

10170. Misbranding of Prescription 1000, internal. U. S. * * * v. 2 Dozen Bottles of * * * Prescription 1000. Default decree ordering destruction of the product. (F. & D. No. 10213. I. S. No. 16192-r. S. No. E-1362.)

On or about May 13, 1919, the United States attorney for the Southern District of Florida, 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 2 dozen bottles of Prescription 1000 internal, at Tampa, Fla., consigned by the Reese Chemical Co., Cleveland, Ohio, alleging that the article had been shipped from Cleveland, Ohio, on or about February 1, 1919, and transported from the State of Ohio into the State of Florida, 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 of an emulsion composed of copaiba balsam, a small amount of alkali, and water, flavored with methyl salicylate.

Misbranding of the article was alleged in substance in the libel for the reason that certain statements appearing on the bottle and carton and in the accompanying circular, regarding the curative and therapeutic effect of the said article, falsely and fraudulently represented it to be effective as a most efficient treatment for gleet, gonorrhoea, bladder troubles, frequent urination, and inflammation, whereas the said article contained no ingredient or combination of ingredients capable of producing the curative and therapeutic effect claimed in said statements.

On January 24, 1922, no claimant having appeared for the property, judgment of the court was entered ordering that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10171. Misbranding of Planten's black capsules and special capsules. U. S. * * * v. 8 Dozen Boxes of * * * Planten's Black Capsules and 8 Dozen Boxes of * * * Special Capsules * * *. Consent decree declaring the black capsules to be misbranded and ordering their release under bond. Default decree of condemnation, forfeiture, and destruction with respect to the special capsules. (F. & D. Nos. 10446, 10447. I. S. Nos. 2765-r, 2768-r. S. Nos. W-380, W-381.)

On May 27, 1919, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 8 dozen boxes of Planten's black capsules and 8 dozen boxes of special capsules, remaining in the original unbroken packages at San Francisco, Calif., alleging that the articles had been shipped by H. Planten & Son, Brooklyn, N. Y., September 5, 1917, and May 14, 1918, respectively, and transported from the State of New York into the State of California, and charging misbranding in violation of the Food and Drugs Act, as amended. The articles were labeled in part, respectively: "Planten's C. & C. or Black Capsules * * * H. Planten & Son, Brooklyn, N. Y.," and "Special Capsules Copaiba And Cubebe (With Haarlem Oil And Salol) * * *"

Misbranding of the articles was alleged in substance in the libels for the reason that certain statements appearing in the labeling of the respective articles falsely and fraudulently represented that the black capsules were effective for the treatment of diseases pertaining to the kidneys, bladder, and urinary organs, for gonorrhoea and gleet, in restoring a healthy condition of the mucous membranes of the genito-urinary tract, and for the treatment of chronic and acute gonorrhoea, gleet, and urethritis; and that the special capsules were effective as a valuable remedy for difficult and obstinate cases of gonorrhoea, gleet, urinary affections, inflammation of the bladder, and all discharges, restoring the healthy condition of the mucous membranes in gonorrhoea and kindred affections, and most effective in chronic and acute gonorrhoea, gleet, cystitis, and inflammation of the bladder, stopping the discharges in a few days; whereas the said articles contained no ingredients or combinations of ingredients capable of producing the curative and therapeutic effects claimed.

On June 10, 1919, no claimant having appeared for the special capsules, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the said product be destroyed by the United States marshal. On October 11, 1919, H. Planten & Son, Brooklyn, N. Y., having entered an appearance as claimant for the black capsules and having consented to a decree, judgment of the court was entered declaring the said product to be misbranded and

ordering that it be delivered to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$100, in conformity with section 10 of the act.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10172. Misbranding of Crab Orchard mineral water. U. S. * * * v. 36 Bottles * * * of * * * Crab Orchard Mineral Water. Tried to the court and a jury. Verdict for the Government. Motion by defendant for new trial. Appeal not perfected and final judgment of condemnation and forfeiture entered and product released under bond. (F. & D. No. 11297. I. S. No. 7330-r. S. No. C-1475.)

On September 23, 1919, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, and on May 16, 1921, an amendment to said libel, praying the seizure and condemnation of 36 bottles of Crab Orchard mineral water, remaining unsold at Cincinnati, Ohio, consigned by L. H. Goodwin & Co., Crab Orchard, Ky., September 12, 1919, alleging that the article had been shipped from Crab Orchard, Ky., and transported from the State of Kentucky into the State of Ohio, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Carton) "Crab Orchard Concentrated Mineral Water" (design of Indian maid sitting at a spring and drinking from a cup) "Trade Mark Pure Crab Orchard Springs Concentrated Mineral Water (Genuine) Taken From The Famous Mineral Springs of Crab Orchard, Ky. L. H. Goodwin & Co. World Distributors Crab Orchard, Lincoln Co., Kentucky, U. S. A. Guarantee Goodwin's Pure Crab Orchard Springs Concentrated Mineral Water Nature's Great Unfailing Remedy Not A Drastic Drug Compound A bona fide Guarantee goes with every bottle sold, which stipulates that the money paid will positively be refunded, if after taking one-third bottle of the medicine, the same should not do what is claimed for it. The World's Greatest Remedy For The Following Ailments In Their Most Chronic Forms: Rheumatism Constipation Kidney Diseases Liver Complaints Dyspepsia Biliousness Sick and Nervous Headache Scrofula Malarial Fever Hay Fever Typhoid Fever Lumbago Sleeplessness Vertigo Piles Skin Disorders Indigestion Jaundice Flatulency Female Complaint Neuralgia Colds La Grippe Palpitation of the Heart Disordered Nerves Dysentery Gout Bilious Colic Stomach and Bowel Troubles Loss of Appetite Catarrh in All Forms Gall Stones Dropsy Bladder Troubles And All Diseases Arising From a Disordered Liver, Kidneys, Stomach And Impure Blood. A Mild Aperient Tonic And A Perfect System Regulator * * * Great Nature's Pure Mineral Water Remedy. The Water from the Springs is reduced 120 times, but all medicinal properties are retained in their efficacy. This bottle contains 15 gallons of the natural product of the Springs in concentrated form. It is known throughout the world as having no equal in the treatment of complaints which have their origin in the Stomach, Liver, Kidneys and Bladder, and it is the Best Tonic on Earth. Highly recommended by prominent physicians everywhere. * * *"

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it was a highly mineralized water and that the dissolved mineral matter consisted chiefly of Glauber's and Epsom salts.

Misbranding of the article was alleged in substance in the libel, as amended, for the reason that the package or label bore the above-quoted statements regarding the curative or therapeutic effect of the said article, which statements were false and fraudulent in that the article contained no ingredient or combination of ingredients capable of producing the effects claimed, and in that it was insufficient of itself for the successful treatment and cure of the ailments and diseases for which it was prescribed and recommended in the said statements.

On May 17, 1921, the case having come on for trial before the court and a jury, after the submission of evidence and arguments by counsel the court charged the jury as follows (Peck, *D. J.*):

This is an action, gentlemen of the jury, brought by the Government of the United States for the purpose of effecting the seizure and condemnation of 36 bottles, more or less, of Crab Orchard concentrated mineral water. It is brought under what is known as the Pure Food and Drugs Law. The pertinent parts of the law are that if a package or label shall contain or bear any statement regarding the curative or therapeutic effect of a drug, the contents of the package, which statement is false and fraudulent in any particular, then the package is misbranded. And if, being misbranded, it is transported in