

Coughs * * * Whooping Cough. This is one of the most troublesome of the whole cold family. While not particularly dangerous of itself, whooping cough subjects the lungs and bronchial tubes to strain which may have very serious after effects. Ointrex will effect relief if rubbed on the entire length of the spinal column in the morning, at least once during the day and before retiring at night. Also insert Ointrex in nostrils and use hot flannel as in the case of ordinary colds. * * * Asthma to Avoid Asthma, consult your physician. Ointrex relieves Asthma when rubbed thoroughly into the spinal column from shoulder to hip. Nerves are thus relaxed. Insert Ointrex also into nostrils as directed under caption 'Head Colds.' Repeat as often as is necessary until relief is afforded. Nasal Catarrh Nasal Catarrh may be but an indication of sinus trouble and the advice of a competent physician should be sought. Nasal catarrh is chronic in many sections and is almost impossible to cure. Relief is obtainable, however, by inhaling Ointrex as prescribed under 'Head Colds.' Apply Ointrex freely to nasal passage, snuffing vigorously up into head and throat. Directions for Using and Applying Ointrex Congestion or Inflammation of the Air Ducts Consult Special Headings for Specific Troubles Ointrex * * * developed * * * with a view of alleviating colds and the suffering which they entail. * * * It lubricates and holds within, inhalents that relieve the nasal passage and prevent the formation of excessive mucus to carry infection to the throat, lungs and stomach. * * * Colds Neglected are the Direct and Indirect Cause of Tens of Thousands of Deaths Each Year * * * Those * * * who suffer from nasal catarrh will do well to make this simple test of Ointrex. In no more than five minutes it will demonstrate its healing and protective virtues. Insert Ointrex of about the size of a large pea into each nostril with the assistance of your little finger. Then successively hold each nostril closed, and inhale strongly drawing it into the head and throat. Within two minutes you will find the accumulated mucus beginning to loosen and in a few minutes your head will be clearing. As the mucus is removed, it carries away cold germs and allays inflammation. Ointrex used in this manner as a preventative and relief for colds or relief for nasal catarrh * * * Colds directly or indirectly are the cause of the major portion of illness today. Neglected colds cause tens of thousands of deaths every year. * * * It is a fact that doctors are not called for hundreds of thousands of cases of colds, any one of which might develop to serious proportions, therefore, Ointrex is of inestimable value and is needed in every home. * * * It is the part of wisdom, therefore, to regard every cold as potentially dangerous and to cure it and prevent complications."

On February 13, 1933, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20579. Misbranding of Rawleigh's rheumatic tablets. U.S. v. 240 Bottles of Rawleigh's Rheumatic Tablets. Tried to the court. Libel dismissed. Writ of error to Circuit Court of Appeals. Reversed and remanded. Decree of condemnation, forfeiture, and destruction. (F. & D. no. 25504. I.S. no. 11392. S. no. 3758).

Examination of the drug preparation, Rawleigh's rheumatic tablets, showed that the article contained no medicinal agents capable of producing certain curative and therapeutic effects claimed for the article through the medium of statements on the bottle labels and circulars shipped with the product.

On December 26, 1930, the United States attorney for the District of Colorado, 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 240 bottles of the said Rawleigh's rheumatic tablets, remaining in the original unbroken packages at Denver, Colo., consigned by W. T. Rawleigh Co., Freeport, Ill., alleging that the article had been shipped in interstate commerce on or about October 1, 1930, from Freeport, Ill., to Denver, Colo., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article by this Department showed that the tablets contained, in each: Potassium iodide (0.06 gram), sodium salicylate (0.03 gram), and plant drug extract.

It was alleged in the libel that the article was misbranded in that the following statements regarding the curative and therapeutic effects of the article were false and fraudulent: (Bottle label) "Rheumatic Tablets * * * Take

