treatment of colds; and in that the label did not bear a statement of the quantity or proportion of acetanilid present since the statement "* * * in each fluid ounce: acetanilid 3 grs" was incorrect.

On June 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1089. Misbranding of Py-Ro. U. S. v. 6⅓ Dozen Bottles and 7⅔ Dozen Bottles of Py-Ro. Default decree of destruction. (F. D. C. No. 10014. Sample No. 3374–F.)

On or about June 21, 1943, the United States attorney for the Western District of Missouri filed a libel against 6⅓ dozen bottles, containing 4 fluid ounces each, and 7⅔ dozen bottles, containing 8 fluid ounces each, of Py-Ro, at Kansas City, Mo., alleging that the article had been shipped on or about April 3, 1943, from New York, N. Y., by Oran Products; and charging that it was misbranded.

Examination showed that the article consisted essentially of sodium hypochlorite, chlorthymol, and oil of peppermint dissolved in water.

The article was alleged to be misbranded in that the name, "Py-Ro," and the statements on the label, "Py-Ro * * * Using cotton saturated with Py-Ro, rub your gums * * * place on each side of affected parts of gums * * * If your gums are too tender due to inflammation * * * Swirl Py-Ro from one side of mouth to the other to force it down into gums and between the teeth * * * As inflammation decreases diminish water until full strength can be used. (This method tends to allay the inflammation of the gums which is usual at beginning of treatment)," were false and misleading, since the name and statements represented and suggested that the article was an effective treatment for pyorrhea, whereas it was not so effective; and in that the statement, "for Trench Mouth Symptoms," appearing on the label, was false and misleading since the article was not an effective treatment for trench mouth.

On August 4, 1943, no claimant having appeared, judgment was entered ordering the destruction of the product.

1090. Misbranding of U–X Improved Shaving Medium. U. S. v. 45⅔ 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 45⅔ dozen packages of the above-named product at Pittsburgh, Pa., alleging that the 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 under the provisions of the law applicable to cosmetics, as reported in the notices of judgment on cosmetics, No. 104.

On May 2, 1941, the U-X Manufacturing Co., Inc., claimant, filed an answer denying that the article was a cosmetic and 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 also misbranded under the provisions of the law applicable to drugs.

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.

It was alleged to be misbranded as a drug 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: "U–X is absolutely non-irritating. Highly recommended by the medical profession for its skin protecting soothing properties. * * * Redness, smarting and chinchafe will disappear with use of U–X. * * * allowing time for the skin to rid itself of all other substances with which it may have become impregnated by ordinary shaving methods. * * * '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.' "

An answer denying the allegations set forth in the amendment to the libel was subsequently filed by the claimant, together with a motion and petition dated February 13, 1942, for the removal of the case to the Southern District of New York. The motion was consented to by the Government's attorney and, on February 16, 1942, an order was entered for the removal of the case to the United States district court for that district. On February 23, 1942, a motion to revoke

the transfer was filed in the aforesaid court for the District of Connecticut and thereafter the court denied the motion, stating that, since the case had been removed and all papers transferred to the Southern District of New York, a proper motion should be addressed to the court for that district. A motion was then filed in the United States district court for the Southern District of New York for the retransfer of the case to the District of Connecticut, and at the conclusion of the argument thereon, which took place on May 8, 1942, the court handed down the following opinion in denial of the motion:

GODDARD, *District Judge:* "The United States Attorney for the Southern District of New York moves for an order transferring this proceeding back to the United States District Court of Connecticut. It is urged in support of this motion that the case had been transferred from the United States District Court for the Western District of Pennsylvania to the United States District Court of Connecticut, and that under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. A. § 334 (a)) the Connecticut Court was without power to transfer the case a second time, or to transfer the case to a district where the claimant has his principal place of business.

"Claimant contends that the order transferring the case to this court had been consented to by the United States Attorney for the District of Connecticut, and, accordingly, such transfer was permissible under the statute. I agree with this contention. The statute specifically provides that a proceeding 'pending or instituted' shall on application of the claimant be removed to any district agreed upon by stipulation between the parties. The consent of the United States Attorney for the District of Connecticut was in effect a stipulation. Nowhere is it provided that by stipulation a proceeding may be transferred only once, and then only to a district where the claimant does not have his principal place of business.

"Motion denied. Settle order on notice."

The case came on for trial before the court on October 29 and 30, 1942. At the conclusion of the trial the court took the case under advisement and on November 19, 1942, judgment of condemnation was entered and the product was ordered destroyed.

DRUGS FOR VETERINARY USE

1091. Misbranding of Phen-O-Sal Tablets. U. S. v. Dr. Salsbury's Laboratories. Plea of nolo contendere. Fine, $300 and costs. (F. D. C. No. 7709. Sample Nos. 76746–E to 76748–E, incl.)

On November 23, 1943, the United States attorney for the Northern District of Iowa filed an information against Dr. Salsbury's Laboratories, a corporation, Charles City, Iowa, alleging shipment on or about March 30, 1942, from the State of Iowa into the State of Minnesota of quantities of the above-named product.

Analysis of samples of the article disclosed that the tablets contained sodium phenolsulfonate, calcium phenolsulfonate, zinc phenolsulfonate, boric acid, a sugar, and approximately 0.34 grain of copper arsenite per tablet.

The article was alleged to be misbranded in that the statements in a circular accompanying the article which represented and suggested that it would be efficacious in the cure, mitigation, treatment, or prevention of intestinal diseases, such as diarrhea, fowl cholera, typhoid, coccidiosis, and enteritis, and respiratory diseases, such as pneumonia, bronchitis, mycosis, roup, and colds; and that it would be efficacious in keeping chickens healthy, were false and misleading since it would not be efficacious for those purposes.

On November 23, 1943, the defendant having entered a plea of nolo contendere, the court imposed a fine of $300 and costs.

1092. Misbranding of Dr. Salsbury's Rakos, Can-Pho-Sal, and Phen-O-Sal Tablets. U. S. v. 2 Jugs, 1 Bottle, and 6 Bottles of Rakos (and 2 other seizure actions against the other above-named products). Motion to dismiss filed by the claimant, denied by the court. Tried to a jury; verdict for the Government. Decrees of condemnation and destruction entered. Execution of judgment stayed and motion for new trial filed; motion denied and products ordered destroyed. (F. D. C. Nos. 7564 to 7566, incl. Sample Nos. 76921–E to 76923–E, incl., 76955–E to 76957–E, incl.)

On June 1, 1942, the United States attorney for the District of Minnesota filed libels against the following products at Worthington, Minn.: 2 1-gallon jugs, 1 1-quart bottle, and 6 1-pint bottles of Rakos; 42 1-pint and 38 ½-pint bottles of Can-Pho-Sal; and 123 cans, of various sizes, of Phen-O-Sal Tablets. Thereafter, amended libels were filed to cover additional quantities of the above-named products and to clarify the allegations and, on or about May 28, 1943, further amended