

13821. Misbranding of Dr. Gary's vegetable ointment. U. S. v. 19 Bottles of Dr. Gary's Vegetable Ointment. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 17499. I. S. No. 11044-v. S. No. C-3974.)

On May 7, 1923, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 19 bottles of Dr. Gary's vegetable ointment, at Jeromesville, Ohio, alleging that the article had been shipped by the Gary Medicine Co., Chattanooga, Tenn., on or about March 5, 1923, and transported from the State of Tennessee into the State of Ohio, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Carton) "Dr. Gary's Vegetable Ointment is recommended for all of the chief ailments known to the human system * * * benefits received, in treatment of nearly every disease known to the human system * * * In * * * Chills and Fever, Typhoid, Pneumonia, or Bloat caused by Malaria * * * Night Sweats."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted of a mixture of approximately 39 per cent kerosene oil, 38 per cent turpentine oil, 20 per cent alcohol, and a small amount of camphor.

Misbranding of the article was alleged in the libel for the reason that the above-quoted statements borne on the cartons, regarding its curative and therapeutic effects, were false and fraudulent, since the said article contained no ingredient or combination of ingredients capable of producing the effects claimed. Misbranding was alleged for the further reason that the package or label failed to bear a statement of the quantity or proportion of alcohol contained therein, since the quantity declared on the label was in excess of that found.

On November 2, 1925, 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. W. DUNLAP, *Acting Secretary of Agriculture.*

13822. Misbranding of cottonseed cake and meal. U. S. v. Elk City Cotton Oil Co. Plea of guilty. Fine, \$150 and costs. (F. & D. No. 19686. I. S. Nos. 7160-v, 7161-v, 7162-v.)

At the September, 1925, term of the United States District Court within and for the Western District of Oklahoma, the United States attorney for said district, acting upon a report by the Secretary of Agriculture, filed in the district court aforesaid an information against the Elk City Cotton Oil Co., a corporation, Elk City, Okla., alleging three shipments by said company, in violation of the food and drugs act, in various consignments, namely, on or about November 18 and 21, 1924, respectively, from the State of Oklahoma into the State of Texas, of quantities of cottonseed meal and cottonseed cake which were misbranded. The articles were labeled in part: (Tag) "43% Protein Cottonseed Cake" (or "Meal") "Prime Quality Manufactured By Elk City Cotton Oil Company Elk City, Oklahoma Guaranteed Analysis: Crude Protein not less than 43.00 Per Cent."

Analysis by the Bureau of Chemistry of this department of a sample of the article from each shipment showed that the said samples contained 39.53 per cent, 42.1 per cent, and 41.48 per cent, respectively, of protein.

Misbranding of the articles was alleged in the information for the reason that the statements, to wit, "43% Protein Cottonseed Cake" (or "Meal"), as the case might be, and "Guaranteed Analysis: Crude Protein not less than 43.00 Per Cent," borne on the tags attached to the sacks containing the respective articles, were false and misleading, in that the said statements represented that the articles were 43 per cent protein cottonseed cake or meal and that they contained not less than 43 per cent of crude protein, and for the further reason that they were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that they were 43 per cent protein cottonseed cake or meal and that they contained not less than 43 per cent of crude protein, whereas they were not 43 per cent cottonseed cake or meal, as the case might be, but were products containing less than 43 per cent of protein.

On October 30, 1925, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$150 and costs.

R. W. DUNLAP, *Acting Secretary of Agriculture.*