

Q. Was the establishment of the single distributor in Belgium a device for fighting nonmember competitors in Belgium?

A. The answer to that is no, and in addition to that I might say that the effect of preventing our own agent from cutting prices was an advantage to the outsider. It held an umbrella over him in that market.

Mr. Kayser's reply to Mr. Billings' letter to which he refers in his testimony, was dated April 5, 1938, and is in the record by way of photostatic copy as exhibit 591 A-B, the reference to Belgium reading as follows:

Altho the percentage of outsider business done in Belgium in 1937 declined markedly, no test of the soundness of our experiment with a single agent in a market is furnished by last year's figures. Far more than half of the total sales to Belgium for the year were made in the first half of it when the old system was in operation. In the month's interval between our announcement that our distribution would henceforth be carried on by a single agent and the effective date of the change two agents loaded several of the intermediate customers up with supplies which, in some instances, will carry them thru the year 1938. This operated to reduce the market of our single representative very materially. Experience with the new system is far too young to permit of a categorical statement that it is better or worse than the old one. While that indisposes me to discuss the relative merits of the two systems at this time, I do not want to let you draw false conclusions from a lack of facts.

Mr. Kayser testified that all markets of the world excepting Belgium were open to distributors. Exhibits 555 to 564, distributors' contracts referred to above, each contain a territory provision identical to the section from the Binney & Smith contract (exhibit 20 A-J) above reviewed.

Mr. Allan F. Kitchell, president of Binney & Smith Co., testified that his company is the domestic distributor for Columbian Carbon Co. of whose stock it owns a proportion under 2 percent. He stated that his company's research division is constantly at work solving its customers' technical problems and that such technical information is available for use of the association. Under its distributors' contract, it normally sells Columbian black in export, but on several occasions it has sold other member producer's black upon order of the association. Mr. Kitchell was familiar with the association's policy requiring its members to report sales to nonmembers as expressed in the resolution adopted May 25, 1937, exhibit 102 B discussed in paragraph IV B herein. Certain dealings with Mr. L. C. Herkness of the Chas. Eneu Johnson Co. had taken place several years earlier and Mr. Kitchell agreed that his arrangement with the association would not permit sales for export to Mr. Herkness. His prepared statement on this particular reads as follows:⁶⁷

I would like to state, however, that in years gone by we have often sold Charles Eneu Johnson Co. various quantities of carbon blacks, high-grade materials

⁶⁷ T. 925; 1605.