one tablet three times a day after meals with a full glass of water. After taking for 4 or 5 days increase the dose to 2 or 3 tablets. If much discomfort is then felt in the stomach reduce the dose to 1 or 2 tablets"; (circular) "Causes And Treatment Of Rheumatism Rheumatism may be due to various causes. Inflammation of the joints may be due to infection. Degenerative changes may be due to infection or result from toxins absorbed from the intestines or other parts. Rheumatism of the muscles and nerves is generally caused by toxins, which most frequently originate in the intestines—and are the direct result of constipation. Diseased tonsils and teeth are also regarded as the cause of many cases of rheumatism, particularly in children and young adults and such cases may frequently be avoided by regular use of Rawleigh's Liquid Antiseptic and Rawleigh's Tooth Powder or Dental Cream. Have teeth examined regularly and in case of rheumatic symptoms have the tonsils examined by a physician. Regardless of the primary cause, rheumatism is the direct result of the body being loaded with impurities, including large quantities of uric acid—a poisonous substance that finds its way into the blood and forms minute crystals that lodge in the joints and muscles, causing congestion of the blood in these parts and producing the most excruciating pain. Gradually these impurities still further reduce the vital activity of the body and its power to resist the harmful effects produced within it, so that more serious effects such as stiffening and deformed joints result, together with almost constant torturing pain. Its attack is usually so stealthy and insidious that it is not detected until after unusual exposure, its presence is manifested by sharp aching pains and feverish inflammation. By this time the body is poisoned and the normal power impaired. The above facts plainly show that rheumatism cannot be cured until the poisonous substances which produce it are removed from the body. The best and most logical treatment for rheumatism must work with this object in view. To aid in effectively expelling all the poisons from the system and restoring the vital organs which eliminate waste materials to normal strength and activity, there is perhaps no better help than Rawleigh's Rheumatic Tablets. * * * Do Not Expect too Quick Results because where the disease has been a long time coming on, it naturally follows that it will take some time to throw it off and restore the body to its normal and healthy condition. Continue Using these Tablets until all traces of the rheumatic conditions have disappeared and the body feels healthy and strong and free from pain. Directions for using Rawleigh's Rheumatic Tablets. Acute Rheumatism. Take one of Rawleigh's Rheumatic Tablets and drink a glass of water every morning and evening. After 4 or 5 days increase the dose to 2 tablets. In severe cases, take 3 tablets. * * * Chronic Rheumatism. Use same as for Acute Rheumatism. Sciatic Rheumatism. Use same as for Acute Rheumatism, except that external applications * * * Lumbago. Use same as for Acute Rheumatism except that external applications * * * Rawleigh's Rheumatic Tablets prepared especially to overcome rheumatism and gout. Rawleigh's Rheumatic Tablets are composed of valuable ingredients scientifically combined to (1) Increase Bodily Secretions which increases quantity of waste substances and rheumatic poisons eliminated through the bowels, kidneys and skin. This means that all the vital organs of the body and the pores of the skin are kept active and open so that nothing will interfere with the passage of waste substances from the body. (2) Remove Rheumatic Poisons, uric acid, etc., from the blood and affected parts so that the whole system may be cleansed of impurities that cause rheumatism. Rawleigh's Rheumatic Relief is especially useful for loosening up these rheumatic poisons so that they can be more easily washed away by the blood and thrown off from the system. (3) Stimulate, Strengthen and Build up the vital organs so that the body may be made strong and inwardly clean and free from rheumatic poisons and other substances which are harmful to it [similar directions in foreign languages]."

On February 16, 1931, the W. T. Rawleigh Co., Freeport, Ill., appeared and filed an answer to the libel, which was subsequently withdrawn, and on May 11, 1931, was refiled. The answer denied that the product was misbranded and subject to forfeiture, and prayed dismissal of the libel. On June 1, 1931, the libel was dismissed.

On August 26, 1931, the Government filed its assignment of errors, and on the same date its petition for appeal to the Circuit Court of Appeals for the Tenth Circuit was allowed. On March 31, 1932, the following opinion was handed down reversing the order of dismissal and remanding the case for further proceedings: (Kennedy, D. J.):

"This is a libel suit brought under the Food and Drugs Act, 21 USCA Secs. 1 to 26 (Act of June 30, 1906, 34 Stats. 768). The libel was directed against certain misbranded drugs found in the possession of the appellee. An answer was filed in which various exceptions to the libel were set forth by the appellee in the court below, among which was the following: 'Because it does not appear in and from the averments contained in the said libel that a notice and preliminary hearing by the Department of Agriculture was afforded to the claimant prior to the institution of the libel, pursuant to law in such cases made and provided.'

"At the hearing the court sustained said exception, overruled all others, and entered an order dismissing the libel and for a return of the property seized under the warrant. From such order of the District Court the Government appeals.

"Section 2 of title 21, prohibits the introduction of food or drugs in interstate commerce which are adulterated or misbranded within the scope of the act. Section 14 provides for the seizure of such specified food or drugs. Section 11 provides for the examination of specimens of food and drugs in the Bureau of Chemistry for the purpose of determining whether such articles are adulterated or misbranded, and that the Secretary of Agriculture shall give notice to the party from whom the sample was obtained in the event it is found that there is adulteration or misbranding; and further provides that any parties so notified shall be given an opportunity to be heard, upon which, if it appear that any of the provisions of the act have been violated by such party, then the Secretary of Agriculture shall certify the facts to the proper United States district attorney for appropriate action in the premises. Section 12 provides that it shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation, or to whom any health or food or drug officer or agent of any State, Territory, or the District of Columbia shall present satisfactory evidence of such violation, to cause appropriate proceedings to be commenced and prosecuted for the enforcement of the penalties in such case provided. Section 2 also provides that anyone violating the act shall be guilty of a misdemeanor and subjected to certain fines or imprisonment; and section 14 contemplates proceeding against the offending articles through libel.

