

for worms, that every lamb has worms in its stomach at birth, that worms may be easily prevented by judicious use of the article, that it was a standard remedy for worms in horses, sheep, swine, and cattle and was recommended by leading farmers and breeders to be a cheap and practical remedy for worms, that when administered to horses, it would regulate the bowels, blood, and digestive organs, that it would save feed by expelling worms, grubs, and bots, that the presence of worms in animals is usually due to a diseased condition of the system, that it would expel small worms from the large bowels and round or giant worms (*Eustrongylus gigas*) from the kidneys, bladder, and intestines, that it would tend to invigorate the digestive organs and bowels, that if administered to horses in the absence of worm symptoms it would prevent worms and would prevent horses getting in poor condition, that it was a mild purge, was harmless to the digestive organs and would leave the horses in better condition than before such administration, that it would prevent development of a new group of worms in horses, that it contained no poison or powerful drugs, that it would tend to correct the system so that worms would not be apt to return, would improve the general appearance of horses; whereas it was not the safest and surest remedy in existence for worms, every lamb does not have worms in its stomach at birth, it was not a standard remedy for worms in horses, sheep, swine, and cattle, and was not a cheap and practical remedy for worms, the presence of worms is not usually due to a diseased condition of the system, it was not harmless to the digestive system, would not leave horses in better condition than before such administration, it did contain poison or powerful drugs, it was not a mild purge, and would not be efficacious for the purposes for which it was recommended. It was alleged to be misbranded further (1) in that the label failed to bear an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; and (2) in that it was fabricated from two or more ingredients and the label failed to bear the common or usual name of each active ingredient.

Analysis of the Security Gas Colic Remedy showed that it consisted essentially of a hydroalcoholic solution containing volatile oils, ether, emodin-bearing plant material, sodium sulfite, and a trace of alkaloids. It was alleged to be misbranded in that statements in the labeling which represented that it was entirely different from all other colic remedies, that the moment it entered the stomach of the animal it neutralized the gases and acids in the stomach caused by the fermentation of food; that after administration, relief was immediate on the same principle as a chemical fire extinguisher; that when it reached the stomach it immediately formed other gases which subdued and neutralized those already there and which had caused colic; that one bottle was sufficient to cure colic in horses, mules, and cattle; that it would be efficacious in the cure, mitigation, treatment, and prevention of cases of kidney, wind or spasmodic colic, grippe, flatulent or acute indigestion; that it would be efficacious in the treatment of engorgement colic, obstruction colic, worm colic, flatulent colic, and spasmodic or cramp colic, and was a positive remedy for alfalfa or lucerne bloat; that it was a "security" remedy and was insurance against all forms of colic in horses, mules, and cattle, were false and misleading since it was not entirely different from other colic remedies and would not be efficacious for the purposes recommended. It was alleged to be misbranded further in that the label failed to bear an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, and in that its label failed to bear a declaration of the common or usual name of each active ingredient.

On May 18, 1942, pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$250. as a general sentence on all counts for both defendants.

791. Misbranding of Security Gas Colic Remedy. U. S. v. 5 Cases and 1 Case of Security Gas Colic Remedy. Default decree of condemnation and destruction. (F. D. C. No. 6099. Sample No. 49858-E.)

The labeling of this veterinary product bore false and misleading therapeutic claims and also failed to contain a statement of the quantity of the contents and a list of the active ingredients.

On November 13, 1941, the United States attorney for the Southern District of Mississippi filed a libel against 6 cases containing a total of 26 bottles of Security Gas Colic Remedy at Bolton, Miss., alleging that the article had been shipped in interstate commerce on or about July 28, 1941, by the Security Food Co. from Minneapolis, Minn.; and charging that it was misbranded.

Analysis showed that the article consisted essentially of a hydroalcoholic solution containing volatile oils, ether, emodin-bearing plant material, sodium sulfite, and a trace of alkaloids.

The article was alleged to be misbranded in that statements in the labeling which represented that it was entirely different from all other colic remedies; that the moment it entered the stomach of the animal it neutralized the gases and acids in the stomach caused by the fermentation of food; that after administration, relief was immediate on the same principle as a chemical fire extinguisher; that when it reached the stomach it immediately formed other gases which subdued and neutralized those already there and which had caused colic; that one bottle was sufficient to cure colic in horses, mules, and cattle; that it would be efficacious in the cure, mitigation, treatment, and prevention of cases of kidney, wind or spasmodic colic, grippe, flatulent or acute indigestion; and that it would be efficacious in the treatment of engorgement colic, obstruction colic, worm colic, flatulent colic, and spasmodic or cramp colic, and was a positive remedy for alfalfa or lucerne bloat; that it was a "security" remedy and was an insurance against all forms of colic in horses, mules and cattle, were false and misleading since it was not entirely different from all other colic remedies and would not be efficacious for the purposes recommended.

It was alleged to be misbranded further in that the carton did not bear a statement of the quantity of the contents and in that the label did not bear a list of the active ingredients.

On May 5, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

792. Misbranding of Brown's Inhalant. U. S. v. 893 Cans and 37 Cans of Brown's Inhalant. Product ordered released to claimant. Amended order filed striking provision for release. Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 7429. Sample Nos. 54740-E, 54741-E.)

On May 1, 1942, the United States attorney for the District of Delaware filed a libel against 893 gallon cans and 37 5-gallon cans of Brown's Inhalant at Dagsboro, Del., alleging that the article had been shipped in interstate commerce within the period from on or about January 31 to on or about April 9 and 17, 1942, by Brown's Poultry Products Co. from Lancaster, Pa.; and charging that it was misbranded.

Analysis showed that the article consisted essentially of kerosene and volatile oils including oil of citronella.

The article was alleged to be misbranded in that statements in the labeling regarding its efficacy in the treatment of diseases, symptoms, or conditions of the respiratory tract of poultry, such as colds, roup, brooder pneumonia, and other congestions of the respiratory tract, were false and misleading since it would not be efficacious for such purposes.

A. J. Timmons & Sons, Dagsboro, Del., appeared as claimant and denied the allegations of the libel and Edgar W. Brown, Lancaster, Pa., also petitioned for leave to intervene. On May 21, 1942, the court entered an order granting Edgar W. Brown leave to intervene and defend for himself and the other claimants, and also ordered the goods returned to A. J. Timmons & Sons on condition that the labels which constituted the misbranding were removed or rendered illegible. On May 26, 1942, the Government moved to amend the order of May 21 by striking those portions which permitted a return of the seized property, which motion was granted after hearing, the court handing down the following opinion:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE

LEAHY, *District Judge*. "A libel was filed which sought seizure and condemnation of certain cans containing poultry medicine. The articles were shipped from Pennsylvania into Delaware. The libel charges misbranding of the product within the meaning of the Federal Food, Drug, and Cosmetic Act of June 25, 1938. The marshal made seizure. The claimants, who were in possession of the articles, filed an answer denying the property was misbranded. The manufacturer, Edgar W. Brown, an individual engaged in business under the name of 'Brown's Poultry Products Co.,' in Lancaster, Pa., was permitted to intervene on May 21, 1942, to defend the labeling on his own behalf. In the order permitting the intervention, there was a provision directing that the property be discharged from seizure and delivered to the claimant upon the claimant's filing bond; and that the claimant should not sell said property unless and until the labels were