(12) Lafayette Pharmacal, Inc. is a concern of high standing, with excellent commercial and professional connections; its President, who was present and testified at the trial, is an individual of high standing. The United States has no complaint to make except as to the specific language of the label as above set forth.

(13) The President of Lafayette Pharmacal, Inc., a graduate and registered pharmacist, recounted on the witness stand his conferences with various doctors in regard to the statements on the label, and his conclusion derived therefrom that no change in the wording of the label was required.

(14) The President of Lafayette Pharmacal, Inc. also described on the witness stand his company's policy of no exploitation to the laity, of no advertising of any character to the laity.

(15) The label complained of had been used by Lafayette Pharmacal, Inc. for twelve years. The United States, without lodging any complaint with Lafayette Pharmacal, Inc., and without any warning, had effected a prior seizure of Pulvis Alkantis and when Lafayette Pharmacal, Inc., discovered what was the complaint of the Food and Drug Administration, Lafayette Pharmacal, Inc. protesting that the label was in all respects correct, agreed to change it and accordingly the label was changed to one with respect to which the Food and Drug Administration declared it took no exception. The instant seizure was made after this had taken place. The President of Lafayette Pharmacal, Inc., explained the use of the old label on the seized shipment as the mistake of some employee at the factory of Lafayette Pharmacal, Inc., which explanation the Court accepts as correct.

CONCLUSIONS OF LAW

(1) In view of the foregoing Findings of Fact relative to reflex vomiting, the Court finds as a matter of law that the label is false. It is unnecessary for the Court to rule on the question of falsity. As to the other statements of the label, since the Court finds that where a label contains a list of ailments for which the drug is recommended, the charge of falsity is sustained by proof of the false character on any one of the chaims.

(2) In a case of this kind it is not sufficient to establish merely the falsity of the claim; it must also appear that this false claim was made fraudulently; that is, either the defendant knew it was false, or without knowledge of its truth or falsity, made the claim recklessly and without a firm and honest belief in its truth. In the instant case, no knowledge of falsity, recklessness of statements, or lack of a firm and honest belief in the truth of the label statement can be attributed to Lafayette Pharmacal, Inc., or its President, and the label statement, therefore, cannot be regarded as fraudulent.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26955. Misbranding of Witter Water. U. S. v. Witter Water, Inc. Plea of guilty. Fine, $100. (F. & D. no. 33808. Sample no. 33900-A.)

This case involved a mineral water the labeling of which bore false and fraudulent curative and therapeutic claims.

On March 29, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Witter Water, Inc., Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 30, 1932, from the State of California into the State of Illinois of a quantity of Witter Water that was misbranded. The article was labeled in part: "Natural Medicinal Witter Water * * * Bottled and Sealed at Witter Water Medical Springs, California."

Analysis showed that the article was an alkaline water containing per quart 177 grains of dissolved mineral matter consisting essentially of sodium, magnesium, and calcium bicarbonate, borax, sodium chloride, and small proportions of other salts commonly present in ground waters.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing on the bottle label and cartons and in an accompanying circular, falsely and fraudulently represented that it was effective to neutralize the excess acid of the stomach; to relieve the pain and distress of most acid stomach disorders; to give remarkable results in improving general health, and to build up health and vitality; effective to bring relief to sufferers of excess acid stomach disorders and severe cases of acid stomach, and to assist greatly in building better health and vitality; effective to supply the system with elements vitally neces-

sary to good health, to maintain health in the body, to eliminate carbon dioxide from the lungs, to keep the bones flexible and give elasticity to the muscles, to supply the blood with hemoglobin and thus carry life-giving oxygen to all parts of the body, to insure the proper mineral balance of the body, to increase the number of red corpuscles in the blood, to promote and regulate vital processes, to assist in protecting the body from infection, to remove waste material, to cleanse and heal and to nourish impoverished body cells upon which health depends; and effective as a treatment for stomach disorders, acidosis (lack of pep), anemia (poor blood), stomach ulcer, duodenal ulcer, colitis, enterocolitis, high blood pressure, rheumatism, obesity (overweight), and poor health.

On April 2, 1936, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $100.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26956. Adulteration of Dr. Lane's Quinine Capsules, Calomel & Soda Tablets, and Solution Mercurochrome. U. S. v. Cumberland Manufacturing Co., Inc. Plea of guilty. Fine, $200. (F. & D. no. 33961. Sample nos. 68530-A, 68531-A, 68532-A, 68546-A, 68548-A, 7505-B, 7507-B.)

Dr. Lane's Quinine Capsules differed from the standard of strength, quality, and purity for quinine as prescribed by the United States Pharmacopoeia in that they were not quinine but were in part quinine sulphate. The Calomel & Soda Tablets contained less than the quantity of sodium bicarbonate represented on the label, or none at all. The Solution Mercurochrome contained less than the proportion of Mercurochrome represented on the label.

On November 2, 1935, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cumberland Manufacturing Co., Inc., a corporation, Nashville, Tenn., charging shipment by said corporation in violation of the Food and Drugs Act, from the State of Tennessee into the State of Alabama on or about October 3 and 17, 1933, and February 7, 1934, of quantities of Dr. Lane's Quinine Capsules; on or about October 13, 1933, of a quantity of calomel and soda tablets; and on or about March 5 and August 23, 1934, and January 24, 1935, of quantities of Solution Mercurochrome, all of which were adulterated.

The article Dr. Lane's Quinine Capsules was alleged to be adulterated in that it was sold under and by a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in said pharmacopoeia, in that it was not quinine as determined by said test, but was in part dehydrated quinine sulphate, and its standard of strength, quality, and purity was not declared on the container thereof. Said article was alleged to be adulterated further in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was represented that each of the capsules contained 5 grains of quinine; whereas in fact each of the capsules contained no quinine, but did contain quinine sulphate.

The calomel and soda tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, in that each of the tablets was represented to contain 1 grain of sodium bicarbonate; whereas in fact each of the tablets contained little, if any, sodium bicarbonate.

The Solution Mercurochrome was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was represented to contain 2 percent of Mercurochrome; whereas in fact it contained less than 2 percent of Mercurochrome.

On December 18, 1936, a plea of guilty was entered on behalf of the defendant corporation and the court imposed a fine of $200.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26957. Adulteration and misbranding of Bismuth Subgallate Comp., Elixir Basham, C. C. T. Quinine Bisulphate, Tincture Aconite Root, U. S. P., Hypodermic Tablets Nitroglycerin, Hypodermic Tablets Strychnine Sulphate, Tincture Hyoscyamus, U. S. P., Fluid Extract Colchicum Seed, U. S. P., Compressed Tablets Cinchophen, Tablet Triturates Morphine Sulphate. U. S. v. The Tilden Co. Plea of guilty. Fine, $4,000. (F. & D. nos. 34092, 36979. Sample nos. 16877-B, 16887-B, 16889-B, 17408-B, 17411-B, 21432-B, 42209-B, 67858-A, 69660-A, 69666-A.)

The Elixir Basham, Tincture Aconite Root, U. S. P., Tincture Hyoscyamus, U. S. P., and Fluid Extract Colchicum Seed, U. S. P. differed from the stand-