

24700. Misbranding of Nuxaphen. U. S. v. 36 Bottles of Nuxaphen. Default decree of condemnation and destruction. (F. & D. no. 35443. Sample no. 6011-B.)

This case involved a drug preparation the labeling of which contained unwarranted curative and therapeutic claims. The labeling was further objectionable since the article contained a smaller percentage of alcohol than declared.

On May 2, 1935, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 36 bottles of Nuxaphen at Charleston, S. C., alleging that the article had been shipped in interstate commerce on or about October 27, 1934, by the Scott Drug Co., from Charlotte, N. C., and charging misbranding in violation of the Food and Drugs Act.

Analysis showed that the article consisted essentially of calcium, manganese and magnesium glycerophosphates, extracts of plant drugs including nux vomica, alcohol (8.8 percent), sugar, and water.

The article was alleged to be misbranded in that the statement on the label, "Alcohol 30%", was false and misleading, since the article contained but 8.8 percent of alcohol. Misbranding was alleged for the further reason that certain statements appearing on the bottle label and in a circular shipped with the article falsely and fraudulently represented that it was effective as a reconstructive tonic, and revitalizer; effective as a valuable remedy for lowered vitality, loss of appetite, loss of energy, mental depression, and lack of vital force; effective to invigorate and strengthen run-down nervous women and weak worn-out men; effective to give rich red blood and help the entire system, put color in the cheeks and new strength in the muscles, improve digestion, rid one of digestive trouble, produce good healthy flesh, overcome underweight, bring normal weight, improve the constitution, blood, and organs, make one peppy, energetic, filled with vitality, and free from nervousness. and effective for nausea and sick stomach.

On June 14, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*