ORDER FOR JUDGMENT

"Upon the basis of the foregoing Findings of Fact and Conclusions of Law,

"It is hereby *Ordered*, That a Permanent Injunction be entered accordingly, without costs to either party."

PERMANENT INJUNCTION

"It is hereby *Ordered and Decreed*, That defendant, her employees, servants, agents, distributors, assigns, and any and all persons in active concert or participation with them be, and they are, hereby permanently enjoined from introducing or delivering for introduction into interstate commerce and from causing the introduction or delivery for introduction into interstate commerce of the article of drug, labeled in part, 'Intrauterine Paste' or 'Dependon Products Paste,' or under any other name, containing soft soap or other soap base with or without distilled water, iodine, and alcohol or other ingredients added, under labeling recommending or suggesting its use for introduction into the uterus for the purpose of terminating pregnancy, treating incomplete abortions or miscarriages, for inducing labor, or as a medicament for the treatment of dysmenorrhea, endometritis, cervicitis, cervical or uterine discharges, or for any intrauterine or cervical therapy whatever.

"In order to effectuate the purposes of the act and to prevent the article of drug from being used in uterine and cervical therapy, defendant, her employees, servants, agents, distributors, assigns, and any and all persons in active concert or participation with them, are specifically enjoined from introducing or delivering for introduction or causing the introduction or delivery for introduction into interstate commerce of said article of drug or any similar article of drug for any purpose whatsoever in violation of the Federal Food, Drug, and Cosmetic Act, and amendments thereto."

752. Introduction and delivery for introduction in interstate commerce of quantities of Dependon Products Paste in violation of preliminary injunction. U. S. v. Anne M. Jenks, W. S. Jenks, and C. H. Jenks. Plea of guilty by W. S. Jenks; fine $500. Plea of not guilty by Anne M. Jenks. Tried to the court. Judgment of guilty; fine $250. Action against C. H. Jenks dismissed. (Inj. No. 35.)

On January 19, 1943, the United States attorney for the District of Minnesota filed an information against Anne M. Jenks, W. S. Jenks, and C. H. Jenks, alleging that Anne M. Jenks was trading as the Dependon Products and Jenks Physicians' Supplies at White Bear Lake, Minn., that defendant W. S. Jenks was the husband and that defendant C. H. Jenks was the brother-in-law of the said Anne M. Jenks, and that the two defendants last named were at that time actively associated with her in the business and on the dates hereinafter mentioned were the agents of and were acting in concert with defendant Anne M. Jenks.

The complaint alleged further that an injunction proceeding was commenced under section 302 of the Federal Food, Drug, and Cosmetic Act by the filing on October 16, 1942, of a complaint and petition for issuance of an order to show cause why a temporary injunction should not issue restraining the defendant Anne M. Jenks, her agents, and all those acting on her behalf from introducing or delivering for introduction into interstate commerce a drug product under the name "Dependon Products Intrauterine Paste" or the same product under the name "Dependon Products Paste," and that on October 29, 1942, a preliminary injunction issued in accordance with the prayer of said complaint; that on or about November 15, 1942, Anne M. Jenks knowingly and willfully, in violation of the preliminary injunction, introduced or delivered for introduction or caused such delivery or introduction into interstate commerce from White Bear Lake, Minn., by making personal delivery of 2 tubes of Dependon Products Paste to a physician at Hannibal, Mo., in contemptuous disregard of the preliminary injunction.

The information alleged further that since January 1, 1943, the three above-named defendants had introduced or delivered for introduction into interstate commerce from White Bear Lake, Minn., (or, had caused such acts) various quantities of the said drug under the designation "Dependon Products Paste" to various physicians in the States of Missouri, Iowa, Oklahoma, Wisconsin, Pennsylvania, and Massachusetts, in contempt of the preliminary injunction and that such acts were willfully and knowingly made in violation of the said injunction.