"It does not appear from the record in this case as to how the possession or knowledge of the specimens of alleged misbranding drugs came to the District attorney upon which the libel is based.

"By the order of the trial court sustaining the exception of the appellee upon the ground that no notice had been given or opportunity to be heard under the provisions of section 11 as heretofore referred to, it was held that the libel could not be sustained, which raises the question as to whether or not such notice is necessary from a jurisdictional standpoint, and this is the sole point presented upon this appeal.

"It appears that there had been a diversity of opinion upon this point among the District Courts and Circuit Courts of Appeals. The matter came to the attention of the Supreme Court in the case of *United States v. Morgan*, 222 U.S. 274, 32 S. Ct. 81, 56 L. Ed. 198, where some of the cases of the lower courts involving conflict of opinion are cited. In the *Morgan* case the high court affirmatively holds that the notice indicated in section 11 is not jurisdictional. The gist of the decision is to the effect that, because under section 12 it is made the duty of the district attorney to institute appropriate proceedings for the enforcement of the penalties prescribed by the act when reports are made to him by the Secretary of Agriculture or by any health, food, or drug officer in any State or Territory, which latter reports would manifestly not come through the Secretary of Agriculture, it should not be held that it was the intent of Congress that he should only prosecute where notice had been given in the event that the report had come from the Secretary of Agriculture, but could prosecute without notice where the report had come from the other sources indicated, and that for the reasons stated the preliminary notice could not be held as being a necessary preliminary step to prosecutions for violations of the act either by indictment or by libel. Additional reasons are indicated in the opinion which it will not be necessary here to further set forth. The proceeding in the cited case was in the nature of a criminal prosecution by indictment, while in the case at bar it is by libel, yet we see no distinction to be made in the rule by virtue of these circumstances. We are of the opinion that this decision of the Supreme Court rules this case.

"For the reasons stated, the order of the trial court will be reversed, and the case remanded for appropriate action not inconsistent with this opinion, and it will be so ordered."

On January 18, 1933, the case having come on for final disposition and the W. T. Rawleigh Co. having failed to appear, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20580. Misbranding of Master poultry capsules. U.S. v. 3 Cans, et al., of Master Poultry Capsules. Default decree of condemnation and destruction. (F. & D. no. 28985. Sample no. 3001-A.)

Examination of the drug preparation Master poultry capsules disclosed that the article contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling.

On October 13, 1932, the United States attorney for the District of South Dakota, 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 15 cans of Master poultry capsules at Yankton, S.Dak., alleging that the article had been shipped in interstate commerce, on or about June 4, 1932, by the Master Laboratories, Inc., from Omaha, Nebr., to Yankton, S.Dak., and charging misbranding 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 kamala, thymol, and a trace of nicotine sulphate, coated with iron oxide and calcium carbonate.

It was alleged in the libel that the article was misbranded in that the following statement, appearing on the package label, falsely and fraudulently represented that the article contained ingredients or medicinal agents effective in the diseases and conditions named therein: (Package) "For Round Worm and Tape Worms in Poultry."

On February 16, 1933, no claimant having appeared for the property, judgment of condemnation was entered and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20581. Adulteration and misbranding of tincture of aconite. U.S. v. Four 4-Ounce Bottles of Tincture of Aconite. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29855. Sample no. 10221-A.)

This action involved an interstate shipment of tincture of aconite represented to be of pharmacopoeial standard. The article, when submitted to the tests laid down in the United States Pharmacopoeia, was found to have less than one third the required potency.

On February 14, 1933, the United States attorney for the Eastern District of New York, 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 four 4-ounce bottles of tincture of aconite, remaining in the original packages at Brooklyn, N.Y., alleging that the article had been shipped in interstate commerce on or about February 10, 1933, by the Gibson-Howell Co., from Jersey City, N.J., to Brooklyn, N.Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tincture of Aconite U.S.P."

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 the test laid down in the said pharmacopoeia, and its own standard was not stated on the container thereof.

Misbranding was alleged for the reason that the statement on the label, "Tincture of Aconite U.S.P.", was false and misleading, in view of the fact that the article had a potency of less than three tenths of the minimum requirement of the pharmacopoeia.

On March 14, 1933, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*