FILE NAME: Fibreboard (FIB)

DATE: 1984

DOC#: FIB025

DOCUMENT DESCRIPTION: Legal - Deposition of Henry A. Perlmutter with Barry Castleman Notes

1118-5878-0 TMJ

# Dr. Henry Perlmutter, witness for Fibreboard, med sch 1933-37.

17 became asst. to Dr. Wahle at Fibreboard 1938, Emeryville
26 25% of all his patients came from Pabco
29 returned from the War in 1946 to same hrs as co. doc at Pabco, mornings 5 days/wk + on call
37 "loaded" radiologist Ed Fong was used for X-rays of Pabco workers
38 plant tried to keep all the old X-rays
44 Dr. Trimble also consulted on chest X-rays, sent reports
47 Pabco also made leaded paint, roofing at Emeryville
52 Dr Christopher Adamson replaced Perlmutter at Pabco in 1950
61 He learned abt Asbestosis in medical school prior to 1935
63 He has never seen a case of Asbestosis, at Pabco or anytime else.
64 Pabco made insulation at Emeryville
65 He did not think the workers were in danger, nor did he consider cancer an asbestos disease while at Pabco.
66 Dust control in the plant was by a "very adequate exhaust fan".
67 Pabco's dust control was copied by other mfgrs.
Pabco was "very strict" abt having each operator wear respirator
89 There were hundreds of ~~chest~~ X-rays ordered by Pabco, + 25% were chest X rays.
93 He was told the X-rays had been destroyed
99 Harry Hoops designed that great dust control system—
105-6 Moore ever showed HP any dust studies
110 Workers said the rubber masks weren't comfortable—
125 In 1946-50 HP took on responsibility for the Wk Comp program at Hy plant

126 He had an office in Emeryville and also space at Paterson's corporate offices in SF. They called them corporate med. dir.

130 Emeryville plant employed 1500-2000

131 Peripheral blood & xrays were not taken

146-7 He didn't know ASIS had a delayed onset (The plant had just opened in 1941, so no workers there for any cancers)

164 He received IHMA but has no recollection of using the 1949 edition as a reference. He would expect to have paid more attention during his duties in 1949.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

COPY

| | |
|---|---|
| IN RE: Fibreboard Plantworker Asbestos Cases (Kazan & Kilbourne) Consolidated for Discovery | No. 537064-7 |
| IN RE: Shipyard and Applicator Asbestos Cases (Kazan & Kilbourne) Consolidated for Discovery | No. 537868-7 |
| IN RE: Asbestos Cases Consolidated for Discovery | No. 529948-7 |
| IN RE: Consolidated for Discovery Related Shipyard and Applicator Cases: (Martin, Harrison & DeGarmo | No. 569084-0 |
| IN RE: Sterns, Brown & Finney Consolidated for Discovery Related Shipyard and Applicator Asbestos Cases | No. 573686-9 |
| IN RE: Related Asbestos Cases Consolidated for Discovery (Knapp) | No. 568328-4 GENERAL DISCOVERY FILE |

REPORTER'S TRANSCRIPT
of
DEPOSITION
of
HENRY A. PERLMUTTER, M.D.
(Videotaped)
Monday, October 29, 1984
Tuesday, October 30, 1984

RECEIVED NOV 16 1984

Reported by: Harry A. Cannon, CSR
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(415) 391-7421

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

| | |
|---|---|
| IN RE: RELATED ASBESTOS CASES: | |
| PETER SANDO, | |
| Plaintiff, | |
| vs. | No. 247468 |
| LINCOLN ELECTRIC, et al., | |
| Defendants. | |

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

| | |
|---|---|
| IN RE: Jennie Azzopardi, and all Halley, Cornell & Lynch's and McCarthy, Johnson & Miller's Related Asbestos Cases | Nos. 783714 & 792978 |
| IN RE: Related Asbestos Cases Consolidated for Discovery (Knapp) | No. 804896 GENERAL DISCOVERY FILE |
| IN RE: Sterns, Brown & Finney Consolidated for Discovery Related Shipyard and Applicator Asbestos Cases | No. 805555 |
| IN RE: Shipyard and Applicator Cases (Clapper & Brayton) Consolidated for Discovery | No. 804416 |
| IN RE: Discovery for Related Shipyard Asbestos Cases (Herron) | No. 795582 |
| IN RE: Consolidated for Discovery Related Shipyard and Applicator Cases (Martin, Harrison & DeGarmo) | No. 768071 |
| NORMAN BANKS, Plaintiff, vs. JOHNS-MANVILLE, et al., Defendants. | No. 791576 |
| JOHN KOMAR, et al., Plaintiffs, vs. JOHNS-MANVILLE, et al., Defendants. | No. 771595 |
| HELEN CALDWELL, Plaintiff, vs. JOHNS-MANVILLE, et al., Defendants. | No. 765264 |

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

| | | |
|---|---|---|
| IN RE: Clapper & Brayton Shipyard and Applicator Asbestos Cases Consolidated for Discovery | ) ) ) ) | No. 959 |

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SAN FRANCISCO, CALIFORNIA 94111
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | |
|---|---|
| IN RE: Related Asbestos Cases | No. C-79-3588 RFP |
| IN RE: Related Asbestos Cases<br>Richard F. Gerry | No. C-83-6251 RFP<br>ALL CASES |

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(Videotaped)
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(415) 391-7421

QUESTIONS DIRECTED NOT TO ANSWER

PAGE/LINE

| | | |
|---|---|---|
| 91/3 | 98/7 | 112/6 |
| 112/8 | 113/4 | 113/10 |
| 116/11 | 117/13 | 135/14 |
| 154/1 | 159/19 | 163/5 |
| 166/17 | 167/4 | 173/19 |
| 205/11 | 205/20 | 207/15 |

# I N D E X

DEPOSITION OF HENRY A. PERLMUTTER, M.D.

Monday, October 29, 1984

# E X H I B I T S

| Number | | Page |
|---|---|---|
| 1 | Extract The Journal of the AMA Volume 140, pages 1219 and 1220 | 162 |
| 2 | Extract PATHOLOGY, An Introduction to Medicine, (5-page document) | 200 |

BE IT REMEMBERED that, pursuant to Notice, and Videotape Deposition, and on Monday, October 29, 1984, commencing at the hour of 10:15 o'clock a.m. thereof, at KQED, 500 8th Street, Studio B, San Francisco, California, before me, HARRY A. CANNON, a Certified Shorthand Reporter and Notary Public in and for the State of California, personally appeared

HENRY A. PERLMUTTER, M.D.

called as a witness by Fibreboard Corporation, who, being by me first duly sworn, was thereupon examined and testified as hereinafter set forth.

STEVEN KAZAN, Attorney at Law, 171 Twelfth Street, Suite #300, Oakland, California 94607, appeared as counsel on behalf of plaintiffs; and

CARTWRIGHT, SUCHERMAN, SLOBODIN & FOWLER, 160 Sansome Street, Suite #900, San Francisco, California 94104, represented by HARRY F. WARTNICK, Attorney at Law, appeared as counsel on behalf of plaintiffs; and

KENNETH L. KNAPP, Esquire, 695 Town Center Drive, #1000, Costa Mesa, California 92626, represented by PATRICK BURNS, Attorney at Law, appeared on behalf of plaintiffs; and

HALLEY, CORNWELL & LYNCH, 25th Floor, 50

California Street, 94111, represented by J. KENNETH LYNCH, Attorney at Law, appeared as counsel on behalf of plaintiffs; and

MARTIN, HARRISON & DeGARMO, 501 Shatto Place, Suite 100, Los Angeles, California, 90820, represented by GUY LEWIS, Attorney at Law, appeared on behalf of plaintiffs; and

BROBECK, PHLEGER & HARRISON, One Market Plaza, Spear Street Tower, San Francisco, California 94105, represented by ROBERT S. DAGGETT, Attorney at Law, appeared as counsel on behalf of Fibreboard Corporation; and

ROPERS, MAJESKI, KOHN, BENTLEY & WAGNER, 655 Montgomery Street, Suite #1600, San Francisco, California 94111, represented by EUGENE J. MAJESKI, Attorney at Law, and THOMAS C. NORTON, Attorney at Law, appeared as counsel on behalf of Fibreboard Corporation; and

WINNINGHAM, ROBERTS, FAMA and THOMPSON, 425 California Street, 4th Floor, San Francisco, California 94104, represented by LYNN M. PETTUS, Attorney at Law, appeared as counsel on behalf of Eagle Picher Industries, Inc.; and

McCUTCHEN, DOYLE, BROWN & ENERSEN, Three Embarcadero Center, San Francisco, California 94111,

represented by KEVIN K. CHOLAKIAN, Attorney at Law, appeared as counsel on behalf of GAF; and

MULLALLY & CEDERBORG, 1405 Central Building, Oakland, California 94612, represented by LAURIE K. ANGER, Attorney at Law, appeared as counsel on behalf of Keene Corporation; and

HARDIN, COOK, LOPER, ENGEL & BERGEZ, 2300 Ordway Building, One Kaiser Plaza, Oakland, California 94612-3686, represented by ROBERTA E. NALBANDIAN, Attorney at Law, appeared as counsel on behalf of Western MacArthur; and

BLEDSOE, CATHCART, BOYD, ELIOT & CURFMAN, 650 California Street, Suite #2828, San Francisco, California 94108, represented by KATHERYN L. ANDERSON, Attorney at Law, appeared as counsel on behalf of Flexitallic Gasket Company, Inc.; and

HOOPER, KENDALL & KUBANCIK, 499 - 15th Street, Suite #401, Oakland, California 94612, represented by JOSEPH J. KUBANCIK, Attorney at Law, appearing for ST. CLAIR, ZAPPETTINI, McFETRIDGE & GRIFFIN, 235 Montgomery Street, Suite #635, San Francisco, California 94104, as counsel for Nicolet; and

Law Offices of WILLIAM DUKE, 433 California Street, Suite #330, San Francisco, California 94111, represented by CHARLENE P. ROSACK, Attorney at Law,

appeared as counsel on behalf of H.K. Porter Company, Inc; and

LAW OFFICES OF JOHN J. MURRAY, First Interstate Bank Building, 702 Marshall, Suite #250, Redwood City, California 94063, represented by JEROME HARRISON, Attorney at Law, appeared as counsel on behalf of United States Gypsum; and

HASSARD, BONNINGTON, ROGERS & HUBER, 3500 Wells Fargo Building, 44 Montgomery Street, San Francisco, California 94104, represented by EMILY BROCKMAN (legal assistant), appeared as counsel on behalf of Pittsburg Corning; and

GUDMUNDSON, SIGGINS & STONE, 235 Montgomery Street, Suite #710, San Francisco, California 94104, represented by SUSAN PIERCE, Attorney at Law, appeared as counsel on behalf of Armstrong World Industries, Inc.; and

POPELKA, ALLARD, McCOWAN & JONES, 601 Montgomery Street, Suite #2022, San Francisco, California 94111, represented by CAMILLA D. COCHRAN, Attorney at Law, appeared as counsel on behalf of Owens Corning Fibreglass; and

STEVENS & DRUMMOND, 1910 Olympic Boulevard, Suite 250, Walnut Creek, California 94596, represented by GARY T. DRUMMOND, Attorney at Law,

appeared on behalf of ACL; and

LA FOLLETTE, JOHNSON, SCHROETER & DE HAAS, 100 Van Ness Avenue, 19th Floor, San Francisco, California, represented by MELANIE SCHROETER (Law Clerk) appeared on behalf of Flintkote; and

ERICKSEN, ARBUTHNOT, McCARTHY, KEARNEY & WALSH, Inc., Pier 1-1/2, The Embarcadero, San Francisco, California 94111, represented by THEODORE C. LUEBKEMAN, Attorney at Law, appeared as counsel on behalf of NAAC.

ALSO PRESENT: ROBERT A. BECK, Esquire.

HENRY A. PERLMUTTER,

being first duly sworn, testified as follows:

MR. DAGGETT: We are on the stenographic record. Don't roll the tape yet.

This deposition is taken at this time and place by notice served and filed in the cases in which the deposition is being taken. I am Robert Daggett, appearing as counsel for the witness, Dr. Henry Perlmutter, and also as counsel for Fibreboard.

Because of certain minor conditions of health commonly associated with Dr. Perlmutter's age, we are going to break at four o'clock this afternoon and resume, if necessary, at this time and place, at ten o'clock tomorrow morning.

At the moment we are on the stenographic record only and the video tape has not begun to run.

Does any counsel have any observation, comment, objection or anything else that would be more appropriate to the stenographic record than the video tape record?

All right. Hearing no such, shall we run the tape. (Following proceedings on videotape)

EXAMINATION BY MR. DAGGETT:

MR. DAGGETT: Dr. Perlmutter, now that you have taken the oath as a witness, will you tell us your full name, sir.

A. Henry Abbott Perlmutter.

Q. Where do you live?

A. I live in Tucson, Arizona, at 460 Valle Del Oro Road.

Q. What is your profession?

A. I am a surgeon who has retired this year.

Q. You are retired and not actively practicing at this time?

A. That's correct.

Q. Where did you go to medical school?

A. Northwestern University Medical School.

Q. When did you attend Northwestern?

A. From 1933 through 1937.

Q. Did you receive the M.D. degree in 1937?

A. At Northwestern, at that time, at the completion of the academic work a Bachelor of Medicine was conferred, and, after the required one-year internship, the M.D. was given to each candidate.

Q. Where did you take your internship?

A. At Santa Clara County Hospital, in San

Jose.

Q. In California?

A. Correct.

Q. And over what year was that, doctor?

A. That was 1937-38.

Q. After you took your internship at Santa Clara, what did you do?

A. I went into general practice.

Q. Where did you do that?

A. At Berkeley, California, and I also did half time industrial work at Fibre -- at that time it was Pabco, in Emeryville.

Q. How did you come to locate your general practice in Berkeley?

A. I was looking in the Physicians Register and looking for some senior doctor who had graduated from Northwestern, and there was a typographical error in the Register and instead of "Illinois 6" -- "16" from his school, the "1" was obliterated and it said "Illinois 6," which was the code for Northwestern University Medical School. When I saw his age, which was in the late seventies, I called him and asked him if I could come and talk to him, which I did, and we discussed the possibility of his taking on an assistant. And I was hired half time

at Pabco, and I opened an office a couple of miles away from the plant.

Q. Who was this doctor who was either typographically accurately or inaccurately "Illinois 6"?

A. His name was Henry Wahle.

Q. Did he have a practice in Berkeley at that time?

A. No. He did no private practice. He had retired from private practice years ago. He had come to California and worked in the shipyards for a while as a physician during the war.

Q. Was Dr. Wahle at Pabco at the time you first talked to him?

A. Yes, he was.

Q. And as a result of your conversations with Dr. Wahle did you become a part-time physician at Pabco?

A. Yes, I became a part-time physician after our discussion.

Q. As Dr. Wahle's assistant?

A. Yes.

Q. When was this?

A. This was in 1938.

Q. And then at the same time did you open an

office for the general practice of medicine in Berkeley?

A. Yes, I did.

Q. Where was that?

A. That was up -- I think it was Shattuck Avenue. It was in the American Trust Building.

Q. When you opened your office for general practice in Berkeley did you practice by yourself or with someone at first?

A. I was a solo practitioner.

Q. All right. Did you work five days a week at Pabco or some other number of days a week?

A. I worked five days a week and I was on call at other times.

Q. What hours in the day did you work at Pabco at the beginning?

A. From eight o'clock until noon.

Q. Mornings?

A. Correct.

Q. And what did you do with your afternoons?

A. I took care of my private practice.

Q. What was nature of your private practice in Berkeley?

A. I was a general practitioner and I stayed in this type of practice for many years.

Q. Now, tell me again, so we are very clear on it, Doctor, what was the year you began working as a part-time plant physician at Pabco?

A. To the best of my recollection, it was 1938, immediately after I had finished my internship.

Q. All right. 1938?

A. Now, wait a second. It was either late '38 or early '39.

Q. It is only about thirty-five years ago, isn't it?

A. Yes.

Q. Tell us, please, what were the nature of your duties at the Pabco plant as a plant physician beginning in 1938?

A. I was instructed by Dr. Wahle to take care of patients as they came into the medical department. I was to decide whether the particular injury that was sustained -- because most of the people coming on sick call were there because of trauma -- I took -- I would take care of them and send them back to work if they were able to work, or send them home. If I saw that they had something that was an illness that had been taken care of by their private physician or that they had some disease entity that needed continuous care, then they were referred to

their private doctor.

Q. Tell us in language a juror might better understand what you mean by "trauma."

A. "Trauma" is any injury sustained during any particular condition, a laceration, a cut, a fracture of a bone, a foreign body in the eye.

Q. All right. Now, did your attention to and treatment of a worker at Pabco differ according to whether the injury or condition the person had was work connected or not work connected, on the job or not on the job?

A. Would you explain --

Q. Yes. Maybe that's too long a question.

A. Yes.

Q. If somebody came in with a work-connected injury, an on-the-job injury, what was the nature of the care you gave?

A. If it was a minor surgical procedure, such as a laceration, we would suture the wound and dress it and have the patient come in for dressings daily until it was healed. If it was a fracture and it was serious, we would call a specialist in orthopedics.

Q. Suppose a case in which a worker came into the plant in the morning after he bumped his head in

a car accident the night before, would you treat that any differently? What would you do there?

A. Well, we would examine the patient and ask him what symptoms he had. If he had headaches or double vision or something that would indicate possibly serious trauma, he would be sent back to his private physician for treatment.

Q. Did you take care of workers at Pabco who had a non-work connected injury or complaint?

A. Yes. We took care of minor things like upper respiratory infections, minor dermatitis condition.

Q. Did you refer those people to their private doctors?

A. If it warranted serious follow up, yes. If it was just something that could be taken care of in one or two visits, we would handle it.

Q. And was there any difference in the way you treated on-the-job injuries or conditions?

A. You mean were there two different classes of treatment?

Q. Well, was the length of the treatment and the scope of the treatment any different with on-the-job injuries or conditions than those that were not on-the-job?

A. We took care of them, if we accepted treating them, until they were okay and needed no further treatment.

Q. What was your practice with respect to referring people to their own private physicians at the Pabco plant?

A. If they had anything that we considered serious, we would call the physician who was taking care of the individual and discuss the problem and the findings on examination that we had with their doctor.

Q. Were medical specialists available to you for consultation and treatment of patients at the Pabco plant?

A. Yes, they were.

Q. What kinds of specialists were available?

A. We had orthopedists, general surgeons, pulmonary or chest physicians, we had ophthalmologists -- dermatologists, that we would send skin conditions that we felt were beyond our scope of treatment -- and anything else that would require specialty training.

Q. All right. Did you typically refer Pabco employees to a specialist if the patient's complaint was for off-the-job, non-work connected problems?

A. We'd ask them first if they had their own physician and to go to see their physician, and they might be referred by their physician but we did not tell them where to go for medical treatment if they had their own doctor.

Q. Did you refer job-connected injuries to specialists that were available to you?

A. Yes.

Q. Who paid for them in the case of job-connected injuries?

A. Our self-insured department.

Q. Was your work at the Pabco plant related in some fashion or other to workmen's compensation?

A. Yes.

Q. How was that?

MR. KAZAN: Excuse me. Let me object for the record on the grounds of ambiguity. You haven't developed it but the doctor had several tenures at Pabco during which his duties may have differed from time to time. And since you have not defined the time with which this question deals, I think it's vague.

MR. DAGGETT: I will define the time now. And then I will get to later times in a minute.

Q. I am talking about the first year or so

you were at Pabco, Doctor. What connection or association was there between your duties, as you understood it, and workmen's compensation for people at the plant?

A. We would file a first report of injury and decide that the patient needed treatment, that he might or might not have to be taken off the job, and we would decide what treatment was necessary, and the follow up would fall under the usual routine for industrial accidents that was carried on all over the state. The only difference was instead of being with a private insurance company, the company took care of their own insurance.

Q. The company was self insured?

A. Right.

Q. All the time you were at Pabco it was self-insured?

A. Correct.

Q. And will you tell us whether or not in the case of an on-the-job injury or condition Pabco paid for the treatment by you and also for any specialties?

A. I didn't have dual compensation. I was paid on a monthly basis, and -- unless it were after work hours, and then I would charge the usual

industrial fee.

Q. You were paid a salary by Pabco?

A. Correct.

Q. How much was that?

A. Initially, it was at around 115 or 125. This was --

Q. Was that a day, Doctor?

A. It was a month.

Q. A month? This was in the late nineteen thirties?

A. '38 when the depression had hit the Coast very hard.

Q. Do you know how the specialists to whom you referred workers with on-the-job injuries were paid? Do you know anything about that?

A. The specialists?

Q. Yes.

A. Yes. They adhered to the fee schedule set up by the California Industrial Commission.

Q. Now, from time to time did a worker you saw at Pabco become a patient of yours in your general practice office in Berkeley?

A. Yes, they did.

Q. Will you tell us whether or not one of the reasons you took the job at Pabco in those

depression years was to help you build a private practice.

A. That's correct.

Q. Can you give us any order of magnitude about how many or how large a group of Pabco workers became patients in your general practice office?

A. Well, I had a successful practice, personal practice, from the time I started. Dr. Wahle would refer patients to me. He never -- many of the workers wanted to see Dr. Wahle as a private physician and he explained repeatedly that he did not do any private practice but that he had a young well-trained, nice physician with him and he referred them to me.

Q. Can you give us any estimate, even though its thirty-five odd years later, of approximately how many patients a year at the beginning in your general practice office came from the Pabco plant?

A. I would say percentage-wise it would be twenty-five percent of my patients came from Pabco, roughly.

Q. All right. Now, if a Pabco worker came in to your general practice office as a patient, will you tell us whether you believed yourself to be responsible for the general health care of that

patient to the extent he brought his problems to you?

A. Yes. And that they weren't industrial. If I saw him, I would sometimes feel that this was a problem that was due to his work and I'd ask him why he didn't see me down at the Pabco medical center there. And I would tell him to go there, and I wouldn't take care of him privately.

Q. Let me see if I can get this straight. If the person had an on-the-job injury, then he could see you at the Pabco plant without paying any professional fee?

A. Correct.

Q. And if he came to your general practice office and paid a fee, normally would that be because he did not have a workmen's comp on-the-job condition or injury?

A. Correct.

Q. All right. Now, how long after you started in 1938 did you stay at Pabco as a physician?

A. Well, I stayed until 1942, when World War II broke out.

Q. And when World War II broke out then did you do something else?

A. Yes.

Q. What did you do?

A. Did you say "what"? What did I do?

Q. Yes. I don't want all your war stories, Doctor, but can you just give us in a brief way what you did during World War II when you were not at Pabco?

