37. Misbranding of Pen-E-Scope. U. S. v. 500 Packages of Pen-E-Scope. Default decree of condemnation and destruction. (F. D. C. Nos. 117, 119. Sample Nos. 42654–D, 58910–D.)

On January 13, 1939, the United States attorney for the Western District of New York filed a libel against 500 packages of Pen-E-Scope at Buffalo, N. Y., which had been consigned by Marney Products Co. from Chicago, Ill. On January 14, 1939, the United States attorney for the Southern District of Ohio filed a libel against 500 packages of Pen-E-Scope at Cincinnati, Ohio, alleging that the article had been transported from Chicago, Ill., by Paul Oleson in his own automobile. The libel alleged that the article had been shipped in interstate commerce on or about December 21, 1938, and January 2, 1939; and charged that it was misbranded. It was labeled in part: "Pen-E-Scope Laboratories * * * Chicago, Ill."

The medicament for use with the device consisted essentially of eucalyptus oil with small proportions of pine oil, camphor, menthol, and acetone.

The article was alleged to be misbranded in that it was dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling, which directed that the rounded end of the device be inserted into the nostril, that the mouthpiece be grasped between the lips and that the user should blow steadily—not too hard at first—and that the longer one blew, the deeper the medicated vapor penetrated into the nasal cavities.

On February 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

38. Misbranding of Peranol. U. S. v. 21 Packages of Peranol with Special Medicator (and 3 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 107, 122, 130, 131. Sample Nos. 32671–D, 36550–D, 36551–D, 58805–D.)

On or about January 4, 20, and 26, 1939, the United States attorneys for the Western District of Michigan, the District of Kansas, and the Southern District of Indiana filed libels against the following consignments of Peranol with Special Medicator: 21 packages at Grand Rapids, Mich.; 18 packages at Topeka, Kans.; and 9 packages at Indianapolis, Ind. The libels alleged that the article had been shipped in interstate commerce within the period from on or about October 12 to on or about December 6, 1938, by Peranol Products from Chicago, Ill.; and that it was misbranded.

The medicament with this device was labeled: "Peranol Nasal Emollient." It consisted of a mixture of volatile oils including eucalyptus oil, camphor, and menthol, and alcohol (approximately 19 percent).

The device was alleged to be misbranded in that it was dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling which directed that the user place the glass mouthpiece between the lips, hold the nasal medicator to the nostril, and blow gently; and stated that the warm air picks up the medication as it passes through the medicator, breaking it into a very fine spray, the force of the breath tending to carry it to all exposed or accessible parts of the mucous membrane that lines the head passages, at the same time closing off the opening from the head passages to the throat by the action of the breath on the soft palate; and that this action tends to permit the medication, with its stimulating, soothing qualities, to be properly administered to all accessible parts of the membrane.

One of the lots seized at Indianapolis, Ind., was alleged to be misbranded in violation of the Food and Drugs Act of 1906, reported in notice of judgment No. 30884 published under that act.

On February 27, April 7, and April 28, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

39. Misbranding of Hed Klear. U. S. v. 21 Packages and 9 Packages of Hed Klear. Default decrees of condemnation and destruction. (F. D. C. Nos. 120, 204. Sample Nos. 36141–D, 64026–D.)

On January 16 and March 24, 1939, the United States attorneys for the Northern District of California and the Eastern District of Washington filed libels against 21 packages of Hed Klear at San Francisco, Calif., and 9 packages of Hed Klear at Walla Walla, Wash.; alleging that the article had been shipped in interstate commerce on or about October 28, 1938, by the Van Patten Pharmaceutical Co. from Chicago, Ill.; and charging that it was misbranded.