

The jury retired and after due deliberation returned a verdict of guilty, and the court sentenced the defendant to 6 months in jail and imposed a fine of \$1,000. On December 12, 1940, the court suspended the 6-months' jail sentence and placed the defendant on probation for 2 years.

368. Misbranding of Dr. Burnham's San-Yak K-L-B Pills. U. S. v. Robert H. Lee (Lee Chemical Co.). Plea of guilty. Sentence: 6 months' imprisonment which was suspended and defendant placed on probation for 2 years. Fine of \$100 also imposed. (F. D. C. No. 2106. Sample No. 5761-E.)

The labeling of this product bore false and misleading representations regarding its efficacy in the conditions indicated below and falsely represented that it complied with the law.

On September 5, 1940, the United States attorney for the Eastern District of Michigan filed an information against Robert H. Lee, trading as Lee Chemical Co. at Birmingham, Mich., alleging shipment on or about March 15, 1940, from the State of Michigan into the State of Indiana of a quantity of the above-named product which was misbranded.

Analysis showed that the article contained extracts of plant drugs including cinchona, sandalwood, and a laxative drug, and compounds of magnesium, calcium, and iron.

The article was alleged to be misbranded in that representations in the labeling that it would be efficacious in establishing proper functioning of the kidneys and liver; that it would be beneficial in correcting rheumatism, sugar in the blood and high blood pressure; that it was an efficacious treatment and remedy for kidney, liver, and bladder disorders; that it would reduce sugar in the blood and urine, would relieve frequent urination, would alleviate aches and pains in the back and joints, and was efficacious in the treatment of constipation and piles; and that "each and all of the 15 ingredients used in the composition of the article were not misbranded within the meaning of the Pure Food and Drug Act," were false and misleading since the article would not be efficacious for the purposes claimed and was misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On November 29, 1940, a plea of guilty having been entered, the court imposed a fine of \$100 and sentenced the defendant to 6 months' imprisonment, which sentence was suspended for a period of 2 years and the defendant was placed on probation for the same period.

369. Misbranding of Double Quick Liver Tablets, Compound Herb Tea, Blessed Herb Tea, Herb Wash, and St. Bernard Compound Herb Tea. U. S. v. Dr. Lynch A. Johnson. Plea of guilty. Fine, \$1,500. Sentenced to 6 months' imprisonment in a jail or a Federal prison camp. (F. D. C. No. 2112. Sample Nos. 84175-D to 84183-D, incl., 84380-D, 84641-D, 84642-D, 84645-D to 84647-D, incl.)

These products were misbranded because of false and misleading representations in the labeling regarding their efficacy in the treatment of the ailments for which they were recommended; false and misleading representations regarding the efficacy of herbs in the treatment of a great number of ailments, including the most serious disorders; and in some instances because of false and misleading representations regarding their ingredients.

On October 8, 1940, the United States attorney for the Western District of Tennessee filed an information against Dr. Lynch A. Johnson, trading as Dr. Lynch A. Johnson, at Memphis, Tenn., alleging shipment within the period from on or about January 4 to on or about January 16, 1940, from the State of Tennessee into the States of Arkansas and Missouri of quantities of the above-named proprietary herb remedies that were misbranded.

Analyses of samples of each of the four shipments of Double Quick Liver Tablets showed the following facts: (1) tablets contained plant materials, including ginger and emodin-bearing drugs such as senna, aloe, and podophyllum; (2) tablets contained plant material, including aloe, podophyllum, emodin-bearing drugs such as senna and buckthorn, and calomel (slightly less than 1 grain per tablet); (3 and 4) tablets consisted essentially of plant material (including ginger, podophyllum, and a laxative plant drug such as senna), and unidentified cellular plant tissues.

