

20884. Adulteration of ether. U. S. v. Three 5-Pound Cans and Twelve 1-Pound Cans of Ether. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29669. Sample nos. 30743-A, 30745-A.)

This case involved the interstate shipment of a quantity of ether, samples of which were found to contain peroxide, a decomposition product.

On December 29, 1932, the United States attorney for the Western District of Washington, 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 three 5-pound cans and twelve 1-pound cans of ether at Seattle, Wash., alleging that the article had been shipped on or about July 1, 1932, by the Blumauer Frank Drug Co., from Portland, Oreg., to Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ether for Anesthesia Mallinckrodt Chemical Works."

It was alleged in the libel that the article was adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength as determined by tests laid down in said pharmacopoeia and its own standard was not stated on the label.

On February 15, 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.*

20885. Misbranding of Cold Inhalant. U. S. v. 336 Bottles of Cold Inhalant. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 30055. Sample no. 23401-A.)

This action involved an interstate shipment of Cold Inhalant, a drug preparation, the package of which failed to bear on the label a statement of the quantity or proportion of alcohol contained in the article.

On April 5, 1933, 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 a libel praying seizure and condemnation of 336 bottles of Cold Inhalant at San Francisco, Calif., alleging that the article had been shipped in interstate commerce, on or about January 21, and January 24, 1933, by the American Pharmaceutical Co., from New York, N.Y., to San Francisco, Calif., and charging misbranding 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 (approximately 30 percent by volume), including menthol and lavender oil, and alcohol (70 percent by volume).

It was alleged in the libel that the article was misbranded in that the package failed to bear a statement of the quantity or proportion of alcohol contained in the article.

On April 27, 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.*

20886. Misbranding of Cal Spa mineral water. U. S. v. 46 Bottles, et al., of Cal Spa Mineral Water. Decrees of condemnation and forfeiture. Portion of product destroyed. Remainder released under bond to be relabeled. (F. & D. nos. 29994, 30347, 30643. Sample nos. 23040-A, 30981-A, 40113-A.)

Examination of the composition and labeling of the Cal Spa mineral water involved in these cases disclosed that it contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling. The article was found to contain materially less potassium iodide than declared on the label.

On March 30, 1933, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 46 bottles of Cal Spa mineral water at San Francisco, Calif., alleging that the article had been shipped in interstate commerce into the State of California, on or about March 1, 1933, by F. A. Wiggins, from Seattle, Wash. On or about April 22, 1933, a libel was filed in the Western District of Washington against 29 cases of Cal Spa mineral water at Seattle, Wash., and on June 21, 1933, a libel was filed in the Northern District of Ohio against 33 bottles of the product at Youngstown, Ohio, alleging shipment of the said lots, on or about

March 25, 1933, by the Natural Products Co., from Eugene, Oreg., into the States of Washington and Ohio, respectively. All libels charged that the article was misbranded in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article by this Department showed that it consisted of water containing salts of calcium, magnesium, potassium, and sodium, including iodide equivalent to not more than 1.75 grains of potassium iodide per gallon.

The libels alleged that the article was misbranded in that the statement, "Certified Analysis Grains Per U. S. Gallon * * * Potassium Iodide 106.00", was false and misleading, since analysis showed materially less potassium iodide. Misbranding was alleged for the further reason that the following statements appearing in the labeling, regarding the curative and therapeutic effects of the article, were false and fraudulent: (Label, front panel) "Tonic Corrects Acidity of the entire system"; (back panel) "Normal health is regained by correct functioning of bodily organs, glands, and blood stream. These all act properly when acidity of the entire system is corrected and mineral deficiencies of calcium and iodine are restored. As Cal-Spa replenishes these deficiencies it is recommended in the treatment of: Kidney Ailments, Stomach Disorders, Pulmonary Infection, Skin Eruptions, Hay Fever, Rheumatism, Goitre, Nervousness, and as a general tonic in regaining and maintaining normal health. * * * In very rundown conditions * * * In some cases there is a slight reaction. This is caused by correction of acidity and elimination of poisons. * * * For * * * infection use full strength. * * * For catarrh or Hay Fever"; (small strip label) "Tonic."

On April 26, 1933, and September 5, 1933, no appearance or claim having been entered in the cases instituted in the Northern District of California and Northern District of Ohio, judgments were entered condemning the product and ordering that it be destroyed. The Cal-Spa Co., Eugene, Oreg., entered an appearance in the case instituted in the Western District of Washington, admitted the allegations of the libel, and consented to the entry of a decree. On April 27, 1933, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$250, conditioned that it be relabeled so that it conform with the Federal Food and Drugs Act.

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

20887. Misbranding of Felsol. U. S. v. 49 Large Packages, et al., of Felsol. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 30069, 30114. Sample nos. 22694-A, 22695-A, 23408-A, 23409-A.)

Examination of the drug preparation Felsol disclosed that it contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling. One of the ingredients present in the article was acetanilid, which was not declared as required by law. The cartons enclosing certain lots bore statements representing that the article was harmless, whereas it contained drugs that might be harmful.

On April 10 and April 19, 1933, the United States attorney for the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 168 large packages and 194 small packages of Felsol at San Francisco, Calif., alleging that the article had been shipped in interstate commerce between November 11, 1932 and April 5, 1933, by the American Felsol Co., from Lorain, Ohio, to San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. Certain portions of the article were contained in labeled cartons, some of which were also accompanied by a small circular. The packages in certain of the lots contained a blank prescription. All lots were accompanied by a large circular.

Analysis of a sample of the article by this Department showed that it consisted essentially of a mixture of synthetic drugs including antipyrine, acetphenetidin and caffeine, an organic iodine compound, and material derived from plant drugs including lobelia.

It was alleged in the libels that all lots were misbranded in that the packages failed to bear a statement of the quantity or proportion of acetanilid contained in the article. Misbranding was alleged with respect to certain lots for the further reason that the statement on the carton, "Guaranteed to be absolutely harmless", was false and misleading, since the article contained acetanilid and antipyrine, dangerous drugs that might be harmful. Misbranding was alleged with respect to all lots for the further reason that the following statements