

MODERATOR AHEARN: Thank you very much, Mr. Oviatt. Mr. Baile.

MR. BAILE: I think in answering the first of the two questions, you have to make a distinction between chemicals which are toxic as a normal attribute of the chemical itself on the one hand, and on the other hand the chemical which is toxic as a result of some danger-creating defect that exists in the chemical which would normally be harmless.

Now, I think Mr. Oviatt's answer is primarily directed to the first class where you are dealing with the chemical which is naturally toxic. Under those circumstances, when the purchaser is given full knowledge of the toxic character of it and the dangers that are inherent, or the purchaser, without your telling him, has that knowledge, I don't think there is any liability on the part of the manufacturer.

However, where the toxic character of the chemical is created by some defect in the manufacturing process, then I think there is liability on the part of the manufacturer.

I don't think we are going to permit manufacturers to insulate their own carelessness in the manufacture of their product against consumers by the intervention of a middle man.

MR. OVIATT: Mr. Baile, after all, the question was what is the liability of the manufacturer of a toxic chemical. Now a chemical is either toxic or not toxic, is that right?

MR. BAILE: Not according to my friend at the beginning of the meeting.

MR. OVIATT: If a chemical becomes toxic because of the defect, that isn't the subject of our meeting today, is it? I thought we are just speaking of materials that are inherently toxic without any defect producing toxicity.

MODERATOR AHEARN: I believe it would be helpful to the audience, Mr. Baile, if we had more pointed discussion of the second half of this question, because it seems to me it is a question which most people in this audience are very much interested in. Will you point your remarks specifically to that question?

MR. BAILE: As Mr. Oviatt pointed out, the basic consideration in imposing liability upon a manufacturer of a chemical, which in its nature is toxic, is the obligation that is imposed upon him to disseminate the knowledge that he has of the dangers to the purchaser. Now, his only method of doing that in most instances is through labeling

the product with particular use countered. Have

If, therefore, ing on his, pre- advantage of either refusing clearly unders it constitutes o which would b manufacturer.

MR. OVIATT: is that the ma-

MR. BAILE: MODERATOR that additional

By the request of the panel are spe be regarded as may assume th

We will g producer of a tion, research.

MR. HART: morning that get the produ-

We have substances hav even to the ex vance that lie the material b-

I recall w one company material requi approval of t another toxic up an elabora the material, adequate safe-

I would l-