

GLASS CONTAINER

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Senator O'Mahoney took up the questioning. He obtained from Smith first of all a statement of the company was in a position to demonstrate the production of glass containers so far as production was carried out by the use of its machines. Last year 47 per cent of the nation's production was manufactured under Hartford-Empire's patents, 19 per cent by a company owning an alternative method, and the remainder by independent.

Smith conceded, too, manufacturers could lease Hartford-Empire's machinery only under conditions laid down by the latter, and that it reserved the right to limit production, exercise it in a few cases, and almost always makes reservations as to the type of container to be produced.

"So that," O'Mahoney continued, "by virtue of this power granted to you by Congress (the patents which the company holds) it holds down to the exercise by your company of the right to control both production and price."

Keeps Price Control

"Not the price," Smith asserted, with some emphasis. "We have nothing to do with that."

"But if you can control production you can control price, can you not?"

"No, there has always been a large overcapacity in the industry."

O'Mahoney then asked whether the company's power over the use of its machinery did not include the power to say a manufacturer could not sell at less than "such and such" a figure.

"That may be true," was the reply, with an added statement nevertheless, Hartford-Empire did not engage in such a practice.

Cox exhibited three pieces of documentary evidence, taken from the files of the company.

Memo Introduced

The first was a memorandum written by Herbert Knox Smith, late counsel for the company, entitled "Memorandum of the Hartford-Empire Company." It set forth three policies:

"(a) To cover (by patents) the actual machines which we are putting out, and prevent duplication of them. * * *

"(b) To block the development of machines which might be constructed by others for the same or similar purposes as our machines, under alternative means. * * *

"(c) To secure patents on possible improvements of competing machines, so as to 'force in' those and prevent their reaching an improved stage."

Cox asked whether the company was not more interested in "preventing the use by others" of certain types of glass-making machinery than in using these types itself.

"I am not conscious of any policy of going out deliberately and deliberately blocking people," F. D. Smith replied, adding the company sought at all times to protect its licenses, and keep them up to the minute technologically, by investing a portion of their royalties in research and developmental work.

He finally repudiated the memorandum as a statement of company policy.

Sees Nothing Improper

In reply to a question from Senator Lavin, commissioner of labor statistics and a member of the committee, Smith said he saw nothing "improper" in "forcing in" competitors, adding, however, the company had to protect its licenses.

The second documentary exhibit also was from the pen of Herbert Knox Smith.

"He had a habit of writing every once in a while," F. D. Smith solemnly observed, while the committee and spectators burst into laughter.

The second memo contemplated refusal of patent licenses to manufacturers who might be thought to be price cutters, and using the license system to prevent too much competition.

"If I may be permitted to make the observation," O'Mahoney put in, "he had a very nice style."

"He was a very remarkable man," said Smith.

Turning to Cox, he said the memo was "not so bad" as Cox was "making it out" to be. In the early days of the company, he explained, it had a restrictive policy, and tried to get only financially strong firms into the glass container business.

Texas Firm Brought In

The third exhibit was a letter from A. T. Stafford Jr., secretary and counsel for Hartford-Empire, to S. S. Beary, attorney for the company in San Antonio, Tex., saying, in part:

"Three Rivers Glass Company has been a perpetual thorn in the side of all the manufacturing companies. It won't assist the other manufacturers in any manner in maintaining general price levels. It isn't because they are more efficient than anyone else (which is a justifiable reason of course for lowering the price), but because they are just simply selling at an artificial loss in order to stay in business."

Stafford, who sat beside Smith throughout the day, said it was written at a time when the Three Rivers company was behind in its royalty payments, and an examination of its books had showed it undoubtedly was selling below cost.

"You did take the machinery out of their factory, didn't you?" Cox asked.

"We did take the machinery out of their factory," Stafford said, "but before we did that they were in bankruptcy."

"But they were still manufacturing glassware?"

Stafford replied the company was permitted to retain the machinery for a period in order to keep employment up.

Cox also produced a tabulation, showing Hartford-Empire's income from licensing fees and royalties had been as follows: In 1923, \$786,134; 1924, \$819,438; 1925, \$1,215,382; 1926, \$1,790,318; 1927, \$2,165,644; 1928, \$2,731,462; 1929, \$2,322,207; 1930, \$2,299,717; 1931, \$1,845,223; 1932, \$2,467,045; 1933, \$2,242,769; 1934, \$2,822,331; 1935, \$4,242,416; 1936, \$1,238,272; 1937, \$8,885,262.

The total for the 15 years was \$49,479,062.

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Glass Container Business Bottled Through Patents (Cont)

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