A. I was in the army, initially in an infantry division, following which I was sent overseas and was referred to the Surgeon's Office, and I worked in the Surgeon's Office for some time. Actually, I was never officially on the rolls of the Surgeon's Office but they had me on detached service from the 36th General Hospital, which was the Wayne University.

Q. Were you in the army as a doctor?

A. Yes.

Q. How long were you in?

A. I was in approximately four years.

Q. What was your rank?

A. I went in as a first lieutenant and I came out as a lieutenant colonel.

Q. All right. When did you come out?

A. Let's see -- 19 -- 1946.

Q. What did you do then, when you came out?

A. I came back and saw Dr. Wahle, and he was eager to see me and he said he was leaving, and I

won't go into it in any details, but he just left.

Q. How old was Dr. Wahle then, if you know?

A. Gosh, he was around eighty.

Q. And you came back from the war and saw Dr. Wahle, is that right?

A. Correct.

Q. Did you return to part-time employment at Pabco?

A. Yes, I did.

Q. Were the hours and the days the same, mornings, five days a week?

A. Yes.

Q. Did you --

A. And on call subsequently.

Q. Yes. Did you resume your general practice in Berkeley?

A. I did.

Q. At the same address in the American Trust Building, or at a different place?

A. No. I moved to 1611 San Pablo, where I bought a duplex and converted one side to medical offices.

Q. And lived in the other side?

A. Yes. Initially.

Q. How long after you got back from the army

in 1946 did you continue at Pabco?

A. Until roughly 1950. It had always been my intent --

Q. No, just tell me how long it was you continued at Pabco?

A. From, roughly, 1950.

Q. And during the period 1946 to 1950 did you also have your general practice on San Pablo in Berkeley?

A. Yes.

Q. Now, did your duties, responsibilities or regimen at Pabco change at any time between 1938 and 1950, allowing for the period you spent in the army?

A. Well, slightly.

Q. How is that?

A. I did everything as before. I was in charge of Emeryville, and Dr. Wahle had been in charge of all the various offices, medical offices, but I only had responsibility to Emeryville.

Q. After Dr. Wahle left were there any changes?

A. Yes.

Q. What were they?

A. Instead of Dr. Wahle running the self-insured program, the San Francisco office took

that over, and I would be consulted regarding the people at Pabco.

Q. The San Francisco office of Pabco took over the insurance?

A. Well, that's where the self-insured office was.

Q. All right. Who was in charge of that, do you know?

A. I don't remember who was in charge at that time. Subsequently, I heard that Mrs. Hanson had been.

Q. All we are interested in here today is what you knew during your time at Pabco between 1938 and 1950, allowing for the war, allowing for being gone for the war. Now, taking into account that there were some changes in the self-insured workers' compensation program when Dr. Wahle left, did your duties, responsibilities as a physician at the Pabco plant in the mornings change?

A. No. Except as I mentioned, that I would have to discuss the length of time an individual would be staying off and whether that case should go to trial or whatever.

Q. By a "case going to trial" you mean if a worker had an on-the-job injury that needed to have

a hearing --

A. Right.

Q. -- before the Workmen's Compensation Board?

A. Correct.

Q. And after Dr. Wahle left, did your responsibilities as a doctor also include people going off work for injury and returning to work?

A. Yes. It always -- I always had that responsibility. If it were a problem case, I would discuss it in consultation with Dr. Wahle, but -- either I would do it or during the times when I was on vacation and someone else was taking my place, the decision would be made by the doctor.

Q. All right. Is my arithmetic right, that you were at your duties as a physician at Pabco part time for about eleven or twelve years up to 1950, except for your absence in the army?

A. From 1938 until 1950, minus four years in the service.

Q. All right. Did you come to know or have any idea during that period how common or uncommon it was for a manufacturing company like Pabco to have a medical department right in the plant?

A. Well, it was not common.

MR. KAZAN: Excuse me. I am going to object and move to strike the answer as nonresponsive.

MR. DAGGETT: Q. Go ahead and answer the question, Doctor. I think it was responsive. It may have been a little bit broad but that's the only way I know at the moment how--

MR. KAZAN: You asked him if he knew.

MR. DAGGETT: Oh, I see.

MR. KAZAN: And that calls for a "yes" or "no" answer.

MR. DAGGETT: All right.

Q. Doctor, they want you to be a little bit more precise here. Did you come to know how common or uncommon it was in the Bay Area for manufacturing plants like Pabco to have a medical department at the plant? The question is: did you come to know that?

A. I would say there were --

Q. Doctor, they want to know -- the lawyers want to know just if you knew that or if you didn't come to know that.

A. Well, yes.

Q. See, this is what lawyers do.

A. Yes.

Q. "Yes," you came to know that, is that what

you're saying?

A. Yes, I came to know that.

Q. All right. Now the question is, Doctor, what did you come to know about that?

A. I knew that there weren't many industrial companies that had a medical department on the premises.

Q. Did you know anybody else who did?

A. I knew the sugar refinery in Crockett had a full -- I think they had a full time or half time, I don't know, but they had a medical deparment.

Q. What company was that, do you remember?

A. C&W or --?

Q. C&H?

A. C&H.

Q. All right. Did you know anybody else who had a medical department, part time or not?

A. Let's see now. No one in Emeryville that I can recall. There were some steel companies that I heard had it but didn't know personally.

Q. All right. Can you give us a kind of a description in words, as best you can, of where the medical department was at the Pabco plant and what it consisted of, what the floor plan or layout was.

A. It was a small department in relation to

the number of square feet. It consisted of two examining and consultation rooms. These were jointly used as both examining rooms and as consultation rooms. There was a much larger room taken up by the nurse with her records and files and with the area where she would clean instruments and autoclave them.

Q. Was there one nurse or more than one nurse, at any given time?

A. At the time I was there, there was always one nurse, and for a time we had a secretary also.

Q. Was the nurse a registered nurse or some other classification?

A. The nurse in the medical deparment was always an RN.

Q. All right. When did the secretary start to work there, if you recall?

A. I don't recall exactly.

Q. What did the nurse do?

A. The nurse would help me in the event that there was a suturing that had to be done, and she had to bring the instruments and help prep the area and hand me the instruments, if need be. These were minor so that she always could do it very easily.

Q. By "minor" do you mean minor office

surgical procedure?

A. Minor office surgical procedure.

Q. Like stitching up cuts?

A. Right.

Q. Anything else?

A. That's all -- well, foreign bodies removed from the eye, foreign bodies removed from the fingers, avulsion of finger nails, and tidying up so a good dressing could be applied.

Q. Cleaning up the wound, do you mean?

A. Yes, cleaning up the wound when the fingernail is avulsed, the shreds of tissue. This was a relatively common injury.

Q. If somebody broke an arm or a leg while working at Pabco, did you set the fracture at the plant?

A. No, we did not.

Q. Did you have an x-ray machine at the plant?

A. No, we did not.

Q. Did you ever have an x-ray machine at the plant?

A. We never did.

Q. Did you take x-rays at the plant?

A. Never -- well, x-rays were taken at the plant under only one condition.

Q. What was that?

A. That was when the Alameda County TB Association sent the mini-- the vans out to take mini films of chests.

Q. The kind of truck that we can all step into off the street sometimes to have a chest picture taken?

A. That's right.

Q. But Pabco, and you as Pabco's part-time physician, took no x-rays?

A. No. We purposely did not.

Q. Why purposely?

A. Because we felt that we needed a qualified technician to do it and we needed a qualified radiologist to examine the -- to read the film.

Q. When x-rays were taken of Pabco workers where were they taken and who took them?

A. We sent them to Providence Hospital, some to Meritt, occasionally to Herrick Hospital, and fairly frequently to a private radiologist who was boarded in radiology and who did only radiology. His name was Edward Fong. And I don't know if he's still in practice or not.

Q. Was there some reason that you used the radiologist, at times at least, who was not on the

staff of a hospital?

A. Yes.

Q. Why was that?

A. Because the hospitals were considerably busier than the private radiologists, and we got just superb service. If we wanted an x-ray and we wanted to see it right away, it would be delivered to us.

Q. When x-rays were taken away from the Pabco plant of Pabco workers what happened to the x-ray films?

A. The x-ray films were ordinarily transferred to our department, mailed to us or someone would personally deliver them. But in several instances -- well, quite a few actually -- the hospital kept the x-ray in their files, and if we knew that it was there we requested they be sent. There weren't many. But every so often we were informed by the hospital that it was time to get rid of their old x-rays and they were going to destroy them unless we wanted them. Well, of course we wanted them. We kept all our x-rays in two large x-ray filing cabinets.

Q. So you kept or tried to keep x-rays at the Pabco plant?

A. Yes.

Q. Where were they kept there?

A. They were kept right next to where the nurse's desk was located.

Q. In some kind of cabinet?

A. Yes. Specially constructed x-ray cabinets that were universally used in hospital and elsewhere.

Q. An x-ray cabinet for the x-rays, is that right?

A. Correct. It's a much larger filing cabinet than usual.

Q. All right. During the time you were a part-time physician at Pabco, allowing for your four years away in the army, did you belong to any professional associations or groups concerned with industrial medicine?

A. Yes. I did. I had forgotten about it before. I joined when they had the -- when they formed the Western Industrial Society -- I can't even recall the name of the group.

Q. Some kind of Western Industrial Society?

A. Yes.

Q. And you joined?

A. An offshoot of the American Industrial or whatever.

Q. Did you go to meetings of that group?

A. I only went to two, as I recollect. One was the -- I can't remember the name of the doctor who was at C&H but he was the spark plug behind the organization of the group.

Q. Was it a local San Francisco Bay Area group or a West Coast-wide group?

A. I can't recall exactly.

Q. Did you stop going while the organization continued or did the organization stop?

A. They didn't stop because I left.

Q. Did you leave?

A. It was never too --

Q. Doctor, my question was: did you leave?

A. Did I leave?

Q. Did you stop going?

A. Yes.

Q. Why did you?

A. Well, I didn't think it was a very effective organization.

Q. Why not?

A. There was no tremendous enthusiasm for the group. The programs were very pedestrian and didn't seem worthwhile.

Q. Do you remember what the programs were

about?

A. Well, there were discussions about trauma and different problems, and I can't remember any of the programs.

Q. Did you belong to any other associations during your time at Pabco which you understood was interested in or had to do with industrial medicine?

A. No, I did not.

Q. Did you during your time at Pabco read any professional literature for doctors which you considered to be directly related to your work at Pabco?

A. No.

Q. Did you get any publications at your general practice office?

A. No, I did not.

Q. You did not.

A. When you say "publications," are you referring to industrial publications --

Q. Yes.

A. -- or just medical ones?

Q. No, I am referring now to publications directed to industrial medicine.

A. I might have. I can't recall.

Q. Did you read while you were at Pabco any

professional publications for doctors having to do with the general practice of medicine as opposed to industrial medicine?

A. Yes.

Q. What were they?

A. Well, I had joined the American Medical Association and read the Journal of the American Medical Association regularly.

Q. Did you ever stop doing that before 1950?

A. No.

Q. Did you read anything else to keep up to date?

A. Well, I also read some -- the New England Journal, and I took that for a short time.

Q. For how short a time?

A. Oh, approximately a year or less.

Q. Now, was it your practice to read these publications from cover to cover enthusiastically or in some other way?

A. I would consult the index and see what articles I was particularly interested in. I read most of the Journal --

Q. Did -- Excuse me.

A. -- of the American Medical Association.

Q. Did you have any medical texts in the

medical deparment at Pabco?

A. We did not.

Q. Did you have any medical texts in your general practice office in Berkeley, before the war and after the war?

A. I had some. Most of my texts were at home.

Q. I beg your pardon?

A. I said I had some in the office but most of my texts were at home.

Q. Were at home. Did you have a practice of buying new medical texts or adding medical texts to your library during the time you were at Pabco?

A. Yes, I did.

Q. What, if you remember, did you add or buy?

A. Well, I read -- I'd bought some texts on orthopedics, texts on minor surgery, textbooks of medicine.

Q. Let me go back for a moment to something we talked about a little bit earlier. Among the specialists you said you referred Pabco workers to you mentioned chest specialists.

A. Yes.

Q. Can you recall the names of some of the people in the chest specialty that you referred Pabco workers to?

A. We referred all our chest problems to Dr. Harold Trimble's group. I --

Q. Where was Dr. Trimble.

A. He was in Oakland on Pill Hill. And he had a large, effective group. I remember Dr. Eaton, and -- I can't remember the other names. They just slip my memory, it's been so long.

Q. Are you able to tell us in general terms the circumstances in which you would refer a Pabco worker to Dr. Trimble as a chest specialist?

A. If after examining a patient who had some respiratory complaints and doing a physical on the patient, taking a history, if we felt that the patient should have an x-ray, we ordered an x-ray. And we would call Dr. Trimble and tell him where the x-ray was. Usually -- both Dr. Fong and Providence Hospital was virtually across the street or slightly kittycorner from Dr. Trimble's office and he would go and look at the x-rays and I would send the patient to him if he thought he should see him.

Q. Was it Dr. Trimble's practice in chest cases to provide you at Pabco with a report?

A. Dr. Trimble, after seeing the x-ray or seeing the patient, he always phoned and discussed the patient with me and always sent a written report

for our records.

Q. Were those reports of Dr. Trimble kept someplace?

A. Yes.

Q. Where?

A. They were kept in a special file where we had our initial history and physicals, when the employee was first given a pre-employment physical, and any reports were then stapled to this form, which was a soft cardboard piece of paper.

Q. If you are able to do so, recall for us, please, in general, what kind of chest symptoms were referred by you to Dr. Trimble in the case of Pabco workers?

A. If the patient had any chest discomfort, if he had a cough, if he would be cyanotic, there would be some discoloration in the peripheral blood, in the hands or even in the face, and we would --

Q. Maybe you better stop for a minute and tell the jury what cyanotic means. It sounds just awful.

A. Yeah. If the individual would have a change in color, this would be due to the fact that there was not enough oxygen in his system, and the blood in the tissues would be darker.

Q. In the case of such chest symptoms, were you able to tell right there at the plant examining the patient whether the complaint was work-connected or not work-connected?

A. If the patient -- if the employee worked in an area that was hazardous from the standpoint of breathing, if there was a lot of dust, if he was complaining about the atmosphere in his workplace, we would want a checkup by a specialist to see whether this was work related and would explain to the specialist before he was seen what sort of job he was doing and what were the atmospheric conditions where he worked.

Q. Was there dust, manufacturing dust, generated in some parts of the Pabco manufacturing plants?

A. Yes, there was.

Q. Where were they? What parts?

A. Well, they were in the asbestos area, where asbestos was used.

Q. Anything else?

A. In the roofing.

Q. In the roofing. Anything else?

A. There was some wood dust in the floor covering.

Q. Floor covering. Anything else?

A. Well, there was dust in various places.

Q. Incidentally, Doctor, while you were at Pabco was there a paint manufacturing operation there?

A. Yes, there was.

Q. Was there any testing of employees in the paint manufacturing operation for any dangerous substance?

A. Yes.

Q. What was that?

A. There was lead used in the manufacture of paint and we had one or two people who had lead poisoning or beginning lead poisoning. The laboratory results indicated lead poisoning. And as a result, we regularly, every year, would run tests on paint workers to be sure they were not developing any lead poisoning.

Q. What was done with the one or two employees who developed lead poisoning?

A. We called in a consultant, who was an internist interested in this problem and who had extensive knowledge of the problem. We treated the individuals. We called in the foreman and the superintendent of the paint area, and we felt that

there was some problem in sanitation -- the individuals were not careful about washing their hands before eating, smoking, and what not, and we tried to see that their clothing was kept clean so that they didn't carry lead around with them.

Q. And do I understand that as a result of these one or two cases there was an annual program for testing lead content in people in the paint department?

A. Yes, there was.

Q. What year did that start; do you remember?

A. I can't remember if Dr. Wahle had initiated it or if I had, but, as far as I can remember, we always did this. But I can't recollect --

Q. Did the lead testing program in the paint department start, so far as you know, as soon as Pabco knew it had one or two cases of lead poisoning?

A. That's correct.

Q. And how long did that testing program continue?

A. It continued all the time. Every year.

Q. All the time you were there?

A. Yes.

Q. All right. Now, did I understand you to

say, Doctor, that you left Pabco in 1950?

A. Yes.

Q. What happened to cause that?

A. I had resumed my training in medicine which started with my following my mentor's advice to go into general practice and become a doctor and then go into a specialty.

Q. Who was your mentor?

A. Well, it so happened that the one who mentioned this was Loyal Davis, the President's father-in-law, and I was one of his clinical clerks and he had suggested that it would be a good idea for young doctors to go into general practice and this advice was echoed by some of the others.

Q. Where did you come in contact with Dr. Davis?

A. Dr. Davis was head of the Department of Surgery at Northwestern University.

Q. At Medical School?

A. Right.

Q. All right. And he said to you it's a good idea to become a doctor by being a general practitioner and then specializing?

A. Yes.

Q. And you decided to specialize?

A. Yes.

Q. And what did you decide to specialize in?

A. In general surgery.

Q. How did you go about that?

A. When I was overseas I had been with a Wayne University Unit and while I was on detached service I spent some time with them on the wards and I thought they were a very good unit, and I decided I was going back there. But meanwhile --

Q. Where is "back there," Doctor?

A. Back in Detroit.

Q. Back in Detroit, Michigan?

A. Yes. Wayne State Medical School was in Detroit and the principal university hospital was Detroit Receiving.

Q. I'm just trying to find out, Doctor, wholly apart from Michigan, whether you went back there.

A. Yes, I did.

Q. And when did you do that?

A. Well, I did it by increments. I started out in the area of where I was practicing, doing general practice, and I started working in pathology with Dr. Fishback at Herrick Hospital and all my spare time I spent doing autopsies, and I then took

residency in -- let's see -- I then took a residency at French Camp at San Joaquin Valley in orthopedics, and when I returned, I returned inside of a year --

Q. Just a minute, Doctor, let's not have you return yet. You went in increments to Michigan to take a residency?

A. Yes. But I was ahead of that. I said that I was -- to go back to Detroit Receiving, I did that in increments. I was still practicing my general practice and doing my orthopedic -- my surgery residency at San Joaquin where I could come in over weekends and carry on some general practice.

Q. All right. Now, at what point in this further medical training did you stop being a part-time doctor at Pabco? Can you give me a year?

A. It was probably '51, or '50, '51.

Q. '50, '51?

A. Uh-huh.

Q. And you left your duties at Pabco to take a residency and specialize, is that right?

A. Yes, and I went to these various places.

Q. And what specialty did you train yourself in?

A. General surgery.

Q. Did you become a general surgeon?

A. Yes, I did.

Q. Did you become board certified as a general surgeon?

A. Yes, I did.

Q. All right. When you left Pabco did any doctor replace you there?

A. Yes.

Q. Who was that?

A. Dr. Christopher Adamson.

Q. All right. Now, following your certification as a general surgeon, did you return to the San Francisco Bay Area?

A. Yes, I did.

Q. As a surgeon?

A. Yes.

Q. Did you open an office?

A. Yes.

Q. Where was that?

A. Initially, I worked in my old office with Chris until I located an office on Telegraph Avenue in the Medical Building there.

Q. In Berkeley or Oakland?

A. In Berkeley.

Q. All right. After your return to the Bay Area did you have any professional connection with

Pabco workers as a surgeon?

A. Yes.

Q. What was that connection?

A. I was listed as one of the surgical consultants.

Q. Did you have Pabco workers who needed surgery referred to you?

A. Dr. Adamson or Dr. Blaisdell would send me industrial injuries that required a general surgeon.

Q. On-the-job injuries?

A. On the job. There weren't many of these.

Q. All right. Not many on-the-job injuries that required surgery?

A. No.

Q. Now, did you receive off-the-job surgical cases, as for example, someone who needed his appendix out?

A. Yes.

Q. And some of those were Pabco workers?

A. Yes.

Q. And how long did this referral of Pabco workers to you go on after you came back to the Bay Area?

A. Well, it went on in an increasing amount as time went on.

Q. How long? Until what year?

A. Well, until the medical department in Emeryville was discontinued.

Q. And when was that?

A. I don't remember the exact time. It was sometime in the early seventies, I think, or late sixties.

Q. The medical deparment was discontinued?

A. Yes.

Q. Did you learn why or in what circumstances it was discontinued?

A. Well, they were doing less work. I think the total number of employees had diminished enough so that they didn't feel -- the people in management didn't feel it warranted having a regular staff in the medical department and they had contracted with some group in the vicinity. I don't know which group or where they were located.

Q. You think that Pabco contracted with a medical group?

A. Medical-industrial group, yes.

Q. All right. Now, can you tell me again what year it was that you came back to the San Francisco Bay Area as a general surgeon?

A. Around 1955.

Q. When you came back in 1955 did you go down to the medical department at Pabco in the mornings and see patients anymore?

A. No, I did not.

Q. You confined yourself to practicing surgery?

A. Correct.

Q. After 1955 how long did you remain in the San Francisco Bay Area?

A. I remained there until 1971, I think it was.

Q. What did you do then?

A. I went back To Wayne State Medical School, Detroit Receiving, and finished up my residency there. Stayed there around four years. I had approximately --

Q. No. I'm afraid that my question wasn't understood by you, Doctor. My question was: After you finished your residency and returned in about 1955 to the San Francisco Bay Area how long did you stay in the San Francisco Bay Area?

A. Until 1971.

Q. And did you then take some further training?

A. Yes.

Q. Back at Wayne State?

A. Pardon me. I sort of mangled the answers as to when I started my residency and I was trying to show where I had started in increments and keeping up some practice.

Q. All right. Why don't you treat those mangled answers as a doctor now and see if you can make them well. I am going to ask you this. When did you leave Pabco, what year, to start your further training leading to certification in surgery?

A. That was in 1946.

Q. 1946, you left Pabco?

A. Let me see now.

Q. I think you testified before it was 1950 to '51.

A. Yeah, but I left for my residency in '46.

Q. You did?

A. Yeah.

Q. And how long did the residency take?

A. Roughly, four years, plus the time I had spent at French Camp and at Highland.

Q. Can you remember what year it was you didn't work mornings at the Pabco plant anymore?

A. When I returned in 1950.

Q. When you returned in 1950?

A. I didn't -- no longer worked a regular four-hour shift.

Q. Between 1946 and 1950 did you work regular four-hour morning shifts at the Pabco plant?

A. No. 1946 to 1950, I was out of the area.

Q. All right. So you stopped working at Pabco in 1946, as now you recall?

A. Uh-huh.

Q. How old are you now, Doctor?

A. Seventy-three.

Q. How are you feeling?

A. Just like a seventy-three-year-old person should feel.

Q. You're in great shape for the shape you're in?

A. That's right.

Q. All right. We are about to have the need to change tape. Let's take a five or ten minute recess.

(Short recess taken)

MR. DAGGETT: Q. Now that we have had a little recess, Doctor, I want to ask you the questions again to which you gave the answers you referred to a few minutes ago as "mangled."

