 STOCK WHICH REMAINED IN STOCK AND WASN'T USED OVER A FOUR-
3 MONTH PERIOD OF TIME POINT OUT THE FALLACY IN THAT COMPILATION,
4 AS TO SHOWING ANY PERCENTAGE OF FIBER OR USAGE OF FIBER IN ANY
5 PLANT, ESPECIALLY PLANT THREE?

6 A. I DON'T THINK IT DOES; DOES IT?

7 Q. WELL, LET ME GIVE YOU AN EXAMPLE, MR. JONES,
8 AND SEE IF YOU WOULD AGREE OR DISAGREE. ACCORDING TO MY
9 UNDERSTANDING OF HOW THESE FIGURES WERE COMPILED, AND--SAY
10 IF COMPANY "A" SUPPLIED ONE HUNDRED TONS OF FIBER TO, LET'S
11 USE PLANT NINE, IN JANUARY OF A PARTICULAR YEAR, LET'S SAY
12 KEASBEY-MATTISON. KEASBEY-MATTISON--PLANT NINE DECIDES THEY'RE
13 NOT GOING TO USE THAT HUNDRED TONS OF FIBER THAT ENTIRE YEAR,
14 SO ON YOUR RAW INVENTORY STOCK SHEET, THAT HUNDRED TONS OF
15 FIBER WOULD RUN FOR JANUARY, FEBRUARY, MARCH, APRIL, ON
16 THROUGH THE REST OF THE YEAR; WOULDN'T IT?

17 A. YES, IT WOULD.

18 Q. NOW, SAY THAT COMPANY "B" SUPPLIES THE SAME HUNDRE
19 TONS OF FIBER TO THE PLANT NINE AT KEASBEY-MATTISON. KEASBEY-
20 MATTISON IS USING 50 TONS OF THAT FIBER PER MONTH. SO, FOR
21 EACH MONTH, THERE WOULD BE AN ADDITIONAL 50 TONS OF FIBER
22 SHOWING UP ON THE RAW INVENTORY STOCK SHEETS; WOULD THERE
23 NOT? THERE WOULD ONLY BE 50 TONS AS OPPOSED TO THE HUNDRED
24 TONS THAT COMPANY "A" IS FURNISHING?

25 A. I THINK I'M LOST. I'M SORRY.

1 Q. OKAY. COMPANY "B" IS GIVING YOU A HUNDRED TONS
2 OF FIBER, THE SAME AS COMPANY "A"?

3 A. YES.

4 Q. BUT KEASBEY-MATTISON ISN'T USING COMPANY "A'S"
5 FIBER, SO IT REMAINS CONSTANT THAT ENTIRE 12-MONTH PERIOD
6 OF TIME?

7 A. YES.

8 Q. COMPANY "B" IS SUPPLYING THAT SAME ONE HUNDRED
9 TONS OF FIBER, BUT KEASBEY-MATTISON IS USING 50 TONS OF THAT
10 FIBER EVERY MONTH. SO WHEN YOU COME DOWN TO THE END OF
11 THE YEAR, WHEN YOU TOTAL UP THE AMOUNT OF RAW MATERIAL STOCK
12 OF THAT PARTICULAR FIBER OF EACH COMPANY, YOU'RE GOING TO
13 COME UP WITH COMPANY "A" HAVING SOMEWHERE AROUND 1200 TONS
14 OF FIBER, IF MY CALCULATIONS ARE CORRECT, AND COMPANY "B"
15 COMING UP WITH ONLY 600 TONS OF FIBER?

16 A. YES. BUT IF YOU TAKE THE PERCENTAGES MONTH BY
17 MONTH, YOU'LL HAVE TO START WITH 50-50 AND THEN MAYBE 50-25,
18 AND SO ON.

19 Q. BUT THAT DOESN'T INDICATE AT ALL WHAT THE USAGE
20 WAS DURING THAT PERIOD OF TIME; DOES IT, MR. JONES?

21 A. NO, IT DOESN'T. WE HAVE ALWAYS ACCEPTED THAT
22 THIS REPRESENTS A STATEMENT OF THE AMOUNT IN STOCK, NOT THE
23 USAGE.

