

18956. Misbranding of Hy-Ko. U. S. v. 26½ Dozen Small-Sized Packages, et al., of Hy-Ko. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 26271. I. S. No. 11114. S. No. 4544.)

Examination of the drug product Hy-Ko showed that the article contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed for it on the label. The article failed to bear a statement on the label of the quantity or proportion of alcohol contained therein.

On April 21, 1931, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 9 dozen small and 3 dozen large-sized packages of Hy-Ko. On April 30, 1931, the libel was amended to cover 26½ dozen small-sized packages and 7½ dozen large-sized packages of the product. It was alleged in the libel as amended that the article had been shipped by Hy-Ko (Hy-Ko Co.), from Longview, Wash., on or about September 15, 1930, that it had been transported in interstate commerce into the State of Oregon and remained in the original unbroken packages at Portland, Oreg., and that it was misbranded in violation of the food and drugs act as amended.

Analysis of a sample of the article by this department showed that it consisted essentially of benzoic acid (5.9 per cent), alcohol (by volume, 11.4 per cent), sugar, and water.

Misbranding of the article was alleged in the libel for the reason that it failed to bear a statement on the label of the quantity or proportion of alcohol contained therein. Misbranding was alleged for the further reason that the following statements appearing on the labels, regarding the curative and therapeutic effects of the article, were false and fraudulent: "For relief of * * * Grippe, Hay-Fever, Chills, Fever and Muscle Aches. As a preventive."

On October 23, 1931, 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.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18957. Adulteration and misbranding of fluid extract ergot. U. S. v. Seventy-one 4-Ounce Bottles of Fluid Extract Ergot. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 26198. I. S. No. 12872. S. No. 4523.)

Examination of samples of fluid extract ergot from the shipment herein described having shown that the article had a potency of approximately one-fifth of that required by the United States Pharmacopoeia for fluid extract of ergot, the Secretary of Agriculture reported the matter to the United States attorney for the Northern District of California.

On April 7, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of seventy-one 4-ounce bottles of fluid extract ergot, remaining in the original unbroken packages at San Francisco, Calif., alleging that the article had been shipped by John Wyeth & Bro. (Inc.), from Philadelphia, Pa., on or about January 17, 1931, and had been transported from the State of Pennsylvania into the State of California, and charging adulteration and misbranding in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, and differed from the standard of strength as determined by tests laid down in the said pharmacopoeia, and its own standard of strength was not stated on the container.

Misbranding was alleged for the reason that the statement on the label, "Physiologically Standardized Fluid Extract Ergot U. S. P. 10th Revision," was false and misleading.

On November 14, 1931, 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.

ARTHUR M. HYDE, *Secretary of Agriculture.*