

against 53 packages at Wilkes-Barre, Pa., 68 and 118 packages at Philadelphia, Pa., 238 packages at Lancaster, Pa., 128 and 120 packages at Harrisburg, Pa., 115 packages at Northumberland, Pa., and 5 packages at Cleveland, Ohio, each package containing 12 envelopes of boric acid and 3 pamphlets entitled "Mrs. Price's Complete Directions for Canning Vegetables and Fruits Pickling, etc. * * *," alleging that the article had been shipped within the period from on or about March 15 to April 21, 1943, from Minneapolis, Minn., by the Price Compound Company; and charging that it was misbranded.

It was alleged to be misbranded (1) in that the statements in its labeling which represented, suggested, and engendered the impression in the mind of readers that boric acid, when used as therein directed in the canning of vegetables, fruits, and pickles, might safely be used for such purposes, would effect proper sterilization and would destroy bacterial spores capable of causing spoilage, and thereby prevent a substantial amount of waste in home-canned products, were misleading since such use would be potentially dangerous to the health of the consumer, would not insure proper sterilization, and would not destroy resistant bacterial spores capable of causing spoilage, and thus would not insure the prevention of a substantial amount of waste in home-canned products; (2) in that the statements in its labeling whereby the home canner was admonished to sterilize jars, and particularly rubber rings, by boiling for 15 or 20 minutes, were misleading since the directions for sterilizing were inadequate for the reason that sterilization of jars and rubber rings cannot always be accomplished by boiling for 15 or 20 minutes due to the heat resistance of spore-forming bacteria; (3) in that the statement in its labeling "Wash thoroughly, as the most dangerous and the most difficult bacteria to destroy are in the soil," was misleading since it suggested and represented that the thorough washing of vegetables would eliminate the most dangerous and difficult bacteria to destroy, the common habitat of which is in soil, whereas thorough washing of vegetables would not insure such effects; and (4) in that the statements in its labeling, "Mrs. Price's Specially Prepared Package of Boric Acid Manufactured for, Prepared and Distributed by The Price Compound Company * * * Minneapolis, Minn. * * * It is not claimed that the contents of this package contains anything of food value," were misleading since they failed to reveal the consequences which might result from the use of the article under the conditions of use prescribed in the labeling, namely, that the processing recommended would not insure proper sterilization and might thereby result in danger to health, and they further failed to reveal that the amounts of boric acid which might be ingested when the boric acid was used as prescribed was such as might render the product deleterious to health.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices.

Between June 26 and August 9, 1943, no claimant having appeared, judgments of condemnation were entered and it was ordered that the lots at Philadelphia and Lancaster be delivered for the use of some local public institution and that the other lots be destroyed.

5761. Misbranding of Mrs. Price's Compound. U. S. v. 119 Packages of Mrs. Price's Compound (and 4 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 9989, 9999, 10000, 10044, 10079. Sample Nos. 24595-F, 30997-F, 32515-F, 36207-F, 37964-F.)

Analysis showed that this product contained about 95 or 96 percent of boric acid and about 4 or 5 percent of sodium chloride.

Between May 21 and June 11, 1943, the United States attorneys for the Western District of Michigan, the District of Maryland, the Western District of Washington, the Northern District of Ohio, and the District of Colorado filed libels against 119 packages at Grand Rapids, Mich., 117 packages at Baltimore, Md., 114 packages at Seattle, Wash., 41 packages at Cleveland, Ohio, and 104 packages at Denver, Colo., each package containing 12 envelopes of Mrs. Price's Compound (each envelope containing a smaller envelope, setting forth certain directions for canning), and 3 pamphlets entitled "Mrs. Price's Complete Directions for Canning Vegetables and Fruits Pickling, etc.," alleging that the article, which had been consigned by the Price Compound Company, had been shipped on or about March 31 and April 2 and 19, 1943, from Minneapolis, Minn.; and charging that it was misbranded.

All lots of the article were alleged to be misbranded in that the statement in their labeling which represented, suggested, and engendered the impression in the minds of readers that boric acid, when used as therein directed in the canning

of vegetables, fruits, and pickles, might safely be used for such purposes, would effect proper sterilization and destroy bacterial spores capable of causing spoilage, and thereby prevent a substantial amount of waste in home-canned products, were misleading since such use would be potentially dangerous to the health of the consumer, would not insure proper sterilization, and would not destroy resistant bacterial spores capable of causing spoilage, and thus would not insure prevention of a substantial amount of waste in home-canned products. They were alleged to be misbranded further in that the statements in their labeling, (Grand Rapids lot) "Mrs. Price's Compound * * * Notice to Purchasers It is not claimed for this compound that it contains anything of food value, but it is an antiseptic preparation, and among its many uses, may be employed to prevent canned fruits and vegetables from souring and spoiling. This package contains specially prepared and tested Sodium, Chloride, Boric Acid," and (other lots) "Mrs. Price's Compound * * * (* * * Boric Acid and Salt) It is not claimed that the contents of this package contains anything of food value," were misleading since such statements failed to reveal the consequences which might result from the use of the article under the conditions of use prescribed in the pamphlet accompanying the article, namely, that the processing recommended would not insure proper sterilization and might thereby result in danger to health, and they further failed to reveal that the amounts of boric acid which might be ingested when the boric acid was used as prescribed in the pamphlet were such as might render the product deleterious to health.

The lot at Grand Rapids was alleged to be misbranded further in that the statement, "Heating has destroyed these germs in the contents of the can," appearing in its labeling, was false and misleading since instructions for canning as given in the labeling required no heating above the boiling point of water, and such heating is not sufficient to destroy all spoilage bacteria; in that the statement in its labeling, "In home canning only 212 degrees of heat can be produced," was false and misleading, since pressure cookers which are employed in home canning provide higher temperatures; and in that certain statements in its labeling which were quotations from an article entitled, "The Truth About Food Preservatives," were misleading, since such statements failed to reveal the material fact that they were made many years ago, before knowledge of the resistance of *clostridium botulinum*, and the dangers from it in canning, had been acquired; and in that the common or usual name of each ingredient, required by law to appear on the label or labeling, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it appeared in an inconspicuous position on the flap of the larger envelope containing Mrs. Price's Compound.

The other lots were alleged to be misbranded further in that the statements appearing in their labeling whereby the home canner was admonished to sterilize jars, and particularly rubber rings, by boiling for 15 or 20 minutes were misleading since the directions for sterilizing were inadequate for the reason that sterilization of jars and rubber rings cannot always be accomplished by boiling for 15 or 20 minutes due to the heat resistance of spore-forming bacteria; and in that the statement in their labeling, "Wash thoroughly, as the most dangerous and the most difficult bacteria to destroy are in the soil," was misleading since it suggested and represented that the thorough washing of vegetables would eliminate the most dangerous and difficult bacteria to destroy, the common habitat of which is soil, whereas thorough washing of vegetables would not insure such effect.

Between June 26 and November 8, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5762. Adulteration of Akerite Glycerin Alternate. U. S. v. 1 Keg of Akerite (Alternate). Decree of condemnation and destruction. (F. D. C. No. 9463. Sample No. 23339-F.)

On March 1, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 1 keg, containing approximately 48 pounds, of Akerite Glycerin Alternate at Philadelphia, Pa., alleging that the article had been shipped on or about January 25, 1943, from Norwood Park, Ill., by the Akerite Chemical Works, Inc.; and charging that it was adulterated in that it contained an added poisonous and deleterious substance, diethylene glycol, which might have rendered the product injurious to health.