

from serum or sera of the nature described in the libel and that the statement is false and misleading.

"These allegations clearly are sufficient to constitute a violation of section 8 of the act (21 U. S. C. Sec. 9), which provides that misbranding shall apply to all drugs the package or label of which shall bear any statement regarding such article which shall be false or misleading in any particular. See *United States v. 95 Barrels of Vinegar*, 265 U. S. 438, 442, 443.

"The exceptions accordingly are overruled."

On April 19, 1938, the claimant filed an answer to the second amended libel, and on May 6, 1938, an amended answer. On December 29, 1938, the claimant moved to withdraw its appearance, claim, and answer, which motion was granted; and on January 18, 1939, judgment of condemnation was entered and the product was ordered destroyed.

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

30232. Adulteration and misbranding of Edwenil. U. S. v. 790 Cartons of Edwenil (and 1 other seizure action against the same product). Consent decrees of condemnation and destruction. (F. & D. Nos. 40035, 40129. Sample Nos. 15192-C, 15194-C.)

The labeling of this product and its composition was essentially the same as that covered by the product in notice of judgment No. 30231.

On August 4 and 20, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,895 cartons of Edwenil at Chicago, Ill.; alleging that the article had been shipped in interstate commerce by Spicer & Co. within the period from on or about January 6 to on or about July 16, 1937; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that its strength fell below the professed standard under which it was sold, namely, "A Polyvalent Antibacterial Agent," since it was not a polyvalent antibacterial agent.

The article was alleged to be misbranded in that the statement in the circular and on the carton, "A Polyvalent Antibacterial Agent" was false and misleading. It was alleged to be misbranded further in that certain statements on the carton and in an accompanying circular contained false and fraudulent representations regarding its effectiveness as a polyvalent antibacterial agent, its effectiveness in acute infections and infectious diseases such as pneumonia or puerperal sepsis, and its effectiveness to abort colds or influenza; and in that certain statements in a circular accompanying a portion of the article bore false and fraudulent representations regarding its effectiveness as a stimulant to the production of lysins or antibodies which lyse or destroy the endotoxic bacteria; its effectiveness to increase the quantity of these antibodies and speed their mobilization; its effectiveness in acute diseases of the respiratory system (especially pneumonia), sepsis, cellulitis, carbuncles, and skin infections; and its effectiveness to increase bacteriolysis and increase pus production.

On February 8, 1939, Spicer & Co., claimant, having withdrawn its appearance and having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

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

30233. Adulteration and misbranding of aspirin tablets. U. S. v. 23 Bottles and 17 Bottles of Aspirin Tablets. Default decree of condemnation and destruction. (F. & D. Nos. 44533, 44534. Sample Nos. 9191-D, 9192-D.)

These tablets were represented to contain 5 grains each of aspirin (acetylsalicylic acid), but contained approximately $4\frac{1}{2}$ grains. They failed to conform to the standard prescribed in the National Formulary, since that authority requires that tablets of acetylsalicylic acid shall contain not less than 92.5 percent of the labeled amount of the drug.

On or about December 21, 1938, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 bottles of aspirin tablets at Houston, Tex.; alleging that the article had been shipped in interstate commerce on or about May 18, 1938, by the Charles H. Dietz Co., from St. Louis, Mo.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration was alleged in that the article was sold under a name recognized in the National Formulary, but differed from the standard of strength, quality, and purity as determined by the tests laid down therein, and its own standard