

the contrary, it may be established in any other logical and convincing way. *Goodwin v. United States*, 2 Fed. (2nd) 200; *Columbus Const. Co. v. Crane Co.*, 98 Fed. 946, at p. 957."

Judgment affirmed.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20555. Misbranding of Diano for Diabetes. U.S. v. 71 Bottles of Diano for Diabetes. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29054. Sample no. 336-A.)

Examination of the drug preparation, Diano for Diabetes, disclosed that the article contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the bottle and carton labels and in a circular shipped with the article.

On October 14, 1932, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 71 bottles of the said Diano for Diabetes, remaining in the original unbroken packages at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about September 27, 1932, by the Samaritine Co. from Philadelphia, Pa., to San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article by this Department showed that it consisted essentially of calcium chloride (approximately 1 percent) a trace of chlorine, glycerin (approximately 16 percent), and water (approximately 83 percent).

It was alleged in the libel that the article was misbranded in that the following statements regarding its curative and therapeutic effects, appearing on the bottle and carton labels and in the circular, were false and fraudulent: (Bottle) "Diano For Diabetes A Scientific Preparation With Definite Known Quality Of Quickly Relieving Diabetics And Ultimately Eliminating All Traces of Diabetes * * * Directions Start with two teaspoonfuls in one-half glass of water four times daily. Third day reduce dosage to three times daily, either before or after mealtime. When sugar content of urine has been materially decreased (usually in about a month), continue taking Diano twice daily two teaspoonfuls morning and evening, until urine becomes normal. As a preventive take one dose Diano every night"; (carton) "Diano For Diabetes"; (circular) "Diano For Diabetes Marvelous Cures * * * 'Cured about one hundred cases' * * * 'was * * * analyzing the urine of the diabetes and Bright's Disease patients. * * * we cured about one hundred cases of Diabetes, losing only one during the three years. In Bright's Disease we cured about 40 per cent. * * * one case particularly where the urine was a dark brown color, too thick to filter and practically all albumen. In less than 14 days the man had resumed his work and the albumen was down to one percent.' Directions for the use of 'Diano for Diabetes' Start with 2 teaspoonsful in one-half glass water, four times daily. Third day reduce dosage to three times daily, either before or after mealtime. When sugar content of urine has been materially decreased (usually in about a month) continue taking Diano twice daily two teaspoonsful, morning and evening, until urine becomes normal. As a preventive, take one dose Diano every night. * * * Free Chlorine, * * * scientifically blended with other drugs remedial in their action upon the digestive organs, aiding in the proper assimilation of the carbohydrates ingested. By the use of Diano for Diabetes a marked reduction in the amount of the urine sugar appears at once and a steady diminution is noted every week. The patient also is able to retain his water for longer periods and in a few weeks will not have to rise during the night. In the earlier stages of Bright's Disease (Acute Nephritis), the Chlorine will entirely eliminate the albumen and will restore the patient to health very speedily. In chronic cases, it reduces the inflammation and arrests the disease, but it will not restore a wasted kidney. Diano effects immediate relief from Diabetes and eventually eliminates it entirely from the system. Its use quickly shows a marked reduction in Diabetes. Its action is such that carbohydrates again take their normal course of nourishment, thus allowing the sufferer eventually to become free from dietetics. * * * When taken according to directions, a marked improvement is positively assured by the first week's treatment * * * For Diabetes A Scientific Preparation with definite known quality Of Quickly Relieving Diabetics and ultimately Eliminating all traces of Diabetes."

On March 21, 1933, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20556. Misbranding of Vapex. U.S. v. 15 Dozen Bottles, et al., of Vapex. Default decrees of condemnation and destruction. (F. & D. nos. 29594, 29595. Sample nos. 21072-A, 21120-A, 32934-A.)

These cases involved various shipments of Vapex, a drug preparation. In one of the lots the label bore no declaration of the alcohol content, and in remaining lots the declaration was not properly made. Tests of the article showed that it did not possess the bactericidal properties claimed in the labeling. It also was claimed for the article that it was made in England, whereas a part of the manufacturing process was carried on in this country.

On December 6, 1932, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States a libel praying seizure and condemnation of 15 dozen bottles of Vapex at Pittsburgh, Pa. On December 7, 1932, the United States attorney for the District of Delaware filed a libel against 41 dozen bottles of the product at Wilmington, Del. The libels charged that the article had been shipped in interstate commerce, in various lots, between the dates of October 8, 1932 and November 23, 1932, by E. Fougera & Co., Inc., from New York, N. Y., and that it was misbranded in violation of the Food and Drugs Act.

Analysis of a sample of the article by this Department showed that it consisted essentially of volatile oils, such as menthol and lavender oil, alcohol (approximately 65 percent by volume), and water.

It was alleged in the libels that the article was misbranded in that the following statements appearing in the circular accompanying the packages, "Vapex is produced in England by Thos Kerfoot & Co., Ltd." and "Laboratory tests have proved that the Vapex vapor kills the pathogenic bacteria present in the breathing passages", were false and misleading. Misbranding was alleged for the further reason that the labels failed to bear a statement of the quantity or proportion of alcohol contained in the article, since in one lot the alcohol was not declared, and in the other lots the declaration appeared in an inconspicuous place on the bottle label, and no declaration appeared upon the outside of the packages.

On January 6 and January 11, 1933, no claimant having appeared for the property, judgments of condemnation were entered and it was ordered by the courts that the product be destroyed by the United States marshals.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20557. Misbranding of LaSalle's Life Salt, LaSalle's Diutone tablets, LaSalle's Uter-Tol tonic, and LaSalle's compound cough syrup; adulteration and misbranding of LaSalle's antiseptic powder. U. S. v. Harry Lehrer (La Salle Medicine Co.). Plea of guilty to all counts. Fine, \$200 on first count. Sentence suspended on remaining counts. (F. & D. no. 28210. I.S. nos. 21395 to 21399, incl.)

This case was based on an interstate shipment of various proprietary medicines. Examination showed that the articles contained no ingredients or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labelings of the products. Tests of LaSalle's antiseptic powder showed that it was not a safe and effective antiseptic as represented.

On February 2, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Harry Lehrer, trading as the LaSalle Medicine Co., Los Angeles, Calif., charging violation of the Food and Drugs Act as amended. It was alleged in the information that the defendant had shipped, on or about September 15, 1931, under the name of the Brunswig Drug Co., from the State of California into the State of Arizona, quantities of LaSalle's Life Salt, LaSalle's Diutone tablets, LaSalle's Uter-Tol tonic, and LaSalle's compound cough syrup that were misbranded, and a quantity of LaSalle's antiseptic powder that was adulterated and misbranded.

Analyses of samples of the products by this Department showed that Life Salt consisted essentially of compounds of sodium and potassium, tartrates, carbonates, phenolphthalein, citric acid, and sugar; Diutone tablets contained extracts of plant drugs, including buchu and juniper, and potassium nitrate;