

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 112-116, FOOD AND DRUGS ACT.

- 112. Misbranding of a drug product. (Quinine-whisky.)
- 113. Misbranding of flour. (Underweight.)
- 114. Misbranding of canned apricots. (Underweight.)
- 115. Adulteration and misbranding of lemon extract. (Imitation colored with a coal-tar dye.)
- 116. Adulteration and misbranding of stock feed. (Low protein and fat content.)

(N. J. 112.)

MISBRANDING OF A DRUG PRODUCT.

(QUININE-WHISKY.)

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.* 10 Cases of "Quinine-Whisky," a proceeding of libel lately pending in the district court of the United States for the northern district of Illinois under the provisions of section 10 of the aforesaid act for seizure and condemnation of said product, wherein the Quinine-Whisky Company, a corporation of Louisville, Ky., was claimant. The said cases of quinine-whisky were misbranded within the meaning of section 8 of the act, as fully set forth in the libel, of which the following is a copy:

UNITED STATES OF AMERICA, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, ss:

Edwin W. Sims, attorney for the United States for the northern district aforesaid, who for the United States in this behalf prosecutes for the said United States, exhibits this his libel and complaint against divers cases of quinine-whisky in the possession of Stein Brothers, at 20 and 22 Michigan avenue, or in the possession of the Chicago, Indianapolis and Louisville Railway Company, in the city of Chicago, in the said division and district, consigned by the Quinine-Whisky Company at Louisville, in the State of Kentucky, in care of the Illinois Central and Chicago, Indianapolis and Louisville Railroad companies, the exact number of cases of quinine-whisky in the said consignment consisting of ten cases, each case containing one dozen bottles; and thereupon the said attorney of the United States, who prosecutes as aforesaid for the said United States, does allege, articulately propound, and give your honor to understand and be informed as follows, to wit:

1. That the said divers cases of quinine-whisky, to wit, to the number of ten, each containing one dozen bottles, contain a drug which is misbranded in violation of

section 8, paragraph 2, of the Food and Drugs Act, 34 Statutes at Large, 769; that is to say, the label upon the wooden case and the cardboard carton (the latter enclosing each one of the twelve bottles in the aforesaid wooden case) bears no statement of the alcoholic content of the aforesaid product, to wit, quinine-whisky, and the aforesaid product, to wit, quinine-whisky, is further misbranded in that the label attached to each bottle declares that the medicine contains pure quinine, one and one-fourth grains per ounce, whereas in truth and in fact the medicine contains only one twenty-fourth grains of alkaloidal material to the ounce, this material not being entirely quinine but mixed alkaloids and cinchona bark. And the aforesaid product, to wit, quinine-whisky, is further misbranded in violation of section 8 of the Food and Drugs Act in that the label bears misleading statements, among which are the following:

“The greatest preventative and remedy for all malarial complaints ever offered,” “Prevents and cures a cold,” “The greatest tonic for convalescents from typhus and typhoid fever,” “An infallible cure for la grippe;” and the aforesaid product, to wit, the ten cases of quinine-whisky composing the said shipment, were transported from one State to another State for sale, to wit, from Louisville, in the State of Kentucky, to Chicago, in the State of Illinois, and is subject to libel for confiscation under section 10 of the Food and Drugs Act, 34 Statutes at Large, 771.

2. That the said divers cases of quinine-whisky composing the said shipment as above set forth, and being in the possession of Stein Brothers, 20 and 22 Michigan avenue, or in the possession of the Chicago, Indianapolis and Louisville Railway Company, Chicago, in the State of Illinois, in the said division and district, are now in the northern district of Illinois within the jurisdiction of this court.

And the said attorney for the said United States who prosecutes as aforesaid for the said United States, says that all and singular the premises are true; that the said divers cases of quinine-whisky are now within the jurisdiction of the said United States and of this court; wherefore he for the said United States prays that a writ of attachment and monition in due form of law, according to the course of this court in such cases, may issue against the said divers cases of quinine-whisky, and that all persons having any interest in the same may be cited to appear and answer all and singular the matters aforesaid, and that the said divers cases of quinine-whisky may be seized for confiscation by process of libel for condemnation, and that if such article is condemned as being misbranded within the meaning of the Food and Drugs Act, that the same may be disposed of by destruction or sale, or otherwise disposed of as the court may direct, and the proceeds thereof, if sold, less the legal costs and charges, may be paid into the Treasury of the United States.

EDWIN W. SIMS,
United States Attorney.

The aforesaid claimant having appeared in court and filed its answer admitting the misbranding, and the case having come on for final hearing on January 14, 1909, upon motion of the United States attorney the court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA FOR THE NORTHERN
DISTRICT OF ILLINOIS, EASTERN DIVISION.

UNITED STATES OF AMERICA	}	No. 10142.
<i>vs.</i>		
TEN CASES OF QUININE-WHISKY.		

This cause coming on to be heard upon motion of Edwin W. Sims, United States attorney for the northern district of Illinois, the answer of the claimant, the Quinine-Whisky Company, heretofore filed, is ordered to stand as the answer of the claimant to the information filed in this case, said claimant waiving a trial by jury.