24 Q. SO, IF SOMEBODY WAS TO SAY THAT 19.58 PERCENT
25 FIGURE THAT CAME UP FOR JOHNS-MANVILLE IN PLANT THREE HAS NO

1 INDICATION OF USAGE OF JOHNS-MANVILLE FIBER IN THAT PLANT
2 OVER THAT PERIOD OF TIME; DOES IT?

3 A. YES.

4 Q. GO AHEAD.

5 A. YES, AS FAR AS I CAN TELL, THAT'S RIGHT.

6 Q. SO, THE JURY IS NOT MISLED ON THAT--

7 A. I HAVE TO BE CAREFUL. I SUPPOSE IN THEORY YOU
8 COULD HAVE SOME USED IN A MONTH AND A LIKE AMOUNT COME IN,
9 BUT I AGREE THE INFERENCE IS THAT IT'S PROBABLY STATIC.

10 Q. NOW, OVER THIS 18-YEAR PERIOD OF TIME, MR. JONES,
11 WHOSE FIBER WAS PREDOMINANTLY USED IN PLANT NINE?

12 A. I SHOULD THINK PROBABLY THE C & G GRADES.

13 Q. AGAIN, FOR THE INFORMATION OF THE JURY, WHAT
14 ARE THE C & G GRADES? WHERE DID IT COME FROM?

15 A. THAT COMES FROM THE SHABANI MINE IN ZIMBABWE;
16 RHODESIA, IT WAS IN THOSE DAYS.

17 Q. AND WHO OWNS THAT MINE?

18 A. IT'S OWNED BY A COMPANY IN WHICH T & N IS THE
19 PRINCIPAL STOCKHOLDER.

20 MR. NUMRICH: NO FURTHER QUESTIONS, YOUR HONOR.

21 THE COURT: MR. MORRIS.

22 FURTHER RECROSS-EXAMINATION

23 BY MR. MORRIS:

24 Q. MY QUESTIONS, MR. JONES, ARE BROUGHT ON BY A
25 QUESTION THAT MR. BEERS ASKED YOU YESTERDAY. AND THAT QUESTION.

1 THAT HE ASKED YOU, AS I RECALL, WAS WHETHER OR NOT YOU HAD ANY
2 REASON TO DOUBT THE VERACITY OF THE RECORDS THERE OF EXHIBIT
3 B-M, 6 TIMES M?

4 A. THESE ARE THESE? (INDICATING.)

5 Q. YES. LET ME JUST TAKE A LOOK.

6 A. WE'RE NOT TALKING ABOUT THE TOTALITY OF THE
7 P. PROPERTY STOCK STRATEGIES.

8 Q. NO, MR. JONES. WE'RE NOT NECESSARILY TALKING
9 ABOUT THE TOTALITY OF THE RAW MATERIAL STOCK; WE'RE TALKING
10 ABOUT THE TOTALITY OF WHAT HAS BEEN MADE AVAILABLE TO MY CLIENT
11 AND ME, AND THAT IS WHAT YOU'VE GOT IN YOUR HAND RIGHT THERE.
12 THOSE ARE THE PIECES OF PAPER THAT YOU HAVE IN YOUR HAND THERE.

13 A. YES.

14 Q. NOW, IT'S MY UNDERSTANDING THAT YOU SAID YESTER
15 DAY THAT YOU HAD REVIEWED SOME RECORDS IN CONNECTION WITH
16 REFRESHING YOUR RECOLLECTION, AND SUPPOSEDLY IN CONNECTION
17 WITH THAT SUMMARY, THAT A.C.L. 10, BUT THAT THOSE RECORDS WERE
18 PRINTED IN BLUE INK OR SOMETHING LIKE THAT; ISN'T THAT
19 CORRECT? ISN'T THAT WHAT YOU SAID YESTERDAY?

20 A. THAT'S WHAT I SAID YESTERDAY, YES.

21 Q. ALL RIGHT. THOSE RECORDS THAT YOU'VE GOT NOW
22 THAT WERE PROVIDED TO THE COURT ARE NOT PRINTED IN BLUE INK.
23 THEY'RE PHOTOCOPIES, AREN'T THEY?

