

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.