

**ALLEGED VIOLATION:** Between the approximate dates of June 1 and August 4, 1949, while a number of *Nembutal capsules* and *Benzedrine Sulfate tablets* were being held for sale at Wallace Rexall Drugs after shipment in interstate commerce, various quantities of the drugs were repacked and sold without a prescription, which acts resulted in the repackaged drugs being misbranded.

Lew Wallace was charged with making 1 sale of *Benzedrine Sulfate tablets*; George M. Smith was charged with 2 sales of *Nembutal capsules* and 1 sale of *Benzedrine Sulfate tablets*; and John W. Gordon, Jr., was charged with 4 sales of *Nembutal capsules* and 1 sale of *Benzedrine Sulfate tablets*.

**NATURE OF CHARGE:** Misbranding, Section 502 (b) (2), the repackaged drugs failed to bear labels containing accurate statements of the quantity of the contents; and, Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use.

Further misbranding, Section 502 (b) (1), the repackaged *Benzedrine Sulfate tablets* failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

Further misbranding, Section 502 (d), the repackaged *Nembutal capsules* contained a chemical derivative of barbituric acid, which derivative has been found to be, and by regulations designated as, habit forming; and the label of the capsules failed to bear the name, and quantity or proportion of such derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

**DISPOSITION:** On October 17, 1951, upon the basis of pleas of nolo contendere entered by John W. Gordon, Jr., and George M. Smith, the court imposed a fine of \$50 against each defendant.

On October 31, 1952, following a plea of nolo contendere by Lew Wallace, the court imposed a fine of \$50 against this defendant.

**3867. Adulteration and misbranding of dextro-amphetamine sulfate tablets.**

U. S. v. 11 Bottles \* \* \*. (F. D. C. No. 31382. Sample No. 11174-L.)

**LIBEL FILED:** July 23, 1951, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 1 and 15, 1951, by the International Pharmaceutical Laboratories, from Great Neck, N. Y.

**PRODUCT:** 11 unlabeled bottles of *dextro-amphetamine sulfate tablets* at Cleveland, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 501 (d) (2), a substance, namely 4.2-milligram amphetamine tablets, had been substituted for 5-milligram *dextro-amphetamine sulfate tablets*.

Misbranding, Section 502 (i) (2), the article was an imitation of another drug; Section 502 (i) (3), it was offered for sale under the name of another drug; Sections 502 (b) (1) and (2), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 502 (e) (1), its label failed to bear the common or usual name of the drug, amphetamine sulfate tablets; Section 502 (f) (1), its labeling failed to bear adequate directions for use; and, Section 502 (f) (2), its labeling failed to bear such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, and against unsafe dosage and duration of administration, in such manner and form, as are necessary for the protection of users.

**DISPOSITION:** The Lipton Drug & Sales Co. filed an answer to the libel, to which answer the Government, on October 5, 1951, filed a motion for a summary judgment. On November 20, 1951, the court granted the Government's motion for a summary judgment based on the admissions in the claimant's answer that the drug was transported in interstate commerce without being labeled; and the court also ruled that the drug was subject to seizure as a misbranded drug. Judgment of condemnation and destruction was entered.

**3868. Adulteration and misbranding of vitamin B<sub>12</sub>. U. S. v. 105 Bottles \* \* \*.**  
(F. D. C. No. 33603. Sample No. 56326-L.)

**LIBEL FILED:** July 25, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 29, 1952, by Addison Laboratories, from Philadelphia, Pa.

**PRODUCT:** 105 1-ounce bottles of *vitamin B<sub>12</sub>* at Mansfield, Ohio. Analysis showed that the product contained 67 percent of the declared amount of vitamin B<sub>12</sub>.

**LABEL, IN PART:** "Vitamin B<sub>12</sub> Drops 30 Micrograms per CC \* \* \* In such doses as prescribed by a Physician \* \* \* Mfg. For The Caldwell & Bloor Co. Mansfield, Ohio."

**NATURE OF CHARGE:** Adulteration, Section 501 (c), the strength of the article differed from that which it was represented to possess, namely, "Vitamin B<sub>12</sub> \* \* \* 30 Micrograms per CC."

Misbranding, Section 502 (a), the label statement "Vitamin B<sub>12</sub> \* \* \* 30 Micrograms per CC" was false and misleading as applied to the article, which contained less than that amount of vitamin B<sub>12</sub>; and, Section 502 (f) (1), the labeling of the article failed to bear adequate directions for use.

**DISPOSITION:** September 12, 1952. Default decree of condemnation and destruction.

**3869. Misbranding of Diaplex. U. S. v. 48 Pounds \* \* \*.** (F. D. C. No. 31964.  
Sample No. 29638-L.)

**LIBEL FILED:** November 6, 1951, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 10, 1951, by Diaplex Laboratories, from Carr, Colo.

**PRODUCT:** 48 pounds of *Diaplex* at Seattle, Wash. Samples taken from other shipments of *Diaplex* were found to consist of a species of saltbush, such as *Atriplex canescens*.

**NATURE OF CHARGE:** Misbranding, Section 502 (f) (1), the labeling of the article failed to bear adequate directions for use for the purpose for which it was intended. The article was misbranded when introduced into, while in, and while held for sale after shipment in, interstate commerce.

**DISPOSITION:** May 7, 1952. Default decree of condemnation and destruction.

**3870. Misbranding of Color-Therm devices. U. S. v. 8 Devices \* \* \*.** (F. D. C. No. 32471. Sample Nos. 16471-L, 16472-L.)

**LIBEL FILED:** January 29, 1952, Northern District of Oklahoma; amended libel filed on or about May 19, 1952.

**ALLEGED SHIPMENT:** One device, including one hand applicator, was shipped from Mission, Kans., to Wewoka, Okla., and delivered during 1949 to Claremore, Okla.; in addition, 7 unlabeled devices, including 7 hand applicators;