

must be clear and free of any turbidity or undissolved material which can be detected readily when examined by the method described in the Pharmacopoeia, whereas the article was found to contain undissolved material when so examined.

On December 10, 1943, the consignee of the product having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered destroyed.

**1173. Adulteration of sodium cacodylate. U. S. v. 2 Packages of Sodium Cacodylate. Default decree of condemnation and destruction. (F. D. C. No. 11133. Sample Nos. 57429-F, 57430-F.)**

On November 18, 1943, the United States attorney for the Southern District of New York filed a libel against 2 10-pound packages of sodium cacodylate at New York, N. Y., alleging that the article had been shipped to Santiago, Chile, on or about August 18, 1943, and upon arrival there was found to be adulterated; and that it was returned to the United States, entering the port of New York on October 22, 1943.

The article was alleged to be adulterated in that it purported to be and was represented as sodium cacodylate, a drug the name of which is recognized in the United States Pharmacopoeia, an official compendium, but its strength differed from and its quality and purity fell below the standard set forth in the compendium since it is provided therein that sodium cacodylate shall contain not less than 72 percent of  $\text{Na}(\text{CH}_3)_2\text{AsO}_2$ , and that 1 gram of sodium cacodylate shall show no more chloride than corresponds to 0.3 cc. of fiftieth-normal hydrochloric acid, whereas the article contained not more than 64.3 percent of  $\text{Na}(\text{CH}_3)_2\text{AsO}_2$ , and, in addition, a portion of the article contained twice as much chloride as was permitted by the United States Pharmacopoeia.

On December 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**1174. Adulteration of tartaric acid crystals. U. S. v. 22 Bottles of Tartaric Acid Crystals. Default decree of condemnation and destruction. (F. D. C. No. 11137. Sample No. 52926-F.)**

On November 17, 1943, the United States attorney for the District of Maryland filed a libel against 22 bottles, each containing 1 pound, of tartaric acid crystals at Perry Point, Md., alleging that the article, which had been consigned by the Brocker Chemical Co., had been shipped from Morganville, N. J., on or about September 1, 1943; and charging that it was adulterated.

The article was alleged to be adulterated in that it purported to be and was represented as a drug the name of which is recognized in the United States Pharmacopoeia, an official compendium, but its quality and purity fell below the standard set forth in the compendium since the article contained foreign material such as wood splinters, insoluble, blue, glass-like material, and a few fragments of insects and hair, substances foreign to tartaric acid.

On December 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**1175. Adulteration of triple distilled water. U. S. v. 460 Ampuls of Triple Distilled Water. Default decree of condemnation and destruction. (F. D. C. No. 11005. Sample No. 48842-F.)**

On October 25, 1943, the United States attorney for the Eastern District of Kentucky filed a libel against 460 ampuls, 10 cc. size, of triple distilled water at Bellevue, Ky., alleging that the article had been shipped on or about September 20, 1943, from the Diarsenol Co., Inc., Buffalo, N. Y.; and charging that it was adulterated.

The article was alleged to be adulterated in that it purported to be a drug, ampuls of redistilled water, the name of which is recognized in the National Formulary VII, an official compendium, but its quality and purity fell below the standard set forth therein since it was contaminated with undissolved material.

On November 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**1176. Adulteration of phenol red (phenolsulfonphthalein). U. S. v. 250 Bottles of Phenol Red (Phenolsulfonphthalein). Default decree of condemnation and destruction. (F. D. C. No. 10744. Sample No. 1435-F.)**

On September 11, 1943, the United States attorney for the Northern District of New York filed a libel against 250 bottles, each containing 5 grams, of the above-named article at Binghamton, N. Y., alleging that the article had been

shipped on or about August 18, 1943, by the Paul-Lewis Laboratories, Inc., from Milwaukee, Wis.; and charging that it was adulterated.

The article was alleged to be adulterated in that it purported to be and was represented as a drug the name of which is recognized in the United States Pharmacopoeia, an official compendium, and its quality and purity fell below the standard set forth therein since it yielded more ash and contained more insoluble substances than the maximum permitted by the compendium.

On December 3, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**1177. Adulteration of prophylactics. U. S. v. 300 Gross of Rubber Prophylactics. Consent decree ordering the release of the product under bond. Subsequent decree entered ordering that the product be destroyed. (F. D. C. No. 10738. Sample No. 48212-F.)**

On September 13, 1943, the United States attorney for the Northern District of Ohio filed a libel against 300 gross of rubber prophylactics at Cleveland, Ohio, alleging that the article had been shipped on or about August 20, 1943, by Hardy Newman & Co., Detroit, Mich.; and charging that it was adulterated. The article was labeled in part: "Modern-Tex Mfg. for Modern Distr. Co. Detroit, Mich."

Samples taken from the shipment were from 40 to 60 percent defective since that proportion was found to contain holes.

The article was alleged to be adulterated in that its quality fell below that which it purported to possess.

The Trutex Products, Inc., Cleveland, Ohio, claimant, filed an answer admitting interstate shipment, and admitting that a portion of the product might contain holes, but denying that from 40 to 60 percent were defective as alleged. The answer also averred that the claimant had originally shipped the product to Hardy Newman & Co., and that, upon discovery that a small portion might be defective, had ordered the goods returned to the claimant at Cleveland, Ohio, for the purpose of reinspection in order to bring them into compliance with the law; and that the product had been shipped as ordered by the claimant.

On October 19, 1943, the court having made its finding that the allegations admitted by the claimant were true and that the allegations contained in the claimant's answer with respect to the article were true, but that a portion of the product might be defective and adulterated, judgment was entered ordering that the product be released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration. On November 23, 1943, the product having been found to be so defective that it should be destroyed, a decree was entered ordering its destruction.

## DRUGS ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS\*

### DRUGS FOR HUMAN USE

**1178. Misbranding of Floritone. U. S. v. Frank Tibbetts and Nancy Tibbetts (Vitolectic Food Co.). Pleas of guilty. Fines of \$250 against each defendant. (F. D. C. No. 10630. Sample No. 19222-F.)**

On February 8, 1944, the United States attorney for the District of Rhode Island filed an information against Frank Tibbetts and Nancy Tibbetts, the latter owning and operating a business under the firm name of Vitolectic Food Co., Providence, R. I., alleging shipment on or about April 12, 1943, from the State of Rhode Island into the State of Massachusetts of a quantity of Floritone.

Analysis disclosed that the article consisted essentially of whey, dextrin, and sugars such as glucose and milk sugar.

It was alleged to be misbranded because of false and misleading statements in its labeling which represented and suggested that the article, when used in accordance with the suggestions for use on the label, would be efficacious in increasing the body weight and in causing a reduction in body weight; and that it would be efficacious in the cure, mitigation, treatment, or prevention of diarrhea and toxemia.

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

On February 10, 1944, the defendants entered pleas of guilty and the court fined each defendant \$125, on each of the 2 counts, a total fine of \$250 with respect to each defendant.

\*See also Nos. 1151-1156, 1158, 1164-1170.