

effects of the article falsely and fraudulently represented that it was effective as a treatment of pyorrhea and mouth diseases; effective to insure healthy teeth; effective as a preventive of infection; effective to give quick relief in all cases to gum and tissue diseases and to greatly retard the advancement of these infections; effective as a treatment, remedy, and cure for trench mouth or Vincent's disease; and effective to neutralize and discharge all poisonous matter that accompanies trench mouth or Vincent's disease.

Misbranding of the ethyl borate was alleged for the further reason that certain statements, designs, and devices regarding the curative and therapeutic effects of the article, appearing in the labeling, falsely and fraudulently represented that it was effective as a treatment for pyorrhea and pus diseases; effective as a treatment for trench mouth, canker sores, and all other mouth and gum diseases; effective as a treatment for purulent alveolitis, bleeding and spongy gums; effective to keep the tissues of the mouth and throat in a healthy condition; effective as a treatment for sore throat and tonsillitis, cuts and wounds; and effective to keep the gums firm.

On April 7, 1934, the defendant entered a plea of guilty, and the court imposed a fine of \$30.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22352. Misbranding of Or-Aid. U. S. v. Or-San Co. Plea of guilty. Fine, \$25.** (F. & D. no. 28053. I. S. no. 44220.)

This case involved a shipment of Or-Aid, a product represented to possess germicidal properties. Bactericidal tests showed that it would not destroy germs commonly encountered in the conditions against which the product was directed and intended; it was not a germicide under conditions of practical use, and infecting bacteria could not be killed by Or-Aid, when used as directed. Analysis showed that the article did not contain certain ingredients claimed.

On October 23, 1933, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Or-San Co., a corporation, Minneapolis, Minn., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 22, 1931, from the State of Minnesota into the State of Wisconsin, of a quantity of Or-Aid which was misbranded.

Analysis of a sample of the article by this Department showed that it consisted essentially of zinc chloride, zinc sulphate, boric acid, a small proportion of sodium compounds, water, and oil of peppermint.

It was alleged in the information that the article was misbranded in that the statements, "Destroys Germs", borne on the carton, and the statements, "Destroys Germs", "It is a Germicide \* \* \* since bacteria can be killed by the use of Or-Aid", "The formula contains \* \* \* Emetine Hydrochloride \* \* \* and germicidal oils", contained in the circular, were false and misleading, since the article was not a germicide, bacteria could not be killed by its use, and it contained no emetine hydrochloride and no germicidal oils.

On October 23, 1933, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22353. Misbranding of Dr. Livingston's Regenerator, Dr. Livingston's Dyspepsine, Search Warrant Liniment, Dr. Livingston's Re-Gem, Dr. Livingston's Root and Herb Tea, and Dr. Livingston's Golden Catarrh Balm. U. S. v. John W. Livingston (The Livingston Medicine Co., Search Warrant Liniment Co.). Plea of guilty. Sentence suspended and defendant placed on probation for two years.** (F. & D. nos. 28690, 28079. I. S. nos. 14485, 27109, 27527, 27528, 27532 to 27536, incl.)

Examination of the drug preparations on which these cases were based showed that they contained no ingredients or combinations of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling. Among the preparations was a shipment of Dr. Livingston's Regenerator, the labeling of which contained false and misleading claims that the article was of vegetable composition, that it conformed to the Food and Drugs Act, and that it could be taken freely by young and old without fear of injurious effects. Two shipments of Re-Gem, formerly Regenerator, also covered by the case, were labeled with false and misleading claims. One of the products, Search Warrant Liniment, contained less alcohol than declared on the label.

On November 25, 1933, the United States attorney for the Northern District of Georgia, acting upon reports by the Secretary of Agriculture, filed in the district court two informations against John W. Livingston, trading as the Livingston Medicine Co., and the Search Warrant Liniment Co., Atlanta, Ga., alleging shipment by said defendant, in violation of the Food and Drugs Act as amended, between the dates of December 23, 1930 and February 28, 1931, from the State of Georgia into the State of Florida, of quantities of Dr. Livingston's Regenerator, Search Warrant Liniment, Dr. Livingston's Re-Gem, Dr. Livingston's Root & Herb Tea, Dr. Livingston's Dyspepsine, and Dr. Livingston's Golden Catarrh Balm, and on or about December 31, 1930, from the State of Georgia into the State of Texas, of a quantity of Dr. Livingston's Dyspepsine, which products were misbranded.

Analyses of samples of the articles by this Department showed that Dr. Livingston's Regenerator consisted essentially of a brown liquid containing magnesium sulphate, flavoring oils, water, plant extractives including emodin, and not more than 11.9 percent of alcohol by volume; that the Dr. Livingston's Re-Gem consisted essentially of a brown solution containing Epsom salt, water, plant extractives including emodin, a small amount of alkaloid, and approximately 11 percent of alcohol by volume; that the Search Warrant Liniment consisted essentially of a dark liquid containing oleoresin, capsicum, camphor, small amounts of other volatile oils, ammonia, water, and not more than 47.5 percent of alcohol by volume; that one shipment of the Dr. Livingston's Dyspepsine consisted essentially of a brown powder containing apparently calcium and magnesium carbonates, sodium bicarbonate, plant extractive matter, an emodin-bearing drug, starch, and a small amount of phosphate; that the second shipment of Dr. Livingston's Dyspepsine consisted essentially of powdered rhubarb, sodium bicarbonate, and magnesium oxide, flavored with methyl salicylate; that the Dr. Livingston's Golden Catarrh Balm consisted essentially of volatile drugs including phenol, camphor, menthol, and eucalyptol, incorporated in a mixture of petrolatum and paraffin; that the Dr. Livingston's Root and Herb Tea consisted essentially of ground plant drugs including uva ursi, senna, frangula, coriander, fennel, mullein, and guaiac.

