

Analysis of No. 1116 showed that it consisted essentially of plant material including althaea root, mint leaves, sweet fern leaves, black cohosh root, and dog grass rhizomes. The article was alleged to be misbranded because of false and misleading statements on its label and in the afore-mentioned circular, which accompanied the article, regarding its efficacy in the cure, mitigation, treatment, or prevention of kidney and bladder irritation, diabetes, and Bright's disease, and as a remedy for either diabetes or Bright's disease.

Analysis of No. 1321 showed that it consisted essentially of plant material including buchu leaves, uva ursi leaves, equisetum, althaea root, and sassafras bark. The article was alleged to be misbranded because of false and misleading statements on the label and in the afore-mentioned circular, which accompanied the article, regarding its efficacy in the cure, mitigation, treatment, or prevention of kidney and bladder irritation, gravel, and backache, and in soothing inflammation and irritation of the kidneys or bladder.

The articles, with the exception of the Meskell's Special Compound No. 1-2-3, were alleged to be misbranded further in that their labels failed to bear any statements of the quantity of the contents.

The articles Compound No. 1-2-3, No. 120-00S, No. 990 Laxative, No. 9990-B-T, No. 7, No. 1116, and No. 1321 were alleged to be misbranded further because of false and misleading statements in the afore-mentioned circular accompanying them which represented and suggested that herbs were first in therapeutic importance with respect to harmlessness and effectiveness in combating all diseases; that all herbs were nonpoisonous; that the herb formulas for the articles were secret formulas and would be efficacious to heal most all diseases and to treat diseases considered to be hopeless cases; and that the herbs asparagus, bael, borage, balmony, bittersweet, bloodroot, blue flag, blue mallow, boneset, burdock, calamus, black cohosh, gravel root, goldenseal, ground ivy, wild thyme, and tolu balsam, either used alone or in combination, would purify the blood and would be efficacious in the cure, mitigation, treatment, or prevention of heart conditions, dropsy, diarrhea, affections of the chest, constipation, jaundice, kidney ailments, rheumatism, polypus, chest and lung conditions, bronchitis, blood and urine disorders, coughs, all fevers, liver disorders, dyspepsia, whooping cough, chronic catarrh, catarrh of the bronchial tubes, catarrh of the stomach, nervousness, neuritis, eczema, general debility, hardening of the arteries, goiter, and ulcers of the stomach.

The articles No. 16-1, No. 21-01, No. 990 Laxative, No. 1116, and No. 1321 were alleged to be further misbranded in that their labels failed to bear a statement of the common or usual name of each active ingredient since the statements "barks, herbs, roots and flowers" on the label of the No. 16-1, "roots, herbs, barks and flowers" on the labels of the No. 21-01 and the 990 Laxative, and "Herbs, Leaves, Barks, Roots, Flowers" on the label of the No. 1116, and "herbs, leaves, roots, barks and berries" on the label of the No. 1321, did not constitute statements of the active ingredients of the articles.

On October 18, 1944, a plea of guilty having been entered, the defendant was fined \$250 on count 1, and a sentence of 6 months in jail on the remaining 8 counts, to be served concurrently, was imposed. The jail sentence was suspended and the defendant was placed on probation for 5 years, with the understanding that she should discontinue selling misbranded drugs.

1355. Misbranding of Pal-Pinto Minerals. U. S. v. Texas Carlsbad Water Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 11328. Sample No. 8900-F.)

On March 17, 1944, the United States attorney for the Northern District of Texas filed an information against the Texas Carlsbad Water Co., a corporation, at Dallas, Tex., alleging shipment of a quantity of the above-named product on or about May 7, 1943, from the State of Texas into the State of Mississippi.

Analysis of a sample of the article showed that it consisted essentially of sodium sulfate and sodium chloride with small proportions of magnesium sulfate and potassium chloride.

The article was alleged to be misbranded because of false and misleading statements in an accompanying circular entitled "Pal-Pinto Minerals," which represented and suggested that the article would be efficacious for many ailments due to a sluggish or poorly active system; that it would relieve inorganic aches and pains and a tired, "all in" feeling; that it would aid the user to function with the precision needed for an uninterrupted flow of energy and vitality; that it would remove the cause of illness and build up body resistance; that it would aid the kidneys in eliminating waste and impurities from the body, and would supply the system with the body minerals necessary to maintain good health and

overcome chronic ailments; that it would restore the kidneys, liver, and other organs to normal; that it would be efficacious in the treatment of rheumatism, kidney and liver sluggishness, neuritis, gallbladder troubles, hyperacidity, complexion troubles, and auto-intoxication; and that it would remove the cause of teeth or tonsil infection. The article would not be efficacious for such purposes.

