

**18088. Misbranding of Kalis' laxative "Flu-Caps." U. S. v. 32 Dozen Small-Sized Packages of Kalis' Laxative "Flu-Caps." Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 25573. I. S. No. 12033. S. No. 3843.)**

Examination of a sample of a drug product, known as Kalis' laxative "Flu-Caps," having shown that the display carton, retail carton, and accompanying circular bore statements representing that the article possessed curative and therapeutic properties which it did not, the Secretary of Agriculture reported to the United States attorney for the District of Colorado the following interstate shipment of a quantity of the product located in Denver, Colo.

On January 5, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 32 dozen small-sized packages of the said Kalis' laxative "Flu-Caps," remaining in the original unbroken packages at Denver, Colo., consigned by Murray C. Kalis & Co., St. Joseph, Mo., alleging that the article had been shipped from St. Joseph, Mo., on or about September 11, 1929, and had been transported from the State of Missouri into the State of Colorado, 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 capsicum, aloin, acetanilid, asafoetida, ginger, and a small proportion of another root.

It was alleged in the libel that the article was misbranded in that the following statements appearing in the labeling, regarding the curative and therapeutic effects of the said article, were false and fraudulent, since it contained no ingredient or combination of ingredients capable of producing the effects claimed: (Display carton) "A Strictly Meritorious Remedy for \* \* \* Grip and 'Flu.' \* \* \* will \* \* \* Prevent the 'Flu' \* \* \* Flu-Caps for \* \* \* Grip and Influenza;" (retail carton) "Flu-Caps for \* \* \* Grip and Influenza. \* \* \* To \* \* \* check the 'flu,' take one capsule with a glassful of water 1 or 2 hours apart until three consecutive doses are taken; then one capsule every three or four hours until entirely rid of cold. To relieve \* \* \* Aching Bones, \* \* \* take one capsule every two hours until relieved. \* \* \* A strictly meritorious remedy for \* \* \* Bilious Fever, Dengue, Chills, Malaria, LaGrip, and 'Flu;'" (circular) "An Ounce of Prevention is Worth a Pound of Cure! \* \* \* 'Flu-Caps' will \* \* \* prevent the 'Flu.' These Capsules had their origin during the 'Flu' epidemic of 1918 and have proven of inestimable value in combating \* \* \* LaGrippe, Bilious Fever, Malaria, Chills, Influenza, and Pneumonia. They act directly on the liver \* \* \* ridding the system of its impurities and fortifying the body against further attack from \* \* \* grippe and 'flu.' \* \* \* To \* \* \* check the 'flu,' take one capsule with a glass full of water one or two hours apart until three consecutive doses are taken; then one capsule every three or four hours until entirely rid of the cold. To relieve \* \* \* aching bones, \* \* \* take one capsule every two hours until relieved."

On March 24, 1931, 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.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**18089. Misbranding of Maxey's vegetable tonic and Maxey's One Minute Liniment. U. S. v. 38 Dozen Bottles of Maxey's Vegetable Tonic, et al. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 25605, 25606. I. S. Nos. 9298, 9299. S. No. 3881.)**

Examination of samples of the drug products herein described having shown that the labels and accompanying circulars contained statements representing that the articles possessed curative and therapeutic properties which they did not, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Virginia.

On January 6, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 38 dozen bottles of Maxey's vegetable tonic and 6½ dozen bottles of Maxey's One Minute liniment, remaining in the original unbroken packages at Norfolk, Va., alleging that the articles had been shipped by the Maxey Medicine Co., from Winston-Salem, N. C., the former on or about February 13, 1930, and the latter on or about March 28, 1930, and had been transported from the State of North Carolina into the State of Virginia, and charging misbranding in violation of the food and drugs act as amended.

Analyses of samples of the articles by this department showed that Maxey's vegetable tonic consisted essentially of caffeine citrate, salicylic acid, ammonium chloride, chloroform, mustard oil, sassafras oil, clove oil, and water, colored with a red dye; and Maxey's One Minute liniment consisted essentially of chloroform, methyl salicylate, mustard oil, cassia oil, and water.