Now, first of all, when did you start working

as a part-time doctor for Pabco?

A. 1938.

Q. When did you leave for the army for World War II?

A. 1942.

Q. When did you get back from the army?

A. 1946.

Q. And when you got back did you return to your doctor's duties at Pabco?

A. Yes.

Q. And how long did you continue?

A. From 1946 to 1950.

Q. And in 1950 what did you do?

A. Then I left Pabco and went back to Detroit at Wayne State Medical School, Detroit Receiving Hospital.

Q. So you were with Pabco as a part-time doctor from 1938 to 1950 except for four years in the army?

A. Yes.

Q. Now, during the period 1946 to 1950, after you got back from the army, did you do some part-time medical work which counted for your residency later?

A. Yes.

Q. Does that have anything to do with your telling me you got all mixed up about those year periods, which, after all, are only thirty-five or forty years ago?

A. Yes.

Q. Did that have something to do with that?

A. Yes, it did.

Q. In 1950, you went off to Michigan for your residency to learn to be a surgeon, did you?

A. Yes.

Q. When did you finish that and get certified as a surgeon?

A. I finished the training in '55 and I got certified shortly thereafter. There are two parts to the examination and I think it took a year, a year and a half.

Q. When you finished the training in 1955 in Michigan where did you go?

A. I returned to the Bay Area.

Q. And you were a surgeon?

A. Yes.

Q. And did you get some cases from the Pabco workers, as you have said before?

A. Yes.

Q. And how long did you practice as a surgeon

taking referrals of Pabco workers from time to time with your other patients?

A. Until '71, just intermittantly, occasional cases that Chris Adamson would have.

Q. All right. Now, did you go someplace else in '71?

A. Yes.

Q. Where did you go?

A. Went to Tucson, Arizona.

Q. And how long did you stay there?

A. I'm still there.

Q. You have been there ever since?

A. Yes.

Q. And did you practice for a time in Tucson?

A. Yes.

Q. And then did you retire?

A. Retired within the last year.

Q. Retired within the last year?

A. Uh-huh.

Q. And is it fair to say that from 1950 -- I'm sorry -- from 1971 -- now I'm doing it -- from 1971 until the present time you haven't ever practiced in the Northern California area?

A. No.

Q. Just came here to visit?

A. Yes.

Q. Like today?

A. Yes.

Q. All right. When you were in medical school at Northwestern do you recall becoming familiar with a condition called "asbestosis"?

A. Yes.

Q. In medical school, prior to 1938, can you remember what you learned about that?

A. In our course in pathology we had occasion to use Boyd's PATHOLOGY, AN INTRODUCTION TO MEDICINE, and there was a short reference regarding THE PNEUMOCONIOSES and listed among the pneumoconioses was asbestos and resultant asbestosis.

Q. Did you learn in medical school at Northwestern what pneumoconiosis was?

A. Yes.

Q. Tell us what you learned?

A. We learned that this was a disease of the lungs primarily that was caused by dust containing irritants, containing silica, anthracite material, and also asbestos.

Q. All right. Did you learn in medical school before 1938 that asbestosis was a kind of pneumoconiosis?

A. Yes.

Q. Will you tell us what you learned in medical school, if you have anything to add to what you said, about asbestosis?

A. Common to most of the pneumoconioses, the particles that caused the pneumoconiosis would cause irritation, inflammation and subsequent fibrosis in the healing process and it would contract the lung.

Q. You learned about that in medical school from your book and in class lectures?

A. Well, the amount of discussion was very minimal. It --

Q. Please don't --

A. Yes.

Q. Please don't tell me that yet because I am coming to that.

A. Okay.

Q. Now, what you learned about asbestosis in medical school you learned from a book and from class lectures?

A. Correct.

Q. In medical school, did you ever see a case of asbestosis?

A. No.

Q. Can you give us any idea from your memory,

Dr. Perlmutter, forty or more years ago, how much time was spent in your medical school class on asbestosis?

A. Virtually none.

Q. Now, after you got out of medical school, in your internship did you ever see a case of asbestosis?

A. Never.

Q. During the first period at Pabco, from 1938 until about 1942, did you ever see a case of asbestosis?

A. No.

Q. After you got back from the army, from 1946 to 1950, did you ever see a case of asbestosis?

A. No.

Q. During the period of your surgical residency training, between 1950 and 1955, did you ever see a case of asbestosis?

A. No.

Q. As a practicing general surgeon, from 1955 onward, did you ever see a case of asbestosis?

A. No.

Q. Now, my questions which follow relate solely to the period you were at Pabco 1938-1942, 1946 to 1950. I do not want you to answer it with

respect to what you may know as a physician and surgeon now and I will not permit interrogation of you by other counsel of what the present state of your medical knowledge may be. Confining yourself to the time you were at Pabco, were you aware at any time during those periods that Pabco workers were handling asbestos?

A. Yes.

Q. In what plant or departments were they, if you remember?

A. In the Plant Rubber and Asbestos that had moved up to Emeryville and started building a new plant and the plant was in operation either at the end of '41, the early part of '42.

Q. What kind of a plant was it?

A. It was a plant that produced asbestos products to safeguard equipment that had high temperatures.

Q. Did Pabco also have a plant at some time at Redwood City, California?

A. Yes.

Q. Did you have anything to do with that?

A. None, none whatsoever.

Q. None whatsoever. All right. Now, during your time at Pabco and until you left in 1950 did

you believe that Pabco workers handling asbestos every day were exposed to any risk of cancer from asbestos?

A. I did not know this.

Q. Did you believe that Pabco workers handling asbestos every day were exposed to any risk of any other life-threatening or disabling disease from asbestos?

A. No.

Q. Did you believe as a doctor at Pabco during the time you were there that any of the workers handling asbestos were exposed to a risk of asbestosis or any other severe restrictive lung disease?

A. No, I did not know that.

Q. Did you know during your time at Pabco in general that there was any association between cancer and asbestos?

A. No.

Q. Did you at some time read the works of Dr. Irving Selikoff of New York on asbestos and health?

A. During what time?

Q. At any time.

A. Why, I have read it recently.

Q. How recently?

A. Well, within the last two years.

Q. Were you aware of Dr. Selikoff's work on asbestos and health at any time that you were working at Pabco?

A. No.

Q. Or at any time that you were in the Bay Area taking surgical patients from Pabco?

A. No.

Q. Did you nonetheless believe, Doctor, while you were at Pabco that it was necessary to control or suppress general manufacturing dust for the health of the workers?

A. Yes.

Q. Was that done at Pabco while you were there?

A. Yes.

Q. What was done?

A. The removal of dust, some of which contained asbestos particles, was removed by a very adequate exhaust fan and by a vacuum type removal because of the difference in pressure in the room.

Q. How effective did you believe that system or systems was or were while you were at Pabco?

A. It was very effective.

Q. Why do you think so?

A. Because the area, when I went to look at it at different times, was remarkably free of dust. Also, the fact that other people heard of the dust removal system at Pabco and three manufacturers in the States and one in England became licensees of the technique employed at Paraffine.

Q. And you knew that?

A. Yes, I knew that at the time.

Q. Was there use by employees at the Emeryville plant of something called a respirator?

A. Yes.

Q. What was the kind of respirator that was used?

A. Well, there were several different types. The throw-away mask type, the filter mask. Principally, these two types.

Q. Was there any requirement for use of respirators while you were at the Pabco plant at any places in the manufacturing operations, that you can recall?

A. Yes.

Q. What were they?

A. They were very strict about having the workers in the area where the asbestos fiber was put into this hopper and mixed into a slurry, and in the

bag room where the dust was brought out.

Q. Do you know whether or not the rules for respirator use were followed while you were at Pabco?

A. I asked people who were working in the area and were in charge how effective was this, were they able to keep the workers in masks, and they said it was a very difficult thing and they had to be after them continuously.

Q. Did they say why?

A. They said because it was uncomfortable.

Q. As a doctor at Pabco during the time you were there, were you responsible for plant safety?

A. No.

Q. Were you responsible for preventing injury accidents?

A. No.

Q. Were you responsible for preventing occupational disease, such as lead poisoning?

A. When we became aware of it, we gave advice as to what had to be done to prevent it.

Q. Who, if anyone, had plant safety responsibility at Pabco?

A. Safety engineer.

Q. Who was that or what people were they?

A. Well, I remember some of them. Not all of

them.

Q. Give us the names you can remember.

A. Oliver Hitchcock, Homer Lambie. I can't remember the other names.

Q. All right. Are you aware of any visits to the Pabco plant while you were there of State of California safety inspectors?

A. I was aware of it after the fact.

Q. But not at the time?

A. No.

Q. Were you aware at the time while you were at Pabco of any studies or sampling of dust?

A. No, I did not know.

MR. DAGGETT: All right. I think now we will take our mid-day recess because of the hour and let's see if we can be back at about one o'clock.

(Luncheon recess taken at 11:45 a.m. to 1:00 p.m.)

AFTERNOON SESSION, MONDAY,
OCTOBER 29, 1984, 1:18 P.M.

EXAMINATION BY MR. DAGGETT: (Resumed)

MR. DAGGETT: Q. Dr. Perlmutter, the questions I put to you earlier in your deposition testimony related almost entirely to the period 1938-1950 or so. Can you tell us whether your memory for details during the period twenty-five, thirty, thirty-five or more years ago is good, or in what condition do you regard your memory to be?

A. It depends. Sometimes it's very good for some of these questions and sometimes it's not so good.

Q. Do you remember meeting before the gentleman who sits to your left down the table two persons?

A. Yes.

Q. What is his name?

A. Mr. Steven Kazan.

Q. He represents the plaintiffs here. Do you recall having your deposition taken once before on video tape?

A. Yes.

Q. Was it taken by Mr. Kazan?

A. Yes.

Q. Was it about two years ago?

A. Yes.

Q. Do you remember the month and year?

A. I don't remember the exact month. It was two years ago.

Q. Was it the only other deposition taken from you on video tape?

A. That's correct.

Q. And was there a written reporter's transcript of that deposition as well?

A. Yes.

Q. At that time, were you represented by other counsel?

A. Yes.

Q. At that time was Fibreboard represented by other lawyers?

A. Correct.

Q. Do you have any recollection of when, if at all, you saw the written transcript of that earlier deposition?

A. Yes. It was many months afterwards. I had asked the counsel who was representing Fibreboard why I didn't have it so I could correct

it. It was my understanding that I was to get it right after.

Q. Did you want to make some corrections in that transcript?

A. Yes.

Q. Did you do so?

A. Well, the copy I ultimately got was many months old.

Q. Did you complain about that?

A. I told my attorney that.

Q. Did you feel that you were not able to make corrections in that transcript that you may have wanted to?

A. Yes. I couldn't remember detail, real sharp detail on what happened.

Q. Do you think your memory for details some time ago is about as good today as it was two years ago?

A. About the same.

Q. About the same. Now, Dr. Perlmutter, as you were leaving this room for lunch today, did you find yourself walking near Mr. Kazan?

A. Yes.

Q. Did he make a remark to you?

A. Well, he asked me how I felt and I said,

"So so."

Q. Did he say anything else?

A. Yes. He said, "Well, I'll -- if that's so," he says, "I won't torture you physically but mentally."

MR. DAGGETT: I have no further questions of Dr. Perlmutter at this time.

Other counsel are free to examine. I am told that Mr. Kazan has some scheduling time problems and would like to examine now. If there is no objection, why doesn't he?

EXAMINATION BY MR. KAZAN:

MR. KAZAN: Q. You've reviewed your transcript of your 1982 deposition recently, haven't you, Doctor?

A. Not for some time. Many months.

Q. You didn't review that in preparing for your deposition here today?

A. I went through it, and some months ago.

Q. Did you ever see the video tape of that deposition?

A. Yes, I saw the video tape.

Q. When did you see that, sir?

A. That's some time ago.

Q. Have you reviewed any other video tapes in preparing for your deposition here?

A. Some. Yes.

Q. And which ones have you reviewed?

A. The video tape given by Mr. Oliver Hitchcock and the video tape of a -- let's see -- of Mr. Brady -- I think his name was -- I can't remember for certain. And also Dr. Adamson.

Q. And did you also view --

MR. DAGGETT: Excuse me, Mr. Kazan. I know the fact if you want assistance with it. The second deposition was not one of anyone named "Brady." It was a deposition of David West, taken in this room.

A. David West.

MR. KAZAN: Q. And did you also review the deposition on video tape of Miss Hanson?

A. No, never saw it.

Q. The video tapes that you did review, however, were done at the suggestion of Mr. Daggett, isn't that true?

A. Yes.

Q. Did he send those to you at your home in Tucson?

MR. DAGGETT: Mr. Kazan, let me be of

assistance. I didn't send them to him. I took them to him, and not prior to this deposition here today, but prior to another deposition taken in Tucson in other litigation in which you are not counsel.

MR. KAZAN: Q. Doctor, Mr. Daggett is talking about your deposition in the insurance coverage litigation.. Do you remember that deposition, sir?

A. Yes.

Q. When did you give that deposition?

A. Well, it's several weeks ago.

Q. And in preparing for that deposition you viewed the video tapes of the depositions you just mentioned that have been taken here at KQED?

A. That's correct.

Q. Did you just watch the tapes or did you read the transcript?

A. I just watched the tape. I didn't see the transcripts.

Q. In connection with preparing for that deposition in Tucson, did you also view the video tape of your deposition?

A. Yes. It was difficult because of the errors in the -- typographical errors and other things.

Q. My question, Doctor, was whether you --

A. Yes, I did.

Q. -- viewed the video tape.

A. Yes, I viewed it.

Q. And was that video tape an accurate recording of the questions that were asked of you and your answers that you gave when the deposition was taken?

A. Yes.

Q. So the video tape itself was accurate?

A. (Nods head)

Q. Is that correct?

A. That's correct.

Q. At some other time you also read the written transcript?

A. Correct.

Q. And you had some problem with the accuracy of the transcript?

A. Yes.

MR. DAGGETT: He hasn't said, Mr. Kazan, that it was just with accuracy of transcription. He has testified with respect to his right to correct the transcript, and we all know there is no way to expand upon a video tape. But he said he wanted to do it with respect to the written transcript, which

is the only thing he can do it with.

MR. KAZAN: Q. Did you in fact make some notes or propose corrections to your video tape or written transcript of November '82 in recent weeks when you reviewed those materials in connection with this other deposition?

A. Didn't take any notes, no.

Q. Did you make any record of any kind of the corrections you now would like to make in that transcript?

A. Of the transcripts of '82?

Q. Yes.

A. I would like to see an accurate transcription.

Q. So that, just to make sure we are clear after Mr. Daggett's comments, you feel that there were some errors in the transcription but not in the video tape itself?

A. That's right.

Q. All right. And you mentioned that at the time of that deposition you were represented by other counsel?

A. Yes.

Q. Who was that other counsel, sir?

A. Mr. Hothem and his group.

Q. You were represented by Mr. Hothem at that time, Doctor?

A. By Mr. Rappeport, and Hothem was actually the counsel for Fibreboard.

Q. All right.

MR. DAGGETT: Mr. Kazan, I want to point out that the witness had a right under the law to correct more than transcription errors in his former deposition. He had a right to expand or qualify his answers, and his testimony in answer to my questions was consistent with the desire to exercise that right. That lest you think that the only thing open to him was to correct transcription errors, obviously a video tape does not have any transcription errors and his rights were not so limited.

MR. KAZAN: Q. Doctor, are you still with me?

A. Yes.

Q. All right. Now, in 1982, it's correct, isn't it, that you were not represented in any way by Mr. Hothem?

A. That's correct.

Q. The only attorney representing you at that time was Mr. Rappeport, an attorney in Tucson?

A. Correct.

Q. And did you ever get a copy of your transcript from Mr. Rappeport at that time?

A. I did not.

Q. Did you ever get a copy of the transcript from him any time in the months following?

A. No.

Q. Did you ever discuss with him where that transcript was?

A. I asked him, and it is my understanding that he called Mr. Hothem and had him -- had someone in his office get a copy of it for me.

Q. Isn't it true, Doctor, that Mr. Rappeport refused to let you sign that transcript until he was paid money?

A. Not that I know of.

Q. He never told you that he was holding --

A. Never told me.

Q. -- the transcript of your deposition hostage for money payments from plaintiffs' counsel?

A. No.

MR. DAGGETT: Objected to as argumentative.

A. No.

MR. KAZAN: Q. Now, is Mr. Daggett representing you today?

A. Yes.

Q. When did you hire him?

MR. DAGGETT: You don't have to be concerned with when you hired me. The question is: when did you ask me to be your lawyer?

A. Before the last deposition I had insurance people.

MR. KAZAN: Q. And do you recall approximately when that deposition took place?

A. A couple of months ago. Well, it's not that long. It was within a month, roughly.

Q. And how long before that deposition did you ask Mr. Daggett to represent you?

A. It might have been a week, ten days, something like that.

Q. Okay. And that would bring us back to a time maybe a couple of months ago, at the most?

A. Roughly.

Q. Is that correct?

A. Roughly.

Q. Before you asked Mr. Daggett to represent you, was anyone else representing you in connection with asbestos litigation, in any of its forms, other than Mr. Rappeport?

A. No.

Q. Let me go back and ask you some things about what you discussed this morning. During the time you were practicing at the Pabco plant -- at Fibreboard, if we can call it that for convenience sake -- were you acquainted with the existence of any other factories or industrial facilities manufacturing asbestos containing products in the Bay Area?

MR. DAGGETT: Is this during Pabco or before Pabco? I'm sorry.

MR. KAZAN: No. During that time period.

MR. DAGGETT: During Pabco.

A. When I was working there.

MR. KAZAN: Q. From 1938 to 1950 were you aware of the existence of any other asbestos manufacturing facilities in the Bay Area?

A. I knew there was a factory in Redwood City and I didn't know any other factories that were.

Q. When you say "a factory in Redwood City," are you referring to Fibreboard's factory or the Johns-Manville factory?

A. No. Fibreboard. And, I'm sorry, I did know that there was a Manville, Johns-Manville, factory in the Bay Area somewhere.

Q. Did you know of the existence of their

plant in Pittsburg, California?

A. I think that's what it was. I'm not certain.

Q. Did you know whether that plant had a full-time medical deparment or had a -- withdraw that. Did you know whether that plant had a physician under contract in much the same manner that you were working at Fibreboard?

A. I know there was a doctor there. I don't know what arrangements there was.

Q. Do you know whether there was an x-ray machine at that plant?

A. No, I don't.

Q. Do you know whether there was any kind of medical examination program at that plant for workers?

A. I didn't know anything about the details of the program.

Q. You knew though that Johns Manville had a factory and had a doctor connected with that factory in some capacity or other?

A. I knew there was a factory and I knew vaguely there was a doctor. I wasn't sure what hours he worked, whether it was full time or what the arrangement was.

Q. Did you ever have occasion to meet a Dr. David Wise?

A. David Wise?

Q. Yes.

A. No.

Q. You mentioned to us earlier that Dr. Wahle was the medical director at Fibreboard when you started in 1938?

A. Correct.

Q. Do you know how long he had served in that capacity?

A. Before I came?

Q. Yes. Or do you know when he started?

A. Oh, it was some years before. I don't know the exact time. He had been there for some years.

Q. As I recall, you and Dr. Wahle spent a fair amount of time talking about subjects of interest to Dr. Wahle?

A. Correct.

Q. He liked to tell stores about his growing up on the prairies of Wisconsin or some place?

A. Yes, Wisconsin.

Q. Wisconsin. And I remember stories about the Army of Virginia. Is that correct?

A. That's correct.

Q. And did he tell you about his own professional experience in years before he came to Fibreboard?

A. Correct.

Q. You mentioned this morning that Dr. Wahle had worked as a doctor at the shipyards in California?

A. Yes.

Q. And that would have been during World War I?

A. As I remember, he was at Moore Dry Dock. It was during the war, so it must have been the preceding war.

Q. Okay. Do you remember how long he worked at Moore Dry Dock?

A. I don't know.

Q. Do you know whether he worked for the Moore Brothers or that company?

A. I think it was Moore Dry Dock. I'm not certain.

Q. It was your understanding that he was employed by the shipyard itself?

A. Yes -- I didn't know any details. We never discussed it.

Q. Do you know how long he worked in the shipyard?

A. I have no idea. No accurate idea.

MR. DAGGETT: Mr. Kazan, we are now on events, as I calculate it, of sixty years ago.

MR. KAZAN: That's very interesting. Does that comment have some relevance to these proceedings?

MR. DAGGETT: Relevance is what was in my mind. Go ahead.

MR. KAZAN: Q. Doctor, do you know when Columbus discovered America?

MR. DAGGETT: Doctor, were you there?

A. I came a little later.

MR. KAZAN: Q. The point is, Doctor, I am not asking you what you remember about events during World War I. We're talking about what Dr. Wahle told you during the years of your association with him.

A. Okay.

MR. DAGGETT: Since I'm paying for this, can I tell why Columbus was a Democrat? He didn't know where he was going; he didn't know where he was when he got there; and he did it all on government money.

MR. KAZAN: Would you now like to make a

speech about the nuclear freeze debate?

MR. DAGGETT: Yes, but I won't.

MR. KAZAN: Q. Did Dr. Wahle tell you what his duties were at the shipyard?

A. He handled trauma as it came in. He saw patients for various things. Just as I did at the Pabco medical center.

Q. And you understood from Dr. Wahle that during the course of the shipyard work he had occasion to see men at work, not just in a dispensary; is that correct?

A. I don't know what his -- what he did other than work as a doctor at the Moore Dry Dock.

Q. You understood from Dr. Wahle that at least he was familiar in general with how shipyards worked?

A. I guess.

Q. You mentioned this morning, Doctor, that you used various facilities to get x-rays taken of workers at the Fibreboard plant?

A. That's correct.

Q. And you mentioned, I think, that Dr. Fong did very fine quality work?

A. (Nods head) Yes.

Q. Were you concerned that when x-rays were

ordered that they be done with the highest possible level of professional skill?

