



Northern Ireland
Assembly

**COMMITTEE FOR
FINANCE AND PERSONNEL**

**OFFICIAL REPORT
(Hansard)**

**Damages (Asbestos-related Conditions)
Bill**

23 February 2011

NORTHERN IRELAND ASSEMBLY

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FINANCE AND PERSONNEL**

Damages (Asbestos-related Conditions) Bill

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Members present for all or part of the proceedings:

Mr David McNarry (Chairperson)
Mr Paul Frew
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Declan O'Loan
Ms Dawn Purvis

Witnesses:

Mr James Armour
Mr Hugh Campbell
Mr William McAvoy

Ms Oonagh McClure) Thompson McClure Solicitors

Dr Allan Henderson) Lorn and Islands District General Hospital

The Deputy Chairperson (Mr McNarry):

I welcome Oonagh McClure, Mr James Armour, Mr Hugh Campbell and Mr William McAvoy. We are glad to see you and appreciate that you are giving up your time to come before the Committee.

I advise you, as I have previously advised members, that there is a plenary sitting today. That is unusual for a Wednesday, but if we hear bells, it might be the fire alarm, but it may mean that we have to disrupt our proceedings. Hopefully, your proceedings will not be interrupted. If we

need to, we will have to allow time for members to go to the Chamber to vote and come back again, in case you wonder what is going on.

I also advise you that although your evidence can no longer be used to inform a Committee position on the Bill as we will not now be reporting on it due to insufficient time, the information that you provide will be made available to inform the wider Assembly in its consideration of the subsequent legislative stages of the Bill, including Consideration Stage, which is scheduled for next Monday. It is a question of timing, but your witness statements and evidence are very valuable to the Committee, and, once again, I thank you for being here.

I invite Oonagh to make an opening statement on behalf of the witnesses.

Ms Oonagh McClure (Thompson McClure Solicitors):

Thank you, Chairman. I am accompanied by Mr McAvoy, Mr Campbell and Mr Armour. These are three of more than 70 men who have pleural plaques with whom I have personal dealings. They have been directly affected by the decision of the House of Lords and will be directly affected by the decision of this Committee and Assembly.

These are the so-called lucky ones, but when members read their statements and hear from them, I think that the Committee will appreciate that they do not consider themselves lucky. Another of my clients said to me that it is like sitting on a time bomb: he has pleural plaques now, he will have pleural plaques in a week's time, in a month's time and in a year's time, and no one knows when the bomb will go off.

In reading the responses that the Committee received, it is notable that the people who deal with these men first-hand acknowledge that anxiety and worry is an issue and that reassurance is never absolute. The risk of mesothelioma is the risk of death. There is no cure and no treatment for mesothelioma, and death is certain within six to 12 months.

Pleural plaques have been compensable in Northern Ireland for more than 30 years. They have always been treated as a personal injury and now, without any change in the law or in medical opinion, through just a moment in time, these men have been told that their condition is not a personal injury and is no longer compensable. There has been much talk about the European Convention on Human Rights, but an employee should be able to go to work safe in the

knowledge that they will be working free from the risk of injury and disease and without the risk of death. The vast majority of employers have acknowledged that these men were negligently exposed to asbestos, which was a great wrong. To deny these men compensation now for their condition is, I suggest, a second great wrong.

The Deputy Chairperson:

Thank you, Oonagh. Gentlemen, you are very welcome. I do not know in which order you wish to address the Committee, so who would like to speak first?

Mr James Armour:

I will. Do you want to hear my experience of asbestos?

The Deputy Chairperson:

We would like to hear your story and your experiences.

Mr Armour:

In the 1950s, when I worked in the shipyard, there was no protection from asbestos; it was not heard of. People worked with their hands; there were no gloves or anything.

They mixed the stuff with water in a half-drum; that was put into a machine and sprayed into the bulkheads like condensation. Asbestos was flying all over the place, and on everyone who was working in that spot, even in the passageways and cabins, it fell like snow. We were puffing it out of our mouths; it was in our hair and everywhere. There was no protection; nobody knew about it.

In the 1950s, I had bleeding in my back passage. I went to the doctor, who told me that I had bleeding piles. I accepted that. In the 1950s, doctors did not know much about asbestos; they only found out about it later in the 1960s and 1970s when it was too late. It ended up being diagnosed as a growth, and I maintain that asbestos caused it. I had to go into hospital and lost my whole backside. I have had a colostomy bag for 24 years — and I am one of the lucky ones. All the people I worked with have RIP after their names; they are all gone. Of about 60, there are just two of us left. I still maintain it was because of asbestos.

We were working along with the pipe covers; that is what they were called then. They have a

big name now; they are now known as thermal insulators. Those fellows did not know anything; they just dumped the stuff, put it on to the bulkheads, put it on the pins, and then they covered it with chicken wire, and then a plasterer came along and plastered over it. A lot of the plasterers died young, too. They were getting it just as much, because they were patting the asbestos in to smooth the bumps.

