

at Atlanta, Ga., alleging that the articles had been shipped on or about September 16, 1942, by Wells and Harris from Norfolk, Va.; and charging that the cosmetic items were adulterated in that they had been held under insanitary conditions whereby they might have become contaminated with filth.

The food items were alleged to be adulterated under the provisions of the law applicable to foods, as reported in notices of judgment on foods, No. 5764. The drug items were alleged to be adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 954.

On October 12, 1942, John W. Harris, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond for segregation and destruction of the unfit portion, and for reprocessing and relabeling of the good portion, under the supervision of the Food and Drug Administration.

COSMETICS ACTIONABLE BECAUSE OF ADULTERATION WITH UNCERTIFIED COAL-TAR COLORS

101. Adulteration of lemon color. U. S. v. 15 Pounds of O. S. Lemon #401. Default decree of condemnation and destruction. (F. D. C. No. 12364. Sample No. 52309-F.)

Examination showed that this product consisted of dimethylamino-azobenzene, a coal-tar color which is more commonly known as "butter yellow" (Colour Index, No. 19) and which is known to possess carcinogenic properties. The product was intended for use as a component in cosmetics.

On May 12, 1944, the United States attorney for the District of Massachusetts filed a libel against 15 pounds of O. S. Lemon #401 at Boston, Mass., alleging that the article had been shipped on or about May 11, 1943, by the Interstate Color Co., Inc., from New York, N. Y.; and charging that it was adulterated.

The article was alleged to be adulterated in that it was a cosmetic that was not a hair dye, and it contained a coal-tar color known as "butter yellow" that has not been listed for use in cosmetics in accordance with the regulations, and it was other than one from a batch that had been certified.

On July 11, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

102. Adulteration of cleansing cream. U. S. v. 21 Jars and 16 Jars of Cleansing Cream (and 1 other seizure action against same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 12362, 12374. Sample Nos. 51660-F, 51666-F, 51667-F, 59816-F.)

On May 12 and 20, 1944, the United States attorneys for the District of Massachusetts and the Northern District of Illinois filed libels against the following quantities of cleansing cream: 21 2-ounce jars and 16 4-ounce jars at Boston, Mass., and 16 2-ounce jars, 8 4-ounce jars, 21 8-ounce jars, and 30 16-ounce jars at Chicago, Ill., alleging that the article had been shipped from New York, N. Y., by Alexandra de Markoff, Inc., within the period from on or about December 27, 1943, to March 22, 1944; and charging that the article was adulterated. It was labeled in part: "Alexandra de Markoff Cleansing Cream."

Examination disclosed that the article contained, among other coal-tar colors, "butter yellow" (Colour Index, No. 19), a non-permitted coal-tar dye which is known to possess carcinogenic properties.

The article was alleged to be adulterated in that it was a cosmetic that was not a hair dye, and it contained a coal-tar color known as "butter yellow" that has not been listed for use in cosmetics in accordance with the regulations, and it was other than one from a batch that had been certified.

On July 11 and 24, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

103. Adulteration and misbranding of Oliv-Tone. U. S. v. 35 Bottles and 180 Packages of Oliv-Tone. Default decrees of condemnation and destruction. (F. D. C. Nos. 12365, 12366. Sample Nos. 52251-F, 52316-F.)

Examination of samples disclosed that this product was a liquid with two layers. One layer consisted of water colored with dye known as D&C Yellow #8. The other layer consisted of mineral oil and small portions of essential oils and was colored with dimethylamino-azobenzene, a coal-tar color which is more commonly known as "butter yellow" (Colour Index, No. 19), and which is not a dye certified as safe for use in cosmetics since it is known to possess carcinogenic properties.

On May 13 and 16, 1944, the United States attorneys for the District of Maine and the District of Rhode Island filed libels against 35 bottles of Oliv-Tone at Brunswick, Maine, and 180 packages of Oliv-Tone at Davisville, R. I., alleging that the article had been shipped on or about February 8 and April 12, 1944, from Boston, Mass., by the Great Atlantic Laboratories, Inc.; and charging that it was adulterated and misbranded. The article was labeled in part: "Oliv-Tone for Hair and Scalp."

The article was alleged to be adulterated in that it was a cosmetic that was not a hair dye, and it contained a coal-tar color known as "butter yellow" that has not been listed for use in cosmetics in accordance with the regulations, and it was other than one from a batch that had been certified.

The article was alleged to be misbranded in that the name "Oliv-Tone" created a false and misleading impression that the article contained olive oil.

On June 13 and July 13, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

COSMETICS CHARGED TO BE ACTIONABLE BECAUSE OF FALSE AND MISLEADING STATEMENTS ON THE LABELING*

104. Misbranding of shaving medium. U. S. v. 45% Dozen Packages of U-X Improved Shaving Medium. Tried to the court. Decree of condemnation and destruction. (F. D. C. No. 4098. Sample No. 19198-E.)

On April 1, 1941, the United States attorney for the Western District of Pennsylvania filed a libel against 45% dozen packages of the above-named product at Pittsburgh, Pa., alleging that such article had been shipped on or about October 4 and 21, 1940, by the U-X Manufacturing Co., Inc. from New York, N. Y.; and charging that it was misbranded.

Examination showed that the article consisted essentially of magnesium carbonate, peroxide, such as magnesium peroxide, and urea peroxide, together with small amounts of soap, gum arabic, and milk sugar.

The article was alleged to be misbranded as a cosmetic in that the following statements, appearing on the carton and in a circular contained in the package, were false and misleading since they represented that the article was efficacious for the purposes recommended, whereas it was not efficacious for such purposes: (Carton) "The oxygen shave * * * Due to oxygen content U-X improves the shave. * * * U-X scientifically conditions the skin and prevents shaving irritation . . . the oxygen does it. * * * Oxygen shave", and (circular) "U-X is an exclusive successful scientific preparation. * * * Superior to any shaving preparation now offered. * * * U-X is absolutely non-irritating. Highly recommended by the medical profession for its skin protecting soothing properties. Over and over again men praise the beneficial effects of U-X, its soothing qualities and its unsurpassed 'oxygen-action' on the toughest beards and tenderest skin. Redness, smarting and chin-chafe will disappear with use of U-X. * * * it is made of substances with a definite value which are beneficial to the skin. * * * the best possible shaving preparation. By capillary action the oxygen is drawn to the hair bulb—thus the irritating effects of a 'close' shave are avoided. As the oxygen penetrates to the base of the hair a thin white layer or coating is formed on the beard. * * * The hair is kept upright—the oxygen forms a film and lets the blade cut clean without dragging. Thus there is no pull against the direction of natural growth and the skin remains intact and unirritated. * * * allowing time for the skin to rid itself of all other substances with which it may have become impregnated by ordinary shaving methods. * * * 'At last I've found a shaving medium that has helped me to get rid of that old irritated, inflamed collar line. Now I shave against the grain without the pain and pulling of hair. * * * * * My skin was scraped and chafed. Since using U-X my skin is healthy and clear. * * *'"

"* * * My skin is allergic to a pimple condition and U-X is most beneficial.'" On May 2, 1941, the U-X Manufacturing Co., Inc., claimant, filed an answer denying that the article was a cosmetic and that it was misbranded; and on June 7, 1941, pursuant to the stipulation of the parties, the case was ordered removed to the United States District Court for the District of Connecticut. On or about December 10, 1941, the United States attorney for the District of Connecticut filed an amendment to the libel, charging that the article was misbranded under the provision of the law applicable to drugs, as reported in the notices of judgment

*See also No. 103