

and at large appear from the following memorandum opinion (Sawtelle, D. J.):

In this case the government seeks to condemn 6 bottles of Tratamiento Zendejas, and the libel alleges that the same were branded and shipped by the claimant herein in interstate commerce in violation of the Act of June 30th, 1906, as amended by the Act of August 23rd, 1912 (Section 8724, Compiled Statutes 1913). This act provided: "That for the purpose of this Act an article shall be deemed to be misbranded: In case of Drugs * * * Third, If its package or label shall bear or contain any statements, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false and fraudulent."

The claimant admits that he printed and published the statement contained in the circular and labels and also admits the interstate shipment, but expressly denies that such statements were false and fraudulent.

A careful reading of the evidence convinces me that the statement which accompanied the packages in question were made and published by the claimant with the intent to deceive and that the representations therein made with respect to the curative or therapeutic effects of the mixture contained in the bottles and packages were knowingly false and fraudulent.

U. S. v. Eckmons, 239 U. S. 510.

Bradley v. U. S., 264 Fed. 799. C. C. A.

McLean Medicine Co. v. U. S., 263 Fed. 694.

A judgment may be entered for the libellant.

On or about May 20, 1921, the case having come on for final disposition, it was ordered by the court that the product be destroyed by the United States marshal, and that the claimant pay the costs of the proceedings.

C. W. PUGSLEY,

Acting Secretary of Agriculture.

9434. Misbranding of tankage. U. S. * * * v. 16 Sacks * * * of Tankage. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 13218. I. S. No. 3405-t. S. No. C-2079.)

On August 14, 1920, the United States attorney for the District of Minnesota, 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 16 sacks, more or less, of tankage, remaining in the original unbroken packages at Ivanhoe, Minn., alleging that the article had been shipped by Geo. P. Sexauer & Son, Brookings, S. D., on or about March 27, 1920, and transported from the State of South Dakota into the State of Minnesota, and charging misbranding in violation of the Food and Drugs Act. The article was labeled: "100 lbs. Net Decker's Protofod Sterilized Digester Tankage, guaranteed analysis protein 60 per cent, bone building phosphate 10 per cent, fat 8 per cent, fiber 4 per cent Jacob E. Decker and Sons, Mason City, Iowa."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it contained 50.27 per cent of protein.

Misbranding of the article was alleged in the libel for the reason that the statement regarding the quantity of protein in said article, to wit, "Protein 60 per cent," was false and misleading and deceived and misled the purchaser.

On December 11, 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.

C. W. PUGSLEY,

Acting Secretary of Agriculture.

9435. Misbranding of Parry's Vegetable Compound. U. S. * * * v. Certain Bottles of Parry's Vegetable Compound Nos. 1 to 14, inclusive. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 13762. I. S. Nos. 8247-t to 8260-t, inclusive. S. Nos. E-2800 to E-2813, inclusive.)

On October 7, 1920, the United States attorney for the District of Maryland, 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 certain bottles of Parry's Vegetable Compound Nos. 1 to 14, inclusive, remaining in the original unbroken packages at Baltimore, Md., alleging that the articles had been shipped by the Parry Medicine Co., Inc., Pittsburgh, Pa., and transported from the State of Pennsylvania into the State of Maryland, and charging misbranding in violation of the Food and Drugs Act, as amended. The articles were labeled in part: "Parry's Vegetable Compound No. 1. * * * Cancer * * * For Tuberculosis, Lungs, Bones or Flesh, Gallstones or Tapeworm;" " * * * No. 2. * * * Cancer * * * For Cancer, Catarrh, Head Noises, Tumors, Adenoids, Hemorrhoides, Piles, Appendicitis, Asthma, Goiter, Typhoid and all other Fevers;" " * * * No. 3. * * * Cancer * * * For Bright's Disease, Bladder, Kidneys, Influenza and for Weak Women;" " * * * No. 4. * * * Cancer * * * For Stomach, Bowel Trouble, Black Plague and Leprosy;" " * * * No. 5. * * * Cancer * * * For Inflammation of Throat and Bronchitis;" " * * * No. 6. * * * Cancer * * * For Eczema, Pimples, Skin Disease, Scalds, Burns, and Smallpox;" " * * * No. 7. * * * Cancer * * * For Varicose Veins, High Blood Pressure and Dropsy;" " * * * No. 8. * * * Cancer * * * For Diabetes, Liver, Spleen and Adenoids;" " * * * No. 9. * * * Cancer * * * For Insanity, Fits, Paralysis, Meningitis, Mad Dog and Snake Bite;" " * * * No. 10. * * * Cancer * * * For Heart, Kidneys, Nose and Throat;" " * * * No. 11. * * * Cancer * * * For Nervous Troubles Rheumatism and Saint Vitis Dance;" " * * * No. 12. * * * Cancer * * * For Nerves, Gall Stones, Curvature of Spine and Deformity;" " * * * No. 13. * * * Cancer * * * For Blindness, Weak Eyes, Cataract and Deafness;" " * * * No. 14. * * * Cancer * * * For All Venereal Diseases, Etc."

Analyses of samples of the articles by the Bureau of Chemistry of this department showed that each and all consisted essentially of olive oil, alcohol, water, and amaranth coloring matter.

Misbranding of the articles was alleged in the libel for the reason that the above-quoted statements regarding the curative and therapeutic effects of the said articles were false and fraudulent, as the articles contained no ingredient or combination of ingredients capable of producing the effects claimed. Misbranding was alleged in substance for the further reason that each label bore the words, "All goods guaranteed under the Pure Food and Drugs Act, June 30, 1906," which statement was false and misleading.

On April 6, 1921, the Parry Medicine Co., Pittsburgh, Pa., having entered an appearance as claimant for the property, and having filed an answer to the libel, a decree of condemnation and forfeiture was entered, and it was ordered by the court that the goods be released to said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, conditioned in part that the articles be relabeled under the supervision of this department.

C. W. PUGSLEY,

Acting Secretary of Agriculture.

9436. Misbranding of olive oil. U. S. * * * v. Joseph Crisafulli and Stefano Crisafulli (Crisafulli Bros.). Pleas of guilty. Fine, \$200. (F. & D. No. 14049. I. S. Nos. 12995-r, 13173-r.)

At the April, 1921, term of the United States District Court within and for the Southern District of New York, the United States attorney for said district, acting upon a report by the Secretary of Agriculture, filed in the District Court aforesaid an information against Joseph Crisafulli and Stefano Crisafulli, trad-