The Double Quick Liver Tablets were alleged to be misbranded in that the statement "Active Ingredients: Buckthorn, Aloes, Mandrake, Senna," borne on the box, was false and misleading since it represented that buckthorn, aloes, mandrake, and senna were the sole active ingredients of the article, whereas the article in three of the shipments contained a material proportion of ginger

as an active ingredient and in the fourth it contained a material proportion of calomel as an active ingredient. It was alleged to be misbranded further in that the statement "Double Quick Liver Tablets * * * quick and strong action upon the Liver," borne on the box label, was false and misleading since it represented that the article was efficacious as a liver tablet and would exert a quick and strong action upon the liver; whereas it would not be efficacious for such purposes.

Analyses of samples of each of the five shipments of the Compound Herb Tea showed the following facts: (1) The product consisted essentially of plant material including rosemary and unidentified green leaves; (2) it consisted essentially of plant material, containing sassafras bark and rosemary leaves; (3) it consisted essentially of plant material including sassafras bark, chicory, red clover flowers and stems, green leaves resembling *Eupatorium*, senna leaves, and unidentified fine debris; (4) product consisted essentially of plant material including rosemary leaves, unidentified starchy material, and small pieces of root-like material; and (5) product consisted essentially of small pieces of leaves, stems, and unidentified plant debris. The Compound Herb tea was alleged to be misbranded in that the statement "Whites, Gonorrhoea, and Leucorrhoea," borne on the label, was false and misleading since they represented that the article was efficacious in the treatment of whites, gonorrhoea, and leucorrhoea; whereas it was not efficacious for such purposes.

Analysis indicated that the Blessed Herb Tea consisted essentially of plant material including couch grass, calamus, mistletoe, and unidentified plant debris. It was alleged to be misbranded in that the statements "For Bright Disease" and "for Bloody and Scalding Urine and Stricture," borne on the label, were false and misleading since they represented that it was efficacious in the treatment of Bright's disease and for bloody and scalding urine and stricture; whereas it was not efficacious for such purposes.

Analysis of the Herb Wash indicated that it consisted essentially of ground and powdered oak bark. It was alleged to be misbranded in that the statements, "For Female Disorder * * * It may be used freely, also for Gonorrhoea, or any Disorder of the Water Passage * * * in bad case of falling of the Womb," borne on the label, were false and misleading since they represented that the article was efficacious in the treatment of female disorder, gonorrhoea, any disorder of the water passage, and bad case of falling of the womb; whereas it was not efficacious for such purposes.

Analysis of the St. Bernard Tea indicated that it consisted essentially of plant material including sassafras bark, uva ursi, mallow flowers, buchu leaves, and unidentified plant debris. It was alleged to be misbranded in that the statements, "Very soothing in inflammation and irritation of the Kidneys and Bladder, Gravel, Backache and certain rheumatic affections * * * Tonic * * * Antispasmodic," borne on the label, were false and misleading in that they represented that it was soothing in inflammation and irritation of the kidneys and bladder, gravel, backache, and certain rheumatic affections, and that it was a tonic and an antispasmodic; whereas it would not be efficacious for such purposes.

All of the remedies were alleged to be misbranded further in that certain statements contained in circulars entitled "The Herbal Healer," "Dr. Lynch A. Johnson Herbalist," and "Dr. Lynch A. Johnson Herbal Health Herald," one or more of which accompanied each of the articles, were false and misleading in that they represented that herbs would be effective in the cure, mitigation, treatment, or prevention of the various ailments, diseases, and pathological conditions listed in said circulars, which included diabetes, Bright's disease, paralysis, fibri tumor, tuberculosis, cancer, epileptic fits, syphilitic diseases, and numerous other serious ailments; whereas herbs would not be effective for such purposes.

On November 20, 1940, a plea of guilty having been entered, the court imposed a fine of \$1,500, and the defendant was sentenced to 6 months' imprisonment in a jail or Federal prison camp.

370. Misbranding of Elga Bust Developer. U. S. v. Myrtle E. Edwards (Elga Laboratories). Plea of guilty. Defendant placed on probation for a period of 4 years. (F. D. C. No. 2115. Sample No. 5904-E.)

The labeling of this product bore false and misleading representations regarding its efficacy in the conditions indicated below.

On September 11, 1940, the United States attorney for the Northern District of California filed an information against Myrtle E. Edwards, trading as Elga