

8358. Misbranding of The Texas Wonder. U. S. * * * v. 33 Bottles of The Texas Wonder. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 11824. I. S. No. 9185-r. S. No. C-1644.)

On or about December 24, 1919, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of a certain quantity of a certain article, labeled in part "The Texas Wonder," at Meridian, Miss., alleging that the article had been shipped on or about November 3, 1919, by E. W. Hall, St. Louis, Mo., and transported from the State of Missouri into the State of Mississippi, alleging that the article was misbranded in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of oleoresin of copaiba, rhubarb, turpentine, guaiac, and alcohol.

Misbranding of the article was alleged in the libel in that certain statements appearing on the carton enclosing, in the circular accompanying, and on the label on the bottle containing the article, regarding the curative or therapeutic effects of the article, falsely and fraudulently represented the article to be effective as a remedy for kidney and bladder troubles, diabetes, weak and lame backs, rheumatism and gravel, regulates bladder trouble in children, stone in the kidneys, inflammation of the bladder and tuberculosis of the kidneys, whereas, in fact and in truth, it was not effective.

On March 8, 1920, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

E. D. BALL, *Acting Secretary of Agriculture.*

8359. Misbranding of Antibrule. U. S. * * * v. 24 Bottles, More or Less, of Antibrule. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 11826. I. S. No. 12087-r. S. No. C-1645.)

On December 23, 1919, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 24 bottles of Antibrule, at Memphis, Tenn., alleging that the article had been shipped on or about July 2, 1919, by the Crescent Chemical Co., Fort Worth, Tex., and transported from the State of Texas into the State of Tennessee, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of an aqueous solution of picric acid and a small quantity of picrates.

Misbranding of the article was alleged in the libel in that certain statements regarding the curative or therapeutic effects of the article, appearing on the label on the bottle containing the article, representing it to be effective as an analgesic, anodine, antiseptic, antipyretic, and as a remedy for croup, tonsillitis, carbuncles, gonorrhea, leucorrhea, varicose veins, ulcers, eczema, erysipelas, nasal catarrh, and itching piles, were false and fraudulent and calculated to deceive and mislead the purchaser thereof, since the article contained no ingredient or combination of ingredients capable of producing the effects claimed.

On or about June 4, 1920, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

E. D. BAIL, *Acting Secretary of Agriculture.*

S360. Misbranding of Texas Wonder. U. S. * * * v. 141 Bottles of Drug Products. Tried by the court. Decree of condemnation and forfeiture. Product ordered released on bond. Appeal taken to the Circuit Court of Appeals for the Fifth Circuit. Decision by said Circuit Court of Appeals affirming the judgment of the lower court. (F. & D. No. 9377. I. S. No. 6265-r. S. No. C-983.)

On October 4, 1918, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 141 bottles, represented as drug products, at Houston, Tex., alleging that the article had been shipped by E. W. Hall, St. Louis, Mo., on invoice dated September 21, 1918, and transported from the State of Missouri into the State of Texas, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled on the carton, "A Texas Wonder, Hall's Great Discovery, Contains 43% alcohol before diluted. 5% after diluted. The Texas Wonder! Hall's Great Discovery, for Kidney and Bladder Troubles, Diabetes, Weak and Lame Backs, Rheumatism, Gravel, Regulates Bladder Trouble in Children. One small bottle is 2 months' treatment. Price \$1.25 per bottle. E. W. Hall, Sole Manufacturer, St. Louis, Mo." The circular accompanying the article contained the following: "Louis A. Portner * * * testified he began using the Texas Wonder for stone in the kidneys * * * and tuberculosis of the kidneys as diagnosed by his physicians * * *. He was still using the medicine with wonderful results, and his weight had increased."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of a solution of plant extractives including copaiba, rhubarb, turpentine, gualac, and colchicin in alcohol and water.

It was alleged in the libel that said label on the carton and in the circular contained in each of the cartons, regarding the curative and therapeutic effect of said drug products or medicine, was false and fraudulent in that said drug or medicine contained no ingredient or combination of ingredients capable of producing the curative or therapeutic effects claimed for it as set forth by the printed matter on the said carton, and thereby the said products were misbranded in violation of the Food and Drugs Act, and its amendments.

On July 16, 1919, the case having been tried by the court without a jury, the issues were found in favor of the Government, as will more fully appear from the following opinion by the court (Hutcheson, D. J.):

This is a libel brought by the Government of the United States for condemnation of 141 bottles, more or less, of drug products under the Act of Congress approved June 30, 1906, as amended by the act of August 23, 1912, chapter 352, and the act of March 3, 1913, chapter 107.

The said 141 bottles contained the preparation known and described as "A Texas Wonder."

The libel charged that on the carton inclosing the drug products or medicines in said bottles was printed the following label: "A Texas Wonder, Hall's Great Discovery, Contains 43% alcohol before diluted. 5% after diluted. The Texas Wonder! Hall's Great Discovery, for Kidney and Bladder Troubles, Diabetes, Weak and Lame Backs, Rheumatism, Gravel, Regulates Bladder Trouble in Children. One small bottle is 2 months' treatment. Price \$1.25 per bottle. E. W. Hall, Sole Manufacturer, St. Louis, Mo."