

Misbranding was alleged in that the following statements on the labels were false and misleading: "Pro-Tek," "Disease Preventative," "Prophylactic," and "For Prevention of Disease."

On August 22, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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

29428. Adulteration and misbranding of rubber prophylactics. U. S. v. 5 Gross of Rubber Prophylactics (and two similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41790, 41870, 42450. Sample Nos. 9815-D, 16922-D, 16929-D, 16930-D.)

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

On or about February 19, March 4, and May 24, 1938, the United States attorneys for the Eastern District of Virginia and the Middle District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts three libels praying seizure and condemnation of 200 gross of rubber prophylactics in various lots at Norfolk, Va., and Harrisburg, Pa.; alleging that the article had been shipped in interstate commerce on or about December 11 and 14, 1937, and March 12, 1938, from New York, N. Y., by Goodwear Rubber Co., Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Silverpac," "Tetratex," or "Three Knights."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements in the several labels were false and misleading: (Silverpac) "Silverpac is non-porous Smoke Tested * * * Guaranteed Five Years Your Health Demands Silverpac This is your Seal of Protection For Prevention of Disease Disease Preventative"; (Tetratex) "For Prevention of Disease Prophylactic Guaranteed Five Years"; (Three Knights) "For perfect masculine Hygiene prophylactic Guaranteed for 5 years hole proof triple tested For prevention of disease."

On May 11 and June 15, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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

29429. Adulteration and misbranding of kamala compound. U. S. v. 18 Bags of Kamala Compound, et al. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 42455. Sample No. 15792-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims and false representations regarding its composition.

On June 1, 1938, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 29 bags of kamala compound at Omaha, Nebr.; alleging that the article had been shipped in interstate commerce on or about September 10, 1937, from Peoria, Ill., by Vitamineral Products Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Kamala Compound * * * Manufactured by Vitamineral Products Co. Peoria, Illinois."

Analysis of a sample of the article showed that it consisted essentially of ground plant material including kamala, nicotine, ferrous sulphate, calcium carbonate, and castor oil, and that it contained no copper sulphate.

The article was alleged to be adulterated in that its strength or purity fell below the professed standard under which it was sold, namely, "Ingredients * * * Copper Sulphate," since it contained no copper sulphate.

Misbranding was alleged in that the following statements in the labeling falsely and fraudulently represented the curative and therapeutic effects of the article: "For the treatment of animals affected with large round worms and for the treatment of poultry affected * * * or tape worms * * * For Swine * * * For Dairy Cows Beef Cattle—Mix this product at the ratio of four to six pounds (according to how badly animals are infested) with each 100 pounds of grain, mash or slop * * * For Horses and Sheep * * * For Poultry * * * For Dogs, Foxes, Small Animals * * * For small animals convalescing from distemper, malnutrition or any other

run-down condition, and suspected of being infested with large round worms, feed one tablespoonful of this product per day until satisfactory results are noted. In this Treatment do not look for an expulsion of whole worms. Large round worms and tape worms, under this treatment, are generally expelled in emaciated form and should appear, in the feces, in the form of small particles of skins of the worms."

Misbranding was alleged further in that the statement, "Ingredients, Kamala, Nicotine, Powdered Tobacco, Castor Oil, Copper Sulphate, Linseed Oil Meal and Dried Yeast," was false and misleading when applied to an article that did not contain copper sulphate and did contain ferrous sulphate which was not declared; and in that the statement, "* * * allowing the mixture to stand at least 12 hours before feeding in order that the yeast may start to work," was false and misleading when applied to an article that contained no viable yeast cells.

On August 26, 1938, claimants Albert T. Peters and Paul S. Casey, trading as Vitamineral Products Co., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

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

29430. Misbranding of Vegetates. U. S. v. 34 Bottles of Vegetate Formula No. H-410 and 12 Bottles of Vegetate Formula No. A-45. Default decree of condemnation and destruction. (F. & D. Nos. 41337, 41339. Sample Nos. 50357-D, 50359-C.)

The labeling of these products bore false and fraudulent curative or therapeutic claims and other misrepresentations.

On January 11, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 46 bottles of Vegetates at Chicago, Ill.; alleging that the articles had been shipped in interstate commerce on or about May 15 and November 10, 1937, from Los Angeles, Calif., by Vegetates, Inc.; and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses of samples of the articles showed that they consisted essentially of plant material. Each tablet of formula No. H-410 contained phosphorus compounds equivalent to 0.03 grain of phosphorus, and each tablet of formula No. A-45 contained phosphorus compounds equivalent to 0.04 grain of phosphorus.

The articles were alleged to be misbranded in that the following statements on their respective labels were false and misleading, since if consumed in accordance with the directions, would supply only inconsequential amounts of phosphorus: (Formula No. H-410) "Compounded from ingredients of vegetable origin, selected and grown with particular regard to a high phosphorous * * * content. * * * Directions Adults: 2 to 3 tablets, 3 times a day"; (Formula No. A-45) "Compounded from ingredients of vegetable origin only, and are so processed and proportioned as to make available a high content of organic phosphorus. The vegetable ingredients * * * are all prolific sources of organic phosphorus. Directions Adults: Three or four tablets, three times a day."

Misbranding was alleged further in that the statement on the label, "This product is not intended for the treatment of disease but is a food adjuvant and tends toward the building of health," falsely and fraudulently represented the curative or therapeutic effect of the articles. Misbranding was alleged further in that the combinations of letters and numbers, "Vegetate Formula No. H-410" and "Vegetate Formula No. A-45," appearing on the respective labels of the articles were devices which falsely and fraudulently represented the curative or therapeutic effects of the articles, since the said combinations of letters and figures meant to purchasers that the articles were, respectively, treatments for high blood pressure and arthritis; and had attained such meaning to purchasers as a result of the following facts and circumstances: Booklets entitled "Wrong Diet The Curse of the Age," a supply of which was furnished by the consignor to the consignee and was distributed to customers and prospective customers, contained on page 31 the following statements: "H-410 * * * Blood Pressure (High)"; "A-45 * * * Arthro-Inflammation (Arthritic)." Moreover, the labeling theretofore [1935] used on the respective articles contained the following wording: "Vegetate Formula No. * * * H-410. A food recom-