We worked on aircraft carriers and such like. They were supposed to be sold to the navy, but we had to laugh for they sold them nothing. The red lead, they called it. All the aircraft carriers were sprayed with asbestos in those days. There was nothing else. Nobody told anybody that asbestos was dangerous until the 1960s or 1970s. The doctors did not know; they did not go into it much. They did not tell me. They just told me that I had bleeding piles, but the next thing, it was a growth. I had to go in and I lost that; I have lost a kidney too.

Every time I went to a doctor, he said that my lungs were clear, but I never smoked, so my lungs were always clear. I found later from brochures that asbestos does not leave the body; it grows. Asbestos can land anywhere in your body. I know people who have died from it. A woman can get it from washing her husband's clothes. You have seen that in England. I have the experience of it. My friend's wife took it in her leg and at the back of her eyes. She is dead now; she was a young girl, and her husband is dead too.

There is no use talking about it; asbestos can grow. If you work with it, it grows in your body, and once it lands, it does not leave your body. I have been through that for years. There are buildings full of asbestos. The City Hospital is full of it, and so is the Royal, but as long as you do not touch the plaster on the outside, you are safe. If you start digging it out or breaking it, you do not know what you are doing. If you are going to work on pipes or anything like that, you have to send a specialist in.

Mr Hugh Campbell:

In February 2004, I had had a difficult winter with my chest. I went to my GP and she ordered an X-ray, and there was something asbestos-related in the X-ray. She advised me at that point, both verbally and in writing, to see a solicitor, and I disregarded her advice completely. In November of that year, I had another series of examinations and was diagnosed with lung cancer.

I had a lobe removed in November that year, and I had an infection, which was not very

pleasant. However, I came out of hospital and resumed as much of my normal life as I could. It reoccurred in 2007 and, quite frankly, 2007 was a nightmare. I spent 13 weeks in ward 4 of the Royal Victoria Hospital, and I am not sure how many major operations I had in that time; it was either three or four. They finished up removing four ribs and doing some cosmetic surgery. I am dreadfully scarred, although that is a small thing.

However, since I have recovered, it affects every aspect of my daily life. The simplest job becomes a task. Replacing a light filament used to be just a matter of nipping up a set of steps; now it is a major problem. Sometimes I forget that I have had surgery on my right-hand side, but I am reminded of it immediately after picking up an overweight shopping bag. Mowing the lawn used to be a joy, but now it is a job — a big job. It used to be an hour's worth of pleasure, but not any more.

There are also the small things. In 2007, my first quote for a fortnight's holiday insurance was £1,185. Even yet, I have extreme difficulty getting medical insurance; some companies simply will not touch me. If it had not been for the direction and advice of my oncologist, I would not have had holiday insurance.

I spent 13 weeks in the Royal Victoria Hospital. The NHS has taken a terrible hammering recently, but the care and attention that I got, both in the Royal and in the Ulster Hospital, was first class. My surgeon, Mr Alastair Graham, could not have been better; he supported me, as did the whole staff. Nevertheless, it is something that I am never finished with; it lives with me every day. Over the past six weeks, I have been having some pain in my right-hand side again and that is now being investigated. I have had some exploratory work carried out, and I am waiting for the results of a chest X-ray and a shoulder X-ray. I have two choices: I can sit in a corner or I can make the best of what I have and try to get on with it.

The Deputy Chairperson:

Thank you very much, Mr Campbell.

Mr William McAvoy:

Like Mr Armour, I worked in the shipyard in the early 1950s; I was a fitter and worked among the pipes and valves needed for building a ship. It was not too bad on the engine-work side of it, because a lot of the work was done before the ship came into the fitting-out bay. I then moved to

the repair squad, and that is when the problem started. When working in the repair squad, if a valve had to be changed it had to be stripped of its asbestos. It was not an easy job, and in those days, believe it or not, a hatchet was used to cut through the asbestos plaster. By the time I had finished doing that, the place was covered in white dust; I was breathing in asbestos dust and spitting it out. It got into your nose, your mouth and everything else.

A couple of my mates who worked with me during that time have gone because of asbestosis. I have two other friends who were compensated before the Government said that they would not pay any more claims. They were well looked after, with a nice lump sum and a pension. We are trying to get the Government's decision reversed so that we can get something to improve our lives. I cannot walk up steps, stairs or hills. If I try to go up any of them, I have to get my puffer out and take a few puffs before I can get to the top. The doctor told me not to take my puff at the top but to take it at the bottom because that will help me to get to the top. I have my inhaler with me all the time. I cannot do without it, especially when I wake up in the middle of the night and cannot get a breath. I have to take my inhaler to help me. I cannot play golf any more — although I could not play golf before, anyway. *[Laughter.]*

Mr McLaughlin:

You cannot even try now.

Mr McAvoy:

My golfing days are over. My main hobby now is sea fishing, because I can sit all day without moving and hope to catch a fish.

The Deputy Chairperson:

We wish you many long days of fishing. I am sure that members would like to ask you a few questions, so I hope that you are comfortable with that.

Mr McAvoy:

Yes.