24 A. THEY ARE.

25 Q. SO, WHEN YOU TESTIFIED YESTERDAY, YOU HAD NOT

1 REVIEWED THOSE RECORDS; HAD YOU?

2 A. NO, I HADN'T.

3 Q. SO, THOSE RECORDS THAT YOU'VE GOT BEFORE YOU

4 ARE NOT THE TRUE BASIS FOR THE SUMMARY; ARE THEY? OR ARE THEY?
5 I DON'T KNOW.

6 A. WELL, YES, INDEED. THESE ARE TRUE. THESE ARE
7 WHAT WE WERE WORKING FROM. I SHOULD PERHAPS EXPLAIN THAT
8 PERHAPS FIVE OF THESE WERE IN OTHER EXHIBITS, WEREN'T THEY,
9 WHICH I PRODUCED ON THE FIRST DAY OF THE TRIAL?

10 Q. RIGHT. WE TALKED ABOUT THOSE.

11 A. NOW, LOOKING BACK, BEFORE I PRODUCED THOSE, I
12 LOOKED AT THEM, COMPARED THEM WITH THE ORIGINAL DOCUMENTS
13 WHICH WERE HERE. IT WAS--IT WAS AN ASSUMPTION OF MINE THAT
14 WE HAD ALL THE ORIGINAL DOCUMENTS BUT, IN FACT, WE ONLY HAD
15 THOSE THAT WERE REQUIRED TO SUPPORT THE FIVE EXAMPLES OF
16 THESE STOCK LISTS--IF IT WAS FIVE--THAT I PRODUCED ON MONDAY.

17 Q. ALL RIGHT.

18 A. THERE WAS A MISUNDERSTANDING ON MY PART. I
19 THOUGHT THEY WERE ALL HERE.

20 Q. I STILL DON'T UNDERSTAND WHAT IT WAS THAT YOU
21 REFRESHED YOUR RECOLLECTION FROM. I DON'T UNDERSTAND WHETHER
22 YOU REFRESHED YOUR RECOLLECTION FROM THAT SERIES OF PHOTOCOPIES
23 WHICH YOU HAVE THERE, OR WHETHER YOU REFRESHED YOUR RECOLLECTION
24 FROM SOME ORIGINAL RECORDS PRINTED IN BLUE INK?

25 A. WELL, THE DOCUMENTS THAT I REFRESHED MY RECOLLECTION

1 ON WERE THE FIVE THAT WERE PRODUCED ON MONDAY, WHICH WERE FIVE
2 OF THE... (INDICATING.)

3 Q. I MAY BE WRONG, MR. JONES, BUT I THOUGHT YOU SAID
4 THAT YOU HAD REFRESHED YOUR RECOLLECTION FROM A SERIES OF
5 RECORDS OUTSIDE OF THE FIVE RECORDS--THE FIVE DOCUMENTS THAT
6 YOU--THAT WE WERE ALL USING HERE; I THOUGHT THAT'S WHAT YOU
7 SAID?

8 A. NO, NOT BY LOOKING AT THE ORIGINAL PURPLE COPY.
9 I CAN LOOK AT THESE AND IT IS PERFECTLY PLAIN TO ME WHAT THEY
10 WERE. THEN I CAN REMEMBER THAT THEY CAME IN MONTH BY MONTH.
11 I CAN LOOK AT THEM AND SEE WHAT THEY SAY.

12 Q. HAVE THE ORIGINAL RECORDS EVER BEEN AVAILABLE
13 TO THE PARTIES, TO YOUR KNOWLEDGE?

14 A. NOT TO MY KNOWLEDGE.

15 Q. ALL THAT'S BEEN AVAILABLE TO THE PARTIES ARE
16 PHOTOCOPIES OR WHAT PURPORTS TO BE PHOTOCOPIES OF THE
17 ORIGINALS; IS THAT CORRECT?

18 A. SO FAR AS I KNOW.

19 Q. ALL RIGHT. NOW, JUST ONE MORE QUESTION, AND
20 THAT IS: ABOUT HOW MANY SHEETS ARE THERE IN THIS EXHIBIT 6
21 TIMES M? ABOUT HOW MANY SEPARATE SHEETS OF PAPER MAKE UP THAT
22 EXHIBIT, JUST YOUR BEST ESTIMATE?

