

22977. Misbranding of whisky. U. S. v. 2 Cases and 1 Case of Rewco Rye Whisky. Consent decrees of condemnation. Product released under bond to be relabeled. (F. & D. nos. 32695, 32779. Sample nos. 62749-A, 62755-A.)

These cases involved shipments of whisky which was not labeled to show the percentage of alcohol by volume. The labels contained unwarranted claims regarding its medicinal properties.

On May 9 and 28, 1934, the United States attorney for the Western District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of three cases of whisky at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce, on or about December 8, 1933, and March 23, 1934, by the American Medicinal Spirits Co., Inc., in part from Baltimore, Md. and in part from Camden Station, Md., and charging misbranding in violation of the Food and Drugs Act as amended.

It was alleged in the libel that the article was misbranded in that its package failed to bear upon its label a statement of the quantity or proportion of alcohol contained in the article. Misbranding was alleged for the further reason that the following statements appearing on the carton label were statements regarding the curative or therapeutic effects of the article, and were false and fraudulent: "Constitutional Tonic * * * highly recommended in general debilitated and run down conditions of the system. Tones up the stomach and digestive organs, * * * and aids digestion by its local effect upon the stomach and by stimulating the nerve and arterial centers, hence an excellent Stomach Tonic and is especially useful in treating Chronic Indigestion. Whiskey does not directly elevate the temperature and is not contraindicated by fever, in typhoid and other low fevers its value is unexcelled. It is an excellent Prophylactic and therefore renders the system immune from various diseases. It is especially useful in treating chronic conditions where a lack of nutrition is evident. * * * has proven itself meritorious in treating Pulmonary conditions. La Grippe, Influenza, * * * Bronchitis, Fevers, Stomach Complaints, Weakness of the Stomach and other Digestive Organs, Malaria, especially indicated for exhaustion due to mental or bodily over-work, run-down conditions of the nerves, Sleeplessness, etc., also in weakness of convalescence and debility of old age. It has no equal in the treatment of the various menstrual disorders. Externally * * * dressing for wounds, ulcers, etc."

On July 3, 1934, the Buffalo Wine & Liquor Co., Inc., and S. M. Flickinger Co., Inc., Buffalo, N. Y., having appeared as claimants for respective portions of the property, and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of bonds conditioned that it be removed from the cartons and replaced in new, correctly labeled cartons.

M. L. WILSON, *Acting Secretary of Agriculture.*

22978. Misbranding of Savol Antiseptic and Savol Cream. U. S. v. 23 Bottles of Savol Antiseptic, et al. Default decrees of destruction. (F. & D. nos. 32671, 32672, 33009, 33010. Sample nos. 42571-A, 42572-A, 61084-A, 61085-A.)

These cases involved drug preparations, the labels of which bore unwarranted curative and therapeutic claims. The labeling also bore false and misleading statements relative to their alleged antiseptic properties.

On May 7, 1934, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 23 bottles of Savol Antiseptic and 11 jars of Savol Cream at Huntingburg, Ind. On June 28, 1934, a libel was filed against 10 bottles of Savol Antiseptic (amended July 5, 1934) and 10 jars of Savol Cream at Louisville, Ky. It was alleged in the libels that the articles had been shipped in interstate commerce, on or about March 15, 1934, and April 26, 1934, by the Savol Chemical Co., from Mercer, Pa., and that they were misbranded in violation of the Food and Drugs Act as amended.

Analyses showed that the Savol Antiseptic consisted essentially of phenolic substances, soap, and water; and that the Savol Cream consisted essentially of barium sulphate and zinc oxide, incorporated in petrolatum, perfumed with essential oils including eucalyptol.

The libels charged misbranding of the Savol Antiseptic in that the statement in the circular, "It has three times as much germ-destroying power as carbolic acid", was false and misleading since it did not possess three times as much germ-destroying power as carbolic acid. Misbranding of the said Savol Antiseptic was alleged for the further reason that certain statements regarding its curative and therapeutic effects, borne on the bottle label, carton, and in the circular, falsely and fraudulently represented that it was effective as a treatment or cure for wounds, punctured wounds, punctures made by dirty nails, splinters, etc., dog bite, bites of animals, sores, open sores, festering sores, inflamed pimples, sore throat, nasal catarrh, gangrene of the toes, and leucorrhoea; effective for diseased poultry; effective in catarrh, hay fever, and kindred ills; effective in preventing disease, preventing all complications due to infection, overcoming infection, preventing infected sores, blood poisoning, lockjaw, felons, boils, abscesses, carbuncles, erysipelas, and even death; effective in limiting and destroying germ infection; effective in lessening the danger of secondary infection following diphtheria, scarlet fever, and acute diseases of the nose and throat. The libels also charged violations of the Insecticide Act of 1910, reported in notice of judgment no. 1339 published under that act.

Misbranding of the Savol Cream was alleged for the reason that the statement on the jar and carton labels and in the circular, "Antiseptic", was false and misleading, since bacteriological tests showed that the article did not possess antiseptic properties. Misbranding of the Savol Cream was alleged for the further reason that the following statements in the labeling, regarding the curative and therapeutic effects of the article, were false and fraudulent: (Jar) "Healing * * * For * * * bites, * * * of animals, * * * etc.; for all forms of piles, all sores and skin diseases; also, for the after treatment of * * * felons, carbuncles, erysipelas, etc. * * * Use on the neck for sore throat, croup, enlarged glands, etc."; (carton) "Healing * * * For * * * Boils, and Felons, Sores, Ulcers, * * * Itching Piles, Eczema and Skin affection in General"; (circular) "Healing * * * Sores in general * * * eczema * * * For dandruff and falling of the hair."

On July 9 and August 9, 1934, no claimant having appeared, judgments were entered ordering that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

22979. Misbranding of Kojene Antiseptic. U. S. v. 106 Bottles and 22 Bottles of Kojene. Default decree of condemnation and destruction. (F. & D. no. 32691. Sample nos. 68028-A, 68029-A.)

This case involved a drug preparation, the labels of which bore unwarranted curative and therapeutic claims. Bacteriological tests showed that it was not an antiseptic when used as directed in various parts of the labeling.

On May 8, 1934, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one hundred and six 6-ounce bottles and twenty-two 12-ounce bottles of Kojene Antiseptic at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce, on or about March 10, 1934, by the Kojene Products Corporation, from Rochester, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Kojene Products Corporation Rochester, N. Y."

Analysis showed that the article contained oxyquinoline sulphate (approximately 0.83 percent), benzoic acid (approximately 0.1 percent), sulphur dioxide, methyl salicylate, and water.

It was alleged in the libel that the article was misbranded in that the following statements in the labeling were false and misleading, since it was not antiseptic in a brief period of time as directed in various parts of the labeling: (Cartons and bottle label for the 12-fluid-ounce size) "Antiseptic * * * safe effective dependable", (cartons only) "May be used with the fullest confidence in its efficiency as * * * antiseptic. For the mouth and gums Kojene is often recommended * * * as a mouth wash and a gargle for the throat"; (bottle labels) "Gargle for the Throat: As a gargle use 1 part Kojene to 5 parts water * * * Spray for the Nose: * * * we recommend a dilution of 1 part Kojene to 10 parts luke-warm water. For Use in the Mouth: As a wash following the extraction of teeth, to relieve the discomfort of artificial plates or keep the gums and tissues of the mouth in a clean, normal condition, use 1 part Kojene and 5 parts lukewarm water. Hold this