Ms Purvis:

Thank you for coming before the Committee; we were very keen to hear your personal testimony. I found it quite emotional, as I am sure you did, particularly when you talked about friends who

are no longer with you. It seems that knowing that you have pleural plaques has seriously affected your quality of life. Will you tell us how often you think about the pleural plaques in your lungs? How does that affect your day-to-day life? Is it always in your head?

Mr McAvoy:

I suffer chest infections, although not on a daily basis; that is the main thing that happens. When I get chest infections, they floor me. I cannot do much; I just sit about the house, take my antibiotics and hope that it clears up. It clears up sometimes, but it no sooner clears up than I am back on another course of antibiotics.

Mr Purvis:

What is interesting about your case is that you have no other diagnosis in your condition; all that you have is a diagnosis of pleural plaques.

Mr McAvoy:

I was told last Wednesday that I have prostate cancer. Whether that was anything to do with it, I do not know.

Mr Armour:

People keep talking about your lungs, but my lungs are clear because I never smoked. Down below was not perfect; there was a growth, but I could not tell people. At that time, in the 1950s, doctors were not experienced in anything to do with asbestos; they only found out about it in the 1960s and 1970s. I was working with bleeding piles. I was changing my underpants and did not tell anybody. I went for years until this thing started growing, but I did not know. When I was taken into the Royal, Professor Rowlands detected it. He said that if I had not come back in two weeks, the growth would have grown over and that would have been the end of me. A lot of years back, I lost a kidney to cancer. I still maintain that that was because of the asbestos. It stays in your body; it does not go away.

I worked on the cross-channel boats and remember one funny experience. We were on the cross-channel boat to Stranraer or Heysham, and my boss told me to try out the duckwork on the top deck by jumping on the plaster. I went right through it and nearly killed myself. Anyhow, I am still here. The duckwork underneath had rotted away. All that the people going back and forward in those cabins were breathing was asbestos. That was all it was. That went on for years.

Nobody ever looked into the duckwork. It was going on for years. It seems comical that nobody looked into it at the time. People were breathing it in and did not even know. That is going on to this day. People pay big money to go on those old liners; little do they know, lying in their lovely cabins, that the duckwork does not exist and is only plaster and asbestos.

Ms Purvis:

Given that you know that you have been exposed to asbestos, are you constantly thinking about illness or getting sick?

Mr Armour:

I am just out of hospital with stomach problems, but I am 80 going on 81, so I am ready for the knacker's yard. I am not really worried. In a couple of years, that is it for me; but young people will be affected if they do not watch themselves. Once you get it, it does not leave you; the asbestos is in your body and that is it. It can go right through your body or it can stop and grow, and that can happen anywhere. It can grow on your head or your legs. I know a man whose wife was exposed from cleaning his overalls. She was a lovely girl; she was a dancer. It is a hard story to tell. Her symptoms were in her leg and the back of her eye. Her family will tell you that she was exposed to asbestos from her husband's clothes. It must do something to the body, but, to tell you the truth, people do not want to know. You have to have worked with the damn stuff to know.

Ms Purvis:

Hugh, up to a certain point, people with pleural plaques were allowed to pursue compensation claims through the courts, and then the House of Lords overturned that.

Mr H Campbell:

I was aware in February 2004 that I had a legitimate claim, but I did not bother.

Ms Purvis:

Now that you have the strength and health, but not the ability, to pursue that claim, I am sure that you feel that that is very unfair. I am sure that you all do.

Mr H Campbell:

Yes. I would have no hesitation now, and I bitterly regret not taking my doctor's advice in 2004.

It is difficult to explain, but I still have a great loyalty to Shorts. I had 40 years there and had a wonderful time working with some lovely people. It was a very happy time. Shorts paid my mortgage and educated my children and I have a sense of loyalty to them. For someone from my background, there were only two ways of getting money: you earned it or you got it as a gift. That was a factor too. By late November 2004, I assure you that I regretted not going to see a solicitor when my GP advised me to. She advised me not only by word of mouth but she put it in writing too.

Ms Purvis:

Sufferers of pleural plaques have criticised the insurance industry, because it seems to be leading the charge against this.

Mr H Campbell:

It would, of course.

Ms Purvis:

It is not so much the employers. As Oonagh said, the employers have admitted liability.

Mr H Campbell:

I am aware of that now.

Ms Purvis:

It is the employers who paid the big premiums to the big insurance companies. How do you feel about the insurance companies?

Mr H Campbell:

I do not have a problem with the insurance companies paying out. The condition, as I said, affects your daily life seven days a week. We were talking about walking up hills; I do not do hills. Unlike Billy McAvoy, I played golf, but that has gone. I took out membership of a nine-hole course, but that has gone, as well as all sorts of other things. Everything you go to do, every little task, makes you aware. It becomes a job.

Ms Purvis:

Thank you. I appreciate your candour.

The Deputy Chairperson:

Thank you. Members, I want to give our witnesses every opportunity to expand on the subject, but I do not want us to be repetitive. I ask you to work with us; time, as usual, is catching up on us.