23 A. 1937, WE DON'T HAVE A COUNT, BECAUSE THERE IS
24 ONLY THE FOUR MONTHS; SO, THAT'S FOUR.

25 Q. YOU NEED A CALCULATOR? I'VE GOT ONE.

1 A. ALL RIGHT. 1938 TO 1960--1957. NINE YEARS.

2 Q. NO, IT WOULD BE MORE THAN THAT. DON'T THEY GO
3 FROM '39 TO '57?

4 A. OH, THAT'S RIGHT. NINETEEN, AM I RIGHT?

5 Q. WOULD IT BE 12 TIMES--

6 A. IT'S 12 TIMES THE NUMBER OF YEARS.

7 Q. SO WE'RE TALKING ABOUT UPWARDS OF 200 SHEETS;
8 AREN'T WE?

9 A. 1940 TO 1957 IS 17 YEARS; 204 PLUS FOUR. HOW
10 ABOUT 208?

11 Q. I WOULD AGREE WITH THAT. SO WE'RE TALKING ABOUT
12 208 SHEETS OF PAPER, ALL JUST FULL OF LITTLE ENTRIES; ISN'T
13 THAT CORRECT?

14 A. THAT IS CORRECT.

15 Q. AND THOSE WERE PROVIDED FOR THE FIRST TIME, SIR,
16 AS I REMEMBER, YESTERDAY OR THE DAY BEFORE; ISN'T THAT
17 CORRECT? YOU WERE HERE WHEN THEY WERE PROVIDED?

18 A. THAT'S RIGHT.

19 MR. MORRIS: THANK YOU. THAT'S ALL, YOUR HONOR.

20 THE COURT: MR. SHOEMAKE.

21 MR. SHOEMAKE: THANK YOU, YOUR HONOR. JUST A FEW
22 QUESTIONS.

23 FURTHER REDIRECT EXAMINATION

24 BY MR. SHOEMAKE:

25 Q. MR. JONES, LET ME ASK YOU: AS CUSTODIAN OF THE

1 RECORDS, SIR, ARE YOU SATISFIED THAT EXHIBIT 6-M IS A FAIR
2 AND ACCURATE REPRODUCTION OF THE ORIGINAL RECORDS?

3 A. YES, I AM.

4 Q. NOW, ALSO, SIR, ARE YOU--DO YOU HAVE ANY
5 KNOWLEDGE THAT SOMETIME AFTER 1957, WHETHER KEASBEY AND
6 MATTHEW QUIT KEEPING INVENTORY RECORDS ON A PLANT-BY-PLANT
7 BASIS AND, INSTEAD, KEPT INVENTORY ON A NATIONWIDE BASIS?

8 A. YES, I HAVE.

9 Q. ALL RIGHT. NOW, I HAVE SOME CONFUSION I WOULD
10 LIKE YOU TO CLARIFY FOR ME, SIR, IF YOU CAN. CAN YOU TELL
11 THE COURT AND JURY WHETHER OR NOT TURNER AND NEWALL--AND I
12 INCLUDE T.A.F. IN THAT--TO YOUR KNOWLEDGE, EVER SOLD ASBESTOS
13 FIBER DIRECTLY TO THE CERTAIN-TEED PLANT IN SAINT LOUIS,
14 MISSOURI?

15 A. NO, THEY DIDN'T.

16 Q. TO YOUR KNOWLEDGE, HOW WERE THE SALES OF ASBESTOS
17 FIBER TO CERTAIN-TEED HANDLED?

18 A. THEY WERE HANDLED BETWEEN T.A.F. AND CERTAIN-TEED
19 CERTAIN-TEED WOULD SPECIFY WHAT FIBERS AND WHAT QUANTITY THEY
20 WANTED, AND IT WAS T.A.F.'S JOB TO ARRANGE FOR WHAT
21 WAS ORDERED TO BE CONSIGNED FROM ITS SOURCE TO CERTAIN-TEED,
22 WHEREVER CERTAIN-TEED--WHICHEVER PORT CERTAIN-TEED DIRECTED
23 THAT THEY SHOULD BE CONSIGNED.

