331. Misbranding of radioactive cones. U. S. v. 5 Radioactive Cones. Decree of condemnation with provision for release under bond under certain conditions; otherwise that it be destroyed. Product destroyed. (F. D. C. No. 2530. Sample No. 9585–E.)

This product would be dangerous to health when used in the manner recommended and suggested in the labeling. It also failed to comply with certain labeling requirements of the law as indicated below.

On August 14, 1940, the United States attorney for the Western District of Louisiana filed a libel against 5 radioactive cones at Shreveport, La., alleging that the article had been shipped in interstate commerce on or about March 20, 1940, by the Thomas Radioactive Cone Co. from Inglewood, Calif.; and charging that it was misbranded.

It was alleged to be misbranded in that its labeling was misleading in that it failed to reveal the fact material in the light of the representation that it was radioactive, that when used to impart radioactivity to water the drinking of such water might result in injury to the user; in that its label failed to bear the name and place of business of the manufacturer, packer, or distributor; in that the label failed to bear the common or usual name of the ingredient or ingredients of the article; in that the labeling failed to bear adequate directions for use; in that the labeling failed to bear adequate warnings against use by children and against unsafe dosage or methods or duration of administration or application in such manner and form as are necessary for the protection of users; and in that it was dangerous to health when used with the frequency or duration prescribed, recommended, or suggested in the labeling.

On November 29, 1940, judgment of condemnation was entered and the product was ordered released under bond to Ruby V. Turnley, Longview, Tex., claimant, conditioned that it should not be disposed of in violation of the law. Upon failure of the claimant to comply with the conditions of the decree the product was destroyed.

332. Misbranding of Reed's Effervescent Bromo-Sizz. U. S. v. 83 Display Cartons of Reed's Effervescent Bromo-Sizz. Default decree of condemnation and destruction. (F. D. C. No. 2329. Sample No. 16463–E.)

This product contained acetanilid and would be dangerous to health when used as directed, but was not labeled to show the consequences that might result from its use. The labeling also failed to comply with the law in certain other respects as indicated hereinafter.

On July 10, 1940, the United States attorney for the District of Nebraska filed a libel against 83 display cartons of Reed's Effervescent Bromo-Sizz at Omaha, Nebr., alleging that the article had been shipped in interstate commerce on or about May 17, 1940, by the Reed Products Co. from St. Louis, Mo.; and charging that it was misbranded.

The article was alleged to be misbranded (1) in that it was in package form, and its label failed to bear a statement of the quantity of the contents; (2) its label failed to bear a statement of the quantity or proportion of acetanilid that it contained since the statement "each teaspoonful contains approx. 3 grains acetanilid" was not informative in view of the directions to "add contents of this tube in half glass of water"; (3) its label failed to bear a declaration of the quantity or proportion of sodium bromide present since the statement "sodium bromide approx. 3%" was not a correct statement of the proportion of sodium bromide present and was not informative to the purchaser as to the amount of sodium bromide which would be consumed when the article was taken in accordance with the directions; (4) the label failed to bear adequate directions for use since the directions were incomplete and were not appropriate for an article of the composition found; (5) its label failed to bear adequate warnings against its use in those pathological conditions or by children where its use might be dangerous to health, or against unsafe dosage or methods or duration of administration or application in such manner and form as are necessary for the protection of users; and (6) in that it was dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling, namely, "Add contents of this tube in half glass of water. Repeat in half hour if necessary. No more than three teaspoonfuls to—" (The words "be taken within 24 hours" which followed the statements quoted were concealed on the package as purchased by overlapping of the label.)

On November 25, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.