It was alleged in the information that the Regenerator was misbranded in that the statements, "Guaranteed to conform with all Pure Food Laws", "Purely Vegetable", "Composed of Roots, Herbs, Barks and Flowers", borne on the carton, and the statements, "Guaranteed to conform with all Pure Food Laws", "Purely Vegetable", and "Can be taken freely by young and old without fear of injurious effects", borne on the bottle label, were false and misleading, since the article did not conform to the Food and Drugs Act of 1906, or with the amendment of August 23, 1912; it was not purely vegetable; was not composed wholly of herbs, roots, barks, and flowers; and could not be taken freely by young and old without fear of injurious effects. The information further alleged that the statements, "Guaranteed to conform with all Pure Food Laws", "Purely Vegetable", "Composed of Roots, Herbs, Barks and Flowers", and "A Strictly vegetable compound", borne on the carton or bottle labels of one lot of Re-Gem, and the statement, "A Strictly Vegetable Compound", borne on the carton of the remaining lot of Re-Gem, were false and misleading.

Misbranding of the two lots of Search Warrant Liniment was alleged for the reason that the statements, "Alcoholic Content 70%", and "Alcoholic Contents 70%" borne on the bottle labels, were false and misleading, since the article contained less than 70 percent of alcohol, the two samples examined containing not more than 47.0 percent, and 47.5 percent, respectively, of alcohol; and for the further reason that the article contained alcohol and the label failed to bear a statement of the quantity or proportion of alcohol contained therein.

Misbranding was alleged with respect to all products for the reason that certain statements, designs, and devices, regarding the curative and therapeutic effects of the articles, borne on the labels, were false and fraudulent in the following respects: The bottle labels, cartons, and circulars shipped with the Regenerator and Re-Gem falsely and fraudulently represented that the articles were effective as a Regenerator; effective as a tonic and blood purifier; effective to purify the blood and bring an end to rheumatism and to drive impurities from the system; effective as a substitute for stimulants and to bring vim and life to the body; effective to repair waste tissues and to build up the system; effective as a treatment for liver complaints, biliousness, weakness from overwork and other causes; effective to strengthen nerves, restore health and to regulate the liver; effective as a treatment, remedy, and cure for the nerves and general debility, weak kidneys, lame back, liver complaint; effec-

tive as a treatment, remedy, and cure for rheumatism and all impurities of the blood of long standing; effective as tonic and strength builder; effective as a treatment for troubles peculiar to women; effective as a treatment for nursing mothers; effective as a liver and kidney medicine; effective to restore the freshness and brilliancy of youth and to paint the bloom of a rose on the face and to bring new health and life to the body and to cause a purified and enriched supply of blood; effective to banish spots and eruptions; effective to cause sallowness to disappear and restore the long lost look of youth; effective to retard old age; effective as a treatment, remedy, and cure for kidney and bladder trouble and all diseases arising from impure blood; effective as a treatment, remedy, and cure for uric acid poison, gravel, inflammation of the bladder, dropsy or swelling of the feet and limbs, loss of flesh, liver complaint, malaria, biliousness, grippe and female weakness; effective to strengthen and tone up the system, obviate the effect of debility and restore the blood to a healthy condition; effective to stimulate and create healthy action throughout the system; effective to stimulate the activity of the cells and tissues of the vital organs, and to give vitality and efficiency to guard against disease by eliminating waste through the liver and kidneys; effective as a vegetable medicinal agent to supply the necessary sustenance to the system; effective to promote the growth, development, and reproduction of bone and muscle tissues, and to keep these tissues in a healthy condition and to promote the general welfare of the body; effective as a health regenerator and to give vigorous health, strong vitality, restored appetite, restful nights, clear complexion, regained strength, rounded physical form, pep and vim, and supply the necessary nourishment to the blood; effective to throw off accumulated poisons, impurities, and waste and to cause a healthy condition throughout the system; effective as a treatment, remedy, and cure for Brights' disease, kidney colic, and dropsy; effective as a treatment for boils, abscesses, eczema, skin diseases, and malaria; effective to enrich, purify, and build up strong, healthy blood; effective as a treatment, remedy, and cure for disease; effective as a treatment, remedy, and cure for headache, sour stomach, constipation, and lack of energy; effective to assist nature in restoring the liver to normal condition and to check future liver troubles; effective as a treatment for the nerves; and effective as a treatment, remedy, and cure for physical fatigue, insomnia, nervousness and many other contrary ills; effective as a valuable treatment for female troubles; effective to soothe and strengthen the entire system and to relieve tired distressed feeling and bring new hope and health to afflicted women; effective to soothe and feed the delicate tissues, purify the blood, and restore a healthy vigorous condition where disease has existed; and effective as a treatment for shooting pains and sore joints; effective as a treatment for stagnant liver, pimples, boils, ulcers and skin blemishes, tired feeling, wakeful nights, lack of energy and pep; effective as a treatment for indigestion and the after-effects of 'flu'; effective to correct a multitude of unsuspected ills; effective as a relief for high blood pressure, nervous breakdown, sleeplessness, staggering spells, bilious headache, loss of appetite, dizziness and sluggish liver; effective to regenerate the entire system and to nourish and feed the tissues and cells that constitute the human body and to drive impurities from the body and to give the life stream new strength and vitality to combat disease; effective to give health and happiness; effective to give pep, energy, vitality, and all the life that well and normal people have; effective as a treatment for influenza; and effective as a treatment for nervous indigestion.