24 Q. TO YOUR KNOWLEDGE, THE ORDERS FROM CERTAIN-TEED
25 CAME FROM WHERE?

1 A. THEY CAME FROM AMBLER.

2 Q. PENNSYLVANIA?

3 A. YES.

4 Q. AND NOT SAINT LOUIS?

5 A. NOT SAINT LOUIS.

6 Q. ALL RIGHT. NOW, TELL THE JURY, PLEASE, TO YOUR
7 KNOWLEDGE, DID TURNER AND NEWALL--AND I INCLUDE AS A PART OF
8 TURNER AND NEWALL, T.A.F.--EVER SEND, SHIP FIBER TO THE SAINT
9 LOUIS CERTAIN-TEED PLANT?

10 A. NO.

11 Q. TO YOUR KNOWLEDGE, HOW WAS THE SHIPMENT OF FIBER
12 HANDLED BY TURNER AND NEWALL?

13 A. WELL, T.A.F. WOULD BE THE PEOPLE WHO WOULD BE
14 RESPONSIBLE, IN THE COURSE OF THEIR BUSINESS, FOR ARRANGING
15 FOR THE SHIPMENT OF THE REQUIRED FIBERS FROM ITS SOURCE TO
16 THE DESIGNATED PORT OF DESTINY.

17 Q. MAY--GIVE US SOME EXAMPLES OF THE PORT?

18 A. WELL, IF ONE'S LOOKING AT THE FIBERS WE'RE TALKING
19 ABOUT FROM SHABANI, THEY WOULD CAUSE AFRICAN ASSOCIATED MINES
20 TO SHIP THE FIBERS, FOR EXAMPLE, TO GALVESTON OR WHEREVER.

21 Q. I WOULD LIKE TO READ TO YOU, MR. JONES, SOME
22 TESTIMONY OF A MR. HARTMAN, WHO WAS IN THE PURCHASING DEPARTMENT
23 FOR CERTAIN-TEED THAT HAS BEEN HERETOFORE READ TO THE JURY,
24 AND ASK YOU, AFTER READING THOSE THREE QUESTIONS AND THREE
25 ANSWERS AS THEY ARE ALTOGETHER, WHETHER OR NOT, TO YOUR

1 KNOWLEDGE, PERSONAL KNOWLEDGE, YOU WOULD AGREE WITH THE
2 STATEMENT?

3 "QUESTION: THE ORIGINAL SUPPLIER OF THE FIBER
4 THAT CAME TO THE PORT DIDN'T MAKE ANY OF THOSE ARRANGEMENTS
5 THAT THEY WERE DISTRIBUTED TO THE VARIOUS PLANTS; DID THEY?"

6 AND IN REPHRASING THE QUESTION, "DID THE
7 ORIGINAL SUPPLIER MAKE THOSE ARRANGEMENTS TO DISTRIBUTE TO
8 VARIOUS CERTAIN-TEED PLANTS FROM THE PORT?"

9 "ANSWER: I DO NOT KNOW; I DO NOT THINK SO."

10 "QUESTION: TO THE BEST OF YOUR UNDERSTANDING,
11 THAT WAS A CERTAIN-TEED DECISION WHERE IT WOULD GO?"

12 "ANSWER: YES, SIR."

13 "QUESTION: AND CERTAIN-TEED DID THE MECHANICS OF
14 SEEING IT GOT LOADED INTO, LET'S SAY, BOXCARS, ONCE IT
15 ARRIVED IN AMERICA AND WENT TO VARIOUS PLANTS?"

16 "ANSWER: YES."

17 DOES THAT COMPORT WITH YOUR UNDERSTANDING OF HOW
18 IT WAS ARRANGED?

19 A. YES, THAT'S ENTIRELY IN COMPORTMENT WITH MY
20 UNDERSTANDING.

21 MR. SHOEMAKE: THANK YOU, YOUR HONOR.

22 THE COURT: MR. BEERS.

23 FURTHER RECROSS-EXAMINATION

24 BY MR. BEERS:

25 Q. MR. JONES, AS I RECALL, STARTING IN '62, TURNER

1 AND NEWALL HAD A CONTRACT WITH CERTAIN-TEED TO SUPPLY FIBER TO
2 THE CERTAIN-TEED PIPE PLANTS; IS THAT CORRECT?

3 A. WELL, I WASN'T SURE, IF YOU RECALL, WHEN WE
4 DISCUSSED THIS BEFORE, WHETHER IT WAS CERTAIN-TEED OR T.A.F.,
5 BUT SUCH A CONTRACT EXISTED.