The court finds that it has jurisdiction of this cause and of the respective parties thereto, and being fully advised in the premises and having heard the arguments of counsel, finds that ten cases of quinine-whisky, each case containing one dozen bottles, were invoiced and consigned by the consignor, to wit, the Quinine-Whisky Company, and were shipped by the aforesaid Quinine-Whisky Company from their place of business at Louisville, in the State of Kentucky, to Stein Brothers, in the city of Chicago, in the eastern division of the northern district of Illinois, and were seized while in the possession of the Chicago, Indianapolis and Louisville Railroad Company, at Chicago, in the division and district aforesaid;

And the court further finds that the said ten cases of quinine-whisky composing the aforesaid shipment were misbranded within the terms of section 8 of the Food and Drugs Act of the United States, 34 Statutes at Large, 769; that is to say, that the labels appearing upon the cases, cardboard cartons, and bottles containing the aforesaid drug, to wit, quinine-whisky, bear statements which are false and misleading in that the labels attached to each bottle declare that the drug contains pure quinine, one and one-fourth grains per ounce, whereas in truth and in fact the drug does not contain quinine in the quantity stated upon the label; and that it is further misbranded in that the labels upon the wooden cases and cardboard cartons, the latter enclosing each one of the twelve bottles in the aforesaid cases, bear no statement of the alcoholic content of the aforesaid product.

And the court further finds that the aforesaid drug, to wit, quinine-whisky, was further misbranded in that the labels attached to the cases, cartons, and bottles containing the said drug bore statements concerning the qualities and ingredients of the aforesaid product which were false and misleading and calculated to deceive purchasers, all of which false and misleading statements are set out more fully in the information filed in this case;

And the court further finds that by reason of this misbranding, admitted by the answer of the claimant filed in this case, the shipment of ten cases of quinine-whisky composing the shipment aforesaid was seized by the United States and is now in the possession of the United States marshal, at Chicago, in the northern district of Illinois, awaiting final adjudication of the issue by this honorable court;

And it further appearing that the Quinine-Whisky Company, of Louisville, Ky., have, by their answer filed in this case, admitted the misbranding of the aforesaid shipment in the manner and method set out in the information filed in this case.

It is therefore ordered, adjudged, and decreed that the said property above described, now in the possession of the United States marshal for the northern district of Illinois, be, and the same is hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, adjudged, and decreed, however, that upon the payment of all the costs of this libel proceeding and the execution and delivery of a good and sufficient bond by the claimant and surety, to be approved by this court, in the sum of one thousand (\$1,000.00) dollars, conditioned that said claimant, his agent or attorneys, shall not dispose of the said quinine-whisky composing the said shipment in violation of the act of June 30, 1906, known as the "Food and Drugs Act" of the United States, or against the laws of any State, upon the order of this court the quinine-whisky now in the possession of the United States be surrendered to the claimant.

KENESAW M. LANDIS,
United States District Judge.

The facts in the case were as follows:

On or about December 16, 1908, an inspector of the Department of Agriculture found in the possession of Stein Brothers, 20 Michigan avenue, Chicago, Ill., a shipment of ten cases of "quinine-whisky" which had been shipped to the said Stein Brothers on December 16,

1908, by the Quinine-Whisky Company, from Louisville, Ky. A sample of this preparation was collected by the inspector and analyzed in the Bureau of Chemistry, United States Department of Agriculture, and it was found that the preparation was misbranded within the meaning of section 8 of the act, as stated in the libel hereinbefore referred to and set out in full.

On December 19, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the northern district of Illinois, who forthwith filed a libel for the seizure and condemnation of said goods, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. McCABE,

Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *November 20, 1909.*

(N. J. 113.)

MISBRANDING OF FLOUR.

(UNDERWEIGHT.)

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.* 300 One-quarter Barrels of Flour, 20 One-half Barrels of Flour, and 120 One-eighth Barrels of Flour, a proceeding of libel under section 10 of the act in the district court of the United States for the eastern district of North Carolina for seizure and condemnation of said flour for the reason that it was misbranded as to weight. The flour had been manufactured and shipped by the Riverton Mills Company, of Riverton, Va., to W. C. Brewer & Co., of Wake Forest, N. C. W. C. Brewer & Co., consignees and claimants, having appeared and admitted all the allegations of the libel, and the cause having come on for hearing on March 29, 1909, the court adjudged the goods misbranded and entered an order in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, EASTERN DISTRICT OF NORTH CAROLINA, RALEIGH DIVISION.

United States of America *vs.* Three Hundred One-quarter Barrels of Flour; Twenty One-half Barrels of Flour; One hundred and twenty One-eighth Barrels of Flour, consigned by Riverton Mills Company, Riverton, Va., to W. C. Brewer & Co., Wake Forest, N. C., February 6, 1909, via the Norfolk and Western Railroad in Norfolk and Western car No. 61139, said flour being contained in sacks which according to size are