A. Correct.

Q. And that they be interpreted similarly with care and skill?

A. That's correct.

Q. And you told us also that there were occasions when hospitals would call and tell you that they were about to be destroying some old x-rays and that you would ask that those x-rays instead of being destroyed be sent out to the plant?

A. That's right.

Q. And that was because you wanted to keep as a part of the permanent records of workers at your plant their old x-rays?

A. Correct.

Q. These obviously would be x-rays that would be what, five, ten, fifteen years old?

A. We never threw any away.

Q. And before --

MR. DAGGETT: Excuse me, Mr. Kazan. I don't understand about how old they would be. If he knew of x-rays kept at the latest in 1950, they would be thirty-four years old today, wouldn't they?

MR. KAZAN: That's not what we're talking

about.

MR. DAGGETT: Well, I'll try to keep up.

MR. KAZAN: Okay. If you need some help, Mr. Majeski probably understands this and he can explain it to you.

MR. DAGGETT: Oh, I know he does, but I'm proud.

MR. KAZAN: Q. Doctor, at the time you would get these x-rays delivered, they would be at least five or ten or fifteen years old?

A. It was rare indeed that we had any x-rays at the hospitals, but there was an occasional x-ray that would slip through and stay there and they, as a matter of courtesy because we were good customers of theirs, they would call us: did we want it, and we said, yes, indeed, we wanted it.

Q. Do I understand you correctly, then, that the general practice was that when you would send someone to the hospital for x-rays after the films were interpreted the films would be sent to you at the plant?

A. Yes, that's correct.

Q. And was some proportion or percentage of these films chest x-rays?

A. Yes. And one of the reasons for it being

taken most of the time in the Oakland area, because if it was a chest film it would be read by Dr. Trimble's group and it would be readily available.

Q. Can you give me a ballpark estimate of the percentage of x-rays ordered by your medical department that were chest x-rays?

MR. DAGGETT: Over his entire time at Pabco?

MR. KAZAN: Yes. If you can give us a ballpark figure.

A. Oh, I would say there were hundreds of chest x-rays. I have no idea how many we ordered. It would be just conjecture. I have no idea.

Q. Okay. Well, the question wasn't the number of films that you ordered but the percentage of the time that when you ordered x-rays they were chest x-rays as opposed to arms or legs or --

A. Oh, I would say twenty-five percent, roughly.

Q. Were chest films?

A. Yes.

Q. And it was your policy to keep those films as a permanent part of the workers' records?

A. We kept all x-rays, including extremity x-rays and that.

Q. Did you have occasion to order contrast

studies?

A. What do you mean, barium enemas?

Q. Barium enemas, upper G.I. series.

A. Yes, we would occasionally do that.

Q. And, similarly, you would keep those as a permanent record?

A. Yes.

Q. And you mentioned, I think either today or the last time we met, two large x-ray file cabinets?

A. Correct.

Q. And these contained x-rays dating back, let's say as of the time you left in 1950, dating back how far?

A. I don't remember if we got the second large x-ray file in before or after I left. I can't remember which one and what time.

Q. There were times after you left, though, that you'd have occasion to go back and visit at the plant?

A. Not very often.

Q. But were there times when you would go see Dr. Adamson or Dr. Blaisdell?

A. I don't remember visiting either of them, except socially at their homes or their office. I had nothing -- the only occasion I had was if they

asked me to come and see a patient that happened to be in the medical area.

Q. Were there occasions after 1950 where you would see patients in consultation at the medical deparment in Emeryville?

A. I would say maybe once or twice. I can't -- I'm not even certain of that.

Q. So --

A. I would be called but I couldn't remember whether I -- I saw the patients but they were in my office ordinarily.

Q. You do, though, remember that the x-rays that were being kept as permanent parts of the record were there in 1950 when you left your regular employment with Fibreboard?

A. Yes.

Q. And you don't ever remember a time when you would be at the plant after that where you did not see x-rays; is that correct?

A. I did not examine x-rays or see them?

Q. No. No. That --

A. They're always --

Q. They're always there?

A. In the files?

Q. Right.

A. Yes, they were always there. Never examined the interior afterwards.

Q. But the cabinets were there?

A. The cabinets were there.

Q. Were there stacks of x-rays piled on top of the cabinets also?

A. No. No.

Q. Everything was --

A. They were all placed in alphabetical order.

Q. Okay. Do you know where those x-rays are today, Doctor?

A. No.

Q. Has anybody connected with Fibreboard told you about the destruction of those x-rays?

A. No.

MR. DAGGETT: Objected to as assuming this occurred.

MR. KAZAN: Q. Has anybody at Fibreboard ever told you that the x-rays were destroyed?

A. No one. Wait a minute. I talked to someone -- I said -- as to whether -- where were the x-rays -- because when I first heard there was some pending litigation, I said I would like to see the x-rays and the charts. And they said it was not available. And I asked where they were. And they

said they didn't know. They thought the x-rays were destroyed at the time they demolished the medical offices.

Q. Is that Mr. Beck that you were talking to?

A. No. Well, I talked to Mr. Beck but I didn't discuss this.

Q. About the x-rays?

A. He didn't know about the x-rays.

Q. Do you remember who you talked to about the x-rays?

A. I really can't remember. It was a nurse or whether it was Chris Adamson. I can't remember which one it was. It wasn't anything of tremendous consequence because the x-rays obviously weren't available.

Q. And you mentioned that at the time you heard something about what this litigation was when you asked about the films?

A. Yes, when I --

Q. And approximately when was that, Doctor?

A. Well, that was approximately when -- let's see -- about -- it was over two years ago.

Q. All right. Was this sometime -- let's go back. Your deposition that I took in Tucson was in November of 1982. Was it sometime in the summer of

1982 that you first became aware that there was some litigation?

A. Yes.

Q. And was that the time when you made some attempts --

A. Yes.

Q. -- to see if there were x-rays still around?

A. Yes.

Q. You mentioned that there was no medical library or medical books at the medical department of Fibreboard; is that right?

A. That's correct.

Q. They never subscribed for you to any journals in occupational medicine or industrial medicine?

A. No.

Q. At the time you said that you had your own medical library of some kind?

A. Yes. I still do.

Q. Have you preserved the library that you had all along?

A. I got rid of books that were twenty and thirty years old. They're all pretty current now.

Q. When did you get rid of the older books?

A. When I moved down to Tucson.

Q. What did you do with the old books? Did you just throw them out or did you give them --

A. Just threw them out. I tried to give them away; no one wanted old medical books.

Q. But, as I recall, you still do have your old medical school pathology text?

A. Yes. Well, it's the oldest -- it's an antique I'm going to keep.

Q. And you are referring there to Boyd's text on pathology that we discussed at your first deposition?

A. AN INTRODUCTION TO MEDICINE.

Q. All right. You did keep that book and the one that you have at the present time is in fact the actual physical textbook that you used in medical school?

A. Yes.

MR. DAGGETT: I've still got Mechem on Agency and DeFuniak on Equity and I'll bet you do too.

MR. KAZAN: Q. Now, have you kept any other books, let's say, that predate 1965?

A. Yes. I was very fond of my professor of anatomy, Dr. Arey, and I kept his book on embryology.

Q. Anything else?

A. Yes. I have some other old ones. Let's see. Some old surgeries -- I can't remember which ones.

Q. You viewed Dr. Adamson's video tape, you said?

A. Yes.

Q. And do you recall seeing in that that Dr. Adamson and I discussed some ten or fifteen books from his library?

A. Yes.

Q. Did you own any of those books?

A. Books that he discussed, no. The books I have now are almost exclusively anatomy, surgery, orthopedics, pathology, and I have a few books, medical books.

Q. But in terms of the books that you had but threw out when you moved to Arizona, were any of those among the texts --

A. No.

Q. -- that Dr. Adamson talked about in his deposition?

A. I can't remember. If you could --

MR. DAGGETT: If you recall, Doctor.

MR. KAZAN: Q. If you recall.

A. No, I don't recall any of them. They were primarily medical texts, as I remember.

Q. Have you ever gone to the trouble of indexing or cataloging your medical library, Doctor?

A. No, I haven't.

Q. All right. Can you give me an estimate of how many texts you still own that were published before 1965?

A. Before 1965...

Q. Or 1970, if that's an easier dividing line.

MR. DAGGETT: Mr. Kazan, let me ask. I believe this is pure discovery, looking to the possibility of a demand on your part to inspect at a later date Dr. Perlmutter's medical library at home. Would you like to stop the video tape and just do this on the stenographic record?

MR. KAZAN: No. This is fine.

MR. DAGGETT: All right. That's said with an awareness that my client is paying for it, I'm afraid.

MR. KAZAN: That's what happens when you notice the deposition.

Q. Go ahead, Doctor. Do you have the question in mind?

A. Repeat it.

MR. KAZAN: Mr. Reporter, would you be good enough to read it back for us.

(Pending question read)

A. Fifteen to twenty-five.

Q. Doctor, would you have any objection to providing us with a list of those titles and authors?

MR. DAGGETT: I will respond to that if you will direct that to me. As I have already told you on the telephone, I will respond to that and will take that under advisement with every indication of considering it favorably.

MR. KAZAN: Is that a "yes"?

MR. DAGGETT: That's an answer from his lawyer. You will get no answer from him.

MR. KAZAN: Do you instruct him not to answer my question?

MR. DAGGETT: Yes. I represent him. And you make arrangements with me and everything will work.

MR. KAZAN: Q. Doctor would you have any objection to making those fifteen to twenty-five books available for our inspection?

MR. DAGGETT: Instruct the witness not to answer. I'll take care of that, Dr. Perlmutter.

MR. WARTNICK: Would you please certify those two questions?

THE REPORTER: I do this ordinarily.

MR. DAGGETT: He certifies all of those.

MR. WARTNICK: Thank you.

MR. DAGGETT: All I am asking is that counsel direct discovery requests looking to the future to me as his counsel and they will receive speedy action. I have already told Mr. Kazan we see no reason why this can't occur.

MR. KAZAN: Q. You mentioned something this morning about the dust control at the Fibreboard plant and you referred to some licenses?

A. Yes.

Q. Would you run that by me again so I am sure I understand what you have to say?

A. I had talked to Harry Hoopes years ago when I was working at Paraffine and I asked him about their program for removal of dust and he was proud of this. He had a great deal to do with the development of the dust removal program. And I said -- I asked him if it is indeed true that I heard that some other people have been interested in this and that some asbestos factories have been licensed to get the technique that was set up at Pabco. And he said -- and in addition, they had a licensee in England; I think it was in Darlington, England. That's how I heard.

Q. And Mr. Hoopes told you that Fibreboard

made available to these companies the techniques and technology of manufacturing the insulation materials?

A. Well, under some sort of license. I didn't go into details.

Q. But he also told you that they made available under license the techniques and technology that they used to control the dust; is that true?

A. Yes.

Q. And this was something that Mr. Hoopes told you at the time when you were still employed at Fibreboard?

A. Yes. Right.

Q. And you knew at that time that he was working for Fibreboard also, in some executive capacity?

A. Yes.

Q. You told us this morning that there was some program at the Fibreboard plant directed toward the prevention and surveillance with respect to lead exposure; do you recall that testimony?

A. Yes.

Q. There was a program involving some form of testing of workers who had potential lead exposure; is that correct?

A. Correct.

Q. And what were these, blood tests of some kind?

A. Blood and urine.

Q. Do you know in time when that testing program began?

A. I can't remember whether it was initiated by Dr. Wahle before I was there or afterwards, but it had been there for years. I can't remember. I remember vaguely that the --

I better not --

MR. DAGGETT: Doctor, try to confine yourself to answering the questions as they are put and leave out vague recollections in which you don't have confidence.

A. Okay.

MR. KAZAN: Q. So this testing program was in place when you first came there?

A. I said I can't remember exactly if it was before or just after I came there.

Q. At the time you first came there, had there already been cases of lead poisoning?

A. I was not told then. I knew subsequently that there was some lead poisoning and I can't remember whether I was present when we discovered

this or not.

Q. Do you know whether the cases of lead poisoning were discovered before or after the testing program was begun?

A. They were suspected before and they were tested and, indeed, they had high lead levels.

Q. So it's correct, then, that Fibreboard, through its medical department, initiated a program of testing workers for signs of lead poisoning based on a suspicion that there might be a problem from lead exposure at the plant?

A. There was no --

MR. DAGGETT: Objected to for lack of foundation. There is no testimony here that the program was initiated by the medical department.

MR. KAZAN: Q. Doctor, do you know who initiated the testing program?

A. The medical department.

Q. Thank you.

MR. DAGGETT: Now, there is.

MR. KAZAN: Q. This program was initiated in response to a concern that there might be a problem of lead exposure causing disease among the workers; is that correct?

A. Yes. They realized this because they had

two -- one or two patients -- workers -- who had problems and --

Well, go ahead.

Q. Okay.

A. I'm just here to answer questions not to talk.

MR. DAGGETT: That's right, Doctor.

A. Right.

MR. DAGGETT: This is not a seminar. You have come here as a witness to facts while you were at Pabco, to answer questions.

A. Okay.

MR. KAZAN: Q. See, it's different. When I ask the questions, you are supposed to be brief and not volunteer anything. And when Mr. Daggett asks the questions it's different.

A. No, he didn't -- he makes me answer just the questions.

MR. DAGGETT: No, Mr. Kazan can't remember even what happened this morning, much less thirty-five years ago, when he was barely here.

MR. KAZAN: Q. Now --

MR. DAGGETT: Maybe he was "barely" here. I don't know.

MR. KAZAN: Q. Doctor, were there cases of

diagnosed lead poisoning at Fibreboard before the testing program was initiated?

A. When the testing program was initiated two cases -- one to two cases, I don't remember, certainly, which it was, but enough to make us concerned that we didn't want any exposure that wasn't monitored. It was a known problem.

Q. And so once they knew that they had a case, your medical deparment decided that they better do something to examine workers on a regular basis?

A. Yes.

(Short recess taken)

MR. KAZAN: Q. Doctor, back at the time when you and Mr. Hoopes talked about the licensing that we discussed a few moments ago did he ask you about what you or the medical profession considered to be safe levels of asbestos dust exposure?

A. No.

Q. Did he ask you anything about what you felt medically would be appropriate precautions to protect workers?

A. No. He didn't ask me that.

Q. Did anyone in the Fibreboard management come to you and ask you for advice or information concerning what the medical profession thought to be

safe levels of dust exposure?

MR. DAGGETT: Objected to as assuming the medical profession thought anything about that at the time.

If you can answer, go ahead.

A. No one asked me about this.

MR. KAZAN: Q. At the time you worked at Fibreboard were you familiar with an organization called the American Conference of Governmental Industrial Hygienists?

A. I didn't know the name of this group. I knew there were hygienists in government.

Q. Did you know also that there was a group of hygienists in government that set threshold limit value levels for various airborne contaminants?

MR. DAGGETT: The question is simply: did you know that, Doctor?

A. No.

MR. KAZAN: Q. Did anyone at -- withdraw that. Did Mr. Hoopes come to you and ever show you dust studies or dust counts done at the Emeryville plant?

A. No.

Q. Did anyone in management ever show you such studies?

A. No.

Q. Did anyone in management ever discuss with you whether such studies would be advisable?

A. No.

Q. During your discussion with Mr. Hoopes was there ever any mention of the California general industrial safety orders that applied to manufacturing workplaces?

A. No.

MR. DAGGETT: Objected to as vague. What discussion, please?

MR. KAZAN: Q. Doctor, did you understand that I was talking about the discussion you mentioned earlier with Mr. Hoopes concerning licensing?

A. Yes.

Q. All right. During that discussion, did you and he talk about the general industrial safety orders promulgated in California?

A. No.

Q. Did you ever discuss those safety orders with Mr. Hoopes?

A. No.

Q. Did you ever discuss those safety orders with anyone in Fibreboard's management?

A. No.

Q. Did you ever discuss the California regulations as they related to asbestos exposure with anyone in Fibreboard management while you were working at the plant?

A. No.

Q. You mentioned that you understood that masks were used in two areas of the insulation factory?

A. Yes.

Q. Do you know what kind of masks were used?

A. They had a filter mask and they had a disposable mask similar to the surgical mask they have now.

Q. And you understood that the disposable type surgical mask was used in certain portions of the insulation plant?

A. I wasn't certain where they were used. The instructions were that in the area where they dumped the asbestos into the hopper there and where they -- where they were taking care of the bag in the bag room, they were supposed to use a filter mask.

MR. DAGGETT: Doctor, excuse me, the question is simply whether you knew where they were used.

MR. KAZAN: Okay. You have to answer audibly so that we have a transcription that is accurate as well as a video tape.

A. Repeat the question so that I can --

Q. Okay. Let's go at it this way. You understood that the filter type mask was to be used, among other places, in the room where the raw asbestos was dumped into the mixing process?

A. It was my understanding, yes.

Q. All right. You understood that that mixing room or batch room, as they called it, was on the third floor of the insulation factory?

A. Yes.

Q. And workers there were handling bags of pure raw asbestos?

A. I don't know how pure it was.

Q. Well -- but they were handling asbestos --

A. Yes.

Q. -- the raw material, mixing it into the slurry; is that right?

A. Yes.

Q. And this filter mask that you are describing, this is a rubber face mask with a felt filter that snaps in and out?

A. I don't know the exact components present

in it, in the mask.

Q. Did anyone in Fibreboard's management come to you and ask you whether that mask was adequate to protect those workers?

A. Never.

Q. Did you know whether those masks were adequate to protect workers from inhaling dangerous levels of asbestos dust?

A. No.

MR. DAGGETT: Objected to as assuming there was any knowledge of dangerous levels at that time.

MR. KAZAN: Q. Do you have the question in mind, Doctor?

THE REPORTER: He answered.

MR. KAZAN: And what was the answer?

THE REPORTER: "No."

MR. KAZAN: Q. Did you know whether the filter mask was more, the same, or less effective at protecting workers from inhaling dust than was the surgical type mask?

A. Not from personal observation.

Q. Well, from any other way?

A. It was supposed to be more effective. The problem was it was difficult to make people use it. It was uncomfortable and difficult to use.

Q. And did you learn that from talking with workers directly or just from management?

MR. DAGGETT: Learn what?

MR. KAZAN: That the masks were uncomfortable to use and difficult.

A. From the workers.

Q. What was your understanding of the discomfort or the reasons that led people to be unhappy about using them?

A. They said it was difficult to get -- to breathe well.

Q. Have you ever worn such a mask yourself, Doctor?

A. No. Never.

Q. You have worn a whole lot of surgical type masks in your life?

A. Yes.

Q. Are those tolerable for breathing?

A. They're difficult after awhile. But they're used to it -- you get used to it. Used to it.

Q. Did anyone connected with the management come to you and ask for your assistance in helping to educate workers about the necessity of wearing masks?

A. No.

Q. Did anyone in management ever come to you and ask for your advice or counsel with respect to whether the use of masks was the best way to protect workers?

A. No.

Q. At the time you worked at Fibreboard did you have an opinion as to whether the use of masks was the best method to protect workers from inhaling dust?

A. I always felt that the best method of protecting workers was prevention so that the employees would not be breathing any of this dust, and that the exhaust fan and the complete dust prevention program was an excellent program at Fibreboard.

Q. You understood that it was more desirable to use engineering and exhaust to remove the dust from the vicinity of the worker as a means of protecting the worker?

A. Should've been used in conjunction -- I mean both things, depending on the amount of dust present.

Q. But that the ideal method was to control the dust through engineering techniques so that

there would not be dust in the actual vicinity of the worker?

A. Correct.

Q. Did you ever discuss that concept with the safety directors or other management persons at Fibreboard?

A. No one came by to discuss it with me.

Q. Was it your understanding that they knew this as well you did?

MR. DAGGETT: Now, don't answer that, Doctor. It calls for somebody else's state of mind.

MR. KAZAN: Q. Well, I am asking about your state of mind, Doctor. Was it your impression that other members of management knew this as well?

MR. DAGGETT: Instruct the witness not to answer on the same ground.

MR. KAZAN: Q. Doctor, did you know whether other members of management knew that the best method of dust control was to use engineering and not to rely on masks?

A. I didn't know that. However, they did use a very good system of exhausting the dust particles.

Q. You didn't know whether they knew it or not; is that true?

A. I can't tell you what they thought. They

recognized the single most important thing in the prevention of exposure to dust particles, and that is exhausting and cleaning the air.

Q. How do you know that they recognized it?

MR. DAGGETT: I instruct the witness not to answer. I will permit no more testimony from him on states of minds of other people, whether he thinks he knows or not, that are more than twenty-five years old as of today.

MR. KAZAN: Q. Doctor, are you anxious to come back to San Francisco for another deposition?

MR. DAGGETT: Don't answer that, doctor. This isn't the first time this man has threatened you. It may not be the last. But he is not going to get away with it.

MR. KAZAN: You should be ashamed, Robert.

Q. Now, Doctor, did anyone in the Fibreboard management ever ask you whether in your medical opinion the dust control system in the plant was adequate to protect workers from exposure to asbestos dust?

A. No.

MR. DAGGETT: Asked and answered, Mr. Kazan. Go ahead, and answer it again, Doctor.

A. No.

MR. KAZAN: Q. Did you view at any time one of your responsibilities to be the counseling of workers with respect to potential occupational disease hazards at the Fibreboard plant?

A. No. There was already a program instituted by the safety officer.

Q. My question was whether you thought that was one of your responsibilities.

A. No. Because there was something already in effect.

Q. You understood, then, that someone else had that responsibility?

A. Correct.

Q. And, to your understanding, who had that responsibility?

A. Mr. Lambie was recruited as a safety officer. Prior to this he had been used as a consultant when he was with one of the -- a university or a state --

MR. DAGGETT: Dr. Perlmutter, the question was simply who by name had that responsibility.

A. Okay.

MR. DAGGETT: I must suggest to you that when you add these additional details you put examining counsel under pressure to follow up with all the

stuff you have added that wasn't called for by the question.

MR. KAZAN: Q. I think, Doctor, the question was: who had the responsibility?

A. The safety officer.

Q. You mentioned a Mr. Lambie. Was he the first safety officer, to your knowledge, that was employed by Fibreboard?

A. No.

Q. Do you remember who was the safety officer in 1938, when you came in?

A. No. No.

Q. Do you know whether in fact they had one at that time?

A. I don't remember.

Q. Was it your understanding that when Mr. Lambie came to work as an employee at Fibreboard that he had responsibility for the counseling of workers with respect to occupational disease hazards?

A. Yes.

Q. Did you ever discuss occupational disease hazards with Mr. Lambie while you worked at Fibreboard?

A. Not in any depth. He just chatted with me. He never brought up a real problem and asked to go

over it with me.