Mr McQuillan:

I will try to be brief. We get bogged down in paperwork and legislation, but now we are getting a chance to look into the eyes of people who were affected. Hearing their story first-hand brings home to us what they have gone through. I can only imagine what it was like to work in the shipyards, mixing stuff and choking on it.

Mr Armour:

It was like snow. We were spitting it out. It got in your hair.

Mr McQuillan:

I can only imagine what it was like.

Mr Armour:

We could not see one another sometimes. If the machine was not working, we were just pumping it up passageways. However, we had to work; if we did not work, we had no job.

Mr McQuillan:

Mr Campbell, did you work in the shipyard?

Mr H Campbell:

No, I worked in Shorts.

Mr McQuillan:

What did you do in Shorts?

Mr H Campbell:

I started off as an electrician, and, when my career ended, I was an electrical inspector. There was nothing malicious about asbestos exposure; everyone was exposed to it. There was total

ignorance of it. From top management down to the wee man who swept the floor, we were all exposed to it. I used to supervise people who wrapped generator cables in jet engines with asbestos tape. Everyone who was involved in that work was exposed to it. A lot of asbestos was used in aircraft, particularly jets. The ceiling in Shorts was an asbestos ceiling. It was like the Forth Bridge; it was painted one year after another. They started at one end, moved to the other end and moved back again. They scraped the ceiling, and everyone was exposed to it.

Mr McQuillan:

If you were going to work with asbestos in this day and age, you would be wearing a full protective suit and you would have air blowing round you.

Mr H Campbell:

Yes.

Mr Armour:

You are not even allowed to touch it. My last job was in Telephone House, covering the boilers with sheet metal. I was about to start work when the shop steward told us to stop immediately. He said that the boilers were covered in asbestos and that no one was to touch them. He put us out, and they sent for the specialists, who stripped everything and swept it all up before we were even allowed through the doors again. That is how it is nowadays. It is the same in the hospitals; no one is allowed to touch anything until the specialists come in.

Mr McQuillan:

Sometimes today you think that health and safety has gone a wee bit crazy, but if there had been half the thought put into your security —

Mr Armour:

It is only now that it is coming out.

Mr McQuillan:

I wanted to tell Mr McAvoy that there is great fishing in the sea on the north coast, up around Portrush and Portstewart. The fish are nearly jumping out of the sea; you should try it up there.

Mr McAvoy:

I am booked in for Ballycastle in three weeks' time.

Mr Frew:

I am glad to hear it.

The Deputy Chairperson:

I will not mention Strangford Lough, Portavogie or Portaferry and those beautiful places.

Mr McLaughlin:

You can just pretend that you did not hear that.

Mr O'Loan:

I will be as quick as I can. I also wish to express my appreciation for your coming here. I am sure that you never thought that you would be before a Stormont Committee. How do you react to the argument that pleural plaques do not affect function and are asymptomatic?

Mr H Campbell:

The medical profession seems to think that there is a relationship between pleural plaques and lung cancer, which I suffer from.

Mr O'Loan:

How did you react, and how did you feel, when you were first told that you had pleural plaques?

Mr H Campbell:

I was very blasé about it, which I regret. That was in February 2004.

Mr O'Loan:

Would the others care to comment on how they felt?

Mr McAvoy:

We started by trying to make a claim from the insurance company for asbestosis. When the specialist said that we had pleural plaques, we put those and asbestosis on the same level. We were a bit elated by thinking that we were on the right road, but we were then told that the

Government had decided not to pass the Bill at that time and that we were not going to get compensation. We did not feel too good about that.

Mr McLaughlin:

Good morning. I start by echoing my colleagues' comments.

Looking at the written testimony as well as hearing your statements, I think that it is important to put on record that the Committee were convinced on the principles of the issue. We are seeking to be exceptionally careful about the fact that the insurance industry is pretty determined to oppose this legislation and will create additional obstacles regardless of omission or action by the Committee. We are convinced that there is a condition that deserves compensation.

Mr Armour, I believe that you had a tumour in the 1950s, when you were only 20 years of age. You have had a really dreadful experience with health problems. Were you ever diagnosed with pleural plaques?

Mr Armour:

In my day, when you went to see the high doctor —

Mr McLaughlin:

We call them consultants now.

Mr Armour:

All that he did was examine my chest and back and say that I was OK and that my lungs were clear. He never examined anything else. He never looked into anything such as this.

Mr McLaughlin:

They are still fighting about the science behind it.

Mr Armour:

That is what he did, and then he said that I was OK and that I was clear.

Mr McLaughlin:

Have you had a more recent diagnosis in which your consultant has told you that your problems

were associated with, or were caused by exposure to, asbestos?

Mr Armour:

I did not really go into that, if you know what I mean. When I lost the kidney through cancer and the bag was fitted, I was not really looking to see whether it was because of asbestos. I am just out of hospital, and I have now got something in my stomach. I have to go back next week for another examination.