It was alleged to be misbranded further (1) in that it was a laxative and its labeling failed to warn that it should not be used when abdominal pain, nausea, vomiting, or other symptoms of appendicitis were present, and that frequent or continued use might result in dependence on laxatives; and (2) in that its labeling was misleading since it failed to reveal the fact that the article was essentially a laxative mixture of sodium sulfate and table salt with a small proportion of Epsom salt, which fact was material in view of the following representations borne on the labels: "Active Ingredients Magnesium 0.87% Sodium 32.13% Potassium 1.20% Carbonate 0.25% Sulphate 45.80% Chloride 18.96% Silica 0.01% Calcium Trace Iron Oxide Trace Aluminum Oxide Trace."

On September 26, 1944, a plea of nolo contendere having been entered, the defendant was fined \$100.

1356. Alleged misbranding of Willard's Tablets. U. S. v. 265 Packages and 258 Packages of Willard's Tablets, and 450 Envelopes of Printed Matter. Tried to the court. Judgment for claimant. Decree ordering dismissal of the libel and release of the goods. Judgment affirmed on appeal to the circuit court of appeals. (F. D. C. No. 8607. Sample Nos. 4011-F, 4066-F.)

On November 5, 1942, the United States attorney for the Southern District of Indiana filed a libel against 265 100-tablet packages and 258 15-tablet packages of Willard's Tablets, and against approximately 450 envelopes bearing the designation "Willard's Message," each envelope containing a circular letter entitled "A Healthy Stomach—A Happy Life" and leaflets entitled "Willard's Message to Acid Stomach Sufferers" and "The Willard Treatment used from Coast to Coast." It was alleged in the libel that the tablets had been shipped between the approximate dates of January 9 and October 9, 1942, by the Willard Tablet Co., from Chicago, Ill., and that the envelopes and contents were received by the consignee at Indianapolis, Ind., at or about the same time that each of the shipments of the tablets was received. On February 25, 1943, an amended libel was filed.

Examination of a sample of the article showed that each tablet contained approximately 10 grains each of bismuth subnitrate, sodium carbonate, and magnesium oxide, together with small amounts of pancreatin and peppermint oil.

The article was alleged to be misbranded in that its labeling failed to bear adequate directions for use since the directions, "Take one tablet immediately after each meal, three times a day," provided for administration of the article at regular and stated intervals, whereas adequate directions would provide for administration only at such times as symptoms of excess acid in the stomach appeared.

It was alleged to be misbranded further in that certain statements on the cartons and bottles and on the envelope and contents accompanying the article were false and misleading since those statements created the impression that the tablets, when taken as directed, would be effective in the treatment and alleviation of stomach distress symptoms due to excess acid, stomach and duodenal ulcers, poor digestion, upset stomach, bad breath, sleeplessness, and jaded appetite, whereas the tablets, when taken as directed, would not be effective for such purposes.

On March 18, 1943, the Willard Tablet Co., claimant, filed its answer to the libel, denying the misbranding charges and alleging as an affirmative defense that the issue of the truth of the statements which were charged to be false and misleading had, therefore been finally determined by the Federal Trade Commission in favor of the claimant, and that the Commission's decision was *res judicata* on that issue.

On March 24, 1943, pursuant to agreement by the parties, a stipulation was filed with the court, setting forth the facts of the case as follows: That the claimant was the same company which was the respondent in the above-mentioned proceedings before the Commission; that the Commission on April 8, 1937, proceeded against the claimant by complaint, alleging unfair competition arising out of the advertising of the same "Willard's Tablets"; that the complaint charged, among other things, that the claimant falsely represented that the tablets constituted a competent and adequate cure or remedy for stomach and duodenal ulcers due to hyperacidity, and for poor digestion, acid dyspepsia, sour or upset stomach, gaseousness, bloating, heartburn, constipation, bad breath, sleeplessness, headaches, and jaded appetite, when such conditions were due to