Q. Did you ever discuss asbestos with Mr. Lambie?

A. No.

Q. Did you ever discuss the question of lead poisoning with Mr. Lambie?

A. Yes.

Q. Now, you told us before that there were perhaps one or two cases that led to the institution of this testing program.

Are there various forms of lead poisoning, Doctor?

MR. DAGGETT: Just a moment, please. I understand the sincerity with which that question is meant, Mr. Kazan, but I am going to instruct him not to answer any questions, including that one, calling for present medical expertise. He is not a medical expert who has come here to express opinions about the present state of the art or his present knowledge. He has come here to testify, and he testified on direct examination, to what he knew while he was at Pabco.

If you want to put the question about different kinds of lead poisoning in terms of what he remembers when he was at Pabco, that will be fine.

MR. KAZAN: Well, without accepting your misstatement of the doctor's role, let me go on and say:

Q. At the time you worked at Fibreboard were you aware of different forms of lead poisoning?

A. No.

Q. What, to your understanding at that time, did lead poisoning mean?

A. Well, I don't quite understand your previous question. That's why I said "no." But as you're bringing this up, do you mean severe cases, mild cases or what?

Q. Well, okay. Are there various degrees of lead poisoning?

MR. DAGGETT: I instruct the witness not to answer. The question relates to the present state of his knowledge.

Relate it to the time that he was at Pabco and he will.

MR. KAZAN: Q. Prior to 1950, did you know if there were various levels of severity of lead poisoning?

A. I just answered that there are severe, there are mild, and there are the average type thing. If that's what you want.

Q. Well, prior to 1950, did you know whether there was a chronic form of lead poisoning?

A. Yes.

Q. Did you know if there was an acute form of lead poisoning?

A. Yes.

Q. Was there a chronic form?

A. When we discovered the fact that the employees concerned had elevated lead levels, we called in expert consultation and they handled the problem.

Q. My question, Doctor, is whether you knew by 1950 of the existence of a chronic form of lead poisoning.

A. Yes.

Q. And you also knew of the existence of an acute form of lead poisoning?

A. Yes.

Q. Did you know at that time of various forms in which lead poisoning could become symptomatic?

A. I never was an expert on lead poisoning. The question you are asking is characteristic of all disease entities, "chronic," "severe," "acute," and this is what I knew.

MR. DAGGETT: Doctor, it's not necessary for

you to explain or defend something that you are not an expert on. Just answer the questions as they are put to you, please.

A. All right.

MR. KAZAN: Q. Did the two cases, the one or two cases of -- let me withdraw that. Is it correct that what prompted Fibreboard to call in consultants and institute a surveillance program for lead exposure was a finding of elevated lead levels in the blood or urine of one or two workers?

A. Yes, and there were symptoms in at least one of them.

Q. What symptoms were there?

A. I don't remember.

Q. Did you know before 1950 what symptoms were connected with lead poisoning?

A. Yes.

Q. Okay. Do you now remember what you remembered or knew in prior to 1950?

A. Well, there are changes in peripheral nerves and lead line that you have in x-rays.

Q. What significance, if any, did the fact that one of these men had symptoms of lead poisoning -- in your decision to call in consultants and institute a surveillance program?

MR. DAGGETT: It's a little bit vague. Do you understand the question?

A. No, I don't, because I --

MR. DAGGETT: Then ask him -- don't say "I don't because." Just ask him to repeat it. Rephrase it. It will make it quicker.

A. Repeat it, because I had made an answer to the --

MR. DAGGETT: Not because -- why you don't understand the question is not something we want to spend time with.

A. Okay.

MR. DAGGETT: It's his job to make it clear.

A. Reword it, please.

MR. KAZAN: Mr. Reporter, would you repeat the question, please, and let's see how we're doing.

(Pending question read)

A. We acknowledged the fact that we weren't experts in this and we wanted it taken care of promptly and expeditiously. This is why -- the reason why we called specialists in this area in.

Q. Was the reason that you called in specialists the fact that one worker developed symptoms of lead poisoning?

A. No. The fact is that we had a potential

problem there and we had someone with positive findings and we wanted to correct it.

Q. And "positive findings" refers to the elevated lead levels in the blood or urine?

A. Yes. Plus some --

Well, that's all.

Q. The answer is "yes"?

A. Yes. Yes. And --

Q. Okay. Now, did you know at that time whether elevated lead levels in and of themselves necessarily meant that someone would develop symptoms?

A. Yes.

Q. Did it mean that they would have symptoms?

A. Not necessarily.

Q. Would it be fair to say, Doctor, that by 1950, during the period you worked at Fibreboard, you understood that abnormal laboratory results of lead levels served at least as a marker that a worker had potentially hazardous exposure to lead?

MR. DAGGETT: Objected to as vague and indefinite in form, both scientifically and in plain English.

MR. KAZAN: Q. Go ahead. You can answer the question.

MR. DAGGETT: If you can answer it, go ahead.

A. With this chit chat, would you repeat it, please?

MR. DAGGETT: He wants to know if --

MR. KAZAN: No -- excuse me, Counsel. I will ask my questions. If he would like the question repeated ask the court reporter.

MR. DAGGETT: It is objected to in form as grotesque, Mr. Kazan, but if you want to stick with it, go ahead.

MR. KAZAN: Mr. Cannon, would you read the question back.

(Pending question read)

A. That's correct.

Q. And that was sufficient in your mind to justify steps to institute surveillance programs and test workers and take precautions?

MR. DAGGETT: Objected to as assuming that Dr. Perlmutter took those steps. He said he can't remember whether they were taken after he came to Pabco or before.

MR. KAZAN: Q. Go ahead, Doctor.

A. That's true.

Q. Thank you. Now, you were asked some questions earlier about your duties during the two

periods you worked at Fibreboard, and, if I understand you correctly, the first four-year period, approximately, you worked with Dr. Wahle providing medical care at the Emeryville plant; is that correct?

A. Yes. Correct.

Q. At that time, did you have any administrative responsibility for the workers' compensation self-insured program?

A. The only administrative problem was filling out the report, dictating it to the secretary or the nurse.

Q. At that time, Dr. Wahle was the medical director of the entire corporation?

A. Correct.

Q. And one of his duties had to do with the administration or supervision of the self-insured program?

A. Correct.

Q. And that covered all the Fibreboard plants?

A. Right.

Q. Other than your involvement perhaps as a treating doctor seeing an industrial injury, you had no administrative or supervisory responsibility for the workers' compensation self-insured program

during the period 1938 to 1942, is that correct?

A. That's correct.

Q. You came back after the war and resumed sometime in 1946, is that right?

A. Yes.

Q. Do you remember what month it was that you returned to Fibreboard?

A. I think it was November-December. I'm not certain.

Q. Of 1946 or 1945, Doctor?

A. In '46. I think. I would have to change that. I am not sure if it was the end of '45 or the first part of '46.

Q. Okay. When you came back, as I recall, you told me last time, Dr. Wahle greeted you, put on his hat and left for retirement.

A. That's right.

MR. DAGGETT: Dr. Perlmutter, don't answer with respect to what he says you told him last time. Answer with respect to the fact as you now recall it, if you do.

A. Dr. Wahle said, "Hello" to me and "Goodbye."

MR. KAZAN: Q. And left you with the Emeryville medical deparment?

A. Right.

Q. And from 1946 to 1950 did you have some administrative responsibility for the self-insured workers' compensation program?

A. At Emeryville only.

Q. Was there ever another Dr. Perlmutter, to your knowledge, who worked for Fibreboard?

A. There couldn't have been.

Q. The answer, I take it, is no, you don't know of any?

A. No.

Q. All right. Now, do you recall being given the title of Medical Director of Fibreboard in 1946?

A. I was the medical director of Emeryville, for whatever that means. It was nothing -- I had no jurisdiction over anything except Emeryville.

Q. Do you recall a time when you were authorized to sign checks drawn on Fibreboard bank accounts or one bank account?

A. I might have. I can't remember. I was responsible for the Emeryville employees.

Q. And do you recall the board of directors conferring upon you the title of Medical Director?

A. No. No, I don't remember that. Because --

MR. DAGGETT: The question was: do you remember that, Doctor?

A. No, I don't remember it.

MR. KAZAN: Q. Where did you maintain your office from 1946 to 1950 as it related to your duties with Fibreboard?

A. Down in Emeryville, and I would spend a few hours in San Francisco.

Q. Where in San Francisco, Doctor?

A. At -- I don't remember the address -- it was Bryant Street or -- where the offices were.

Q. Is that on Brannan Street?

A. Brannan or -- yes, I suppose that was. I don't remember the address.

Q. But at least it was at the offices of --

A. Right.

Q. -- Pabco?

A. Right.

Q. And did you work in a particular room or rooms at the corporate offices?

A. Well, I was allotted some space there. I didn't have a private room or anything.

Q. Did you have a desk?

A. No. I sat down wherever there was a place to write.

Q. And was this in the office that ran the self-insured medical program?

A. I don't know what part of it was. I just okayed the patients who worked at Emeryville.

Q. Was the office that you worked in when you went to the city the same office where Miss Hanson had her desk?

A. No, I didn't know Miss Hanson. I don't remember her.

Q. Did you receive medical reports and mail at the San Francisco address?

A. I could have. I don't know because I was there a couple of times a week.

Q. Did you go there on a regular schedule, Doctor?

A. I don't remember. I just had to show up a couple of times a week.

Q. And when you showed up it was to sign papers?

A. It was to review any medical problem that would have to be taken care of by the insurance company -- our self-insured company.

Q. By the self-insured?

A. Yes.

Q. And when you say any "medical problem,"

does that refer to workers at places other than Emeryville?

A. No. Absolutely not.

Q. So are you telling me then that you were never asked to review or comment or pass upon workers' compensation claims brought by workers from any other Fibreboard facility?

A. I don't remember ever having done that other than Emeryville.

MR. DAGGETT: Excuse me, Mr. Kazan. He said that at San Francisco his duties included okaying Emeryville employees. You want to get what that means or let that lay?

MR. KAZAN: Sure.

A. Okay. Okaying that they were eligible for compensation or whatever because of their injury or illness or whatever, anything that had to do -- that was compensable under the laws.

Q. Going back to the time you started at Fibreboard in 1938. Did you have occasion to perform pre-employment physicals on workers?

A. Yes.

Q. And of what did those examinations consist, Doctor?

A. History and physical.

Q. In 1938, do you know whether Fibreboard had insulators working out of the Emeryville complex?

A. I didn't know about any at that time.

Q. Did you ever learn that Fibreboard had insulators working out of the Emeryville complex who applied Fibreboard insulation in shipyards or buildings or anywhere else?

A. I never discussed this with anyone. No one told me about the insulators. I was under the impression that they were contract workers.

Q. What did you understand "contract workers" to refer to?

A. That they contracted from some -- with some firm for application. I did not know that they had any definite standing with Fibreboard.

Q. You did on occasion do physical examinations and provide treatment for these insulators; is that right?

A. We provided treatment. I don't remember doing physicals on them. I can't be sure this far away.

Q. All right. Do you know whether insulators who worked at Emeryville went through the same Pre-employment screening program that factory workers went through?

A. I can't remember if they did. I was under the impression that all the people I was examining were employees of Pabco.

Q. And how many employees were there in Emeryville in your first four-year period, if you recall?

A. I think that it was well over a thousand. I think it varied between a thousand five hundred and over two thousand. And I am not certain about it. Of course, during the war years they had multiple shifts and everything.

Q. And after the war, what was the size of the work force, as best you can estimate it for me?

A. Around a thousand.

Q. Did the pre-employment physical examination program at any time you worked at Fibreboard ever include chest x-rays?

A. Yes. It was not a routine portion of the examination.

Q. What circumstances would lead to a chest x-ray being taken?

A. If someone gave a history of being a miner, a hard rock miner, we would take x-rays, or if he had been exposed to severe upper respiratory infections, recurrent pneumonias or what not.

Q. During your years at Fibreboard was there ever a regular periodic physical examination program for hourly factory employees?

A. A regular?

Q. Yes.

A. No.

Q. No program where they would come in once a year or once every two years to be checked over?

A. No. They were entitled to come in and ask for a physical examination if they felt they should have one. I mean if they said they didn't feel well, and so we did a physical on them. But this was just a history and physical and if we found anything they were immediately referred to their own doctor. That was a little touchy at that time. Industrial doctors were not to take care of private doctors' patients.

Q. Was there, during your years at Fibreboard, a program whereby management personnel were given periodic physical examinations at company expense?

A. Yes.

Q. And did those examinations include chest x-rays?

A. At a certain time -- I can't remember the exact year -- it was popular to run physical

examinations on key employees so that there would be available some backup in the event of physical disability or death.

Q. Maybe I don't follow, but how does the periodic physical examination program of key employees produce backup if there is a disability or death?

A. Well, at that time it was felt that yearly physical examinations would prevent serious illness. They could be picked up in the embryonic stage of an illness and something could be done. Since then the doctors do not believe that this merits all this without any symtomatology at all.

Q. Back at the time before 1950, did you accept what I think you have just said was the conventional wisdom of doing yearly physical examinations for preventative purposes?

A. Each executive type employee was offered this examination by the medical deparment. Not everyone took it. Many of them elected to go to their own doctor. For example, we wouldn't do sigmoidoscopic examinations and that sort of thing in the office because it would tie up a room too long.

Q. My question, though, Doctor, was whether

at the time you believed that yearly examinations was a useful tool to pick up illnesses early?

A. I wasn't convinced of this but it was a request of the medical department and I didn't feel strongly enough to deny that.

Q. And this examination program that was offered to executives included x-rays, didn't it, chest x-rays?

A. And some of them refused x-rays and some of them we would discuss whether they wanted x-rays or not.

Q. Did any of the -- withdraw that. Approximately how many employees fell within the classification of key executives or executives that were offered this yearly examination program?

A. There weren't very many of them. I would say, roughly, thirty-five, maybe fifty at the most.

Q. Were these all from the Emeryville plant?

A. All from the Emeryville plant.

Q. You told us some things this morning about what you learned in medical school with respect to the subject of asbestos and I would like to spend a few moments talking about that, if I may. You learned that asbestos could produce a form of pneumoconiosis?

A. Yes.

Q. And that that form of the disease was called "asbestosis"?

A. Yes.

Q. Did you know in medical school when the disease "asbestosis" was first described in the medical literature by that name?

A. Asbestosis?

Q. Yes.

A. I don't remember the exact date.

Q. Did you learn approximately -- was it a disease that had been -- a term that had been used for hundreds of years, fifty years, ten years?

A. I just can't remember anything -- I mean, it wasn't considered important enough to discuss in detail.

Q. You learned, though, that asbestosis was a form of pneumoconiosis?

A. Yes.

Q. You learned that inhaling asbestos particles or fibers could produce an irritation in the lungs?

A. Yes.

Q. And that this irritation could go on to an inflammation?

A. Yes.

Q. And that that inflammation could resolve with the formation of scar tissue?

A. Yes, but --

Well, I'm just going to answer the question.

Q. And you also learned that that scar tissue was called by physicians "interstitial fibrosis"?

A. Yes, that's okay.

Q. You mentioned this morning that you learned that asbestosis could contract the lung? I think that was the term that you used.

A. The fibrosis would cause some contraction in varying amounts throughout the lung.

Q. And what happens when there is contraction of the lungs?

MR. DAGGETT: I instruct the witness not to answer the question framed as it does to get his present medical understanding.

MR. KAZAN: Well, it wasn't framed that way at all.

MR. DAGGETT: Do you want it read back? Do you want to hear the words "what happens when"? That was the question.

MR. KAZAN: Q. Doctor, we're talking what you learned in medical school.

MR. DAGGETT: Fine.

A. I did not learn anything specific about this.

MR. KAZAN: Q. Okay. You didn't learn in medical school that asbestosis could produce a restriction of the lungs?

A. Asbestosis as per se was not discussed.

Q. Did you learn in medical school that pneumoconiosis could produce a constriction or restriction of the lungs?

A. Yes.

Q. Did you learn in medical school that pneumoconiosis could produce a narrowing in the air spaces of the lungs?

A. Yes.

Q. Did you learn in medical school that pneumoconiosis could produce a reduction in breathing capacity?

A. Yes.

Q. When you were in medical school was a distinction drawn between obstructive lung disease and restrictive lung disease?

A. I don't remember that far back.

Q. You don't remember if that distinction was drawn?

A. No, I don't.

Q. When you were in medical school did you learn that pneumoconiosis could produce shortness of breath?

A. Yes.

Q. Did you learn that pneumoconiosis could produce dyspnea on exertion?

A. Yes.

Q. And that refers to shortness of breath with activity or exercise, doesn't it?

A. Yes.

Q. Did you learn in medical school, Doctor, that pneumoconiosis could produce cyanosis?

A. Yes.

Q. And Mr. Daggett asked you to explain that earlier. The cyanosis referred to the development of a bluish tinge in the extremities or other portions?

A. In many places.

Q. And that -- what did you learn was the cause of that bluish discoloration?

MR. DAGGETT: He told you this morning. Tell him again, Doctor.

A. Restriction of the lung and inability to have the proper percentage of oxygen.

MR. KAZAN: Q. And did you learn in medical school, Doctor, that pneumoconiosis could produce clubbing of the extremities?

A. Yes.

Q. And would you tell us, please, what you understood "clubbing" to refer to when you were in medical school?

A. "Clubbing" was a thickening and widening of the extremities of the fingers.

Q. And did you learn in medical school that the pneumoconioses could produce changes on x-ray?

A. Chest x-ray, you say?

Q. Yes.

A. Yes.

Q. What did you understand to be the x-ray changes that could occur with pneumoconiosis?

A. Well, there are various things, and you would have to specify what form of pneumoconiosis, silicosis, anthracosis, that sort of thing?

Q. What did you learn in medical school about the x-ray appearance of silicosis?

A. There could be foreign materials evident in the lung.

Q. Did you learn that silicosis could produce particular types of x-ray pictures?

A. Yes.

Q. Did you learn that that would include the appearance of generally round opacities in the lung fields?

A. Foreign materials, yes.

Q. When you say "foreign material," are you referring to the formation of fibrosis or scar tissue as a result of exposure to these materials?

A. Right. Correct.

Q. Did you learn in medical school that there could be in some forms of pneumoconiosis the development of a haziness in the lung fields?

A. Yes.

Q. Of opacification of the lung fields?

A. Yes.

Q. Of some calcification around the lungs?

A. Yes.

Q. And did you learn in medical school that there were any treatments for pneumoconiosis?

A. The only adequate treatment was prevention.

Q. That was something that was clear to you from your medical school training; is that correct, Doctor?

A. Yes.

Q. And so you learned that there really was

no treatment per se for somebody once they developed a pneumoconiosis?

A. Correct.

Q. All right. That the goal was to prevent the development of the disease preferably with engineering controls to keep the worker away from the pneumoconiosis producing dust?

A. That's right.

Q. And the term "pneumoconiosis," Doctor, means "dusty lungs," doesn't it?

A. I think that is the definition.

Q. You learned in medical school that pneumoconiosis in its various forms was a group of illnesses that fell within the field of chest medicine?

A. Yes.

Q. And that you learned obviously that chest specialists could be expected to know a whole lot more about these diseases than general practitioners?

A. It was a specialty. Most specialists know more about their specialty than general practitioners.

Q. At least one hopes that they do?

A. Yes.

Q. All right. You learned in medical school

also, Doctor, didn't you, that respirators, dust masks, were not the best way to prevent pneumoconiosis?

MR. DAGGETT: The question is: did you learn that, Doctor?

A. No.

MR. KAZAN: Q. Did you know during your medical school time that getting workers to wear respirators was a problem?

A. No. Not -- no.

Q. Doctor, I believe from your curriculum vitae, as I recall, you were born in Canada?

A. Yes.

Q. At what age did you move from Canada?

A. Five. I was five and a half years old.

MR. DAGGETT: You want to ask him what month that was?

A. Yes, I'll tell a --

No, I won't.

MR. KAZAN: Q. You're not to tell me unless Mr. Daggett says it's okay.

Did you or your family have any involvement -- let me withdraw that. Were any members of your family involved in any of the mining industries in Canada?

A. No. No. We knew there was a lot of mining.

Q. During your medical school training did you develop any familiarity with the Canadian mining industry?

A. Yes. I knew that they had asbestos mining going on and I always felt that asbestosis was contracted in the mines because of the heavy concentration of asbestos fibers and dust.

Q. This was something you felt in medical school?

A. Yes.

Q. All right. And tell me, if you will, Doctor what was your understanding at that time of the concentration of asbestos dust in the asbestos mines?

A. I have no idea what it was.

Q. Tell me what you understood in medical school to be the concentration of asbestos dust, for example, in asbestos textile mills?

A. It was very heavy.

MR. DAGGETT: If you had an understanding, Doctor.

A. What's that?

MR. DAGGETT: If you had an understanding of

what --

A. Yes, I did. It was very heavy.

MR. KAZAN: Q. Did you have an understanding during your medical school training as to whether the levels of asbestos dust exposure were greater in the textile mills than in the mines?

A. All I can remember is they were both -- they were both heavy exposures.

Q. In your medical school education where did you learn about the mining industry and the asbestos textile industry?

A. Heard it in lectures somewhere. I can't remember exactly. Or the hour that it was given.

Q. Do you remember reading any medical literature that dealt with asbestos or asbestos mines or textile mills?

A. Not at that time that you have --

What time do you have reference to?

Q. While you were in medical school.

A. No.

Q. Do you know -- withdraw that. Did you ever read an article in the medical literature that dealt with asbestos at any time up until you left Fibreboard in 1950?

A. No.

Q. There is a specific report, Doctor, that I would like to ask you about. I refer to an article entitled A HEALTH SURVEY OF PIPE COVERING OPERATIONS IN CONSTRUCTING NAVAL VESSELS, authored by Fleischer, Viles, Gade and Drinker, published in the Journal of Industrial Hygiene and Toxicology in 1946.

Did you, prior to the time you left Fibreboard, ever read that article?

A. Not at that time.

Q. Do you know what article I am speaking of?

A. Yes.

Q. Did anyone at Fibreboard ever discuss that article with you prior to 1950?

A. Never.

Q. Did anyone at Fibreboard discuss that article with you at any time prior to your leaving California?

A. No.

Q. Did you, yourself, ever read that article prior to leaving California in 1970 or '71?

A. No.

Q. From your own knowledge, Doctor, do you know of anyone in Fibreboard management, either medical or safety or corporate management, who

actually read that article prior to the time you left Fibreboard in 1950?