On January 19, 1943, the defendants were arraigned and W. S. Jenks entered a plea of nolo contendere, which plea was rejected by the court, whereupon he

entered a plea of guilty. The defendant Anne M. Jenks, having entered a plea of not guilty, the charges against her were tried to the court. The Government produced no witnesses but evidence was introduced by and on behalf of the defendants. Judgment was entered by the court finding Anne M. Jenks guilty. The court thereupon imposed a fine of $500 against W. S. Jenks and a fine of $250 against Anne M. Jenks. No evidence of any violation of the law by the defendant C. H. Jenks having been introduced, the action against him was dismissed.

753. Misbranding of intrauterine paste. U. S. v. 22 Tubes of Intrauterine Paste (and 9 other seizure actions against intrauterine paste). Default decrees of condemnation and destruction. (F. D. C. Nos. 6564, 6567, 6571, 6574, 6579, 6580, 6590, 6613, 6690, 6745. Sample Nos. 16897–E, 16898–E, 22398–E, 23114–E, 48990–E, 48991–E, 71514–E, 84674–E, 90131–E.)

Between December 26, 1941, and January 22, 1942, the United States attorneys for the Southern District of New York, Western District of Missouri, District of Massachusetts, Northern District of Georgia, and the Northern District of California filed libels against 22 tubes of intrauterine paste at New York, N. Y.; 49 cartons, each containing 1 tube of intrauterine paste at Kansas City, Mo.; 13 tubes at Chillicothe, Mo.; 33 tubes at Medford, Mass.; 27 tubes at Atlanta, Ga.; and 36 tubes at San Francisco, Calif., alleging that the article had been shipped in interstate commerce within the period from on or about September 28, 1941, to on or about January 2, 1942, in part under the name Dependon Products from St. Paul, Minn., and in part under the name Jenks Physicians' Supplies from White Bear Lake, Minn.; and charging that it was misbranded.

The article was alleged to be misbranded in that it would be dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, or suggested in the labeling. It was alleged to be misbranded further in that the statement "Intrauterine Paste," borne on the labels, represented and suggested that it would be safe and appropriate for introduction into the uterine cavity; whereas it was not safe or appropriate for introduction into the uterine cavity, but was unsafe and dangerous and was capable of producing serious and even fatal consequences.

On February 27 and 28 and September 28, 1942, no claimant having appeared for the seizures at New York, Kansas City, and Chillicothe, and one of the seizures (involving 6 tubes) at San Francisco, Calif., judgments of condemnation were entered and the product was ordered destroyed in each instance, with the exception of the lot seized at New York, N. Y., which was ordered delivered to the Food and Drug Administration.

On March 12, 1942, Anne M. Jenks, trading as Dependon Products and Jenks Physicians' Supplies, having entered an appearance in the district court for the District of Massachusetts and stipulations having been entered between the claimant and the United States attorney for consolidation of the cases instituted in the District of Massachusetts, the Northern District of Georgia, and the seizure of 30 tubes of Dependon Paste at San Francisco, Calif., and the removal of the cases to the Western District of Wisconsin, the court ordered the consolidation and transfer of said cases as stipulated.

On April 1, 1943, no claim or answer having been filed and the intervener having stipulated that the appearance of counsel be withdrawn and that further proceedings should be had as upon default, judgments of condemnation were entered and the product was ordered delivered to the Food and Drug Administration.

754. Misbranding of Luebert's preparations. U. S. v. 4¾ Dozen Boxes of Luebert's (Nox'em Brand) Iron Tonic Compound Tablets, 2¾ Dozen Boxes of Luebert's Ka-No-Mor Capsules, and 2⅔ Dozen Boxes of Luebert's Noxem Brand Tablets and Capsules (Combined). Default decree of condemnation and destruction. (F. D. C. No. 6837. Sample Nos. 54634–E to 54636–E, incl.)

This case was based upon the following violations: Drugs containing acetanilid and dangerous to health when used with the frequency and duration recommended in the labeling—Ka-No-Mor Capsules and Noxem Brand Tablets and Capsules (Combined); labeling failing to bear adequate warning statements and containing false and misleading therapeutic claims—all three products; failure to bear adequate directions for use—Ka-No-Mor Capsules; failure to bear satisfactory active ingredient statements—Iron Tonic Compound Tablets and Noxem Brand Tablets and Capsules (Combined); and inconspicuousness of warning statement—Ka-No-Mor Capsules.