

On July 27 and 31, 1922, respectively, 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.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10776. Adulteration and misbranding of prepared mustard. U. S. v. 9 Cases of Prepared Mustard. Default decree of condemnation, forfeiture, and destruction.** (F. & D. No. 15111. I. S. No. 3972-t. S. No. C-3091.)

On July 7, 1921, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 9 cases, more or less, of prepared mustard, remaining unsold in the original unbroken packages at Topeka, Kans., alleging that the article had been shipped by the Bayle Food Products Co., St. Louis, Mo., on July 24, 1920, and transported from the State of Missouri into the State of Kansas, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended.

Adulteration of the article was alleged in substance in the libel for the reason that it contained mustard hulls which had been colored and so packed with and substituted for the pure article as to conceal inferiority.

Misbranding was alleged for the reason that the branding and labeling on the product was misleading and calculated to deceive the purchaser into the belief that the product was pure mustard, whereas, in truth and in fact, it was a mixture of and offered for sale under the distinctive name of another article, and for the further reason that said product was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On September 12, 1921, 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.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10777. Adulteration and misbranding of olive oil. U. S. v. 25 Gallon Cans, 40 Half-Gallon Cans, and 70 One-Quarter-Gallon Cans of an Article Purporting to be Olive Oil. Consent decree of condemnation and forfeiture. Product ordered released on bond.** (F. & D. No. 15377. I. S. Nos. 15424-t, 15425-t, 15426-t. S. No. E-3537.)

On or about August 10, 1921, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 25 gallon cans, 40 half-gallon cans, and 70 one-quarter-gallon cans of an article purporting to be olive oil, remaining unsold at Hoboken, N. J., alleging that the article had been shipped on or about May 20, June 20, and April 18, 1921, by I. Haber, New York, N. Y., and transported from the State of New York into the State of New Jersey, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended.

Adulteration of the article was alleged in the libel for the reason that a substance, peanut oil, mixed in a manner whereby damage or inferiority was concealed, had been substituted wholly or in part for the article, and had been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength. Adulteration of the article considered as a drug was alleged for the reason that it was sold under a name recognized in the United States Pharmacopœia and differed from the Pharmacopœial standard of strength, quality, or purity.

Misbranding of the article was alleged for the reason that it was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, as the statement made was not correct. Misbranding was alleged for the further reason that the package or label of said article bore a statement, design, or device regarding the article or the ingredients or substances contained therein which was false and misleading and deceived and misled the purchaser, as follows, "Olio d'Oliva Puro Importato Pure Imported Olive Oil Napoli Brand Net Contents One Gallon Net Contents Half Gallon Net Contents One Quart. (Cut of foreign scene suggesting Naples.) This imported olive oil is guaranteed to be absolutely pure and especially adapted for medicinal and table use" (practically same statements in Italian).

On May 15, 1922, Isador Haber, New York, N. Y., claimant, having consented to an entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product might be delivered and released to said claimant, upon the payment of the costs of the proceedings and the execution of a bond in the sum of \$323.50, conditioned in part that the product should not be disposed of unless rebranded and properly marked to the satisfaction of this department.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10778. Misbranding of alfalfa meal. U. S. v. The Denver Alfalfa Milling & Products Co., a Corporation. Plea of guilty. Fine, \$50. (F. & D. No. 15467. I. S. Nos. 7844-t, 7849-t, 14859-t.)**

On January 24, 1922, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Denver Alfalfa Milling & Products Co., a corporation, Lamar, Colo., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about November 26, November 27, and December 13, 1920, respectively, from the State of Colorado into the States of Pennsylvania and Tennessee, respectively, of quantities of alfalfa meal which was misbranded.

Misbranding of the article was alleged in the information for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 11, 1922, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10779. Adulteration and alleged misbranding of tomatoes. U. S. v. 698 Cases of Foote's Best Brand Tomatoes. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 15534. I. S. Nos. 8509-t, 8510-t. S. No. E-3632.)**

On November 7, 1921, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 698 cases of tomatoes, remaining unsold in the original packages at Petersburg, Va., alleging that the article had been shipped on August 19, 1921, by D. E. Foote & Co., Baltimore, Md., and transported from the State of Maryland into the State of Virginia, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Compass Brand Tomatoes Packed by D. E. Foote and Co., Inc. \* \* \* Baltimore, Md."

Misbranding of the article was alleged in the libel for the reason that the above-quoted statements regarding the article were false and fraudulent (misleading), since said article contained added diluted purée pulp or core juice and skin.

On December 15, 1921, D. E. Foote & Co., Inc., claimant, having admitted the material allegations of the libel, the court found the product to be adulterated, and ordered it to be confiscated and condemned. It was provided, however, that the article might be released to said claimant upon payment of the costs of the proceedings and the execution of bond in the sum of \$1,500, in conformity with section 10 of the act.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10780. Misbranding of Vitalo. U. S. v. 10 Bottles of Vitalo. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 15732. S. No. C-3356.)**

On or about December 10, 1921, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 10 bottles of Vitalo, remaining in the original packages at Birmingham, Ala., alleging that the article had been shipped by the Allan-Pfeiffer Chemical Co., St. Louis, Mo., on or about October 29, 1920, and transported from the State of Missouri into the State of Alabama, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted of extracts of plant drugs, including damiana and nux vomica, sugar, alcohol, and water.