6 Q. NOW--

7 A. COULD I--DID YOU SAY TO--

8 Q. TO CERTAIN-TEED, WHICH OWNED THE PIPE PLANT?

9 A. OH, YOU SAID CERTAIN-TEED OWNED THE PIPE PLANT?

10 Q. RIGHT.

11 A. NOT TO CERTAIN-TEED'S PIPE PLANTS?

12 Q. CORRECT.

13 A. YES, THAT'S RIGHT.

14 Q. AND UNDER THAT CONTRACT, CERTAIN-TEED HAD TO
15 BUY ALL THE FIBER IT WANTED TO USE IN ALL OF ITS PIPE PLANTS
16 THROUGH TURNER AND NEWALL OR THROUGH T.A.F.; ISN'T THAT
17 CORRECT?

18 A. WELL, I DON'T REMEMBER THE DETAILS OF THE AGREE-
19 MENT NOW.

20 Q. BUT THAT IS THE SUBSTANCE OF IT; ISN'T IT?

21 A. I WOULD THINK SO, YES.

22 Q. NOW, THERE ISN'T THE SLIGHTEST QUESTION IN YOUR
23 MIND THAT T.A.F. ARRANGED FOR FIBER FROM ITS AFRICAN AND
24 RHODESIAN MINES TO GO TO CERTAIN-TEED IN THE '60'S AND
25 '70'S; YOU'RE CLEAR ABOUT THAT, AREN'T YOU?

1 A. DID YOU SAY WHY DID THEY DO IT?

2 I THOUGHT HE STARTED HIS QUESTION, "WHY DID
3 SOMETHING HAPPEN."

4 Q. I'M SORRY. I'LL TRY AGAIN. THERE IS NO DOUBT
5 IN YOUR MIND THAT FIBER FROM MINES CONTROLLED BY T.A.F. OR
6 TURNER AND NEWALL WENT TO CERTAIN-TEED PIPE PLANTS IN THE
7 '60'S AND '70'S?

8 A. YES, THEY ULTIMATELY GOT THERE BY ONE MEANS
9 OR ANOTHER.

10 Q. AND THERE'S NO DOUBT IN YOUR MIND THAT FIBER
11 FROM MINES CONTROLLED BY TURNER AND NEWALL OR T.A.F. ULTIMATELY
12 GOT TO THE SAINT LOUIS PIPE PLANT OF CERTAIN-TEED?

13 A. YES, THAT, OF COURSE--

14 Q. NO, I MEAN TO THE CERTAIN-TEED PIPE PLANT IN
15 THE '60'S AND '70'S?

16 A. OH, I'M SORRY. YES, I HAVE NO DOUBT THAT WAS
17 SO.

18 Q. AND THERE WAS NEVER ANY DOUBT IN YOUR MIND WHEN
19 YOU WERE WORKING AT TURNER AND NEWALL THAT BY SOME MEANS FIBER
20 FROM MINES OWNED BY TURNER AND NEWALL WAS GOING ULTIMATELY
21 TO THE SAINT LOUIS PIPE PLANT OF CERTAIN-TEED?

22 A. RIGHT.

23 Q. YOU KNEW THAT?

24 A. YES.

25 Q. NOW, REMEMBER THOSE EXHIBITS THAT WE TALKED ABOUT

1 EE, AND LL, AND HH, AND MM--THE FIVE OR SIX EXHIBITS THAT WERE
2 THE KEASBEY AND MATTISON BOARD OF DIRECTORS MINUTES AND THE
3 INVENTORY FIBER SUPPLIES ATTACHED TO THEM? REMEMBER THOSE
4 EXHIBITS WE TALKED ABOUT?

5 A. YES, I DO.

6 Q. AND THOSE EXHIBITS--EE, AND HH, AND LL, AND MM--
7 THEY DISCLOSED, DID THEY NOT, THAT ASBESTOS CORPORATION
8 AND JOHNS-MANVILLE SUPPLIED FIBER IN THE '30'S AND THE '40'S
9 TO THE SHINGLE PLANT?

