

unbroken packages at New York, N. Y., alleging that the article had been shipped by John Wheth (Wyeth) & Bro. (Inc.), from Philadelphia, Pa., in two lots, on or about September 3, 1930, and January 5, 1931, and had been transported from the State of Pennsylvania into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act as amended.

It was alleged in the libel that the article was adulterated in that its strength fell below the professed standard or quality under which it was sold, namely, "Ergot \* \* \* Each 1 cc. Ampoule Contains Ergot \* \* \* Equal to 2 Gm. Prime Ergot."

Misbranding was alleged for the reason that the following statements appearing on the carton and ampoule containing the article, and in the accompanying circular, were false and misleading: (Carton) "Ergot \* \* \* Each 1 cc. Ampoule Contains Ergot \* \* \* Equal to 2 Gm. Prime Ergot;" (ampoule) "Ergot \* \* \* Equal to 2 Gm. Prime Ergot;" (circular) "Extract Ergot, 1 cc. representing 2 Gm. of Prime Ergot." Misbranding was alleged for the further reason that the following statements regarding the curative or therapeutic effects of the article, appearing on the carton and in the circular, were false and fraudulent, since the said article contained no ingredient or combination of ingredients capable of producing the effects claimed: (Carton) "Used in Uterine Inertia, Metrorrhagia, Menorrhagia, Pulmonary Hemorrhage, Post-partum Hemorrhage;" (circular) "Used in uterine inertia, metrorrhagia, menorrhagia, pulmonary hemorrhage, post-partum hemorrhage, etc."

On March 7, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**18061. Misbranding of Bafaline lotion, Bafaline dental cream, and Bafaline dental powder. U. S. v. 1 Dozen Bottles of Bafaline Lotion, et al. Default decree of condemnation, forfeiture, and destruction. (F. & D. Nos. 25640, 25641, 25642. I. S. Nos. 12037, 12038, 12039. S. No. 3841.)**

Examination of samples of the drug products from the shipments herein described having shown that the lotion and dental cream were represented as possessing antiseptic and germicidal properties, whereas they did not possess antiseptic and germicidal properties when used as directed, and that the labels of all said products bore claims of curative and therapeutic properties which were not justified by the composition of the articles, the Secretary of Agriculture reported the matter to the United States attorney for the District of Colorado.

On January 15, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of one dozen bottles of Bafaline lotion, one dozen tubes of Bafaline dental cream, and one dozen packages of Bafaline dental powder, remaining in the original unbroken packages at Denver, Colo., consigned by the Bafaline Laboratories (Inc.), Manchester, N. H., on or about February 11, 1930, alleging that the articles had been shipped from Manchester, N. H., in interstate commerce into the State of Colorado, and charging misbranding in violation of the food and drugs act as amended.

Analyses of samples of the articles by this department showed that the Bafaline lotion consisted essentially of a zinc compound, sodium benzoate, a trace of alkaloids, alcohol, water, and flavoring material. Bacteriological examination showed that it was not antiseptic nor germicidal when diluted with an equal volume of water as directed on the labeling. The Bafaline dental cream consisted essentially of calcium carbonate, sodium benzoate, a magnesium compound, a borate, and flavoring material. Bacteriological examination showed that the article was not antiseptic. The Bafaline dental powder consisted essentially of sodium perborate, calcium carbonate, a magnesium compound, and flavoring material.

It was alleged in the libel that the articles were misbranded in that the following statements regarding their curative and therapeutic effects were false and fraudulent, since the said articles contained no ingredients or combinations of ingredients capable of producing the effects claimed: (Bafaline lotion, carton) "Tonsillitis \* \* \* Sore Throat, \* \* \* Pyorrhea \* \* \* Sore Mouth, \* \* \* Aids in Treatment of Pyorrhea Heals tender, bleeding \* \* \* prevents diseases. \* \* \* prevents infection;" (Bafaline lotion,

bottle label) "For the prevention and treatment of Pyorrhoea and Trench Mouth \* \* \* prophylactic and preventive; \* \* \* Pyorrhoea, Trench Mouth, Tender Bleeding and Receding Gums. \* \* \* Tonsillitis or Sore Throat. \* \* \* Sore Mouth before \* \* \* extraction. \* \* \* For Pyorrhoea, Trench Mouth, Bleeding and Receding Gums in conjunction with Bafaline Lotion. Bafaline Dental Powder \* \* \* Bafaline Users \* \* \* are protected from contagious diseases and bodily ills;" (Bafaline lotion, small circular) "For \* \* \* Tonsillitis, Sore Mouth, Sore Throat;" (large circular) "Prescribed by Dentists as a Home Treatment for Bleeding Gums, Pyorrhoea and Trench Mouth \* \* \* Prevents Infection. A Prophylactic \* \* \* Mouth and Tooth Wash \* \* \* Pyorrhoea \* \* \* To prevent reinfection, rinse the mouth three times daily with Bafaline Lotion, preferably after brushing the teeth. \* \* \* for the prevention of wound infections, such as blood poisoning. \* \* \* it sterilizes the mouth in  $\frac{1}{4}$  of a minute. \* \* \* Prevent contagious diseases, use 'Bafaline' daily as a mouth wash, gargle or spray. \* \* \* During Epidemics Guard the throat, gargle or spray daily with 'Bafaline Lotion;'" (Bafaline dental cream, carton) "Checks acid fermentation which is the cause of tooth decay, bleeding gums and pyorrhoea;" (Bafaline dental powder, circular) "Highly recommended in the Prevention and Treatment of \* \* \* Pyorrhoea, Hypertrophy, Spongy and Bleeding Gums \* \* \* Prevents and Checks Pyorrhoea, \* \* \* it stimulates a normal flow of alkaline saliva \* \* \* the chief cause of tooth decay, spongy, bleeding gums and Pyorrhoea."

In addition to the above misbranding charge this department recommended that it be charged that the dental cream was adulterated in that its strength fell below the professed standard under which it was sold, since it was stated on the carton that it was antiseptic, whereas it was not; also that the lotion and dental cream were misbranded in that the following statements on the bottle label of the Bafaline lotion, "Antiseptic Germicidal \* \* \* use with warm water in equal parts \* \* \* use two to four tablespoonfuls to a quart of hot water," and the following statements on the carton of the Bafaline dental cream, "Possessing \* \* \* antiseptic \* \* \* qualities," were false and misleading.

On March 24, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**18062. Adulteration and misbranding of ether. U. S. v. 38 Cans of Ether. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 25857. I. S. No. 8275. S. No. 4098.)**

Samples of ether from the shipment herein described having been found to contain peroxide, a decomposition product, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Ohio.

On February 4, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 38 cans of ether, remaining in the original unbroken packages at Dayton, Ohio, alleging that the article had been shipped by Merck & Co. (Inc.), from Rahway, N. J., on or about November 21, 1930, and had been transported from the State of New Jersey into the State of Ohio, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Ether U. S. P."

It was alleged in the libel that the article was adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of quality and purity as determined by the tests laid down in the said pharmacopoeia, in that it contained peroxide.

Misbranding was alleged for the reason that the statement on the labels, "Ether U. S. P.," was false and misleading when applied to ether containing peroxide.

On March 21, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*