A. I have no knowledge of that.

(Discussion off record re tape time remaining)

Q. You knew, Doctor, from your medical school training that asbestos dust was potentially hazardous; is that correct?

MR. DAGGETT: The question is: did you know that from your medical school training?

A. I knew that since asbestos was one of the pneumoconioses.

Q. Okay. And you knew that any dust which could produce a pneumoconiosis would have to be something that you would consider to be a potentially toxic dust; is that correct?

A. Yes.

MR. KAZAN: This would be a convenient place to take our break while we change the tape.

MR. DAGGETT: Yes, why don't we change the tape and leave five minutes on it and then start with a fresh one.

(Short recess taken)

MR. KAZAN: Q. Doctor, before the recess we were talking about the things that you learned in medical school, and, just so that we are clear, did

you learn in medical school that pneumoconiosis could be a disabling disease?

A. Yes.

Q. And did you also learn that it could cause death?

A. Yes, I suppose it could.

Q. Did you also learn in medical school anything about whether pneumoconiosis was an acute or chronic disease?

A. It was a chronic disease.

Q. You learned that it was a disease that would develop over time following exposure to the pneumoconiosis producing dust?

A. Yes.

Q. And you learned at that time that there was a concept of maturation or latency involved in the development of pneumoconiosis, didn't you?

A. I'm not certain about all the pneumoconioses, if there is a latency period that is significant.

Q. Did you learn about a latency period in any of the pneumoconioses?

A. No.

Q. Did you know from medical school that there was a latency period between exposure to

asbestos dust and the development of disease?

A. No.

Q. Did you know that during your years at Fibreboard?

A. No.

Q. Did you learn -- withdraw that. Fibreboard opened the Plant Rubber and Asbestos Works insulation factory in late 1941, approximately. Do you recall that?

A. Yes. Well, I didn't know it was opened then. They were working on it and it either opened at the end of '41 or the early part of '42.

Q. Did you understand at that time, and when you returned to Fibreboard in 1946, that a worker exposed to asbestos dust would ordinarily not become sick for a period of years, if at all?

A. No, we did not know about it.

Q. In 1942, is it correct that you would not have expected to see any disease related to asbestos exposure from exposure that took place in 1941?

MR. DAGGETT: Oh, my. Could you rephrase that?

MR. KAZAN: Q. Doctor, you would not have expected in 1942 to see any disease related to asbestos exposure from 1941, would you?

A. We did not appreciate the latency period at that time.

Q. If somebody's exposure began in 1941, Doctor, you would not expect them to show asbestos-related disease by 1942?

MR. DAGGETT: I instruct the witness not to answer the question which in form calls for a present medical opinion.

MR. KAZAN: Q. My question was with respect to what you knew in 1942.

A. I did not know about the latency period in 1942.

Q. You didn't know that it took some time from the period of first exposure for asbestosis to develop in 1942?

A. No.

Q. Did you learn in medical school that there was a relationship between the extent of exposure to pneumoconiosis producing dust and the development of disease?

A. Repeat it again, please.

Q. Yes. When you were in medical school did you understand the concept of a dose response relationship?

A. I appreciated the fact that any exposure

to dust would depend on the total exposure. I mean, if it was a massive exposure in mines, yes.

Q. You knew that the risk of development of disease was related to the extent of the exposure?

A. Yes.

Q. And that someone with a relatively small exposure, all other things being equal, would be less likely to develop disease than someone with a greater exposure?

A. Yes.

Q. And that's something you knew from medical school?

A. I don't remember where I knew this from. But they never specifically spoke about any of these things. I am trying to get across the fact that the pneumoconioses were discussed very briefly.

Q. Were you aware, Doctor, of any general public concern about silicosis during the nineteen thirties when you were in medical school?

A. Yes.

Q. And did you know, Doctor, in your years at Fibreboard whether silica was used as a raw material in any of the Fibreboard processes?

A. Not at that time.

Q. Okay. You did not know while you were at

Fibreboard whether they used silica?

A. No.

Q. That's correct, you didn't know it?

A. That's correct.

Q. Did you know, Doctor, whether Fibreboard at that time used any diatomaceous earth?

A. I did not know that.

Q. Did you know at that time that there was a disease called diatomaceous earth pneumoconiosis?

A. I knew that diatomaceous earth was a hazard. I did not know it at that time.

Q. You never knew while you worked for Fibreboard --

A. No.

Q. -- that diatomaceous earth could produce disease?

A. I did not know that they had diatomaceous earth in their product.

Q. My question, though, was whether you knew that diatomaceous earth was a potential producer of pneumoconiosis.

A. At that time, no.

Q. Now, in July of 1982, the summer before I took your deposition, you were visited by representatives of Fibreboard, weren't you?

A. In Tucson?

Q. In Tucson.

A. The attorneys from an insurance company?

Q. No. In July of 1982 weren't you visited by Mr. Beck, who is sitting off on the side of the room --

A. Yes.

Q. -- and a Miss Nanette Hudson, counsel with Mr. Hothem's office?

A. Yes. Yes, she was representing an insurance company.

Q. Did she tell you she was representing an insurance company or Fibreboard?

A. Well, she was representing Fibreboard through an insurance company.

Q. And she came to see you to talk about what you knew and remembered from your years at Fibreboard; is that true?

A. Yes.

Q. And at that time, she attempted to retain you as a consultant to Fibreboard, didn't she?

A. Not as a consultant, I don't think. As a witness or whatever -- I don't -- she wanted me to discuss some of the matters.

Q. Didn't she ask you if you would -- if she

could retain you and have you come to San Francisco and talk to them and serve as a consultant to Fibreboard in this litigation?

A. I don't know the exact terminology: she said I was to be a consultant or whatever -- because I was never an expert on this sort of thing.

Q. And she discussed with you when she was there the question of whether you had coverage under Fibreboard's insurance policies with respect to your own acts as a doctor during the years you worked for Fibreboard?

A. I don't remember her saying anything about that.

Q. You don't recall her telling you that there was a question as to whether you were a potential defendant in malpractice cases arising out of the Fibreboard factory?

A. I don't remember her discussing that facet of the problem.

Q. And you don't remember her telling you that there was a question as to whether if you were sued you would be covered by Fibreboard's policy?

A. I can't remember that.

Q. Miss Hudson discussed with you what you knew from medical school and what you knew about

asbestos while you worked at Fibreboard, didn't she?

A. Yes.

Q. And when you told her you learned about asbestos to some degree from your pathology textbook she told you that you must be mistaken, didn't she?

A. Well, she asked me specifically if I could mention anything, any text or any reference to what it was.

Q. And that led you to, on the way home from dinner, to stop by your office and get the Boyd's textbook and show it to her?

A. Yes.

Q. And --

A. That --

Well, never mind.

Q. Well, if your answer to my last question was incorrect or something --

A. No --

Q. -- you are certainly free to change it.

A. It isn't incorrect. I am trying to curb my garrulousness.

Q. Following your meetings with Miss Hudson, you then made some inquiries on your own into the medical literature, didn't you?

A. Yes.

Q. And how did you go about doing that, Doctor?

MR. DAGGETT: I instruct the witness not to answer. We are taking the position here and we are taking it quite clearly, that such inquiries into the medical literature as Dr. Perlmutter made with reference to prior depositions and with respect to this litigation and such opinions as he may hold as a doctor today are not germane to the subject of the action or likely to lead to discovery of admissible evidence, and there will be an instruction on this stuff. I think you are very close to work product with these questions but I haven't said anything until now.

MR. KAZAN: I am not close to work product. Until two months ago, he wasn't working for Fibreboard. And I am entitled to explore what this witness knows, when he learned it and whether that refreshed his recollection of things he knew before.

You are not entitled to limit the scope of this deposition. I would request that you permit him to answer questions on this line or we will ask the court to have him come back and we will do it some other time.

MR. DAGGETT: Mr. Kazan, I have to tell you

in very plain English that the questions you put to Dr. Perlmutter on November 13, 1982 in the Crittenden and related consolidated cases was a hopeless, jumbled up mixed salad of what he knew when he was at Pabco or Fibreboard and what he knew as he sat there at his deposition, and that hopeless, mixed up salad was not the result of ineptness on your part but a high degree of professional skill, which nonetheless related in a record which, so far as the issues in this case to which his knowledge relates, is grotesque and incomprensible.

Now, I will instruct him with respect to present knowledge, how he got it, what his opinions are, and he will be instructed not to testify with respect to matters after he left Pabco unless and until, after notice and hearing, there is a final court order that says otherwise.

MR. KAZAN: And, I take it, that is a blanket instruction and we therefore have a blanket stipulation?

MR. DAGGETT: No, sir, you don't have a blanket instruction and you don't have any kind of blanket issue or certification. We'll have to get at this as we go along because there may be areas in which a contrast between what he knows subsequent to

the time he left Fibreboard will be helpful in flushing out what he knew while he was at Fibreboard or Pabco. But those will be very small or infrequent instances.

And I am determined that no lawyer for the plaintiffs here will succeed again in confusing, obfuscating and mixing up the difference between that which may be in Henry Perlmutter's professional mind today and that which was in his mind before he left Pabco for the purpose of arguing to a jury later that his present knowledge and opinions were knowledge and opinions he held when he was working for Pabco. We just aren't going to do that again. I think that any court, having an opportunity to consider the question carefully and deliberately, will see that the distinction is an eminently reasonable one.

The problem in these cases, essentially, is trying out states of mind that in some cases are forty-five, forty, thirty-five, thirty years ago. There are severe evidentary problems, and mixing things up, even though done with a high degree of professional skill, results in obfuscation and not the truth.

MR. KAZAN: That's a very pretty speech. It

is irrelevant. It is incorrect. The doctor's prior deposition is clear on its face.

MR. DAGGETT: The doctor's prior deposition has questions --

MR. KAZAN: Counsel, I didn't interrupt you.

MR. DAGGETT: I'm sorry. Go ahead.

MR. KAZAN: The deposition is clear on its face. His testimony is clear. And the appropriate trier of fact can make whatever decision they want. My question today is -- you have now indicated that you will instruct him -- since you have now apparently been engaged as his counsel -- not to answer questions concerning anything he has done since he left Fibreboard. Given that, I am not going to sit here and ask two hundred questions so that you have a script in advance to prepare him for when the judge tells you that you're wrong, I was right, and he has to come back to do this over.

MR. DAGGETT: I wish you wouldn't threaten this seventy-three year-old man with having to come back.

MR. KAZAN: I'm sure not going to Tucson again. I did that once. If he has to come back it's because of the attitude you're taking in this deposition.

MR. DAGGETT: All right. You're not going to see his medical books at home unless you want to go to Tucson.

Now, when you're through you tell me and I want to add something in response to what you just said.

MR. KAZAN: Well, I think we'll defer your speech till four o'clock when the doctor and I are going to leave because I don't want to waste my time.

MR. DAGGETT: I'm sorry, but you make your record here and I make mine and I'm going to tell you this. Number one, the questions put to him by you on November 13, 1982, many of them perorations which run sixteen, eighteen lines in length, are bad in form and if put again they will be objected to on that ground, and, number two, I don't hesitate to have you test this position in court if you wish to do so. And I urge you to do so. I am making no blanket instruction. What I am doing here is trying to state for the edification of all on the record what I believe to be a consistent position and a position which should and might have been taken on November 13, 1982, and was not.

MR. KAZAN: Q. Doctor --

MR. WARTNICK: Mr. Reporter, would you please certify that question in my shipyard cases. Thank

you.

MR. DAGGETT: Dr. Perlmutter, there is nothing to this baloney about certifying questions. It's done automatically, and this record is going to be in shape for presentation of the question to the court, if anybody wants to do it.

MR. KAZAN: Q. Doctor --

MR. DAGGETT: I don't believe that you have a right to conscript this man as a present expert medical consultant, and I don't hesitate to say, as I have said before, that you would not engage Henry Perlmutter as an independent medical expert if you had the opportunity, and you don't.

MR. KAZAN: Are you finished with your speech?

MR. DAGGETT: I am finished with the remarks I consider necessary to making my own record now, yes.

MR. KAZAN: Very well.

Q. Doctor, after your meeting with Miss Hudson you indeed went and reviewed medical literature from the thirties and forties and fifties and sixties, didn't you?

A. Yes.

MR. DAGGETT: I instruct the witness not to answer. I think he just said "yes," but I am going

to instruct on this line, Dr. Perlmutter, I think.

MR. KAZAN: Q. Now, you met with me in November of 1982; do you recall that?

A. Yes.

Q. We spent several hours with your attorney discussing your experience at Pabco and what you knew about asbestos and disease; do you recall that?

A. Not the intimate details but I recall discussing this with you.

Q. And do you recall, Doctor, at that time you expressed an interest in seeing more of the old literature about asbestos?

A. I don't remember specifically but --

Q. Do you remember, Doctor, at that time I gave you a set of abstracts of medical literature from the period between the thirties and the seventies?

A. Yes.

Q. And you reviewed those, did you not?

A. Yes.

Q. And do you recall that I came back -- that was on a Monday and I came back and met with you again on Friday evening in anticipation of your Saturday morning deposition; do you recall that?

A. There were a lot of meetings then. I can't

remember in detail about this.

Q. And you recall, Doctor, I take it, that when we met on that Friday I gave you copies of some medical articles that you had expressed an interest in seeing; do you remember that?

A. I don't remember it specifically. I remember discussing something about it.

Q. Do you remember my giving you copies of some articles?

A. Yes.

Q. Now, sometime after that conference the day before your deposition you in fact reviewed those articles, didn't you?

A. Sometime.

Q. Do you still have those materials?

A. I think so. I have to look for them.

Q. And you still have the abstracts?

A. Somewhere.

Q. Now, Doctor, I am going to show you a copy that is unfortunately somewhat marked up of an editorial from the Journal of the American Medical Association sometime around July or August of 1949. And if you want to mark this, Mr. Reporter. You can make a copy of it and return that to me. It's a three-page document that bears some of my writing on

it.

(Three-page document, The Journal of the American Medical Association, Volume 140, comprising cover, pages 1219 and 1220, marked for iden. Exhibit 1)

MR. KAZAN: Q. Doctor, I would like you to take a look at this.

A. (Examining)

MR. DAGGETT: There is no question, Dr. Perlmutter. The question may in my mind be appropriate or inappropriate. Wait for the question, please. Don't say anything about that until you have one from Mr. Kazan.

A. (Examining)

MR. DAGGETT: Before we proceed, would you pass it down and let me glance at it.

(Examining) All right.

MR. KAZAN: Q. You told us this morning, Doctor, that you received and regularly read the Journal of the American Medical Association?

A. Yes.

MR. DAGGETT: It isn't quite what he said. But I think he has it in mind.

MR. KAZAN: Q. You've just had an opportunity to glance over this editorial?

A. Yes.

Q. Would you read for the record the title of that editorial?

A. ASBESTOSIS AND CANCER OF THE LUNG.

Q. Doctor, was this afternoon the first time in your life you've read that editorial?

MR. DAGGETT: I instruct the witness not to answer. I will give you the ground, which I assume you want. You have now muddied the waters, Mr. Kazan, by testifying with his approbation that you handed him a whole bunch of old stuff when you saw him in Tucson. I am not going to permit him to testify about stuff you gave him and that he read within the last couple of years. If you want to ask him whether he read that at or about the time of its publication or before he left Pabco he will answer, but we are not going to have another mixed salad here of whether he read some old stuff because he read it when he was at Pabco or whether he read it because you handed it to him in Tucson a couple of years ago.

MR. KAZAN: Q. Did you read this, Doctor, when you received the Journal in 1949?

A. No. I explained that I did not read it, the Journal of the AMA, cover to cover. I read

selected articles. And I don't remember reading this.

Q. You read articles that were of interest to you?

A. Yes.

Q. And you would look at the table of contents or the index --

A. Yes.

Q. -- and pick out articles that had some bearing on the things that you found pertinent to your practice?

A. Yes. And I missed this.

Q. Doctor, in 1949, was it your practice to read articles in the Journal of the American Medical Association that dealt with asbestos?

A. Yes, if I -- and I missed this.

Q. Okay. How do you know that you missed it?

A. I would have remembered it.

Q. If you had read this, this would have stuck in your mind?

A. Yes.

Q. Why?

A. Because it related to the asbestos that we had in our plant.

Q. In 1949, had anyone at Fibreboard

management told you that they had some concerns about whether asbestos was a potential carcinogen?

A. No.

Q. Do you remember a patient that you treated in your private practice in the mid to late nineteen sixties by the name of Dean Walker?

A. I don't remember Dean Walker.

Q. If it would help your recollection, he was a patient you saw in surgical consultation for Dr. Adamson on several occasions for a question of an ulcer or other G.I. disease who in 1969, when you had hospitalized him for G.I. workup, was found to have a mass on chest x-ray and who underwent lung surgery for lung cancer by Dr. Maegher -- m-a-e-g-h-e-r -- assisted by you.

MR. DAGGETT: The question, Dr. Perlmutter --

MR. KAZAN: Q. Does that refresh --

MR. DAGGETT: -- does that refresh your recollection, whether or not all that testimony by Mr. Kazan is the fact?

A. Yes, that refreshes my memory.

MR. KAZAN: Q. Do you recall such a case, even though you can't put the name of Dean Walker on it?

A. Vaguely, I remember. I know I referred a

case to Dr. Maegher from the plant.

Q. And --

MR. DAGGETT: The question went to the late nineteen sixties, Doctor.

A. Yes.

MR. KAZAN: Yes.

A. And this was someone who had worked at Pabco. I had not been treating him. I had not seen him before. As I remember, I saw him in consultation for another surgical entity and then referred him to Dr. Maegher after doing the preliminary chest x-rays prior to surgery.

Q. Okay. And you knew at the time that this was a man who had worked at Fibreboard?

A. I don't -- I just remember the whole case very vaguely. I can't tell you definitively.

Q. In 1969, at the time of this case that you have some recollection of, were you aware that asbestos was thought to be a cause of lung cancer?

MR. DAGGETT: I instruct the witness not to answer. It's too remote to the time he was with Pabco. Doesn't make any difference whether he knew that in 1969 or not. He was gone.

MR. KAZAN: When you get a robe you can decide whether it makes a difference.

MR. DAGGETT: I have to protect the witness and the record now. The robe comes later, if you wish to go see it.

MR. KAZAN: Q. Now, did you tell this patient, who you recall somewhat vaguely, that you thought his lung cancer was a result of asbestos exposure at Fibreboard?

MR. DAGGETT: Instruct the witness not to answer. Same ground.

MR. KAZAN: Q. During your years at Fibreboard were you ever aware of the existence of a physician by the name of Anthony Lanza -- l-a-n-z-a?

A. And what time was this? During the time --

Q. During the time you worked at Fibreboard or before.

A. No, I didn't know. I think I remember the name subsequently.

Q. During the years up to 1950 were you ever aware of any recommendations published by the United States Treasury Department in the Public Health Reports with respect to examination of asbestos exposed factory workers?

A. The years, again?

MR. DAGGETT: Up to 1950.

MR. KAZAN: Q. Up to 1950.

A. No.

Q. Did you ever know up until 1950 that there were recommendations in the medical literature that new employees in factories using asbestos as a raw material should be given physical examinations, including chest x-rays, and rejected for employment if they showed any evidence of tuberculosis or pneumoconiosis?

A. Where was this article from? You're reading something.

MR. DAGGETT: The question is -- no, Dr. Perlmutter, he can read and frame a question from his reading, and in this instance you're not entitled to ask him about that. The question is: did you know that at any time up until 1950?

A. I didn't know the article, I never heard of it. And I don't know if it's actually pertinent there, that everyone should have x-rays prior.

MR. KAZAN: Q. My question, Doctor, was whether you were aware that that recommendation had been made --

A. No, I did not know..

Q. -- at any time before 1950.

A. No.

Q. Were you aware before 1950, at any time,

that recommendations had been made in the medical literature that employees in asbestos utilizing manufacturing plants be examined physically, preferably every year but at least every two years, the examination to include an x-ray examination of the chest?

A. No.

Q. No one in management ever brought that to your attention?

A. No.

Q. Did anyone in management ever seek your advice or counsel with respect to what medical precautions, if any, should be taken to protect workers who were exposed to asbestos?

MR. DAGGETT: That is Pabco management up until the time he left?

MR. KAZAN: That's right.

MR. DAGGETT: All right.

A. No.

MR. KAZAN: Q. Did anyone in Pabco's management up until 1950 ever ask you to do any research into the hazards of asbestos?

A. No.

Q. Did anyone ever ask you in Pabco management to go to the library and see if there was

anything in the medical literature that was important for management to be aware of as it related to the risks of asbestos exposure?

A. No.

Q. During the years that you on occasion saw patients in surgical consultation for Pabco, that is, 1950 on, did anyone in connection with management, either medical department or self-insurance department or other management, ever ask you for information concerning the health hazards of asbestos exposure?

A. No.

Q. Doctor, at any time up until 1950 had you read any of the articles by Dr. Cook in the British Medical Journal dealing with asbestos-related pulmonary fibrosis?

MR. DAGGETT: Is the British Medical Journal the proper name of the publication?

MR. KAZAN: Yes.

Q. Is it, Doctor?

A. I think so.

Q. All right.

A. No, never read it.

Q. Up until 1950, had you ever read any of the articles written or published by Dr. Gloyne of

England?

A. Dr. who?

Q. Dr. Gloyne -- g-l-o-y-n-e.

A. No.

Q. Up until 1950, had you ever read any of the articles published by Drs. Lynch and Smith in the American medical literature?

A. No.

Q. Did you read any articles by Drs. Wood and Gloyne?

A. No.

Q. Did you ever hear the name of Dr. Merewether -- m-e-r-e-w-e-t-h-e-r?

A. No.

Q. Did you know prior to 1950 of the existence of the Office for the Inspection of Factories in the British government?

A. No.

Q. Up until the 1950's, were you aware of any regulations respecting the use of asbestos in English factories?

A. No.

Q. Or in American factories?

A. No.

Q. Including California.

A. No.

Q. In your medical school training, Doctor, did you become familiar or acquainted with a text by Dr. Lanza called SILICOSIS AND ASBESTOSIS?

A. And that's --

MR. DAGGETT: That's in medical school, Doctor.

A. No.

MR. KAZAN: Q. Did you become familiar with that text or portions of it at any time after its publication in 1936 up to and including 1950?

A. No.

Q. Did you become familiar with that text at any time subsequent to 1950?

A. I heard the name Lanza and that he was interested in this type work. And I haven't read anything by him.

Q. You never read Lanza's text?

A. No.

Q. You never read a report that is commonly called the "Lanza Report" published in 1935?

A. From --

Q. Public Health Reports.

A. Public Health -- no.

Q. It was a survey of asbestos-exposed

workers at the Canadian mines and the asbestos textile mills in South Carolina, largely. Do you recall that?

