

"Bee Royale, Inc. does not claim that it, as a corporation, can raise the question of the constitutional provision of freedom from disclosure as applied to it. Its argument concedes that the corporation itself may not claim the Fifth Amendment. *United States v. White*, 322 U.S. 694 (1944); *Wilson v. United States*, 221 U.S. 361 (1911).

"The argument has a further basis, however. It says that answers by a corporation to interrogatories addressed to it must, obviously, be made by some human being on its behalf. Now if the corporate officer who gives the answers, on behalf of the corporation, states things that may involve criminal responsibility, he may find himself involved in a criminal prosecution, especially since liability of corporate officers under the food and drug act is one at peril and no mens rea is involved. See *United States v. Dotterweich*, 320 U.S. 377 (1943). But personal criminal liability was the very point involved in the *White* case, *supra*.

"This argument would present more possibilities for hardship if the questions were to be answered only by an officer who would be competent to testify on the corporation's behalf, as was the rule prior to the 1948 amendment. See 4 Moore, Federal Practice § 33.07 (2d ed. 1950). Under the amended rule the agent who answers on behalf of the corporation does not need to have personal knowledge. The corporation's attorney will do. 4 Moore, Federal Practice § 33.07 (2d ed. 1950).

"But we are getting into unnecessary difficulties here. The Fifth Amendment plea is a personal one and a corporation cannot take advantage of it. That is really all that is involved as this case came to the district court and as it comes to us. Accord: *United States v. 48 Jars* etc. — F. Supp. — (D.D.C. Nov. 14, 1958).

"The judgment of the district court will be affirmed."

5984. Vitamin B₁₂ injection. (F.D.C. No. 41285. S. No. 79-243 M.)

QUANTITY: 991 packaged vials at Brooklyn, N.Y.

SHIPPED: 11-13-57, from Chicago, Ill., by Hallmark Laboratories, Inc.

LABEL IN PART: (Vial) "10 cc Vial * * * Vitamin B₁₂ Crystalline U.S.P. 1000 Micrograms per cc in Isotonic Sod. Chloride Soln. with 2% Benzyl Alcohol Intramuscular-Intravenous * * * 051177."

RESULTS OF INVESTIGATION: Examination showed that each cubic centimeter of the article contained 995 micrograms of cyanocobalamin (vitamin B₁₂), 8.96 milligrams of sodium chloride, and a substantial amount of unidentified dissolved material.

LIBELED: 12-18-57, E. Dist. N.Y.

CHARGE: 501(b)—when shipped, the quality and purity of the article fell below the standard for *cyanocobalamin injection* set forth in the United States Pharmacopeia since it contained a substantial amount of unidentified dissolved material which is not permitted by the standard as an ingredient of *cyanocobalamin injection*; and 505(a)—the article, because of the presence of unidentified dissolved material, was a new drug within the meaning of the law, and an application filed pursuant to the law was not effective with respect to such drug.

DISPOSITION: 4-29-59. Consent—destruction.

DRUG FOR VETERINARY USE

5985. Cardiobee 15 Injection and Pangamic Acid (B-15) capsules. (F.D.C. No. 42313. S. Nos. 1-412 P, 2-316 P.)

QUANTITY: 584 cartoned vials of *Cardiobee 15 Injection* and 1 vial of *Pangamic Acid capsules* at Hialeah, Fla.

SHIPPED: Between 4-17-58 and 8-6-58, from San Francisco, Calif., by John Beard Memorial Foundation.