

30877. Adulteration and misbranding of ether. U. S. v. Nine Cans of Ether. Default decree of condemnation and destruction. F. & D. No. 45287. Sample Nos. 53653-D, 53658-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it did not have the characteristic odor prescribed by the pharmacopoeia, but did have a foreign odor resembling that of bitter almonds.

On May 8, 1939, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cans of ether at Detroit, Mich.; alleging that the article had been shipped on or about August 13, 1937, by Merck & Co., Inc., from Newark, N. J.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, namely, "Ether," but differed from the standard of strength, quality, and purity as determined by the test laid down in the pharmacopoeia, and its own standard of strength, quality, and purity was not stated on the label.

Misbranding was alleged in that the statement on the label, "Ether for Anesthesia * * * U. S. P.," was false and misleading since the article failed to comply with the specifications of the pharmacopoeia for ether, because of the presence of a foreign odor resembling that of bitter almonds.

On June 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

30878. Adulteration and misbranding of quinine sulfate pills. U. S. v. McKesson & Robbins, Inc. Plea of nolo contendere. Fine, \$500. (F. & D. No. 42686. Sample Nos. 14328-D, 14329-D, 25694-D, 26494-D, 26910-D, 31701-D.)

These pills were materially short in quinine sulfate because the 5 shipments of pills labeled as containing 2 grains each were found to contain 1.60, 1.67, 1.65, 1.53, and 1.60 grains, respectively, of quinine sulfate; and the one shipment labeled as containing 5 grains, was found to contain 2.78 grains of quinine sulfate.

On June 2, 1939, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court an information against McKesson & Robbins, Inc., Bridgeport, Conn., alleging shipment by said defendant in violation of the Food and Drugs Act on or about July 16, 19, and 26 and August 24, 1938, from the State of Connecticut into the States of New York and New Jersey, of quantities of 2-grain quinine sulfate pills that were adulterated and misbranded. The information alleged further that on or about December 7, 1937, McKesson & Robbins, Inc., sold a quantity of 5-grain pills and a quantity of 2-grain pills under a guaranty that they complied with the Federal Food and Drugs Act, which were shipped from the State of Connecticut into the State of Massachusetts on January 13, 1938, and which were adulterated.

Adulteration of the products in all shipments was charged in that their strength fell below the professed standard and quality under which they were sold, namely, "Pills * * * 2-grain quinine sulphate," "Quinine sulphate pills, 2-gr.," or "Quinine sulphate U. S. P. * * * 5-grain pills," respectively, borne on the bottles, cartons, or boxes.

Misbranding of the product in all shipments, except that of the 5-grain pills and the 2-grain pills shipped into Massachusetts, was charged in that the statements, "Pills * * * 2-grain quinine sulphate" and "Quinine sulphate pills, 2-gr.," were false and misleading.

On July 11, 1939, a plea of nolo contendere was entered on behalf of the defendant and a fine of \$500 was imposed.

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

30879. Misbranding of Hed Klear. U. S. v. 21 Packages of Hed Klear (and 2 seizure actions against other shipments of the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44678, 44875, 45018. Sample Nos. 36141-D, 50599-D, 64026-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On January 16, February 24, and March 24, 1939, the United States attorneys for the Northern District of California, District of Idaho, and the Eastern

District of Washington, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 21 packages of Hed Klear at San Francisco, Calif., 9 packages at Boise, Idaho, and 9 packages of the same product at Walla Walla, Wash.; alleging that the article had been shipped in interstate commerce on or about October 28 and November 5, 1938, by the Van Patten Pharmaceutical Co. from Chicago, Ill.; and charging misbranding in violation of the Food and Drugs Act as amended.

The article consisted of a liquid and a vaporizer. Upon analysis, a sample of the article was found to consist of a mixture of volatile oils including eucalyptus oil and menthol, grain alcohol, isopropyl alcohol, acetone, and water.

Misbranding was alleged in that the following statements appearing in the labeling, "For relief of discomfort in Head Colds, Rhinitis, Nasal Catarrh, Sinus Irritation and Hay Fever. Use according to directions. [Diagrammatic sketch of apparatus in use] Showing how the breath carries soothing vapors of Hed Klear Essence through the nasal passages to all inflamed, irritated parts, thus affording relief of discomfort in Head Colds, Rhinitis, Nasal Catarrh, Sinus Irritation and Hay Fever," were statements regarding the curative or therapeutic effects of the article and were false and fraudulent.

The libels filed in the Northern District of California and the Eastern District of Washington alleged that the article was also misbranded in violation of the Federal Food, Drug, and Cosmetic Act, as reported in notices of judgment on drugs and devices published under that act.

On April 14, May 10, and July 19, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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

30880. Adulteration and misbranding of ether U. S. P. 10 (ethyl oxide U. S. P. XI). U. S. v. 40 Cans of "Ether U. S. P. 10 * * * (Ethyl Oxide U. S. P. XI)." (F. & D. No. 45419. Sample No. 59947-D.)

This product failed to meet the tests laid down in the United States Pharmacopoeia, since it contained acid in excess of the amount prescribed by that authority.

On or about June 1, 1939, 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 40 cans of ether at Hartford, Conn.; alleging that the article had been shipped in interstate commerce on or about March 24, 1939, by Merck & Co., Inc., from Rahway, N. J.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under names recognized in the United States Pharmacopoeia, i. e., "Ether" and "Ethyl Oxide," but differed from the standard of strength, quality, and purity as determined by the tests laid down in the said pharmacopoeia and its own standard of strength, quality, and purity was not stated on the label. It was alleged to be adulterated further in that its strength and purity fell below the professed standard and quality under which it was sold, "Ether U. S. P. 10," since it did not conform to the specifications of the tenth revision of the United States Pharmacopoeia, because of the presence of excess acid.

Misbranding was alleged in that the statement on the label, "Ether U. S. P. 10 * * * (Ethyl Oxide U. S. P. XI)," was false and misleading, since the article did not conform to the specifications of the tenth revision of the United States Pharmacopoeia for ether or to those of the eleventh revision of the pharmacopoeia for ethyl oxide.

On September 8, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

30881. Misbranding of E E Powders. U. S. v. 936 Cartons of E E Powders. Default decree of condemnation and destruction. (F. & D. No. 44980. Sample No. 44932-D.)

This product was labeled as containing 4 grains of acetanilid per powder; whereas it contained a greater amount, namely, 4.99 grains.

On March 10, 1939, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 936 cartons of E E Powders at Lincolnton, N. C.; alleging that the article had been shipped