

On July 20, 1934, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 36 bottles of Dietene at La Crosse, Wis. On August 16, 1934, the libel was amended to cover 67 bottles of the product. It was alleged in the libel as amended that the article had been shipped in interstate commerce on or about July 10 and July 21, 1934, by the Dietary Foods Co., from Minneapolis, Minn., and that it was misbranded in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted of ordinary food substances including dried milk, malt extract, sugar, wheat germ, wheat bran, cacao powder, and salt, flavored with vanilla.

The article was alleged to be misbranded in that the references in the following statements appearing in the labeling, relative to its effectiveness in weight reducing, were false and misleading, and that those relative to its curative and therapeutic effects were false and fraudulent: "Dietene Reduces correctly * * * Dietene reduces over-weight promptly and surely because by it the day's Calories are cut about one-third. Dietene is a reducing diet of pure foods in concentrated form which has a number of distinct advantages over bulk food diets. * * * It embodies all the reducing diet principles used by the nutritional experts in the professional field * * * The full regular main meal provides necessary bulk and the essential carbohydrates for proper burning of the fats which the body is giving off during the relatively rapid reducing which Dietene accomplishes * * * The Dietene-Diet is economical, as it only costs one-third or one-half of regular meals it replaces. It Positively Contains No * * * Salts * * * Directions for Use: Whip, beat, or shake in a covered jar 4 big heaping teaspoonsful of Dietene with an ordinary glass of water. This constitutes a complete reducing-diet meal. Replace usual breakfast and lunch with Dietene—or lunch only if slow reduction of weight is desired. Protects Health * * * Its superior proteins (derived from dairy and vegetable sources), mineral salts and vitamins, fully protect health while reducing."

On November 9, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

24528. Adulteration and misbranding of Restorax Cheno Tablets, and misbranding of Instant Alberty's Food. U. S. v. 11 Cans of Instant Alberty's Food and 119 Boxes of Restorax Cheno Tablets. Products released under bond to be relabeled. (F. & D. nos. 33268, 33269. Sample nos. 816-B, 818-B.)

These cases involved products the labeling of which contained unwarranted curative and therapeutic claims. Examination of the Restorax Cheno Tablets showed that they were below the standard of quality represented, since they were represented to contain no drugs; whereas they contained a laxative plant drug, and that the composition was not in agreement with the composition indicated in the labeling.

On August 22, 1934, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 11 cans of Instant Alberty's Food and 119 boxes of Restorax Cheno Tablets at Portland, Oreg., alleging that the articles had been shipped in interstate commerce on or about May 5, 1934, by U. S. Okey, from Wilmington, Calif., and charging misbranding of both products and adulteration of the Restorax Cheno Tablets, in violation of the Food and Drugs Act as amended.

Analyses showed that the Restorax Cheno Tablets contained plant materials including a laxative plant drug, and that the Instant Alberty's Food consisted of a mixture of powdered skim milk and plant material including starch.

The Restorax Cheno Tablets were alleged to be adulterated in that their strength and purity fell below the professed standard of quality under which they were sold, namely, (booklet entitled "Cheno Keep or Regain that Youthful Figure", a supply of which was shipped by the manufacturer to the consignee) "These tablets do not contain drugs but are composed of food substances, * * * Four Cheno Restorax Tablets contain a level teaspoonful of dehydrated vegetables."

Misbranding of the Restorax Cheno Tablets was alleged for the reason that the statement on the label, "Does not contain Drugs * * * Contains Dulce, Irish Moss, and a combination of Dehydrated Vegetables with additional

amounts of Organic Calcium and Phosphates", was false and misleading in view of the actual composition of the article. Misbranding of the Restorax Tablets was alleged for the further reason that the statement on the label, "Restorax", was false and fraudulent, since the article was not a restorative in any sense and in particular was not a restorative of the normal size and shape of the human body as the manufacturer interprets the term in collateral advertising, a supply of which was furnished the consignee.

Misbranding of the Instant Alberty's Food was alleged for the reason that the following statements regarding its curative or therapeutic effects, appearing in the circular accompanying the retail package, were false and fraudulent: "One May Take One Or More Of The Alberty Products And Get Results. The full Alberty's Treatment is not essential but is for those who desire to recover their health in the shortest possible length of time. Regardless of what is wrong—some ailment or a general 'rundown' condition, quicker and more pronounced results are obtained when the full treatment is taken. In most all ailments or 'run-down' conditions, the nervous system is effected and the cells of the body becomes inactive or partially paralyzed and are not renewed as quickly as when the body is perfectly normal. The daily loss of worn-out cells amounts to about 100 million million. These worn-out cells must not only be eliminated but must be replaced daily to maintain or to rebuild health. * * * Many people take just one of the products and get excellent results. Some take only the Alberty's Food. * * * Alberty's Food Regular or Instant—the body builders. * * * Instant Alberty's Food is a highly concentrated food already prepared with pure, fresh, cow's milk combined with Alberty's Food. * * * Within the past few years, marvelous discoveries connected with the health-giving aspects of milk have been made. Milk is a great help to men and women who want to keep strong, vigorous and youthful. Not only is milk a builder, repairer and invigorator, but it is the only food that really heals and is also used as an antidote for poisons, etc. * * * Alberty's Food * * * Is a cereal derivative containing * * * protein * * * for rebuilding body cells. * * * has 16 life sustaining elements, * * * Alberty's Food, * * * makes of milk a different food * * * It breaks up the dense curd into * * * particles, * * * the digestive juices mingling through these particles, absorbs the healing and life-giving elements in milk."

On December 3, 1934, Ruby Leeds, Portland, Oreg., having appeared as claimant for the Instant Alberty's Food, and having admitted the allegations of the libel, judgment was entered ordering that the product be released to the claimant under bond conditioned that it be relabeled under the supervision of this Department. On December 18, 1934, a decree was entered in the remaining case ordering that the Restorax Cheno Tablets be released under bond to the claimant, Ruby Leeds, conditioned that they be properly relabeled.

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

24529. Misbranding of Palmer's Lotion and Palmer's Lotion Soap. U. S. v. 117 Small Bottles of Palmer's Lotion, et al. Default decrees of condemnation and destruction. (F. & D. nos. 31943, 32035, 33306, 33307. Sample nos. 47412-A, 68170-A, 112-B, 114-B.)

These cases involved shipments of Palmer's Lotion and a shipment of Palmer's Lotion Soap, the labeling of which bore unwarranted curative and therapeutic claims. The label of the soap was further objectionable since it bore the false and misleading claim that it contained Palmer's Lotion, analysis having shown that it contained no mercuric chloride, the essential ingredient of Palmer's Lotion.

On February 8 and March 13, 1934, the United States attorneys for the Northern District of California and the District of Vermont, respectively, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 174 bottles of Palmer's Lotion at San Francisco, Calif., and 39 bottles of Palmer's Lotion at Burlington, Vt., alleging that the article had been shipped in interstate commerce by Solon Palmer from New York, N. Y., the former on or about October 7, 1933, and the latter on or about January 5, 1934. On August 30, 1934, the United States attorney for the District of Colorado filed a libel against 157 bottles of Palmer's Lotion and 138 boxes of Palmer's Lotion Soap at Denver, Colo., which had been shipped in interstate commerce, in part on or about July 25, 1933, and in part on or about March 12, 1934, by Solon Palmer, from New York, N. Y. The libels charged that the articles were misbranded in violation of the Food and Drugs Act as amended.