It was alleged in the libels that the articles were misbranded in that the following statements appearing in the labeling, regarding the curative or therapeutic effects of the said articles, were false and fraudulent, since they contained no ingredients or combinations of ingredients capable of producing the effects claimed: (Bottle label of Maxey's vegetable tonic) "For Indigestion, all Stomach and Bowel Troubles. Digests Food in Lower Bowels, preventing Fermentation. Purifies the blood and regulates the system. \* \* \* where lining of stomach is inflamed from sores, abscesses or ulcers. \* \* \* Acts Directly on the Stomach \* \* \* Digests the Food \* \* \* treatment prepared for conditions arising from the stomach such as indigestion, dyspepsia, heartburn, sour belching, acid stomach, \* \* \* loss of appetite, nervous indigestion. Purifying the blood, eliminating the acids, malaria and impurities that are in the blood and system;" (circular accompanying Maxey's vegetable tonic) "For Cramps \* \* \* Acute Indigestion, \* \* \* should be taken Several Days in the treatment of indigestion, or to purify the blood;" (bottle label of Maxey's One Minute liniment) "Directions—For pains, apply to parts affected. For pains in the back, side, joints, \* \* \* Pyorrhea or diseased gums apply with cotton. Prevents Spanish Influenza, \* \* \* Catarrh;" (carton of Maxey's One Minute liniment) "Relieves Headache, Toothache, Earache or Neuralgia \* \* \* Relieves pains in the back, sides, shoulders, arms or limbs \* \* \* Rheumatism, pneumonia or pleurisy pains \* \* \* Catarrh of the head \* \* \* Pyorrhea or diseased gums. \* \* \* will keep out poison, inflammation and soreness. \* \* \* Pyorrhea or Diseased gums;" (circular accompanying Maxey's One Minute liniment) "For Rheumatic Pains, Pneumonia Pains, Pains in or across Back, in the limbs or joints \* \* \* For Catarrh \* \* \* Headache, \* \* \* For Headaches or Neuralgia \* \* \* For Pyorrhea or Diseased Gums \* \* \* For Rheumatism, Kidney and Back Trouble, also Female Trouble, remove pains, soreness, also stiffness with \* \* \* A sure preventive of Spanish Influenza."

On March 31, 1931, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**18090. Adulteration and misbranding of Pyro-Lac milk of magnesia tooth paste. U. S. v. 43 Dozen Tubes of Pyro-Lac Milk of Magnesia Tooth Paste. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 25604. I. S. No. 11966. S. No. 3757.)**

Examination of the product herein described having shown that it contained insufficient magnesium hydroxide to justify its label as a milk of magnesia tooth paste, and that the carton and tube bore statements representing that the article possessed curative and therapeutic properties which it did not, the Secretary of Agriculture reported the matter to the United States attorney for the District of Colorado.

On January 8, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 43 dozen tubes of the said Pyro-Lac milk of magnesia tooth paste, remaining in the original unbroken packages at Denver, Colo., consigned by the Walgreen Co., Chicago, Ill., alleging that the article had been shipped from Chicago, Ill., in part on or about October 30, 1930, and in part on November 11, 1930, and had been transported from the State of Illinois into the State of Colorado, and charging adulteration and 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 calcium carbonate (45.1 per cent), magnesium hydroxide (1.0 per cent), soap, glycerin, and flavoring material.

It was alleged in the libel that the article was adulterated in that it was sold under the following standard of strength, "Milk of Magnesia Tooth Paste," whereas it fell below such professed standard, since it contained but an insignificant amount of magnesium hydroxide.

Misbranding was alleged for the reason that the statement "Milk of Magnesia Tooth Paste," appearing on the carton and tube, was false and misleading. Misbranding was alleged for the further reason that the following