

were shipped between June and August 1951, by Fred Gerkey, from Mission, Kans., to Claremore, Okla.

**PRODUCT:** 8 *Color-Therm* devices, 7 unlabeled and 1 labeled, in part, "Color Therm Dr. Fred Gerkey, Mission, Kansas," including 8 hand applicators, at Claremore, Okla., in possession of Mrs. Leatha N. Foley.

The devices consisted of tubes for producing colored lights similar to the so-called neon lights, together with electrical connections required to operate them.

**NATURE OF CHARGE:** Misbranding, Section 502 (f) (1), the labeling of the device failed to bear adequate directions for use for helping arthritis, rheumatism, paralysis, and aches and pains of other diseases, which were the conditions for which the device was intended. The device was misbranded when introduced into, and while held for sale after shipment in, interstate commerce.

**DISPOSITION:** Leatha N. Foley, claimant, filed an answer to the libel, and on or about June 19, 1952, the Government filed a motion for summary judgment, based on the pleadings and on the affidavit and deposition of Mrs. Foley, for the reason that there were no material issues of fact to be determined by the court and that the Government was entitled to a judgment as a matter of law. The court found that there was no controversial issue involved in the action and that the Government's motion for judgment should be sustained; and, accordingly, on September 30, 1952, the court entered a decree of condemnation and ordered that the devices and hand applicators be destroyed.

#### DRUGS ACTIONABLE BECAUSE OF CONTAMINATION WITH FILTH

3871. Adulteration of peppermint leaves, spearmint leaves, hellebore root, and lobelia leaves and lobelia herb. U. S. v. 2 Bales, etc. (and 1 other seizure action). (F. D. C. Nos. 30396, 30410. Sample Nos. 24131-L to 24135-L, incl.)

**LIBELS FILED:** January 25 and February 1, 1951, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 12 and November 20, 1950, by the Smoky Mountain Drug Co., from Bristol, Tenn.

**PRODUCT:** 2 bales containing a total of 245 pounds of *peppermint leaves*, 4 bales containing a total of 1,060 pounds of *spearmint leaves*, 1 bale containing 318 pounds of *hellebore root*, 2 bales containing a total of 508 pounds of *lobelia leaves*, and 18 bales, each containing 190 pounds, of *lobelia herb*, at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 501 (a) (1), the *hellebore root* consisted in whole or in part of a decomposed substance by reason of the presence of mold, and the other articles consisted in whole or in part of filthy substances by reason of the presence of rodent excreta, insects, and insect excreta; and, Section 501 (a) (2), the articles had been packed under insanitary conditions whereby they may have been contaminated with filth.

**DISPOSITION:** December 11, 1951. The libel proceedings against the above-mentioned products having been consolidated and the Smoky Mountain Drug Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered. The court ordered that the *spearmint leaves* and the *peppermint leaves* be destroyed and that the other products be released under bond for reconditioning, under the supervision of the Federal Security Agency.

The *spearmint leaves* and the *peppermint leaves* were destroyed, and the

other articles were reconditioned, with the result that 99 pounds of the *hel-lebore root*, 586 pounds of the *lobelia leaves*, and 283 pounds of the *lobelia herb* were found unfit and were destroyed.

### DRUGS ACTIONABLE BECAUSE OF DEVIATION FROM OFFICIAL OR OWN STANDARDS\*

#### 3872. Adulteration and misbranding of estrone. U. S. v. 180 Vials \* \* \*.

(F. D. C. No. 33631. Sample No. 56320-L.)

**LIBEL FILED:** August 5, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 3, 1952, by the Addison Laboratories, from Philadelphia, Pa.

**PRODUCT:** 180 vials of *estrone* at Mansfield, Ohio. Examination showed that the amount of *estrone* per cubic centimeter for each of the 5 vials tested was as follows: 1.30 mg., 3.50 mg., 4.48 mg., 1.50 mg., and 0.74 mg.

**LABEL, IN PART:** "10 CC. \ Multiple-Dose Vial \* \* \* Estrone U. S. P. (2.0 Mg. Per CC.)."

**NATURE OF CHARGE:** Adulteration, Section 501 (c), the strength of the article differed from that which it was represented to possess, namely, 2.0 milligrams of estrone per cubic centimeter.

Misbranding, Section 502 (a), the label statement "Estrone U. S. P. (2.0 Mg. Per CC.)" was false and misleading as applied to the article since the amount of estrone per cubic centimeter differed from vial to vial and varied widely above and below the declared amount.

**DISPOSITION:** September 8, 1952. Default decree of condemnation and destruction.

#### 3873. Adulteration and misbranding of isopropyl alcohol rubbing compound.

U. S. v. 125 Cases \* \* \*. (F. D. C. No. 33353. Sample No. 44314-L.)

**LIBEL FILED:** On or about July 22, 1952, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about June 13, 1952, by the Philadelphia Magnesia Co., from Philadelphia, Pa.

**PRODUCT:** 125 cases, each containing 12 1-pint bottles, of *isopropyl alcohol rubbing compound* at Providence, R. I. Examination showed that the product contained 63 percent isopropyl alcohol.

**LABEL, IN PART:** (Bottle) "Lee's \* \* \* Isopropyl Alcohol Rubbing Compound 70% Isopropyl Alcohol."

**NATURE OF CHARGE:** Adulteration, Section 501 (b), the article purported to be and was represented as "Isopropyl Alcohol Rubbing Compound," a drug the name of which is recognized in the National Formulary, an official compendium, and its strength differed from the official standard since the article contained less than 68 percent isopropyl alcohol, the minimum permitted by the standard.

Misbranding, Section 502 (a), the label statement "70% Isopropyl Alcohol" was false and misleading.

**DISPOSITION:** September 26, 1952. Default decree of condemnation. The court ordered that the product be delivered to the Social Welfare Department of the State of Rhode Island.

\*See also Nos. 3861 (veterinary preparation), 3867, 3868, 3878 (veterinary preparation).