The bottle labels and cartons of the Dyspepsine falsely and fraudulently represented that the article was effective as a treatment, remedy, and cure for acute indigestion; effective as a speedy and permanent relief for indigestion, dyspepsia, and colic; and effective as a treatment for heart trouble.

The bottle labels, cartons, and circulars of the Search Warrant Liniment falsely and fraudulently represented that the article was effective as a treatment, remedy, and cure for all pain; effective as a relief of pain; and effective as a treatment, remedy, and cure for aches of all kinds not the direct result of some internal disease; effective as a treatment, remedy, and cure for aches of all kinds not the direct result of some internal disease; effective as a treatment, remedy, and cure for all forms of backache not resulting from kidney or other organic diseases; effective as a treatment, remedy, and cure for lumbago, sciatica, and rheumatism not resulting from organic diseases; effective as a treatment, remedy, and cure for stiff joints, neuralgia, toothache, chilblains, sore and tender feet, bronchitis, asthma, pleurisy, and neuritis.

The box label of the Root and Herb Tea falsely and fraudulently represented that the article was effective to repair waste tissue, build up the system and purify the blood; effective as a relief for sleeplessness and weakness resulting from overwork and other causes; effective to restore health and strengthen the nerves; effective as a great blood purifier and as a remedy for nervous and general debility, weak kidneys, lame back, liver complaint, constipation, rheumatism and gout, and for all impurities of the blood of long standing; effective as a treatment for the complexion; effective to restore the freshness and brilliancy of youth, and to paint the bloom of a rose in the face which health alone will bring.

The jar labels of the Catarrh Balm falsely and fraudulently represented that the article was effective as a catarrh balm; effective as a great healing salve; effective as a relief for catarrh, hay fever, deafness, and all catarrhal diseases; effective as a cure for catarrh; effective as a remedy for piles and sores; and effective to remove all pimples.

On March 14, 1934, the two informations having been consolidated, the defendant was arraigned and entered a plea of guilty. On May 26, 1934, the court ordered that sentence be suspended and that the defendant be placed on probation for a period of 2 years.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22354. Alleged adulteration and misbranding of ether. U. S. v. 11 Cans of Ether. Tried to the court. Judgment for claimant. Libel dismissed. (F. & D. no. 29192. Sample no. 7769-A.)**

Examination of 10 cans of ether from the shipment involved in this case showed that the ether in one of the cans contained peroxide, a decomposition product.

On November 8, 1932, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 cans of ether at Macon, Ga., alleging that the article had been shipped in interstate commerce, on or about May 21, 1932, by Merck & Co., Inc., from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ether U. S. P."

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, quality, and purity as determined by the test laid down in the said pharmacopoeia, and its own standard was not stated on the label.

Misbranding was alleged in that the statement on the label, "Ether U. S. P.," was false and misleading and deceived and misled the purchaser.

On April 10, 1934, Merck & Co., Inc., entered an appearance and filed a claim and answer. On June 28, 1934, the case came on for trial before the court, a jury having been waived. After hearing the evidence, the court found that the Government had failed to carry the burden of proof, and ordered that the product be delivered to the claimant and that the libel be dismissed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22355. Adulteration and misbranding of Jopp's Salakine Tablets. U. S. v. Arthur J. Jopp (Jopp Pharmaceutical Co.). Plea of guilty. Fine, \$25. (F. & D. no. 29394. I. S. no. 42851.)**

This case was based on a shipment of drug tablets which contained less acetanilid than declared on the label.

On February 14, 1933, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Arthur J. Jopp, trading as the Jopp Pharmaceutical Co., Buffalo, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about October 16, 1931, from the State of New York into the State of Pennsylvania, of a quantity of Jopp's Salakine Tablets which were adulterated and misbranded. The article was labeled in part: "Jopp's Salakine Tablets \* \* \* a combination containing 100.135 grains Acetphenitidin U. S. P. and 175.200 grains Acetanilide in each avoirdupois ounce. \* \* \* Manufactured by Jopp's Drug Co., Inc., Buffalo, N. Y."

It was alleged in the information that the article was adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since each avoirdupois ounce of the article was represented