

# United States Department of Agriculture

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the food and drugs act]

21176-21250

[Approved by the Acting Secretary of Agriculture, Washington, D.C., August 7, 1934]

**21176. Misbranding of Sodium Perborate. U. S. v. 17 2/3 Dozen Packages, et al., of Sodium Perborate Flavored. Default decrees of condemnation, forfeiture, and destruction.** (F. & D. nos. 30033, 30059, 30066, 30090, 30650. Sample nos. 17333-A, 17337-A, 25799-A, 29831-A, 37324-A.)

These cases involved several interstate shipments of sodium perborate, the labeling of which bore unwarranted curative and therapeutic claims. It also was claimed for the article in the labeling that it was an antiseptic mouth wash; whereas it was not an antiseptic when used as a mouth wash.

On April 5, April 6, and April 12, 1933, the United States attorney for the Southern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 69¼ dozen large and small packages of sodium perborate at Los Angeles, Calif. On April 8, 1933, a libel was filed in the District of Oregon against 22 small cans and 35 large cans of sodium perborate at Portland, Oreg., and on June 21, 1933, a libel was filed in the Western District of Washington against 72 large and 207 small cans of sodium perborate at Seattle, Wash. It was alleged in the libels that the article had been shipped in interstate commerce between November 29, 1932 and March 7, 1933, by the American Pharmaceutical Co., Inc., from New York, N.Y., and that it was misbranded in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article by this Department showed that it consisted of sodium perborate flavored with spearmint oil. Bacteriological examination showed that the product was not antiseptic when used as a mouth wash.

The libels alleged that the article was misbranded in that the following statements appearing in the labeling were false and misleading, since the article would not be effective as an antiseptic mouth wash when used as directed: "Antiseptic Mouth Wash \* \* \* Approved antiseptic for a daily mouth wash, \* \* \* one teaspoonful of sodium perborate 'A.P.C.' in a glass of warm water." Misbranding was alleged for the further reason that the following statements on the label, regarding the curative or therapeutic effects of the article, were false and fraudulent: "Recommended as a Prophylactic for the Teeth and Gums, helpful in the treatment of Pyorrhea, Trench Mouth, and Gingivitis \* \* \* especially helpful in cases of sore or infected gums."

No claimant appeared for the property. On July 3, 1933, judgments of condemnation and forfeiture were entered in the cases instituted in the Southern District of California, and it was ordered by the court that the product be destroyed by the United States marshal. On July 26 and September 22, 1933, the product seized in the District of Oregon and the Western District of Washington, respectively, was also ordered condemned and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*