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

between the parties to permit the claimant to withdraw its claims upon payment of costs, but with the understanding that the claimant did not admit the misbranding of the product and that the entry of a default decree in the case should not be deemed an adjudication of the issues on the merits. In accordance with such stipulation, the court ordered that the claims be withdrawn; and on February 3, 1950, a default decree of condemnation and destruction was entered.

2947. Misbranding of medicated douche powder. U. S. v. 13 Dozen Cans * * *. (F. D. C. No. 27291. Sample No. 41471–K.)

LIBEL FILED: June 2, 1949, Western District of Washington.

ALLEGED SHIPMENT: On or about February 11, and April 23, 1949, by Stanley Drug Products, Inc., from Portland, Oreg.

PRODUCT: 13 Dozen 5-ounce cans of *medicated douche powder* at Seattle, Wash. Analysis showed that the product consisted essentially of boric acid, alum, zinc sulfate, carbolic acid, oxyquinoline sulfate, and essential oils.

LABEL, IN PART: "Stanley's N D Medicated Douche Powder."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in an accompanying circular entitled "The Importance of PH" were false and misleading. The statements represented and suggested that the article was effective to aid in restoring and maintaining a healthy condition of the vagina and in the relief of minor irritations of the vagina, whereas the article was not effective for such purposes.

DISPOSITION: October 21, 1949. Default decree of condemnation and destruction.

2948. Misbranding of Wonder Bath and Wonder Cream. U. S. v. Kay Austin (Academy Vita Products Co.). Plea of guilty. Fine, $500. (F. D. C. No. 24256. Sample Nos. 62848–H, 88192–H.)

INFORMATION FILED: June 17, 1949, District of New Jersey, against Kay Austin, trading as the Academy Vita Products Co., Newark, N. J.

ALLEGED SHIPMENT: On or about May 20 and July 12, 1947, from the State of New Jersey into the States of California and New York.

PRODUCT: Analysis disclosed that the *Wonder Bath* consisted of crystals of magnesium sulfate (epsom salt), interspersed with free sulfur, and having a strong odor of pine, and that the *Wonder Cream* consisted essentially of water, methyl salicylate, sodium stearate, and free stearic acid.

NATURE OF CHARGE: Misbranding, Section 502 (a), the label statement "relax while reducing" appearing on the label of the *Wonder Bath* was false and misleading. The statement represented and suggested that the *Wonder Cream* and the *Wonder Bath* in combination would be efficacious to cause the user to lose weight, whereas the articles would not be efficacious for that purpose.

DISPOSITION: December 16, 1949. A plea of guilty having been entered, the court imposed a fine of $500.

2949. Misbranding of Roll-A-Ray (device). U. S. v. 133 Cartons * * *. (F. D. C. No. 26948. Sample No. 8623–K.)

LIBEL FILED: March 23, 1949, Eastern District of New York.

ALLEGED SHIPMENT: On or about February 11, 1948, by the O. A. Sutton Corp., from Wichita, Kans., to New York, N. Y., and thereafter on or about November 10, 1948, to Long Island City, N. Y.