

pound drum of X-Ode at St. Paul, Minn.; alleging that the article had been shipped within the period from on or about July 26, 1937, to on or about March 11, 1938, by Products, Inc., from Columbus, Ohio; and charging misbranding within the meaning of the Food and Drugs Act as amended.

Analysis showed that the article consisted of sodium carbonate (99.15 percent) and potassium permanganate (0.85 percent).

The article contained in the 2-ounce and 5-ounce packages was alleged to be misbranded in that the following statement on the package regarding its curative or therapeutic effect was false and fraudulent: "Use for treating skin infections."

It was also alleged to be misbranded under the Insecticide Act of 1910, as reported in notice of judgment No. 1723 published under that act.

On November 10, 1939, the X-Products Co. St. Paul, Minn., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released to the claimant under bond for relabeling.

GROVER B. HILL, *Acting Secretary of Agriculture.*

**30960. Misbranding of Agalax, adulteration and alleged misbranding of Kayan, and alleged misbranding of Seedol Kelpamalt. U. S. v. Associated Laboratories, Inc., Louis A. Tuvin, Julius H. Tuvin, and John M. Bair. Pleas of guilty. Total fines, \$750, i. e., Associated Laboratories, Inc., \$300; Louis A. Tuvin, \$300; Julius H. Tuvin, \$75; and John M. Bair, \$75. (F. & D. No. 39722. Sample Nos. 3093-C, 3101-C.)**

The Agalax was misbranded because it was falsely represented to be a mixture of natural products which included no drug or medicine; whereas it contained, among other ingredients, phenolphthalein, a coal-tar drug. The Kayan was represented to consist of granulated powder from the sap of an Asiatic tree; whereas its principal active ingredient was phenolphthalein. The Kayan and Seedol Kelpamalt were enclosed in a cardboard box called a "deal," which contained seven cartons each carton containing a package of Kayan and a package of Kelpamalt. Strewn in the bottom of the "deal" were a booklet, circular, and leaflet which contained representations regarding the curative and therapeutic properties of both products.

On March 20, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the above-named defendants, alleging shipment by them in violation of the Food and Drugs Act on or about March 21 and July 25, 1936, from the State of New York into the State of California, of a quantity of Agalax which was misbranded, a quantity of Kayan which was adulterated and was also alleged to be misbranded, and a quantity of Seedol Kelpamalt which also was alleged to be misbranded. The articles were labeled in part, variously: "Agalax A Natural Laxative \* \* \* The Agalax Company, New York, N. Y."; "Seedol Kelpamalt Tablets \* \* \* Prepared by The Kelpamalt Co."; and "Kayan The Modern Laxative Method \* \* \* Kayan Company \* \* \* New York, N. Y."

Analysis of the Agalax showed that it consisted essentially of Plantago (psyllium) seeds and small brown masses, the latter containing sugar, starch, dextrin, and phenolphthalein (0.13 grain per teaspoonful).

The Agalax was alleged to be misbranded in that certain statements appearing in the labeling represented that it was a mixture consisting exclusively of purely natural products and containing no drug or medicine, and that it was a food; whereas it was a mixture of Plantago seeds (psyllium), agar, sugar, starch, dextrin, and phenolphthalein, and was not a food but a drug. It was alleged to be misbranded further in that the following statements on the can label regarding its curative and therapeutic effects were false and fraudulent, since it was not capable of producing a curative and therapeutic effect in the diseases, disorders, or conditions mentioned therein: "Agalax is ideally adapted for the successful treatment of Chronic Constipation—Bowel Sluggishness—Auto Intoxication and all conditions requiring peristaltic stimulant of dependable action. Agalax has been found highly beneficial in cases of Hemorrhoids (Piles) and painful defecation, \* \* \* Agalax \* \* \* promotes regular and easy stool habits \* \* \* it insures regular bowel action. Note: Agalax is not a cathartic or purgative. It works gradually by promoting normal bowel action. Persons accustomed to habitual use of cathartics may increase the dosage of Agalax above indicated to four teaspoonsful twice daily for the first three or four days."

The Kayan was alleged to be adulterated in that it fell below the professed standard and quality under which it was sold in that it was represented in the labeling to be "A granulated powder from the sap of an Asiatic tree—Kayan"; whereas it consisted essentially of a synthetic coal-tar cathartic, namely, phenolphthalein, a gum, sugar, and starch.

The information also contained two counts charging that the Seedol Kelpamalt and the Kayan were misbranded because of alleged false and fraudulent curative and therapeutic representations made for them in the literature contained in the "deal" described hereinbefore. On July 18, 1939, the defendants filed a demurrer to these two counts, which was sustained by the court without opinion, the date of ruling being August 14, 1939.

On September 25, 1939, the defendants entered pleas of guilty to the counts charging misbranding of Agalax and the count charging adulteration of Kayan, and the court imposed the following fines: Associated Laboratories, Inc., \$300; Louis A. Tuvin, \$300; Julius H. Tuvin, \$75; and John M. Bair, \$75.

GROVER B. HILL, *Acting Secretary of Agriculture.*

**30961. Misbranding of Harris Blu-Rib-Un Spray. U. S. v. 19 5-Gallon Cans of Harris Blu-Rib-Un Spray. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 45465. Sample No. 30768-D.)**

Examination of samples of this veterinary product showed that it consisted of mineral oil of the nature of kerosene and nitrobenzene. Its labeling bore false and fraudulent curative and therapeutic claims.

On June 9, 1939, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 5-gallon cans of Harris Blu-Rib-Un Spray at Chama, N. Mex.; alleging that the article had been shipped on or about June 2, 1938, by the R. L. Harris Co. from Omaha, Nebr.; and charging misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects, appearing in the labeling, were false and fraudulent: "For throat infection in poultry, \* \* \* As a preventive spray twice a week. The above treatment is also valuable as an aid in combating colds and roup. \* \* \* Flu. Blu-Rib-Un Spray will also be found to be a valuable aid in combating Flu in hogs. \* \* \* Use a lot of pressure and shoot the spray over the hogs so that they will be compelled to inhale the vapor. \* \* \* If the above directions are carefully followed as a means to combat Flu in hogs, very good results will be obtained. \* \* \* Flu in hogs causes very big losses to the hog raiser by the loss of weight, death rate, and the herd going off the feed, and the above treatment with Blu-Rib-Un Spray will be found very beneficial in helping the farmer cut down his losses. \* \* \* as an insecticide and healing agent on cuts and infection on the lips and mouth of little pigs. \* \* \* For ring worms and scabs on calves \* \* \* As A Healer. For collar sores, gall spots and any wounds such as wire cuts, etc., Blu-Rib-Un Spray will be found very effective and a great aid as a healing agency. \* \* \* provides a 100% disinfectant for the cuts from the shearing."

The article was also alleged to be misbranded under the Insecticide Act of 1910, as reported in notice of judgment No. 1722, published under that act.

On November 10, 1939, no claimant having appeared, a decree of condemnation, forfeiture, and destruction was entered.

GROVER B. HILL, *Acting Secretary of Agriculture.*

**30962. Adulteration and misbranding of prophylactics. U. S. v. 39¼ Gross of Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 45298. Sample No. 47455-D.)**

Samples of this product were found to be defective in that they contained holes.

On May 10, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 39¼ gross of prophylactics at Baltimore, Md.; alleging that the article had been shipped in interstate commerce on or about January 4, 1939, by Goodwear Rubber Co., Inc., from New York, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part "Gold Ray."

Adulteration was alleged in that the strength of the article fell below the professed standard or quality under which it was sold.