the court suspended the imposition of sentence and placed the defendant on probation for a period of 2 years, conditioned that he should not sell, dispense, or give away any *Sugretus* or *dehydrated wild carrot* during the period of probation, either in interstate commerce or intrastate commerce.

2944. Alleged misbranding of Bra'zil Liquid Compound and Bra'zil Powder Compound. U. S. v. Yancy T. Shehane (Bra'zil Medicine Co.) Plea of not guilty. Tried to the jury. Verdict of not guilty. (F. D. C. No. 25588. Sample Nos. 27350–K to 27353–K, incl.)

INDICTMENT RETURNED: February 7, 1949, Western District of Arkansas, against Yancy T. Shehane, trading as the Bra'zil Medicine Co., at Arkadelphia, Ark.

ALLEGED SHIPMENT: On or about February 8 and March 8, 1948, from the State of Arkansas into the States of Illinois and Missouri.

LABEL, IN PART: "Bra'zil Liquid Compound Alcohol * * * 13½% * * * Active Ingredients: Sodium Salicylate" and "Bra'zil Powder Compound Active Ingredients: Epsom Salts."

NATURE OF CHARGE: Misbranding, Section 502 (a), it was alleged that certain statements in the labeling of the articles, including an accompanying leaflet entitled "You May Be Interested In This Medicine—It really Works," were false and misleading in that they represented and suggested that the articles, which were designed and intended for use as a combination treatment, would be efficacious in the treatment of arthritis, neuritis, sciatica, inflammatory rheumatism, rheumatic fever, sinus trouble, bronchial asthma, ulcerated gassy stomachs, kidney pus, gall bladder irritation, prostate gland trouble, nervousness, general poison conditions of the system, aches, pains, swelling, and soreness; and, further that the articles would not be efficacious in the treatment of the conditions represented.

DISPOSITION: A plea of not guilty having been entered, the case came on for trial on October 4, 1949. At the conclusion of the trial on October 5, 1949, the jury returned a verdict of not guilty.

2945. Misbranding of Thiacin. U. S. v. William Teffer (Thiacin Co.). Plea of nolo contendere. Fine, $500. (F. D. C. No. 26692. Sample No. 27323–K.)

INFORMATION FILED: May 16, 1949, Eastern District of Missouri, against William Teffer, sales director of the Thiacin Co., a partnership, St. Louis, Mo.

ALLEGED SHIPMENT: On or about August 9, 1948, from the State of Missouri into the State of Illinois.

LABEL, IN PART: "Thiacin The Enteric Coated Relief Tablet * * * Each Tablet contains Sodium Salicylate, Thiamin Hydrochloride (10 mg.) Acetylsalicylic Acid, Enteric Coated with Excipient."

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the article, which included a number of accompanying circulars entitled "Ask Yourself This Question," was false and misleading. The labeling represented and suggested that the article would be adequate and effective for the treatment and cure of arthritis, rheumatism, neuralgia, neuritis, and muscular lumbago. The article would not be adequate and effective for the treatment and cure of the conditions represented.

Further misbranding, Section 502 (e) (2), the article was not designated solely by a name recognized in an official compendium and was fabricated from two or more ingredients; and its label failed to bear the common or usual name of each active ingredient since one of the active ingredients of the article

was aspirin, and the label of the article failed to declare aspirin by its common or usual name.

DISPOSITION: August 16, 1949. A plea of nolo contendere having been entered, the court imposed a fine of $500.

2946. Misbranding of Topacold. U. S. v. 350 Dozen Packages * * * (and 2 other seizure actions). Cases removed and consolidated. Motion to dismiss libels overruled. Default decree of condemnation and destruction. (F. D. C. Nos. 15316, 16137, 16150. Sample Nos. 25535–H, 26608–H, 26610–H, 26611–H, 27813–H to 27816–H, incl.)

LIBELS FILED: On or about February 28 and May 18 and 23, 1945, District of Colorado, Western District of Washington, and District of Utah.

ALLEGED SHIPMENT: On or about December 20 and 22, 1944, and January 5, 8, and 20, 1945, from Los Angeles, Calif., by the Topical Products Corp. and Thornlee, Inc.

PRODUCT: *Topacold.* 350 dozen packages at Denver, Colo.; 1,837 packages at Seattle, Wash.; and 468 cartons, each containing one vial, at Salt Lake City, Utah. Examination showed that the product consisted essentially of a perfumed mixture of water and alcohol; phenols, such as cresols, 1%; gum; and not more than a trace, if any, of cottonseed oil; and that it contained no carotene nor vitamin A.

NATURE OF CHARGE: Misbranding, Section 502 (a), the designation "Topacold" and certain statements on the carton and bottle labels, on the display cartons, in accompanying leaflets entitled "Topacold For the relief of common virus head colds," on accompanying circulars entitled "At Last! A Scientific Treatment for the Relief of the Common Virus Head Cold," and on accompanying window posters entitled "Don't Let a Virus Head Cold Stop You," were false and misleading. The designation "Topacold" and the statements represented and suggested that the article was effective in the cure and mitigation of a cold and to otherwise affect the course of a cold, and that it was effective to alleviate sneezing, running of the nose, watering of the eyes, and the general discomfort or distressing conditions accompanying colds, whereas the article was not effective for such purposes.

Further misbranding, Section 502 (a), the label statement "Topacold * * * Contains: Derivatives of Carotene in cottonseed oil * * * Uncombined cresols 0.05%" was false and misleading since the article contained no carotene nor vitamin A, the only known therapeutically useful derivative of carotene, and not more than a trace, if any, of cottonseed oil; and the article contained much more than 0.05% cresols.

DISPOSITION: Following the seizure of the product, the libel proceedings against each lot were removed to, and consolidated for trial in, the Northern District of California. Thereafter, Thornlee, Inc., claimant, filed a motion for dismissal of the proceedings on the grounds (1) that the Government illegally and in violation of the law filed a multiplicity of suits involving the same cause of action; (2) that the court was without jurisdiction to entertain the libels; (3) that the libels were brought by the Government in bad faith and for the sole purpose of harassing the claimant and without justifiable cause or reason; and (4) that the libels were being maintained by the Government in breach of good faith with the claimant.

On January 14, 1948, after consideration of the briefs, the court overruled the motion to dismiss. On January 27, 1950, a stipulation was entered into