A. (Shakes head.)

Q. Never read it?

A. Never read it.

Q. Were you acquainted at any time prior to 1950 with a report by Dr. Dreesen, studying the asbestos textile industry in South Carolina?

A. No.

Q. Have you ever read that report since that time?

A. No.

Q. At any time prior to 1950 did you review or read any other articles in the literature that dealt with the subject of asbestos and lung cancer?

MR. DAGGETT: Prior to 1950, Dr. Perlmutter.

A. No.

MR. KAZAN: Q. Did you read such articles at any time after 1950?

MR. DAGGETT: Instruct the witness not to answer. The only relevance in this case of Dr. Perlmutter's knowledge is that it might on one legal theory or another be Pabco's or Fibreboard's knowledge, and Dr. Perlmutter's knowledge after he

left Pabco is not relevant to anything in this case.

MR. KAZAN: I think you've said that before.

MR. DAGGETT: Well, I didn't say it quite that way. You can't seem to understand it. That's why I did it again.

MR. KAZAN: Well, before it took you ten minutes. You've now boiled it down to thirty seconds.

MR. DAGGETT: I'm improving. Are you? I guess I shouldn't say you don't understand it, Mr. Kazan, I think you do understand it. What you won't do is accept it.

MR. KAZAN: That's because you're wrong.

Q. Doctor --

MR. DAGGETT: You will see, maybe.

MR. KAZAN: Q. Doctor, prior to 1950, did you read any articles in the medical literature from any country that raised the question of connection between asbestos exposure and lung cancer?

A. No.

MR. DAGGETT: Mr. Kazan, may I call your attention to the hour and our four o'clock breaking point?

MR. KAZAN: I think you just did.

Doctor, at this point, subject to reconvening

your deposition after the court educates Mr. Daggett on the law that applies to your deposition I have no further questions.

I will not be present tomorrow and I assume that, Mr. Daggett, you have no intention of changing your position or agreeing that I am entitled to ask the questions to which you have objected and instructed the witness not to answer.

MR. DAGGETT: No, sir, I have no such intention.

MR. KAZAN: All right. At this point, then, for the sake of the record, let me say that it is my position, and I would ask the reporter to so note at the end, that at the time when this deposition concludes, I exercise my statutory option to recess the deposition rather than adjourn it for purposes of being reconvened at an appropriate later date to go into the areas that I am confident the court will permit me to explore.

Thank you, Doctor. It's a pleasure to see you again.

MR. DAGGETT: Thank you, ladies and gentlemen. We will reconvene in this room at ten o'clock tomorrow morning.

(Adjournment taken at 4:02 o'clock p.m. to 10:00 o'clock a.m., Tuesday, October 30, 1984)

# I N D E X

DEPOSITION OF HENRY A. PERLMUTTER, M.D.

Tuesday, October 30, 1984



QUESTIONS DIRECTED NOT TO ANSWER

| PAGE/LINE |
|---|
| 205/14 |
| 205/23 |
| 207/15 |

# E X H I B I T S

| Number | | Page |
|---|---|---|
| 2 | Extract PATHOLOGY, An Introduction to Medicine (5-page doc) | 200 |

BE IT REMEMBERED that, pursuant to adjournment of Monday, October 29, 1984, the deposition of HENRY A. PERLMUTTER, M.D. resumed on Tuesday, October 30 1984, commencing at the hour of 10:10 o'clock a.m. thereof, at KQED, 500 8th Street, Studio B, San Francisco, California, before me, HARRY A. CANNON, a Certified Shorthand Reporter and Notary Public in and for the State of California.

HENRY A. PERLMUTTER, M.D.

called as a witness by Fibreboard Corporation, who, being by me previously duly sworn, was thereupon examined and testified as hereinafter set forth.

CARTWRIGHT, SUCHERMAN, SLOBODIN & FOWLER, INC., 160 Sansome Street, Suite 900, San Francisco, California 94104, represented by HARRY F. WARTNICK, Attorney at Law, appeared as counsel on behalf of plaintiffs; and

KENNETH L. KNAPP, Esquire, 695 Town Center Drive, #1000, Costa Mesa, California 92626, represented by PATRICK BURNS, Attorney at Law, appeared on behalf of plaintiffs; and

MARTIN, HARRISON & DeGARMO, 501 Shatto Place, Suite 100, Los Angeles, California, 90820, represented by GUY LEWIS, Attorney at Law, appeared

on behalf of plaintiffs; and

BROBECK, PHLEGER & HARRISON, One Market Plaza, Spear Street Tower, San Francisco, California 94105, represented by ROBERT S. DAGGETT, Attorney at Law, appeared as counsel on behalf of Fibreboard Corporation; and

ROPERS, MAJESKI, KOHN, BENTLEY & WAGNER, 655 Montgomery Street, Suite #1600, San Francisco, California 94111, represented by THOMAS C. NORTON, Attorney at Law, appeared as counsel on behalf of Fibreboard Corporation; and

BLEDSOE, CATHCART, BOYD, ELIOT & CURFMAN, 650 California Street, Suite #2828, San Francisco, California 94108, represented by ELIZABETH BERICE-DREYFUSS (Law Clerk), appeared as counsel on behalf of Flexitallic Gasket Company, Inc.; and

Law Offices of WILLIAM DUKE, 433 California Street, Suite #330, San Francisco, California 94111, represented by ROBERT PESTLEWAITE, Attorney at Law, appeared as counsel on behalf of H.K. Porter Company, Inc; and

HASSARD, BONNINGTON, ROGERS & HUBER, 3500 Wells Fargo Building, 44 Montgomery Street, San Francisco, California 94104, represented by EMILY BROCKMAN (legal assistant), appeared as counsel on behalf of

Pittsburg Corning; and

GUDMUNDSON, SIGGINS & STONE, 235 Montgomery Street, Suite #710, San Francisco, California 94104, represented by SUSAN PIERCE, Attorney at Law, appeared as counsel on behalf of Armstrong World Industries, Inc.: and

POPELKA, ALLARD, McCOWAN & JONES, 601 Montgomery Street, Suite #2022, San Francisco, California 94111, represented by CAMILLA D. COCHRAN, Attorney at Law, appeared as counsel on behalf of Owens Corning Fibreglass; and

McDONALD, PERUSSINA & CULLOM, 731 Market Street, San Francisco, California, 94103, represented by JONATHAN BACON, Attorney at Law, appeared as counsel on behalf of John Crane-Hondialle, Inc.: and

ERICKSEN, ARBUTHNOT, McCARTHY, KEARNEY & WALSH, INC., Pier 1-1/2, The Embarcadero, San Francisco, California 94111, represented by THEODORE C. LUEBKEMAN, Attorney at Law, appeared on behalf of NAAC.

ALSO PRESENT: ROBERT A. BECK, Esquire.

HENRY A. PERLMUTTER, M.D.,

being previously duly sworn, testified as follows:

EXAMINATION BY MR. WARTNICK:

MR. WARTNICK: Q. Good morning, Doctor. How are you today?

A. Fine.

Q. Good. Doctor, my name is Harry Wartnick. I represent a number of plaintiffs in shipyard applicator cases and shipyard bystander cases. I have a very few questions to ask you this morning.

First, Doctor, during the period 1938 to 1950 did you own a copy of the Encyclopedia Britannica?

A. No.

Q. Did you have one at home?

A. No.

Q. Or did your children have one at home?

A. No.

Q. Beginning in approximately 1941, you knew that Fibreboard was making a thermal insulation product at the Emeryville plant; is that correct?

A. I don't know if they started yet. They were building the building in '41 and I'm not certain that if they commenced production in late '41

or '42.

Q. Okay. They previously told us that it was very late 1941 when they commenced production. So if we can go forward with that assumption.

Did you know what product it was that was being manufactured there?

A. No. That was just about the time that World War II broke out and I was in the midst of getting in the army.

Q. You returned in 1946?

A. '46, that's right.

Q. And worked as the plant doctor, corporate doctor --

A. Correct.

Q. -- until about 1950; correct?

A. Yes.

Q. During those four years, you knew that an insulation product was being made at --

A. Correct.

Q. -- Emeryville; is that correct?

A. Yes.

Q. And you knew that that product contained asbestos?

A. Yes.

Q. You knew that that product was being used

for insulation purposes at shipyards and construction sites and oil refineries, is that correct?

MR. DAGGETT: Objected to as compound.

MR. WARTNICK: I will rephrase.

Q. Doctor, you knew the product was being used in shipyards for insulation purposes; is that correct?

A. Yes. Not precisely where or how.

Q. But you knew it was being put to shipyard use?

A. Yes.

Q. And you knew it was being put to use at construction sites?

A. Yes.

Q. And you knew it was being put to use in oil refineries?

A. Yes.

Q. And you knew it was being put to use in other locations where high-temperature insulation was needed, is that correct?

A. Yes.

Q. Now, during the time that you were at Fibreboard you've previously told us that you knew that there was a disease called "asbestosis"?

A. Yes.

Q. And you've told us that your education concerning that disease was very limited, is that correct?

A. Yes.

Q. Can you estimate for us how much class time in medical school you actually had about the disease called "asbestosis"?

A. It was infintesimal. I would say less than one percent of all the time -- much less than one percent.

MR. DAGGETT: Mr. Wartnick, please forgive me but let me interrupt for just a minute. Can we stop the tape?

(Discussion off record) (Short recess taken)

MR. DAGGETT: Can I ask that the record show that we took this short recess because it appeared to those viewing the television monitor that through some kind of lighting mischance Dr. Perlmutter for the first few minutes today had a left eye that was black, and the lighting people have now corrected that, and if he looks just a little bit better lighted as we begin again, that's why.

MR. WARTNICK: Q. Doctor, would you estimate the amount of time which you spent studying about

asbestosis in medical school to be an hour or less?

A. It was a fraction of one percent, a very small fraction of one percent.

Q. An hour or less?

A. Oh, they were discussing at the time mining procedures and the problems of miners and I always associated asbestosis with mining.

Q. You would estimate the amount of time to be about an hour?

A. A portion of the hour. They didn't pinpoint "asbestos" or "asbestosis."

Q. From the time that you left medical school until you went to work for Fibreboard, did you do any study on the subject of "asbestos" or "asbestosis"?

A. No.

Q. In the period that you worked for Fibreboard commencing in -- well, strike that. You knew when you were working for Fibreboard that they were making a thermal insulation product which used asbestos; correct?

A. Yes.

Q. You knew from medical school that asbestos could cause disease?

A. Yes.

Q. And you knew that the disease "asbestosis" could cause disability; correct?

A. Yes.

Q. And you knew that the disease could cause death; correct?

A. Yes.

Q. You also knew from medical school that there was no cure for the disease "asbestosis"; correct?

A. Yes.

Q. That the only way to prevent the disease, or that the only thing to do about the disease was to prevent it from occurring in the first place; is that correct?

A. Correct.

Q. Your total knowledge of the disease, however, was that less than an hour which you had received in medical school; correct?

A. From recollection, that's about all I can remember.

Q. You knew that asbestos was being used at the plant in the insulation; correct?

A. Correct.

Q. And you knew that that insulation was being used at worksites; correct?

A. Yes.

Q. Doctor, from the time that that thermal insulation factory opened at Emeryville until you left Fibreboard in 1950, what efforts, if any, did you make to learn what amount of asbestos exposure was necessary to cause disease?

MR. DAGGETT: I object to the form of the question as assuming that any effort was his responsibility. Mr. Wartnick, he's testified that it was his impression that people working with asbestos in places like the Fibreboard plant and in places like applicator sites didn't get asbestosis. He said he thought it was in the mines.

MR. WARTNICK: Q. You may now answer the question, Doctor.

A. Repeat your question..

Q. From the time that the thermal insulation plant opened in Emeryville in late 1941, until you left Fibreboard's employment, in 1950, what efforts, if any, did you make to learn what amount of asbestos was necessary to cause disease?

MR. DAGGETT: Where? I object to the form of the question as indefinite. Where?

MR. WARTNICK: To any human being.

MR. DAGGETT: To any human being doing what?

MR. WARTNICK: Breathing dust containing asbestos.

MR. DAGGETT: Anywhere?

MR. WARTNICK: Anywhere.

A. I never asked specifically the amount. I was aware and talked to the people who were working to eliminate dust and I felt that the procedures being undertaken cut the amount of asbestos dust down radically.

Q. To what level did they cut the dust down?

A. I don't know. I didn't have any figures on the level.

Q. Did you at any time endeavor to learn what level of asbestos exposure was safe?

MR. DAGGETT: Objected to as assuming that at that time methods to do that were available.

MR. WARTNICK: You may answer the question, Doctor.

A. I didn't know any level.

Q. Did you make any effort to find out?

A. No.

Q. What efforts did you make to learn what levels of asbestos exposure workers in shipyards using your thermal insulation products were exposed to?

MR. DAGGETT: Objected to as assuming he had any duties respecting those workers.

Answer if you can, Doctor.

A. It's true, I had no duties respecting those workers.

MR. WARTNICK: Q. Did you make any effort to find out the levels of asbestos to which they were exposed from products manufactured by your employer?

A. One of the things, as I brought out, I was not certain whether these were contract workers or whether they were employees of Pabco, and to this day I don't know if they were. My impression was they were contract workers.

Q. Doctor, my sole question to you is: what effort, if any, did you make to learn what levels of asbestos exposure these workers were exposed to?

A. I didn't make any effort regarding this.

Q. During the years that you worked for Fibreboard you were a member of the Alameda County Medical Society; is that correct?

A. Correct.

Q. And they maintained a library?

A. Yes.

Q. You had access to that library?

A. Yes.

Q. And you knew from your medical school training how to use a medical library?

A. Yes.

Q. During the years that you worked at Fibreboard the University of California maintained a library at its medical school in San Francisco?

A. Correct.

Q. And you as a licensed physician had access to that library?

A. Right.

Q. During the years that you worked for Fibreboard, Stanford University maintained its medical school in San Francisco; is that correct?

A. Correct -- part of -- around that time they moved, but they were there for awhile.

Q. They moved in the late fifties or sixties; I believe?

A. I don't remember what part. They did it by increments.

Q. And they maintained a medical library in San Francisco, at the medical school?

A. Yes.

Q. And you had access to that school?

A. Yes.

Q. During the years that you were at

Fibreboard what efforts did you make to learn about the disease process of asbestosis?

MR. DAGGETT: Objected to as assuming that he had any reason to at Fibreboard, as assuming that any facts gave him any duty to.

Answer it if you can, Doctor. It's the same question. It's not a different question because he asked it again.

A. We did not recognize at the time that there were any cases of asbestosis or anyone was suffering from the problem because of it.

MR. WARTNICK: Q. However, you knew at that time that the only solution to the problem of asbestosis was to prevent it before it occurred; correct?

A. Correct. And we did our level best to see that the area was free of asbestos fibers.

Q. What efforts did you make to see that workers in shipyards did not inhale unsafe levels of asbestos fibers generally?

A. I had nothing to do with their work practices.

Q. Did you at any time research what was a safe level of asbestos exposure?

MR. DAGGETT: Where? To whom? When? And

under what circumstances?

MR. WARTNICK: Q. During the period that you worked at Fibreboard, did you research at any time what was a safe level of asbestos exposure for human beings?

MR. DAGGETT: Objected to as still vague and indefinite in form.

Answer if you can, Doctor.

A. I did not find out what the -- any level that was safe.

MR. WARTNICK: Q. And you did not attempt to find out, is that correct?

A. No.

Q. No, you did not attempt to?

A. No, I did not attempt.

Q. Thank you. Doctor, just one other line of questioning and I will be finished. Yesterday after lunch Mr. Daggett asked you some questions about comments that were made between you and Mr. Kazan before lunch yesterday. When you had that conversation with Mr. Kazan before lunch yesterday was it your understanding that the comments that were made by both you and he were in jest?

MR. DAGGETT: I object to that as calling upon Dr. Perlmutter to determine Mr. Kazan's state

of mind at the time.

I will permit an answer, Doctor.

A. I just commented on the fact that -- what he said. I made no interpretation of it at all.

MR. WARTNICK: Q. You didn't feel threatened by what he said, did you?

A. I thought it was a little queer, but it didn't worry me.

MR. DAGGETT: I think the doctor's demeanor on the video tape in answering that probably says more than the answer.

I wish you wouldn't pursue it. I think it was something Mr. Kazan wishes he hadn't done and I think in the hands of a very seasoned lawyer and counsel of record here it was a dismaying thing to do with a witness.

MR. WARTNICK: Q. Doctor, there were some other discussions off the record during some of the breaks yesterday also; correct?

A. You have to be more specific.

Q. Well --

MR. DAGGETT: The doctor had none, Mr. Wartnick. He was in another room.

MR. WARTNICK: Q. Well, Doctor, you were present yesterday afternoon when Mr. Daggett came up

to Mr. Kazan in your presence and suggested that you anesthesize Mr. Kazan to level 6; you remember that?

MR. DAGGETT: No. No. It was to the sixth stage.

MR. WARTNICK: Sixth stage. Thank you.

MR. DAGGETT: Yes.

A. I have no comment.

MR. WARTNICK: Doctor, thank you. I have no further questions.

MR. DAGGETT: Other counsel have questions of Dr. Perlmutter?

MR. BURNS: I have just a couple, Counsel.

MR. DAGGETT: Very good.

EXAMINATION BY MR. BURNS:

MR. BURNS: Q. Doctor, my name is Patrick Burns. I also represent plaintiffs. And I just have a few questions for you, please.

First of all, you told us yesterday that Fibreboard had a dust control system that was instituted in the plant?

A. Yes.

Q. And do you recall about what year that was started, Doctor?

A. I can't remember the year these plants were built, but the original engineer at that time was aware of dust problems and commenced some sort of removal. Now, subsequently much more complete dust removal techniques were instituted in the asbestos plant, including very powerful exhaust fan -- or fans -- I can't remember if there was more than one -- and differential in pressure so that it was a sort of a vacuum-like effect at times.

Q. And, Doctor, what was the name of this first engineer who instituted the control system?

A. I am not positive of the name. One of them was Mr. Rosen. And he's dead now. Has been for years.

MR. DAGGETT: Doctor --- excuse me -- but these simple, plain questions don't call for a monologue. This question just calls for: do you remember the name?

A. I don't remember for certain. I just remember that one name. And I don't know when he was there.

MR. BURNS: Q. All right. And I believe yesterday you told us the names of some of the other gentlemen who held that position --

A. Yes.

Q. -- including Mr. Hoopes, later on?

A. Mr. Hoopes. I know that definitely.

Q. All right. When this first system was started by Mr. Rosen, or whomever at that time, was this prior to your going into the army?

A. Yes.

Q. So it would have been in the period of prior to 1942?

A. I don't know how effective it was at that time.

Q. All right. And was it at this time that the system was licensed to the other companies?

A. No. It was after that.

Q. This was after you returned from World War II that it was licensed to other companies?

A. Oh, wait a minute. I can't remember the exact time it was licensed. I had nothing to do with the arrangements.

Q. Of course.

MR. DAGGETT: Doctor, you don't have to explain to this record or these lawyers why you don't remember.

A. All right.

MR. BURNS: Q. All right. So you're not sure --

MR. DAGGETT: Doctor, I want to advise you of something. A fair case can be made for the proposition logically that there is never any reason why you don't remember. Please don't consider it necessary always to give one.

MR. BURNS: Q. You are not sure then, Doctor, whether this was before or after your military service that the licensing agreement took place?

A. No, I can't remember the time.

Q. All right. And do you recall the names of the companies in the United States who bought the license?

A. I don't remember them.

MR. DAGGETT: There wasn't any testimony of that, Mr. Burns. The testimony was that he thinks there was a license to people in Darlington, England.

MR. BURNS: Q. Well, my understanding of yesterday's testimony, and please correct me if I am wrong, Doctor, was there were three companies in the United States and one company in England?

A. That's what I remember.

Q. But you don't recall any of the names of the companies?

A. None of them, no.

Q. Fine.

MR. DAGGETT: I stand corrected. Excuse me.

MR. BURNS: Certainly.

Q. Doctor, at the time this dust control system was instituted did you have any discussions with Mr. Rosen or any other company official regarding the desire to eliminate the asbestos dust from the atmosphere?

A. No, I had no conversations with Mr. Rosen.

Q. Or any other company official?

A. No.

Q. Was your advice ever sought regarding the removal of the asbestos dust from the plant?

A. No.

Q. At any time, did any company official discuss with you any hazard of asbestos dust to the workers in the plant?

A. No.

Q. Doctor, I would now like to hand you four or five pages that have been stapled together.

Counsel, if you would like to take a look at it first.

MR. DAGGETT: Yes, I would. Thank you very much, Mr. Burns. (Examining)

This is the well known extract from what the doctor called the antique Boyd on Pathology

copyrighted in 1934?

MR. BURNS: That's correct.

MR. DAGGETT: I assume you want that marked still another time?

MR. BURNS: Please. Yes.

(Five-page document, extract, A TEXT-BOOK of PATHOLOGY, AN INTRODUCTION TO MEDICINE by William Boyd, marked for identification Exhibit 2)

MR. DAGGETT: All right. He'll probably ask you if you have ever seen that before.

MR. BURNS Q. Well, Doctor I believe in fact that after your last deposition that you copied that yourself and forwarded that either to the reporter or to the attorneys for Fibreboard or Mr. Kazan?

A. That was the first discussion I had with anyone concerning my previous knowledge.

MR. DAGGETT: Mr. Burns, you've struck a major blow for the truth in discovery. At long last we know why that copy is illegible.

MR. BURNS: I'm sorry. Would you read back the doctor's last answer?

(Answer read as follows: "That was my first discussion I had with anyone concerning my previous

knowledge.")

Q. Of asbestosis, Doctor?

MR. DAGGETT: Doctor, the question was whether you copied that from the book and sent it back to the reporter or one of the lawyers. That was the question.

A. I did not copy this. Miss Nanette Hudson --

MR. DAGGETT: Doctor, the question didn't call for who copied it. It just said: did you?

A. No, I did not copy it.

MR. BURNS: All right.

Q. Was that copy made of the book by Professor Boyd that was in your possession?

A. Yes.

Q. All right. And who did make that copy, Doctor?

A. Miss Nanette Hudson.

Q. All right. And, Doctor, that book that we have here, PATHOLOGY by William Boyd, that was the book that you had studied while you were in medical school?

