

The article was alleged to be misbranded in that certain statements regarding its curative and therapeutic effects, appearing on the tube labels, falsely and fraudulently represented that it was effective as an intestinal antiseptic and bacteriostat and as an astringent that arrests discharges; as an intestinal antiseptic destructive to poisonous germs, and as a bacteriostat to stop the growth of bacteria; effective in the drinking water of fowls as an aid in the treatment of coccidiosis, diarrhea, dysentery, fowl typhoid, avian hemorrhagic septicemia (fowl cholera), and other diseased conditions of the intestinal tract in poultry that may be transmitted by contaminated drinking water; and effective as a treatment for sick birds.

On June 10, 1937, a plea of nolo contendere was entered on behalf of the defendants and the court imposed a fine of \$50 and costs.

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

27378. Adulteration and misbranding of tincture of nux vomica. U. S. v. Economy Laboratories, Inc. Plea of nolo contendere. Fine, \$50 and costs. (F. & D. no. 36976. Sample no. 27443-B.)

This product was sold under a name recognized in the United States Pharmacopoeia but differed from the standard established by that authority since it yielded a smaller amount of the alkaloids of nux vomica than provided therein.

On April 13, 1936, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Economy Laboratories, Inc., Peoria, Ill., charging shipment by said defendant in violation of the Food and Drugs Act on or about March 29, 1935, from the State of Illinois into the State of Kansas of a quantity of tincture of nux vomica that was adulterated and misbranded. The article was labeled in part: "El Tincture Nux Vomica U. S. P. * * * Economy Laboratories, Inc."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the tests laid down therein since it yielded less than 0.237 gram, that is, not more than 0.174 gram of the alkaloids of nux vomica per 100 cubic centimeters; whereas the pharmacopoeia provided that tincture of nux vomica should yield not less than 0.237 gram of the alkaloids of nux vomica per 100 cubic centimeters; and the standard of strength, quality, and purity of the article 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.

It was alleged to be misbranded in that the statements, "Tincture Nux Vomica, U. S. P." and "Adjusted by assay to the U. S. P. Standard," borne on the bottle label, were false and misleading since they represented that the article was tincture of nux vomica which conformed to the standard laid down in said United States Pharmacopoeia; whereas it did not conform to said standard.

On June 10, 1937, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$50 and costs.

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

27379. Misbranding of rubbing alcohol compound. U. S. v. 17½ Dozen Bottles of Rubbing Alcohol Compound. Default decree of condemnation and destruction. (F. & D. no. 37126. Sample no. 50492-B.)

This product consisted essentially of isopropyl alcohol and water with traces of borax. Its label, however, bore the conspicuous statement "Rubbing Alcohol Compound", a name which conveyed the impression that it was made from ordinary ethyl alcohol, and this impression was not corrected by the relatively inconspicuous statement of the presence of isopropyl alcohol. The percentage of isopropyl alcohol was not declared on the label.

On January 29, 1936, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17½ dozen bottles of rubbing alcohol compound at Bridgeport, Conn., alleging that the article had been shipped in interstate commerce by Best Value Sales Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. It was labeled in part: "Rubbing Alcohol Compound * * * Certified Rx Laboratories New York—Chicago."

The article was alleged to be misbranded in that the statement "Rubbing Alcohol Compound", borne on the bottle label, was false and misleading when

applied to an article containing isopropyl alcohol, water, and boric acid, since it created the impression that the article was made from ordinary (ethyl) alcohol and this impression was not corrected by the relatively inconspicuous statement on the label, "The contents herein contained is prepared from Isopropyl Alcohol ($\text{CH}_3\text{CHOHCH}_3$). This preparation does not contain Ethyl Alcohol ($\text{C}_2\text{H}_5\text{OH}$). If taken internally will cause violent gastric disturbances." The article was alleged to be misbranded further in that the package failed to bear upon its label a statement of the quantity or proportion of isopropyl alcohol contained therein, since the statement "Isopropyl Alcohol 70 Proof" was meaningless.

On June 24, 1937, 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.*

27380. Adulteration and misbranding of Vita-Mil. U. S. v. 1,080 Bottles of Vita-Mil. Default decree of condemnation and destruction. (F. & D. no. 37237. Sample no. 48725-B.)

This product was falsely represented to consist of roots, herbs, and barks but in fact contained about 20 percent of Epsom salt, a mineral laxative. Its labeling bore false and fraudulent representations regarding its curative and therapeutic effects.

On February 27, 1936, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,080 bottles of Vita-Mil at Orlando, Fla., alleging that the article had been shipped in interstate commerce on or about December 3, 1935, by William Barth from Cincinnati, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended. It was labeled in part: "Vita-Mil * * * Distributed by the Vita-Mil Company, Charleston, W. Va."

Analysis showed that the article consisted essentially of Epsom salt (approximately 20 percent) and extracts of plant drugs including a laxative drug, small proportions of sodium benzoate, sugars, saccharin, caramel, and flavoring material, and water.

On May 5, 1936, G. B. Potterfield, trading as the Vita-Mil Co., claimant, having admitted the allegations of the original libel, judgment of condemnation was entered with provision for release of the product under bond to be relabeled under the supervision of this Department. On or about June 3, 1936, the claimant petitioned the court to vacate the decree of May 5, 1936, which petition was argued on June 22, 1936, and granted by the court. On March 4, 1937, an amended libel was filed charging interstate shipment and misbranding, as in the original libel, and charging that the article was also adulterated and misbranded further.

The amended libel alleged that an evening newspaper published at Orlando, Fla., on January 30, 1936, carried the statement "All day Friday and Saturday a perfect tidal wave of local folk and people from nearby points swept in and out of the [name of the drug store] at [address] to hail Vita-Mil, the sensational new herbal compound"; that the cartons containing the article had printed thereon the statement "Made from Roots, Herbs and Barks from All Parts of the Earth"; and alleged that the article was adulterated in that its purity fell below the professed standard under which it was sold, namely, in the newspaper advertisement above referred to as an "herbal compound" and on the said cartons, "made from roots, herbs and barks from all parts of the earth", for the reason that it was not an herbal compound and was not made from roots, herbs, and bark, but consisted largely of Epsom salt, a mineral drug.

The article was alleged to be misbranded in that the statement borne on the carton, "A medicine made from roots, herbs and barks from all parts of the earth" was false and misleading; and in that it was an imitation of and offered for sale under the name of another article, an herbal compound made from roots, herbs, and barks, the identity of the article having been falsely declared by means of the advertisement and the statement on the carton quoted above.

It was alleged to be misbranded further in that the letters "Vita-Mil", borne on the bottle label and carton, were a device which meant to purchasers "Health for Millions", the said letters having attained such meaning as a result of the following: (1) That business cards distributed to the public by an agent of the Vita-Mil Co. bore the statement "Health for Millions" just above the letters "Vita-Mil", interpreting the meaning of "Vita-Mil" to be "Health for