but were contaminated with viable micro-organisms, which fact was material with respect to the consequences which might result from the use of the article to which the labeling related under such conditions of use as are customary or usual.

Both brands were alleged to be misbranded further in that their containers were so made, formed, or filled as to be misleading.

On April 19, 1940, the Acme Cotton Products Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond on condition that the cartons be destroyed and the cotton sterilized.

234. Adulteration and misbranding of sanitary cotton swab applicators. U. S. v. 45 Dozen Packages and 10 Dozen Packages of Sanitary Cotton Swab Applicators with Tongue Blades. Default decrees of condemnation and destruction. (F. D. C. Nos. 1408, 1416. Sample Nos. 37509–D, 70160–D.)

This product had been shipped in interstate commerce and was in interstate commerce at the time of examination, at which time it was found to contain viable micro-organisms. It was labeled to indicate that it contained an appreciable amount of boric acid; whereas it contained but a trace of boric acid.

On January 29 and 30, 1940, the United States attorneys for the Eastern District of Pennsylvania and the Western District of Missouri filed libels against 10 dozen packages of the above-named product at Bethlehem, Pa., and 45 dozen packages of the product at Kansas City, Mo., alleging that it had been shipped in interstate commerce on or about August 23 and September 28, 1939, by the Woltra Co., Inc., from New York, N. Y.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that its strength differed from and its quality or purity fell below that which it purported or was represented to possess since it was represented to have been made from sterilized absorbent cotton and dipped in boric acid; whereas it was not sterile and it contained an insignificant amount of boric acid.

It was alleged to be misbranded in that the representations in the labeling that it was made from sterilized absorbent cotton dipped in boric acid, that it was a sanitary cotton swab applicator approved and recommended by doctors and nurses, and that it was borated, were false and misleading as applied to an article which was not sterile but was contaminated with viable micro-organisms and which contained an insignificant amount of boric acid.

On February 27 and March 8, 1940, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

235. Adulteration of cotton swab applicators. U. S. v. 45 Cartons of Sanitary Cotton Swab Applicators with Tongue Blade. Default decree of condemnation and destruction. (F. D. C. No. 1143. Sample No. 83879–D.)

This product had been shipped in interstate commerce, was in interstate commerce at the time of examination, and was found to be contaminated with viable micro-organisms at that time. It was also labeled to indicate that it contained an appreciable amount of boric acid; whereas it contained but a trace of boric acid.

On December 5, 1939, the United States attorney for the Western District of Washington filed a libel against 45 cartons of cotton swab applicators at Seattle, Wash., alleging that the article had been shipped on or about August 2 and October 11, 1939, by the Woltra Co., Inc., from New York, N. Y.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that its strength differed from and its purity or quality fell below that which it purported or was represented to possess in that its labeling contained representations that it had been made from sterilized absorbent cotton and dipped in boric acid; whereas it was not sterile and it contained an insignificant amount of boric acid.

It was alleged to be misbranded in that the representations in the labeling that it had been made from sterilized absorbent cotton and dipped in boric acid, that it was approved and recommended by doctors and nurses, and that it was borated, were false and misleading as applied to an article that was not sterile, and that contained an insignificant amount of boric acid.

On March 25, 1940, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.