Mr McLaughlin:

In view of your experience with the medical profession, have you ever had to remind those investigating your symptoms and treating you that you had been exposed to asbestos as part of your working conditions? Did you work in the shipyard?

Mr Armour:

I worked for 10 or 12 years on the boats. When you see the consultant, that does not come into the discussion. He goes through the X-rays. The last time I saw the doctor was for a complaint with a kidney, which turned out to be cancerous. I was taken in a couple of weeks and had it cut out. Asbestos or anything like that was never mentioned.

Mr McLaughlin:

You were diagnosed with pleural plaques in January 2004, Mr Campbell.

Mr H Campbell:

No, in February 2004.

Mr McLaughlin:

OK. You are precise. In your statement, you say that, on 2 January 2004, you were advised:

“I might be entitled to bring a claim because of my pleural plaques.”

Mr H Campbell:

Yes.

Mr McLaughlin:

You were diagnosed in or around the start of 2004 and, by December 2004, you had been

diagnosed with lung cancer. Did anyone connect the two?

Mr H Campbell:

Yes, my doctor did, and the first consultant whom I saw in the Ulster Hospital said that there was a connection. He was definite about that and put it in writing.

Mr McLaughlin:

In his written opinion or in his treatment of you, was he talking about the consequences of pleural plaques or the fact that pleural plaques had developed into asbestos-related diseases, including lung cancer?

Mr H Campbell:

He made the connection between pleural plaques and lung cancer.

Mr Mc Laughlin:

Is that in his letter?

Mr H Campbell:

Yes. Oonagh, do you have that letter?

Ms McClure:

I may have.

Mr H Campbell:

He was a physician, not a surgeon. He did the initial exploration of my chest, my first scan and my first biopsy.

Mr McLaughlin:

There is a high degree of debate and dispute about the consequences of developing pleural plaques. We are told that it is asymptomatic, that is it does not cause any impairment, that it is a scare and that it does not necessarily mean that a person with plaques will develop asbestosis or any asbestos-related illness. That would not be much comfort to people who knew that they had the condition, which in some cases lead in that direction. However, you seem to have a much clearer medical record that could be used to argue that there is a connection. I am keen to

establish whether that opinion exists as a body of evidence. I suspect that the legislation will be subject to a legal challenge immediately after it is supported by the Assembly, as I believe it will be. Therefore, the Assembly's backing will not be of much assistance.

Moving on, you went to your union in 2006 and submitted a claim for legal assistance. Is that right?

Mr H Campbell:

After 2004, my memory is not quite as precise as it should be. If you say 2006, that is probably right.

Mr McLaughlin:

I am going by your statement. The precise dates can be worked out. Are any of you being supported by your trade unions in pursuing this matter?

Mr H Campbell:

Oh yes.

Mr McAvoy:

By my solicitor.

Mr McLaughlin:

By Oonagh McClure, yes. Mr McAvoy, have you ever been diagnosed with pleural plaques?

Mr McAvoy:

Yes, I had a CT scan. After that scan, I was told that I was definitely suffering from pleural plaques.

Mr McLaughlin:

"Definitely suffering". That is on your medical record. Has that medical record been updated or does it reflect that you have developed asbestos-related conditions in addition to pleural plaques?

Mr McAvoy:

It is at the same level as it was when I got my scan.

Mr McLaughlin:

Oonagh, these stories are harrowing. You are all brave and strong about your conditions and have a sense of solidarity with anyone else who may contract the condition.

On the issue of the legal challenge, given the House of Lords' decision and the determination of the insurance industry, do you have any case histories — it would not matter if those had to be anonymised to prevent us from identifying individuals — that would be of particular assistance to the Committee or the Assembly? I say that because we are being confronted by quite significant senior medical and legal opinion about the distinction between asbestos-related conditions?

Ms McClure:

Mr Campbell's position might help to explain the situation. The current medical view is that someone who has worked with asbestos and is a smoker will have a greater chance of developing lung cancer. However, doctors will not accept that lung cancer is caused by pleural plaques alone. If someone is a smoker and has experienced sufficient asbestos exposure to cause asbestosis, it is said that that person's chances of getting lung cancer are doubled. I just wanted to clarify that point.

There are lots of other case histories. If you told a 25-year-old who jogs five miles every other night that he has pleural plaques, he would not be particularly worried. However, the problem is that if men such as these men, who are over 60 or 65, are told that they have pleural plaques and then they suddenly get a chest infection or cannot get to the top of the stairs, they begin to wonder whether the two are related. Most doctors will say that the two are not related, but that concern is always in those men's minds.

As you rightly pointed out, medical opinion is that the presence of pleural plaques does not constrict people, but these men do not think that. We know that asbestos exposure can cause bowel and lung cancer. That is why Mr Armour's situation is quite interesting. His diagnosis could have been mesothelioma, but that would not have been known in the 1950s. His condition just happened to be caught.

Mr McLaughlin:

Thank you very much for coming in this morning.

