

Examination showed that the article consisted essentially of water, boric acid, glycerin, carbolic acid, ephedrine, and a red coloring material. Bacteriological tests showed that the article was not antiseptic.

The article was alleged to be adulterated in that its strength differed from and its quality fell below that which it purported and was represented to possess, i. e., antiseptic.

The article was alleged to be misbranded because of false and misleading statements in its labeling: (Vial carton label) "Orbolene promotes a * * * healthy condition of the eyes and is used * * * in the treatment of weak, inflamed, sticky, sore, irritated eyes and eyelids: acute and chronic catarrhal conjunctivitis, or congestion of the eye caused by colds, overwork or exposure to sun, wind, dust, etc. * * * antiseptic"; (circular) "Weak, tired and painful vision caused by dust, wind, strong light and close application to near work. * * * If * * * inflamed use Orbolene * * * Eye Troubles Close application to near work is the cause of much eye trouble. Mechanics and workers in offices and factories where the lighting system is poor frequently find that at the close of the day their eyes burn and sting. This condition can be helped by the use of Orbolene twice daily. * * * It is soothing and restful to eyes affected by Hay Fever and Rose Cold." The article was not effective in the treatment of the conditions stated and implied. It was alleged to be misbranded further (1) in that it was in package form and its label failed to bear an accurate statement of the quantity of its contents, since no statement of the quantity of contents appeared on the label of the vial, and the statement appearing on the carton, "Contents 7 c. c.," was incorrect; and (2) in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of the active ingredients contained therein, since no statement of the active ingredients appeared on the carton, and phenol and hydrogen borate were not given their common or usual names of carbolic acid and boric acid, respectively, in the statement of active ingredients which appeared on the vial label.

On June 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1076. Adulteration and misbranding of prophylactics. U. S. v. 63 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. D. C. No. 10109. Sample No. 47389-F.)

On June 18, 1943, the United States attorney for the Western District of Tennessee filed a libel against 63 gross of rubber prophylactics at Memphis, Tenn., alleging that the article had been shipped on or about April 19, 1943, by Hardy Newman & Co., from Chicago, Ill.; and charging that it was adulterated and misbranded. The article was labeled in part: (Individual packages) "One Quarter Dozen '400' Latex Product * * * Rubber Prophylactic Devices."

Examination of 100 samples of the article showed that 15 percent were defective in that they contained holes.

The article was alleged to be adulterated in that its quality fell below that which it purported to possess.

It was alleged to be misbranded in that the statement "Prophylactic Devices," appearing on the label, was false and misleading as applied to the article.

On August 25, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

DRUGS ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

DRUGS FOR HUMAN USE**

1077. Misbranding of wheat germ. U. S. v. Commander Larrabee Milling Co. (Minneapolis Milling Co.). Plea of guilty. Fine, \$100. (F. D. C. No. 9677. Sample No. 37818-F.)

On October 21, 1943, the United States attorney for the District of Minnesota filed an information against the Commander Larrabee Milling Co., trading as the Minneapolis Milling Co., Minneapolis, Minn., alleging shipment on or about January 21, 1943, from the State of Minnesota into the State of Illinois of a quantity of wheat germ which was misbranded. The article was labeled in part: "P. W. G. (Pure Wheat Germ)."

* See also Nos. 1051, 1052, 1055-1061, 1068-1076.

** See also No. 1093.

The article was alleged to be misbranded because of false and misleading statements in the labeling which represented and suggested that it would be an effective treatment for pellagra and beriberi; that it would be effective as a preventative of mental diseases; that it would be an effective treatment and preventative of skin eruptions, brown scaly patches in localized areas, indigestion, and disturbances of the nervous system; that it would prevent sterility and promote the maturing of the normal germ cell in the male and the natural placental functioning in the female; that it would promote health, vigor, strength, and energy, and would benefit man, woman, or child who was undernourished or who required a general toning up; that it would improve the appetite, aid growth, and induce the normal functioning of the nervous system and intestinal tract; and that it would insure normal reproduction and lactation in mothers. The article would not be effective for such purposes.

It was alleged to be misbranded further in that the statements in the labeling which represented and suggested and created the impression that the disease conditions and functional impairment for which the product was recommended as stated above are usually the result of lack of vitamin B₁, riboflavin, and nicotinic acid, and that the reader might reasonably expect correction and alleviation of such conditions by the use of the article, were misleading since such conditions are not usually the result of lack of the vitamins named, but usually result from other causes, and the reader might not reasonably expect their correction and alleviation since the article would not ordinarily be effective for such purposes.

The article was also alleged to be misbranded under the provisions of the law applicable to food, as reported in notices of judgment on food, No. 5784.

On October 21, 1943, a plea of guilty was entered to all charges and the court imposed a fine of \$100, which covered both counts of the information.

1078. Misbranding of Vigor 8. U. S. v. 60 Cases of Vigor 8 and 2,000 Leaflets. Default decree of condemnation and destruction. (F. D. C. No. 9806. Sample No. 37662-F.)

On April 19, 1943, the United States attorney for the Eastern District of Michigan filed a libel against 60 cases, each containing 12 10-ounce jars of Vigor 8, and 2,000 leaflets entitled "Charles D. Kasher's Health and Beauty Chart," at Detroit, Mich., alleging that the article and the leaflets had been shipped on or about March 23, 1944, by the Royal Products Co., Chicago, Ill.; and charging that the article was misbranded.

Examination disclosed that the article contained dried brewers' yeast, corn flour, corn germ, and wheat germ.

It was alleged to be misbranded in that the statements, designs, and devices on the labels attached to the jars and in the above-mentioned leaflets were false and misleading since they represented and suggested that the article was of significant nutritional value by reason of the presence of vitamin B₆, vitamin E, and other factors of the B complex as found in brewers' yeast, and the elements potassium, sulfur, sodium, magnesium, copper, zinc, chlorine, and manganese; and that consumption of the product would insure normal functioning of the various organs of the body, and would prevent and correct abnormalities of those organs and such disease conditions as cold infection, ulceration, stone formation, cystitis, spasms, cramps, exhaustion, inflammation, paralysis, conjunctivitis, cataract, night blindness, scaliness, dryness and paleness of the skin, skin sores, gum infections, scurvy, loose teeth, and diabetes, whereas the article was not of significant nutritional value by reason of the presence of the vitamins, factors, and elements mentioned, and consumption of the article would not insure normal functioning of the various organs of the body and would not prevent or correct abnormalities of those organs, or the disease conditions mentioned and suggested.

The article was also alleged to be misbranded under the provisions of the law applicable to foods as reported in notices of judgment on foods.

On July 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product and the leaflets were ordered destroyed.

1079. Misbranding of Cellasin No. 1 Tablets. U. S. v. 22 Bottles of Cellasin No. 1 Tablets. Consent decree of condemnation and destruction. (F. D. C. No. 8891. Sample No. 21747-F.)

On November 19, 1942, the United States attorney for the Western District of Pennsylvania filed a libel against 22 bottles, each containing 200 tablets, of Cellasin No. 1 at Pittsburgh, Pa., alleging that the article had been shipped by the American Ferment Co., from Buffalo, N. Y., on or about October 20, 1942; and charging that it was misbranded. The article was labeled in part: "Active