

been honestly reported to the claimant, if the results were falsely represented by the men who made the investigations, they certainly would have done a better job of making the false statements than they testified to. They testified to the results almost as variable as testified to by the witnesses for the Government.

"I have no doubt that the Government has not proved that there was no fraud in the preparation and circulation of the labels and circulars referred to in the libel.

"1. In addition to the facts which in a general way already have been found, I find that the label and circular referred to in the amended libel introduced in evidence, in so far as they represent that the remedy called 'Gizzard Capsule' was a remedy for large tape worms, do not contain false representations and are not false.

"2. I find that in so far as the label speaks of the 'Gizzard Capsule' as a remedy for pin worms it has not been proven that so much of the label and so much of the circular in which like language appears is false.

"3. I find that the claimant in this case, the George H. Lee Company, in publishing and circulating and attaching to its package labels and circulars referred to in the amended libel, was not guilty of any fraud and that the labels and circulars are not fraudulent.

"*Conclusion of law.*—Upon the facts found I conclude as a matter of law that the plaintiff is not entitled to the relief asked in the amended libel.

"Counsel for the claimant may prepare and submit to the Court for approval an entry a form of judgment in this case.

"To the conclusions of law which the court has stated and also to the findings of fact, and to each of them, the plaintiff is allowed an exception."

On February 18, 1935, judgment was entered ordering that the libel be dismissed and the product delivered to the claimant.

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

24526. Misbranding of Calso Water. U. S. v. 475 Bottles of Calso Water. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33166. Sample no. 73665-A.)

This case involved a product the labeling of which contained false and misleading claims as to its composition, also unwarranted curative and therapeutic claims.

On August 7, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 475 bottles of Calso Water at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about April 17 and June 7, 1934, by the Calso Co., from San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of a carbonated solution of calcium, magnesium and sodium salts including phosphate, chloride, and bicarbonate.

The article was alleged to be misbranded in that the following statements appearing in the labeling were false and misleading: "Made with distilled water and the salts normally present in the human body." Misbranding was alleged for the further reason that the following statements, "It is very efficient in the treatment of the acid conditions of the body fluids and tissues which recent research has shown to be present in most of the acute and chronic diseases", were statements regarding the curative or therapeutic effects of the article and were false and fraudulent.

On March 13, 1935, the Calso Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

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

24527. Misbranding of Dietene. U. S. v. 36 Bottles [67 Bottles] of Dietene. Default decree of condemnation and destruction. (F. & D. no. 83096. Sample no. 56627-A.)

This case involved a product sold as a reducing diet. Examination showed that it contained no ingredients which would produce the reduction in weight claimed, and that the labeling contained unwarranted curative and therapeutic claims.