Mr Frew:

I will be brief. I have a deep respect for you and men of your ilk for enduring this condition. I spent 20 years on building sites as a foreman electrician, and I also worked in the shipyard and at Shorts. Many of the warehouses and storage areas at the shipyard are no longer there, as they have been pulled down and built afresh. I know about the solidarity that is shown among those who work on the building sites. I certainly class those whom I met there as my closest friends and will probably do so all my life, so I know how hard it must have been for you to see your friends disappear one by one.

The medical profession is telling us that there is no real linkage. My first question is about your friends who had the condition. How many started off with pleural plaques and how did that affect their lives?

Mr H Campbell:

I am sorry, but I cannot answer that one.

Mr Armour:

An awful lot of what we called the insulation men came from those houses in east Belfast, but there are not many of them now. If you asked those men's families what they died of, they would tell you exactly what they died of. I could go through all the families affected. The Thompson family were the first ever pipe coverers — insulation men — at the shipyard; they started it. However, there is not one of them now. They all died, and none of them saw 70. If you spoke to their relations in east Belfast, that is what they would tell you.

Mr Frew:

You are quite right about the restrictions on working on buildings of that age. However, in my experience, there were different levels of protection, and the onus was always on the foreman to look after his men. If there was any risk or any sense of risk, the foreman would pull his men out. However, sometimes the foreman was treated harshly because of that.

Mr Armour:

In my day, if you complained, you lost your job. For a man who worked in the shipyard in the 1950s, there were 10 men waiting to take his job. Anyone who did not like that knew where to go

— Frederick Street.

Mr Frew:

If the Bill is passed, what will it mean to you? I have the deepest respect and sympathy for sufferers of pleural plaques. I think that the legislation is needed, and I welcome it. However, society and the Government should do more. What will the Bill mean to you?

You talked about travel insurance. Does anything else that is not directly connected affect your day-to-day living? Is there anything else that society and the Government should do to assist sufferers?

Mr Armour:

The legislation is of no use to me. I have no interest in insurance or anything now because of my age. It is too late for me. It is OK for the younger ones. However, in my day, the doctor tested front and back, and that was it. He told me that I was as fit as a fiddle, but he did not tell me what was happening down below. Those things are still going on. Doctors still tell me that I have a perfect pair of lungs but that I am not perfect down below. I have no kidney, and I have had a colostomy bag for 24 years. Now there is something wrong with my stomach as well.

Mr Frew:

You talk about a sense of loyalty to your companies, and I understand that. You also talked about the treatment that you have had off the Health Service, and that is commendable. Is there anything else that the Health Service can do? Is there an enhanced health stream? Is there something lacking that should have been there for your healthcare?

Mr H Campbell:

My healthcare was first class. I doubt whether I would have got better treatment elsewhere in the world. It was first class.

Mr Armour:

I agree with that. We have the best doctors and nurses. I have only just got out of hospital, and I have no complaints. I do not know how the nurses stick it, because I could not. The nurses are like wolves. They come out in the middle of the night.

The Deputy Chairperson:

Gentlemen, it may sound strange in your circumstances to say that it has been a pleasure to hear from you, but, in all sincerity, it has been. Thank you very much for your courage and for your openness and frankness. Your evidence has been revealing and very helpful. We have seen you here only for a matter of minutes relative to the business that we do, but, on behalf of the Committee, I say to you to keep your humour and integrity, and long may you live. It was very kind of you to come here. Thank you very much.

Mr H Campbell:

You talk about us keeping our humour. My most recent piece of surgery entailed getting four ribs removed. The same nurse had prepared me for all my surgery, and she had a great sense of humour. She came down that day and said to me, “Hugh, would you mind taking that little plastic bag down to theatre with you?” I replied, “What would I do that for, nurse?” and she said, “My wee Kirsty just loves ribs.” Kirsty was her dog. *[Laughter.]*

The Deputy Chairperson:

There is no answer to that. Thanks again for coming. I am very glad that the Division Bells did not ring.

You are very welcome, Dr Henderson. You will have heard what I said to the Committee about the possibility of there being a Division in the House, so, if the Division Bells ring, it will be Quasimodo ringing them, not us. I understand that you were not in a position to provide a written submission in advance of this meeting, so we look forward to hearing your evidence.

Members, Dr Allan Henderson is a consultant physician at Lorn and Islands District General Hospital in Scotland.

Dr Henderson, I advise you that your evidence can no longer be used to inform the Committee’s position on the Bill, because it will not be reporting on the Bill owing to insufficient time. Nevertheless, the information that you provide today will be made publicly available to inform the wider Assembly in its consideration of the subsequent legislative stages of the Bill, including its Consideration Stage, which is scheduled for next Monday. I invite you to make a short statement.

Dr Allan Henderson (Lorn and Islands District General Hospital):

I have been a doctor for 36 years. I have been a consultant in general and chest medicine for 23 years. I started my life as a consultant in Sunderland, which used to be the biggest boat-building town in the world. I stayed there for six years and subsequently moved to the west coast of Scotland. During that time, I developed an interest in asbestos-related medical problems, and I have spent a lot of time examining people for the purposes of medical legal issues. I have produced more than 1,000 reports for the courts on asbestos-related disease.

