28681. Misbranding of Merz-Allium. U. S. v. Merz & Co. Chemical Works, Inc., and Adolf G. Schickert. Pleas of guilty. Fines, $100. (F. & D. No. 38592. Sample No. 72431–B.)

This product was misbranded because of false and fraudulent curative and therapeutic claims in the labeling, false and misleading representations regarding its composition, and failure to declare the alcohol present in the article.

On June 11, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Merz & Co. Chemical Works, Inc., Newark, N. J., and Adolf G. Schickert, an officer of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about April 7, 1936, from the State of New Jersey into the State of New York of a quantity of Merz-Allium that was misbranded. The article was labeled in part: "Merz & Company Chem. Fabrik Frankfurt a.M. Berlin * * * Newark, N. J."

Analysis showed that the article consisted essentially of extracts of plant drugs including garlic and an alkaloid-bearing drug plant containing hydrastine, alcohol, sugar, and water flavored with oil of cloves.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing in the labeling, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for arterial calcification, intestinal catarrh, diarrhoea, rheumatism, colics, and pinworms; effective as a relief for feeble digestion, chronic bronchitis, spasmodic and nervous coughs and hypertension; effective to prevent a great variety of diseases and the onset of many disorders, and as a preventive of arterio-sclerosis, rheumatism, sciatica, and intestinal catarrhs; effective as a household remedy, as a good prophylactic against intestinal catarrh, diarrhoea, and pinworms; to have a restorative action on the entire organism, and as essential to the diet; and effective to check the widespread arterio-sclerosis (calcification of the veins), and as a treatment, remedy, and cure for calcification of the vascular walls, stenosis of the veins, and high blood pressure.

It was alleged to be misbranded further in that the statements "Allium" and "Concentrated Bulgarian Garlic Juice [in German]" in the labeling, were false and misleading in that they represented that the article was concentrated Bulgarian garlic juice; whereas it consisted essentially of plant drugs including garlic, an alkaloid-bearing drug plant containing hydrastine, alcohol, sugar, and water flavored with oil of cloves, which are not ingredients of concentrated Bulgarian garlic juice. It was alleged to be misbranded further in that it contained alcohol, and the label on the package failed to bear a statement of the quantity or proportion of alcohol contained therein.

On March 4, 1938, pleas of guilty were entered on behalf of the defendants, and the court imposed fines in the total amount of $100.

W. R. Gregg. *Acting Secretary of Agriculture.*

28682. Adulteration and misbranding of tincture of iodine. U. S. v. Rathbun Sales Corporation. Plea of guilty. Fine, $50. (F. & D. No. 40757. Sample Nos. 73881–B, 47921–C.)

This product fell below the pharmacopoeial requirements for tincture of iodine, both lots being deficient in iodine and one lot being deficient in potassium iodide.

On February 8, 1938, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Rathbun Sales Corporation, El Paso, Tex., alleging shipment by said company in violation of the Food and Drugs Act on or about April 15, 1936, and January 8, 1937, from the State of Texas into the State of New Mexico, of quantities of tincture of iodine that was adulterated and misbranded. The article was labeled in part: "Rathbun Company, El Paso, Tex."

It was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down therein in that both lots contained less than 6.5 grams, namely, 6.07 grams and 5.72 grams, respectively, of iodine per 100 cubic centimeters, whereas the pharmacopoeia provides that tincture of iodine shall contain in each 100 cubic centimeters not less than 6.5 grams of iodine; one lot contained less than 4.5 grams, namely, not more than 4.3 grams, of potassium iodide per 100 cubic centimeters, whereas the pharmacopoeia provides that tincture of iodine shall contain in each 100 cubic centimeters not less than 4.5 grams of potassium iodide, and the standard of strength, quality, and purity of the article was not declared on the label.

The article was alleged to be misbranded in that the statement on the label, "Tincture Iodine, U. S. P.," was false and misleading in that it represented that the article was tincture of iodine which conformed to the standard laid down in the United States Pharmacopoeia; whereas it was not.

On March 29, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $50.

W. R. GREGG, *Acting Secretary of Agriculture.*

28683. Alleged adulteration of Epsom salt compound tablets. U. S. v. Strong, Cobb & Co., Inc. Demurrer to the information overruled. Tried to the court. Judgment of not guilty. (F. & D. No. 36988. Sample Nos. 7309–B, 7310–B.)

On April 7, 1936, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Strong, Cobb & Co., Inc., Cleveland, Ohio, alleging that on or about March 1, 1934, the defendant sold and caused to be delivered to Liebenthal Bros. Co. at Cleveland, Ohio, quantities of a drug labeled "Epsom Salt Compound Tablets"; that at the time of said sale and delivery the defendant guaranteed to the purchaser that the article was not adulterated or misbranded in violation of the Federal Food and Drugs Act; that on July 5, 1934, the said drug, in the identical condition as when received was shipped by the Liebenthal Bros Co. from the State of Ohio into the State of Pennsylvania; and that it was adulterated in violation of said act.

The information alleged that the article was adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was represented to be a compound of Epsom salt in the form of tablets; whereas it was composed of phenolphthalein and aloin and an inappreciable amount of magnesium sulphate (Epsom salt).

On May 8, 1936, the defendant filed a demurrer and motion to quash. On June 19, 1936, the said demurrer and motion to quash were argued and overruled with the following opinion:

WEST, *District Judge:* "Overruled, with exception to defendant. The drug sold as 'Epsom Salt Compound Tablets' necessarily has the professed quality of Epsom salts. The fact that it is a compound should not be allowed to affect its quality when the other ingredients are not named. If, as the indictment alleges, the tablets contained two other drugs and an inappreciable amount of magnesium sulphate or Epsom salts, then their purity falls below the professed quality under which they were sold. It is not a question of strength, as in 55 F. (2d) 264, cited by defendant, but of purity; and whatever the effect of the other drugs may be, the tablets are adulterated and impure because their quality and effect do not mainly depend upon Epsom salts."

On February 11 and 14, 1938, the case was tried to the court. At the conclusion of the Government's case a motion was made by counsel for the defendant for a judgment of not guilty and the court sustained the motion with the following opinion delivered orally:

JONES, *District Judge:* "I am going to sustain the motion on two grounds: First, that there was no evidence that the defendant shipped in interstate commerce the drug in question; and, second, I do not find in the evidence any support for adulteration. There is a possible ground for charging misbranding, but that is not contained in the information. The motion of the defendant will be sustained, and the Government may have exceptions."

W. R. GREGG, *Acting Secretary of Agriculture.*

28684. Adulteration of maleic acid tablets. U. S. v. 7 Drums of Tablets. Default decree of condemnation and destruction. (F. & D. No. 40990. Sample No. 9641–C.)

This product contained a smaller amount of maleic acid per tablet than it was represented to contain.

On December 1, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven drums containing 318,400 maleic acid tablets at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about August 18 and September 3, 1937, by Shores Co. from Cedar Rapids, Iowa, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, since each tablet was