

**LABEL, IN PART:** "Napoleons [or "Derbies"] Manufactured for Jay Dee Drug Co., Chicago, Ill., by the Killian Manufacturing Co., Akron, Ohio."  
**NATURE OF CHARGE:** Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.  
 Misbranding, Section 502 (a), the label statement, "for prevention of disease," was false and misleading as applied to an article containing holes.  
**DISPOSITION:** December 17, 1945, and April 5, 1946. No claimant having appeared, judgments were entered ordering that the product be destroyed.

**1872. Adulteration and misbranding of prophylactics. U. S. v. 63½ Gross and 26½ Gross of Prophylactics. Default decree of condemnation and destruction. (F. D. C. No. 17517. Sample Nos. 23644-H, 23645-H.)**

**LABEL FILED:** February 25, 1946, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about June 24, 1945, by the World Merchandise Exchange, from New York, N. Y.

**PRODUCT:** 90 gross of *prophylactics* at Houston, Tex. Examination of samples indicated that 5 percent of the product was defective in that it contained holes.

**LABEL, IN PART:** "Lloyd's Made from Liquid Latex," and "Silver-Tex Prophylactics."

**NATURE OF CHARGE:** Adulteration, Section 501 (c), the quality of the article fell below that which it purported to possess.

Misbranding, Section 502 (a), (portion) the label statement "Prophylactics" was false and misleading as applied to an article containing holes.

**DISPOSITION:** April 11, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

### DRUGS FOR HUMAN USE

**1873. Misbranding of sea water (Cal-O-Dine). U. S. v. 17 Bottles of Sea Water. Default decree of condemnation and destruction. (F. D. C. No. 17577. Sample No. 27976-H.)**

**LABEL FILED:** October 4, 1945, District of Oregon.

**ALLEGED SHIPMENT:** From Alameda, Calif., by Cal-O-Dine. The product was shipped on or about June 22, 1945, and a number of leaflets were shipped on or about February 1, 1945.

**PRODUCT:** 17 ½-gallon bottles of sea water at Eugene, Oreg., together with a number of leaflets headed "The Mysterious ingredient of sea-water." Analyses indicated that the product was sea water.

**LABEL, IN PART:** "Sea Water Sold Under Trade Name of Cal-O-Dine."

**NATURE OF CHARGE:** Misbranding, Section 502 (a), the label statement, "To supply trace minerals naturally occurring in sea water," was misleading since it represented and suggested that such trace minerals would have some nutritional or medicinal effect upon the user when the article was consumed in accordance with the directions upon the label, whereas those trace minerals would not have that effect, and the misleading effect of the statement was not corrected by the modifying phrase, "though in nutritionally non-significant amounts"; the label statement, "A difference in medical and nutritional opinion exists contrary to representations of value of this product. In favor of the value of trace minerals contained in sea water are the opinions of various medical and nutritional experts qualified by scientific training to evaluate," were false and misleading since there is no difference of opinion among qualified medical and nutritional experts with reference to the uselessness of sea water taken in accordance with the instructions specified on the label, either as a dietary supplement or as a remedial agent; and the entire labeling of the article was misleading in the absence of a statement of the fact, material in the light of the labeling, that the article would serve no useful purpose either as a nutritional adjuvant or as a drug when consumed in accordance with the directions on the label.

Further misbranding, Section 502 (a), the following statements in the leaflet, when read in connection with the label directions for ingestion of sea water,

\*See also Nos. 1852, 1853, 1859, 1862, 1865-1868, 1870-1872.