The Deputy Chairperson:

Thank you very much. Do Members wish to ask questions?

Ms Purvis:

Thank you, Dr Henderson. The bulk of the medical evidence that the Committee has received talks about pleural plaques being an asymptomatic condition, as it does not impair lung function or produce symptoms. However, some of the later evidence that we have received conflicts with that. It says that, in exceptional cases, pleural plaques may cause discomfort, pain or breathlessness. What is your general view on pleural plaques?

Dr Henderson:

The vast majority of cases of pleural plaques are, as you have heard in evidence, asymptomatic. A few cause pain — a grating sensation. I have seen only two such cases out of more than 1,000 patients with pleural plaques. Once or twice, one sees patients with such a development of pleural plaques that they impede the expansion of the lungs and the patient becomes breathless. That is very rare.

I see the occasional case in which a pleural plaque twists around itself and causes the contraction of a piece of adjacent lung. That is called folded lung syndrome or Blesovsky's syndrome. That sometimes causes some discomfort, but, most commonly, it produces diagnostic uncertainty, with shadows on the X-ray that look like lung cancer, so the patient ends up undergoing unpleasant investigation and sometimes surgery to establish the true benign nature of the condition. Most cases of pleural plaques are indeed asymptomatic.

Ms Purvis:

We heard from Mr McAvoy and in earlier evidence that, if a patient has no other underlying

health problems and has no other diagnosis than pleural plaques and suffers breathlessness, it may result in a misdiagnosis of pleural plaques. How common is that?

Dr Henderson:

If someone with pleural plaques is breathless, a doctor has to look for a cause of that breathlessness other than pleural plaques. The person may have early asbestosis, which is not detectable on a plain chest X-ray and needs a CT scan to pick it up, or it may be something else entirely, such as asthma that had gone unrecognised. One of the reasons that people with pleural plaques get breathless is that they get anxious and hyperventilate, and that breathlessness can be quite difficult to identify on occasion. Pleural plaques do not cause symptoms in the vast majority of people, nor do they turn into anything nasty. However, they are a mark that the person has been exposed to asbestos, and people who have been exposed to asbestos significantly have a hugely increased risk of developing other asbestos-related diseases during their lifetime. Today, we heard of heavy exposure at shipyards, where people were breathing in visible clouds of asbestos. Those people have a huge risk of dying of mesothelioma, and the risk is hugely greater than that of the general population. The insurance companies like to turn the argument on its head and say that, because between only 3% and 5% of people will get a nasty asbestos-related disease, 95% to 97% will not and, therefore, there is nothing to worry about. I do not think that being told that you have a 3% risk of dying of an incurable malignant process, mesothelioma, is terribly reassuring.

Ms Purvis:

You mentioned anxiety levels. We have heard some evidence that compensating for pleural plaques is really compensating for anxiety and worry.

Dr Henderson:

That is my experience. When people are told that they have pleural plaques, their attitude is on a spectrum from complete nonchalance to a pathological state of anxiety, and all stages in-between. It has been my experience over 20-odd years that people got compensated because of the axe hanging over them of the risk mesothelioma in particular. That was dashed away, which was wrong.

Ms Purvis:

I am sure that you have had experience of people who have been able to pursue claims for having

pleural plaques. Is the very fact that they can be compensated some help to allaying the anxiety, or is it just a recognition that they have been negligently exposed?

Dr Henderson:

It is a bit of both. Some people are quite happy knowing that they have got a typical award, which used to be in the region of £8,000. They say that that is a reasonable sum for knowing that the axe is hanging over them. Other people are not satisfied by it, but it is a help to some.

Mr McLaughlin:

It can be a bit complex, but it is also frustrating to be confronted with what appears to be a resistance to establishing the linkage between working in conditions in which people are exposed to asbestos and the consequences. I do not know about elsewhere, but, in this region, there does not appear to be a register of the people who have pleural plaques, nor is there any further study to establish what percentage of them develop asbestos-related disease. Are you aware of any such study anywhere else?

Dr Henderson:

There are epidemiological studies in the literature, but there are no whole-population studies.

Mr McLaughlin:

Say, for example, that we looked at those who worked in Harland and Wolff or Shorts. That would involve studying a limited number of people, their work history and their experience or otherwise of those diseases.

Dr Henderson:

I do not know about the Belfast shipyard, but other workforces were studied to establish what percentage of people developed what diseases. Those studies show that the risk of those with pleural plaques developing some other nasty asbestos-related disease is between 2% and 5%. However, there is no central register of those cases in any of the countries of the UK.

Mr McLaughlin:

Pleural plaques were previously compensable and a significant decision was taken to overturn that. Are you aware of the rationale for not compiling such records?

Dr Henderson:

That is not a matter that I have thought about. Until three or four years ago, our practice was that if someone was identified with pleural plaques they would be advised of it and of their future risks. As I am based in the west of Scotland, I referred those patients to a charity called Clydeside Action on Asbestos, which would normally put them in contact with lawyers.