A. Yes.

MR. BURNS: All right. Fine. Thank you. I have no other questions.

MR. DAGGETT: Other counsel have questions of the witness? (No response)

Thank you.

FURTHER EXAMINATION BY MR. DAGGETT:

MR. DAGGETT: Q. I have just one or two on redirect, Dr. Perlmutter, which will focus very briefly on testimony you gave in answer to questions by Mr. Kazan yesterday respecting the transcript and video tape of the deposition Mr. Kazan took of you on November 13, 1982, I believe in Tucson.

I call your attention to your testimony yesterday in answer to Mr. Kazan's questions that after you received the reporter's transcript of your deposition you noticed certain corrections you would have liked to make, and I call your attention also to your testimony yesterday that you knew of no inaccuracy in the video tape recording of your deposition testimony. With that background I will ask these few questions.

When you got the written reporter's transcript of your 1982 deposition and you read certain of the questions and answers throughout the transcript, were you satisfied with the answers you gave at the

time?

A. No.

MR. WARTNICK: Objection. It is vague and ambiguous.

MR. DAGGETT: Q. Were you satisfied, Doctor, upon reading the questions that the answer you gave was the answer you wanted to give to the question as you read it rather than heard it?

A. No, I was not satisfied.

Q. Do you recall whether or not some of the questions at your 1982 deposition were rather long?

A. That's correct.

Q. Did some of the questions have assumptions or elements in them which you identified when you read the questions which you were unaware of when you heard them?

A. That's correct.

Q. And as a result of that, if given the opportunity, would you have liked to have amplified some of the answers you gave?

A. That's correct.

Q. Tell us whether or not you would have liked to have qualified some of the answers you gave?

A. Correct.

Q. And would you have liked to have added to

some of the answers you gave?

A. Correct.

Q. And were there some that you just plain would have liked to correct?

A. Yes.

MR. DAGGETT: Thank you. I have no further questions.

MR. WARTNICK: I have one or two on your examination.

MR. DAGGETT: Very good. That's your microphone over there.

FURTHER EXAMINATION BY MR. WARTNICK:

MR. WARTNICK: Q. Doctor, the answers reported in that transcript are the answers which you gave: correct?

A. Some of the sentences as they were typed out were a little garbled. Some of them, as I started reading them and saw the printed word and the sentences and paragraphs, were a little confusing and I would like to have had them clarified.

Q. When was it that you saw that transcript?

MR. DAGGETT: He said that yesterday. But go ahead answer it again, Doctor.

A. I called Mr. Rappeport because I expected

the attorney --

MR. WARTNICK: Q. The question, Doctor, is when did you see that transcript?

A. Months later. Months later.

Q. That would be two years ago now?

A. Yeah.

Q. Have you made any corrections in the past two years to that transcript?

MR. DAGGETT: I will stipulate, Mr. Wartnick, that no corrections of record have been made.

MR. WARTNICK: Q. You have not, Doctor, is that correct?

A. I have not.

Q. Do you intend to?

MR. DAGGETT: He's not going to answer that. We're not quite sure what we're going to do about it because his present counsel discovered this only recently. He has testified yesterday that during the interim he's been in doubt about whether he had the right. But he'll make up his mind what to do and that will either be nothing or something and he will do it with counsel, I hope.

MR. WARTNICK: Q. You agree, Doctor, that you have had approximately two years within which to make those corrections?

MR. DAGGETT: Don't answer the question in that form, Doctor. That assumes that he knew what his rights were and he knew of the procedure to use in enforcing his rights and he's testified that he didn't.

MR. WARTNICK: Q. Did you receive a letter from the court reporter telling you you had the right to make corrections to the deposition?

A. I don't recall what was in that letter. I understood that I was to get the transcript immediately as it was typed and that I would have an opportunity to correct it.

MR. DAGGETT: Perhaps Mr. Wartnick can tell you, Doctor, how you correct a transcript you haven't got because you have a letter from the reporter saying you can.

MR. WARTNICK: I am now totally confused.

MR. DAGGETT: That's pretty much what it is.

MR. WARTNICK: We finally found something we can agree on.

MR. DAGGETT: We have now reached --

MR. WARTNICK: Doctor, I have no further questions.

MR. DAGGETT: This is epistemological equilibrium. Apparently there are no further

questions.

MR. BURNS: Just a couple other, Counsel.

MR. DAGGETT: Oh, excuse me, Mr. Burns.

FURTHER EXAMINATION BY MR. BURNS:

MR. BURNS: Q. Doctor Perlmutter, at that deposition approximately two years ago you were represented there by your own counsel, were you not?

A. Yes.

Q. That was in addition to attorneys for Fibreboard?

A. Correct.

Q. They were not one and the same? They were different attorneys?

A. Correct.

Q. And do you recall at the time of that deposition that the attorneys did make objections to certain of the questions that were asked?

MR. DAGGETT: The transcript will speak for itself, Mr. Burns. He's not going to answer that.

MR. BURNS: All right. No other questions.

MR. DAGGETT: All right.

Dr. Perlmutter, apparently there is no further examination of you at this deposition. Thank you.

(Deposition closed at 10:45 a.m.- see page re Mr. Kazan's remarks re adjourning of deposition)

Signature of Witness

STATE OF CALIFORNIA )
) ss.
CITY AND COUNTY OF SAN FRANCISCO )

I hereby certify that the witness in the foregoing deposition named

HENRY A. PERLMUTTER, M.D.

was by me duly sworn to testify the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of said witness was reported by me,

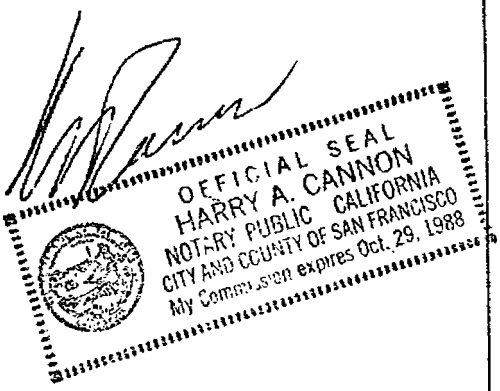
HARRY A. CANNON

a Certified Shorthand Reporter and disinterested person, and was thereafter transcribed into typewriting, and that the pertinent provisions of the applicable code or rules of civil procedure relating to the notification of the witness and counsel for the parties hereto of the availability of the original transcript of deposition for reading, correcting and signing have been complied with.

And I further certify that I am not of counsel or attorney for either or any of the parties to said deposition, nor in any way interested in the outcome

of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office the 5th day of November, 1984.



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TELEPHONE: (415) 391-7691

Henry A. Perlmutter, M.D.
c/o Brobeck Phleger & Harrison
One Market Plaza
Spear Street Tower
San Francisco, Ca 94105

Date November 9, 1984

In Re ASBESTOS P R O D U C T CASES

Dear Dr. Perlmuter:

Pursuant to the provisions of 2019 (e) and (f) CCP 1/1/79 and as amended by AB 400, 4/2/79, you are advised that your deposition taken in the above matter on October 29-30, 1984 is available at this office for your review, reading and signing, and the making of such corrections as you deem necessary.

Section 2019 provides that you have thirty days following receipt of this letter within which to avail yourself of the opportunity to read, correct and sign your deposition. There is an alternate provision, i.e., "The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following (this notification) by means of a letter addressed and mailed or delivered to (our office)..." (Underlining added).

Very truly yours,
HARRY A. CANNON, INC.

Invoice # A-190

Reporter Harry A. Cannon, CSR

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HIBERNIA BANK BUILDING - SUITE 550
201 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE: (415) 391-7421

Henry A. Perlmutter, M.D.
c/o Brobeck Phleger & Harrison
One Market Plaza
Spear Street Tower
San Francisco, Ca 94105

Date November 9, 1984

In Re Asbestos Product Cases

Dear Dr. Perlmutter:

Pursuant to the provisions of 2019 (e) CCP, effective 1/7/77 and FRCP 30 (e), you are advised that your deposition in the above matter taken on October 29-30, 1984 is available at this office for your reading and signing, and the making of such corrections as you deem necessary.

In the event you have not read and signed your deposition by December 15, 1984, it will be filed with the Clerk of the Court unsigned.

Very truly yours,

HARRY A. CANNON, INC.

Invoice # A-190

Reporter: Harry A. Cannon, CSR

Fed

# EXHIBITS

# The Journal

OF THE

# American Medical Association

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MORRIS FISHBEIN, M.D.

Assb-CA Edit

VOLUME 140

July—~~XXX~~ AUGUST 1949

AMERICAN MEDICAL ASSOCIATION, CHICAGO 10, 1949

EXHIBIT
WITNESS PERLMUTTER
10-26-54
MARY A. CARNON, C.S.R.

ydrogen), accelerated in the magnetic field of the cyclotron, strike the target of the machine.

Until recently, on the basis of acute experiments with mice, the assumption was granted that neutrons were no more than five times as effective as roentgen rays for biologic purposes. Recent work [6] and the sad experience of these young physicists point to the probability that a grave underestimate was made and that for certain organ systems, such as the lens and the gonads, neutrons may have four to eight times the effectiveness originally suspected.

Unfortunately for the physicists, protection procedures and exposure limits were based on the earlier assumption. Once again, as in the past with roentgen rays and radium, people have unwittingly been injured before an adequate understanding of a hazardous agent was had. Furthermore, even now dosimetric methods for neutrons are unsatisfactory.

An understanding of the mechanism of interaction of radiation with the components of biologic matter becomes important. In the case of roentgen rays the energy is first given to electrons, which move at high speed through the tissue. These electrons in turn dissipate their energy by collision with biologic matter, causing chemical alterations. However, the damage to any one cell by one electron is relatively small.

In the case of neutrons the energy is principally dissipated by collision with the hydrogenous component of tissue. The high speed protons thus set in motion liberate a large amount of energy per unit length of path. Thus the passage of one high energy proton through a cell may produce sufficient destruction to injure it permanently.

There is evidence that roentgen rays are relatively effective only against dividing cells, while neutrons may injure the cell at any phase. Thus the biologic effects produced by neutrons may be both quantitatively and qualitatively different from the effects of the roentgen ray. The urgency for research in this relatively unexplored field is evident.

In a broader sense, the experience of these young physicists points to the tremendous responsibility devolving on those—both the physicist-engineers and the agencies supporting their work—who are concerned with exploring the new frontiers of the physical sciences. It is not enough to dismiss the responsibility with the mere warning that a danger may exist or to extrapolate, as was done with the neutron, from inadequate analogies. The biologic implications of the new unknowns should be subjected to investigation parallel with their physical implications and with equal vigor.

6. Stone, R. S.: Neutron Therapy and Specific Ionization, Am. J. Roentgenol. 59: 771-785 (June) 1948. Evans, T. C.: The Effects of Small Daily Doses of Fast Neutrons on Mice, Radiology 50: 811-814

## ASBESTOSIS AND CANCER OF THE LUNG

Until recently the coexistence of asbestosis and cancer of the lung was considered by many investigators a coincidence. Since 1935, 23 such cases were recorded by American, English and German physicians. Wedler [1] noted 14 cases of asbestosis cancer in a series of 92 necropsies on patients with asbestosis, or about 15 per cent of cancer of the lung in persons who died from this industrial disease. The exposure time ranged from 3 to 27 years (average 15 years). The ages in 17 cases were 35 to 75 years (average 50 years). Until now the question of a causal relation between asbestosis and cancer of the lung has been an open one. The recently published Annual Report of the Chief Inspector of Factories in England for 1947 provides additional data on the actual existence of such interrelations.[2] During 23 years, 1924 to 1946 inclusive, 235 deaths, either caused by asbestosis or in which asbestosis had been established at necropsy, were reported to the Chief Inspector. Cancer of the lungs or pleura was found in 31 of these cases (13.2 per cent). Of the 128 male deaths in this group 22 (17.2 per cent) were complicated by cancer of the lung, while of the 107 female deaths 9 (8.4 per cent) were similarly affected. The mean age at death from asbestosis complicated by cancer of the lung was 52.1 years. A causal relation between asbestosis and cancer of the lung is supported by the following observations: The incidence rate of cancer of the lung in this group is excessive, since the normal death rate from cancer of the lung among adults examined at necropsy at present is about 1 per cent of all necropsies. Moreover, there is a distinct shift in the sex distribution of cancer of the lung in the series of asbestosis cancers reported from England. The male-female sex ratio is 2.4:1, while it is 5:1 for cancers of the lung in general. This shift indicates that an environmental and evidently occupational carcinogen was active in the asbestosis group, tending to equalize the incidence rate of cancer of the lung for both sexes. Recent experimental observations support this interpretation of clinical evidence. Nordmann and Sorge [3] exposed mice to inhalation of asbestos dust and found that in 20 per cent of the surviving animals there developed squamous cell cancer originating from the bronchial mucosa, while other types of epithelial proliferation were present in 42 to 57 per cent of these animals, in addition to diffuse or nodular fibrosis of the lung. The histologic character of the cancers (squamous cell cancer instead of adenocarcinoma seen in the spontaneous cancer of the lung of mice) and the histogenetic derivation of the tumors (bronchial mucosa instead of alveolar epithelium of the spontaneous type) indicate that a specific factor of

1. Wedler, H. W.: Asbestose en Longenkrebs, Deutsche med. Wchnschr. 69: 573, 1943.

2. Extract from Annual Report of the Chief Inspector of Factories for the Year 1947: Medical Section, London, His Majesty's Stationery Office, 1947, pp. 15-17.

3. Nordmann, M. and Sorge, A.: Lungenkrebs durch Asbeststaub

exogenous origin, represented by the inhaled asbestos dust, was responsible for the bronchial cancers observed. Since [illegible] workers are employed in the asbestos-producing industries of this country and Canada and many additional thousands in various asbestos-consuming industries, increased attention to this probable occupational hazard of cancer of the lung by the medical profession is desirable. Cytologic examinations of the bronchial secretion may well be included in the periodic examination of workers exposed to asbestos dust whenever clinical or roentgenologic evidence indicates the possible existence of a pulmonary cancer. As the available evidence shows that the occurrence of cancer of the lung is related to pulmonary asbestosis and is not merely a possible sequela of exposure to asbestos dust, in all fatal cases of asbestosis there should be postmortem examination with detailed histologic analysis. The anatomic lesions produced by asbestos dust in the lungs make difficult at times distinction by clinical and roentgenologic diagnostic methods between changes of pneumoconiotic nature and those that might indicate a cancerous growth.

## Current Comment

### NODULAR PANNICULITIS—WEBER-CHRISTIAN DISEASE

Weber-Christian's disease, or nonsuppurative nodular panniculitis, is characterized by recurring episodes of fever and the development of numerous painful and slightly tender subcutaneous nodules. In only 3 of 33 recorded cases was death apparently due to the disease. In the case reported by Kritzler,[1] in which necropsy was done, the nodular lesions were limited to the subcutaneous fat. However, fat emboli were found in the lungs and there was widespread acute necrosis of the liver and spleen. In the case examined at necropsy by Spain and Foley,[2] necrotic areas were found not only in the subcutaneous fat but in the mesenteric, omental and pretracheal fat. Fat emboli were not found in the lungs, nor were areas of necrosis observed in the liver or spleen. However, foci of fat necrosis were present in the region of the pancreas. A third case investigated at necropsy was that of Mostofi and Engleman,[3] in which nonsuppurative panniculitis involved the skin, the epicardium and the peripancreatic, periadrenal, perirenal and mesenteric tissues. The nodules in the fat are of variable appearance. The earliest lesions consist of small accumulations of fat-laden macrophages. Later, there are somewhat larger lesions that present small areas of central necrosis in the immediate vicinity of which are lymphocytes, polynuclear leukocytes and fat-laden macrophages. In still older nodules, the necrotic material is decreased or absent and the lesions are partially or completely replaced by fibrous tissue. In Spain and Foley's patient, who was an alcoholic addict, there were changes indicating a late stage of chronic glomerulonephritis, and death occurred with the symptoms of uremia. Such changes in the kidney are perhaps to be interpreted as accidental necropsy findings without direct relationship to the syndrome under discussion. A disease in rabbits apparently analogous to that of nonsuppurative panniculitis in man has been described by Duran-Reynals[4] and others. The cause of Weber-Christian's disease is unknown.

1. Kritzler, R.: A Case of Weber-Christian's Disease, Proc. New York Path. Soc., 1910-1911, p. 47.
2. Spain, D. M., and Foley, J. M.: Non-Suppurative Panniculitis, Am. J. Path. 20: 781, 1944.

### CRISIS IN SCIENTIFIC RESEARCH

Further evidence that the medical profession must coordinate and intensify its protection of the right to carry on experimental studies on animals in laboratories is provided in a report on this type of legislation in the District of Columbia. Representatives from twenty-six national health and science groups, leading hospitals, lay groups and governmental agencies have united behind Senate bill 1703, providing for laboratory use of the 7,000 to 10,000 unclaimed dogs now destroyed each year in the District pound. The usual frenzied distortion and political pressure by antivivisectionists have placed the bill in jeopardy, according to the National Society for Medical Research. The society quotes Dr. A. C. Ivy, its secretary-treasurer, to the effect that members of the special Senate committee to which the bill was referred are personally in favor of it but the bill probably will not be reported out. Dr. Ivy has issued an appeal that interested persons write letters of endorsement to Senator J. Howard McGrath, of Rhode Island, who introduced the measure, and Senator Margaret Chase Smith, of Maine, chairman of the subcommittee. Some such concerted action is necessary at state as well as national level to beat back efforts of a small, misguided group to obstruct the advancement of science.

### FIRST TELEVISION NETWORK HEALTH SHOW

The first health education program ever presented on a television network was viewed and heard from the NBC-TV studios in Radio City, New York, June 16. Transmitted as far west as Chicago, the program, titled "Your Good Health and the Mighty Atom," was arranged through the Bureau of Health Education of the American Medical Association and produced under the supervision of Mrs. Harriet Hester, radio coordinator for the Bureau. The program dealt with the use of radioisotopes in medicine, particularly radioactive iodine. Dr. Paul C. Aebersold, Chief, Radio-isotopes Division, United States Atomic Energy Commission, Oak Ridge, Tenn., was interviewed by an NBC announcer on the principles of radioactivity. With a Geiger counter specially amplified, Dr. Aebersold demonstrated first how radioactivity can be traced and atoms identified. Later, with a patient furnished by Dr. Sidney C. Werner, Columbia College of Physicians and Surgeons and Presbyterian Hospital, he demonstrated concentration of radioactive iodine in the thyroid.

# A TEXT-BOOK

OF

# PATHOLOGY

## AN INTRODUCTION TO MEDICINE

BY

WILLIAM BOYD

M.D., M.R.C.P., Ed., F.R.C.P., Lond., Dipl. Psych., F.R.S.C.

PROFESSOR OF PATHOLOGY IN THE UNIVERSITY OF MANITOBA; PATHOLOGIST TO THE WINNIPEG GENERAL HOSPITAL, WINNIPEG, CANADA

*SECOND EDITION, THOROUGHLY REVISED*

ILLUSTRATED WITH 416 ENGRAVINGS AND 8 COLORED PLATES

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## THE PNEUMOCONIOSES.

The long-continued inhalation of certain irritating dusts may cause a chronic interstitial pneumonia known as pneumoconiosis (*konis*, dust). The outcome of these dust diseases is entirely dependent on the presence and amount of silica in the dust. The dangerous pneumoconioses are silicosis and asbestosis, both of which may be disabling or fatal. Anthracosis, a condition caused by the inhalation of carbon in coal dust, is harmless in comparison.

**Silicosis.**—This is the most important of the dust diseases, and provides a serious hazard in the gold-mining industry in certain districts such as the South African Rand and northern Ontario. If, in coal mining, hard rock has to be drilled through, coal-miners may also

suffer. Other occupations in which there is danger are tin-mining, stone-working, metal-grinding and sand-blasting. In all of these cases dust containing fine particles of silica may be inhaled over long periods of time.

The particles, which are taken up from the bronchial mucous membrane by phagocytes and carried into the lymphatics in the stroma, are sharp and angular, but the real danger lies in the fact that silica is slowly soluble in tissue fluids, and in this form exerts a specific chemical action. When injected subcutaneously it produces necrosis, and the slow reaction in the lung results partly in necrosis but to a much greater degree in fibrosis. The fibrosis is at first patchy, corresponding to the deposits of silica in minute lymph follicles adjacent to the terminal bronchioles, and takes the form of "silicotic nodules" (Fig. 175), composed of concentric layers of fibrous tissue and readily palpated in the lung. These nodules gradually coalesce, and the fibrosis becomes widespread. In extreme cases the lung becomes stony

FIG. 175.—Silicosis. Fibrous nodules in the lung the result of irritation by particles of silica. X 12.

hard, and in one instance I had to saw the lung in two. The functional capacity of the lungs is greatly interfered with, and the chief symptom is marked dyspnea. The necrotizing action of the silica may lead to destruction and cavitation, but these changes are usually due to an accompanying tuberculosis.

Most silicotics die of tuberculosis because the presence of silica in the tissues favors the growth of tubercle bacilli to an astonishing degree. This was shown by Gye and Kettle, who injected a mixture of silica and tubercle bacilli into mice and observed very rapid development of the tuberculous lesion. When silica is injected subcutaneously and tubercle bacilli are injected intravenously on the following day the same effect is observed. The tuberculous infection to which the patient succumbs may be acquired before or after exposure to silica dust.

*Pulmonary asbestosis* is due to the inhalation of asbestos dust which may contain over 50 per cent of silica. The disease is acquired either during the

crushing of asbestos rock or in the process of carding the asbestos. The lung shows the airless and fibrosed condition found in silicosis, and on the cut surface there are areas of caseation with cavity formation. The characteristic microscopic feature, in addition to a large amount of silica dust, is the presence of large angular particles which are probably fragments of asbestos fibers, and curious golden-yellow bodies with a globular end and segmented body. (Fig. 176.) The latter structures, which may be called asbestos bodies, are pathognomonic of the condition, but their exact nature is not understood.

*Anthracosis*, due to coal dust, is the commonest but least harmful of the dust diseases. It is found in coal-miners, but a varying amount of coal dust is present in every lung at autopsy, and no sharp line can be drawn as to the amount which constitutes anthracosis. It does not cause much irritation as it is insoluble, and a lung may be loaded with it yet show little fibrosis. The carbon particles are taken up by mononuclear phagocytes and deposited in the interlobular septa, the deep layers of the pleura, and the bronchial lymph nodes. All of these structures and especially the lymph nodes acquire a coal-black color. Anthracosis does not predispose to tuberculosis; indeed, coal-miners are singularly free from that disease.