10 MR. MORRIS: OBJECTION, YOUR HONOR. THAT'S A
11 MISQUOTATION BASED--ALL THEY EVEN PURPORTED, ACCORDING TO THE
12 WITNESS, TO DISCLOSE WAS THAT A.C.L. OR J.M. FIBER WAS THERE.

13 MR. BEERS: EXCUSE ME. I'LL REPHRASE THE QUESTION.

14 THE COURT: QUESTION'S WITHDRAWN.

15 Q. (BY MR. BEERS) THOSE EXHIBITS--EE, HH, LL, MM--
16 THEY REVEAL ON THEIR FACE, DO THEY NOT, THAT THERE WAS
17 ASBESTOS CORPORATION FIBER AND JOHNS-MANVILLE FIBER BEING USED
18 IN THE SHINGLE PLANT AT KEASBEY AND MATTISON IN THE '30'S AND
19 '40'S?

20 MR. MORRIS: I OBJECT TO THAT, AGAIN, YOUR HONOR.
21 THEY DON'T DISCLOSE ANY SUCH THING. THEY PURPORT TO, ACCORDING
22 TO THIS WITNESS, TO DISCLOSE IT WAS THERE.

23 MR. BEERS: ALL RIGHT, THEY DISCLOSE IT WAS THERE,
24 RIGHT?

25 THE WITNESS: THEY DO.

1 Q. (BY MR. BEERS) AND UNLESS KEASPEY AND MATTHEWSON
2 THREW THE FIBER OUT WHEN THE INVENTORIES CHANGED, THE REASONABLE
3 CONCLUSION WAS THAT THE FIBER WAS USED IN THAT PLANT; ISN'T
4 THAT RIGHT?

5 A. THAT'S RIGHT.

6 Q. THEY MIGHT HAVE CHUCKED IT IN THE RIVER, BUT IF
7 THEY DID NOT CHUCK IT IN THE RIVER, THEY USED IT; RIGHT?

8 A. WELL, THEY ALMOST CERTAINLY DID.

9 Q. YES.

10 A. IT'S NOT IMPOSSIBLE THAT THEY MIGHT HAVE MOVED
11 IT TO ANOTHER PLANT IF THEY STOPPED USING A PARTICULAR GRADE
12 OF FIBER FOR THEIR PURPOSES, BUT BY AND LARGE, THE PROBABILITY
13 IS THEY USED IT.

14 Q. THOSE EXHIBITS--EE, HH, LL, AND MM--THEY WERE
15 PRODUCED BY TURNER AND NEWALL IN THIS CASE BEFORE THIS TRIAL
16 STARTED; WEREN'T THEY?

17 A. WERE THEY? I DON'T KNOW.

18 Q. YOU DO NOT KNOW?

19 A. NO.

20 MR. BEERS: THANK YOU. THAT'S ALL I HAVE.

21 MR. SHOEMAKE: THANK YOU, MR. JONES.

22 THE COURT: YOU MAY STEP DOWN.

23 MR. SHOEMAKE: MAY THIS WITNESS BE EXCUSED, YOUR HONOR.

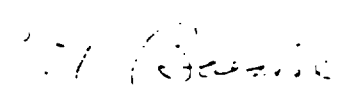
24 THE COURT: HE MAY. THANK YOU.

25 (THE WITNESS WAS EXCUSED.)

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C E R T I F I C A T E

I, PAT BAESKE, DO HEREBY CERTIFY THAT I AM A
DULY APPOINTED OFFICIAL COURT REPORTER FOR THE UNITED STATES
DISTRICT COURT WITHIN AND FOR THE EASTERN DIVISION OF THE
EASTERN DISTRICT OF MISSOURI; THAT I WAS PERSONALLY PRESENT
ON MARCH 8 THROUGH 11, 1982, AND MADE A STENOMASK RECORD OF
THE TESTIMONY OF ARTHUR DAVID NICHOLAS JONES HAD IN NO. 89-2226
PENDING IN SAID COURT AND THAT PAGES 1 THROUGH 181 CONTAIN A
COMPLETE AND ACCURATE TRANSCRIPT OF MY ORIGINAL STENOMASK
NOTES.


PAT BAESKE