It is more difficult to know what to do after that with patients, as it is with the pleural plaques issue generally. The Committee received a submission from Professor Seaton. He takes a fairly hard line on pleural plaques, and feels that we should reassure people that everything will be all right and that we should not go out of our way to tell them what is wrong with them. Things have changed in my lifetime in medicine. We now pursue a more open dialogue with patients and do not just put up an x-ray and say to ourselves that it shows pleural plaques but we should not bother the patient. We have an obligation to discuss the issue with patients. They are not stupid; they want to know the risks. If they do not hear it from us, they will find it out through the internet.

Mr McLaughlin:

That interests me. Even though we are running out of time on this Bill, is it possible that the Assembly could provide some service regardless of the legislation? That service would compile or recommend that the statistics and information be medically and evidentially based —

The Deputy Chairperson:

If that is possible, do members agree that the Committee should see who would agree to that?

Members indicated assent.

The Deputy Chairperson:

Thank you very much.

Mr O'Loan:

I thank Dr Henderson for coming before us. You have largely covered what I was going to ask. The Committee has heard two arguments about the issue of anxiety. The first is that when people are told that they have pleural plaques it causes significant anxiety because of the implications for the development of other conditions. The other argument is that pleural plaques of themselves

are benign and asymptomatic, so if they were to be reconstituted as a compensable disease, we would be saying that there was something wrong with people who have pleural plaques and that they ought to be pretty worried. The fact that it would be recognised in law may increase patients' anxiety.

Dr Henderson:

That is an extremely difficult point to address. Pleural plaques used to be discovered as chance findings on chest x-rays, which are common procedures in medicine and which can be ordered by general practitioners and hospital doctors. Huge numbers of X-rays taken in areas in which there was shipyard activity in particular will contain pleural plaques. The patient will have had those x-rays for a definable reason and the onus is then on the doctor to explain the results to the patient.

What worries people is that advertisements will start to appear in the press: "Have you worked in the shipyards? Have you been exposed to asbestos? Let us get you an X-ray." The worry is that if an X-ray does not show pleural plaques, does a patient get CT scans? Do you repeat the CT scans at intervals since pleural plaques become more recognisable over time? They do not normally appear until at least 10 years after exposure to asbestos; 15 years is the usual minimum, and 20 years is when they become obviously recognisable. To use the term "ambulance chasing" is a worry, but we do not wish to invoke anxiety that was not there. That is a serious concern, and I do not know how it should be addressed.

Mr McQuillan:

Earlier we heard a witness talk about being breathless and having to take his puffer before going up a hill. Would those gentlemen have had asthma if they had not had pleural plaques?

Dr Henderson:

Yes.

Mr McQuillan:

How can you tell that?

Dr Henderson:

There is no known medical association between pleural plaques and asthma.

Mr McQuillan:

Therefore you could get asthma without having pleural plaques?

Dr Henderson:

Very much so.

Mr McQuillan:

Pleural plaques would not increase the risk of having asthma?

Dr Henderson:

No.

The Deputy Chairperson:

We have probably all noticed changes to the law relating to the disposal of asbestos materials. What does the recognition that the law needed to be changed tell us about what handling asbestos was like in the past?

Dr Henderson:

I am not an expert in the history of occupational health legislation, but it is my understanding that the reports about harm from asbestos started to come out as early as the 1930s and were not picked up on until much later. It was not until the 1970s that asbestos importation into the UK was banned. In fact, it accelerated and there was a huge amount of negligent exposure of the sort that we heard about from a gentleman earlier. That suddenly ceased with the ban on importation, but asbestos does not go away and it remained a danger for people in certain occupations, particularly demolition, building renovation and ship breaking. Of course, it is much more tightly controlled than it used to be.

Mr Frew:

The Bill is all about asbestos. However, nowadays on building sites we have concrete dust, MDF and every other sort of substance. Is evidence being gathered on that?

Dr Henderson:

A suspicion was raised about MDF.

One of the alarms is the huge amount of compensation that may be involved. Sadly, however, the majority of those who were negligently exposed to asbestos, particularly in shipyards in the 1950s, will be dead soon. We will hit a peak in the UK with mesothelioma in about 2015, with cases rapidly dropping off after that. There will be very few cases by 2020 or a bit beyond. The same will be true of pleural plaques. Therefore we are not talking about setting a precedent that will cause trouble for many years.

The Deputy Chairperson:

Thank you very much. It is not that we are in a hurry. It is very kind of you to be here and we are obliged and willing to give you all the time that you need; we appreciate your taking the time to be with us. It has been a very useful evidence session. There were challenges in what you said. I take it that you are going back to Scotland now?

Dr Henderson:

Yes.

The Deputy Chairperson:

I wish you a safe journey home. Would it be all right to contact you if the Committee requires further information?

Dr Henderson:

Yes, indeed. I am sorry that this was very hurriedly arranged. I would have been happy to produce written evidence had there been time. If that is requested, I will be happy to help.

The Deputy Chairperson:

We are very grateful for that. Thank you very much indeed.