

(Tonup) as an effective agent to tone up the system, as a tonic regulator and invigorator to the human system, as an effective agent to have tonic and cleansing action upon the blood, liver, bowels, etc., as a treatment, remedy, and cure for loss of appetite, loss of strength, fatigue, malarial conditions, general debility, liver and bowel disorders, anemia, exhaustion from overwork, nervousness, and weakness, and as a reconstructive tonic; (Stimulating Pills) as an effective agent to stimulate the kidneys and bladder and as a treatment for backache, kidneys and bladder, rheumatic pains, uric acid, gout, scanty urine, and all weaknesses of the urinary system.

The Tonup was alleged to be misbranded further in that the statement on the label, "Alcohol 10%," was false and misleading since it represented that the article contained 10 percent of alcohol; whereas it contained less than 10 percent, i. e., not more than 1.1 percent of alcohol; and in that it contained alcohol and its label failed to bear a statement of the quantity or proportion of alcohol contained therein.

On July 29, 1938, the corporation having entered a plea of guilty, it was sentenced to pay a fine of \$50. The issue as to Milton L. Shapley was submitted to the court upon a stipulation of facts, a jury having been waived, whereupon the court made a finding of not guilty.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29434. Adulteration and misbranding of Epsom salts. U. S. v. 24 Cases of Epsom Salts. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 43039. Sample No. 30412-D.)

This product was sold as Epsom salt, a product which should contain 99.5 percent of anhydrous magnesium sulphate as required by the test laid down in the United States Pharmacopoeia but which contained not more than 82.56 percent of anhydrous magnesium sulphate and approximately 14.32 percent of sodium sulphate when so tested. Furthermore, the labeling bore false and fraudulent curative and therapeutic claims.

On August 4, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of Epsom salts at Cheyenne, Wyo.; alleging that the article had been shipped in interstate commerce on or about February 16, 1938, from Denver, Colo., by Larche Laboratories; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that it differed from the standard of strength, quality, and purity as determined by the test laid down in the United States Pharmacopoeia and its own standard of strength, quality, and purity was not stated on the label.

It was alleged to be misbranded in that the statements, "Epsom Salts Magnesium Sulphate * * * Nature Made It Pure * * * Hot concentrated, aqueous solutions of magnesium sulphate * * * are extensively used * * * cloths being saturated and applied while hot. The action * * * has the advantage of being sterile. These salts are guaranteed to be technically pure in every detail," were false and misleading and deceived the purchaser thereof since the statements represented that the article was pure magnesium sulphate (or magnesium sulfate) and that when used as directed it was sterile; whereas it was not pure magnesium sulphate or magnesium sulfate since it contained a material portion of sodium sulphate and when used as directed, it was not sterile. The article was alleged to be misbranded further in that the statement on the label, "Used in the treatment of deep-seated infections," falsely and fraudulently represented its curative or therapeutic effect.

On August 25, 1938, the Larche Laboratories, Denver, Colo., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29435. Adulteration and misbranding of rubber prophylactics. U. S. v. 45^{11/12} Gross of Rubber Prophylactics (and one similar seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 42100, 42270 to 42273, incls. Sample Nos. 2891-D, 2893-D, 17875-D, 17876-D, 17877-D, 17879-D.)

Samples of this product were found to be defective in that they contained holes.