

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 160, FOOD AND DRUGS ACT.

MISBRANDING OF "BUCHU GIN."

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States v. 109 Cases of a Food and Drug known as "Bouvier's Buchu Gin," a proceeding of libel under Section 10 of the aforesaid act, for seizure and condemnation of said 109 cases of buchu gin, lately pending, and finally determined on November 30, 1909, in the Supreme Court of the District of Columbia by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

A sample of gin labeled and branded "Bouvier's Buchu Gin" had been analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain a quantity of alcohol, when, on or about September 18, 1908, an inspector of said Department found in the possession of the following named persons in Washington, D. C., the number of cases of the aforesaid buchu gin stated: W. D. Barry, 2024 14th street, 9 cases; P. J. Collins, 5th and N streets, 5 cases; M. O. Donoghue, 1st and O streets, 5 cases; M. McInerney, 7th street, 5 cases; W. Conners, 1225 7th street, 5 cases; James Enright, 306 4½ street, 10 cases; W. J. Donovan, 1528 7th street, 5 cases; and N. H. Shea, 632 Pennsylvania Ave., 65 cases. Each case was labeled and branded "Bouvier's Buchu Gin," and contained 12 bottles similarly labeled. The gin had been shipped on September 8, 1908, to N. H. Shea, Washington, D. C., by the Dr. C. Bouvier Specialty Co., from Louisville, Kentucky. From the aforesaid analysis it appeared that the gin was misbranded within the meaning of Section 8 of the act, for the reason that, being a drug, it failed to bear a statement on the labels of the quantity or proportion of alcohol contained therein.

Accordingly, on September 18, 1908, the Secretary of Agriculture notified the United States Attorney for the District of Columbia that the aforesaid 109 cases of buchu gin were then in the possession of the above stated parties in said District, having been shipped as above stated, and that they were misbranded within the meaning of the act. On September 19, 1908, the United States Attorney filed a libel in the Supreme Court of the District of Columbia, praying seizure, condemnation, and forfeiture of the said gin. To this libel the Dr. C. Bouvier Specialty Co. appeared, set up their claim to the gin, filed their answer, and, together with the United States Attorney, submitted the issue to the court upon an agreed statement of facts wherein it was admitted by the said parties that the gin contained alcohol and that there was no statement on the label of the quantity or proportion thereof. The case having come on for final hearing on November 30, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA	}	District No. 783.
<i>vs.</i>		
109 CASES OF A FOOD AND DRUG KNOWN AS "Bouvier's Buchu Gin."		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the 19th day of September, A. D. 1908, the Marshal of the United States for the District of Columbia has seized one hundred and ten cases, valued at six hundred and sixty dollars (\$660.00), of Bouvier's Buchu Gin, and it further appearing to the court that the claimant of the said one hundred and ten cases, so seized as aforesaid, Bouvier Specialty Company, a corporation, has entered its appearance and filed herein its answer to the libel and has agreed through its attorneys, W. M. Hough, A. B. Hayes, and Levi Cooke, with the Attorney of the United States in and for the District of Columbia, upon a statement of facts filed herein on the 30th day of November, A. D. 1909; and it further appearing that in and upon the labels and devices upon said cases and bottles there is no statement of the quantity and proportion of alcohol contained in said liquid preparation, and that the said liquid is a medicinal preparation and contains alcohol; and it further appearing that the said cases and bottles were shipped from the state of Kentucky to the District of Columbia, and remain in said District in original unbroken packages, and further that at the time of the seizure herein the said cases and bottles were offered for sale in said District;

It is, this thirtieth day of November, A. D. 1909,

Adjudged, ordered and decreed: That the said one hundred and ten cases of the said food and drug now in the custody of the said United States Marshal, are misbranded within the meaning of the Act of Congress approved June 30th, 1906, in that the labels upon said cases and bottles do not bear a statement of the quantity and proportion of alcohol contained in said liquid preparation.

It is further ordered: That the said one hundred and ten cases and the bottles of said liquid preparation contained therein, be and they are hereby condemned, and they shall be disposed of by sale by the said United States Marshal under such terms and conditions as will not violate the provisions of the said Act of Congress approved June 30th, A. D. 1906.

It is further ordered, that the respondent,
Bouvier Specialty Company,
pay all of the costs of these proceedings.

It is provided, however, that upon the said respondent, Bouvier Specialty Company, paying all the costs of these proceedings, and executing and delivering to the United States a good and sufficient bond with surety to be approved by the Court, in the penal sum of one thousand two hundred dollars (\$1,200.00) conditioned that the said one hundred and ten cases and the bottles of said liquid preparation contained therein shall not be sold or in any manner whatever disposed of contrary to the provisions of the said Act of Congress approved June 30th, 1906, the said United States Marshal shall re-deliver and surrender the said one hundred and ten cases of Bouvier's Buchu Gin to the respondent in lieu of the disposition by sale as aforesaid.

The said claimant, the Dr. Bouvier Specialty Co., having complied with the terms of the aforesaid decree and Section 10 of the Food and Drugs Act of June 30, 1906, the said 109 cases were re-delivered to it.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

