

**3542. Adulteration and misbranding of tomato catsup. U. S. v. 10 Cases, More or Less, of Tomato Catsup. Default decree of condemnation, forfeiture, and destruction.**  
(F. & D. No. 5515. I. S. No. 5148-h. S. No. 2076.)

On January 13, 1914, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of said District, holding a district court, a libel for the seizure and condemnation of 10 cases, each containing 2 dozen 16-ounce bottles of tomato catsup, remaining unsold in the original unbroken packages at Washington, D. C., alleging that the product had been transported from the State of West Virginia into the District of Columbia, the shipment arriving on or about November 20, 1913, and charging adulteration and misbranding in violation of the Food and Drugs Act. The cases were labeled in part: "2 Doz. No. 16 oz. Stag Brand Catsup Packed by The E. C. Flaccus Co., Wheeling, W. Va., U.S.A. Preserved with 1/10 of 1 % Benzoate of Soda." Each of the bottles was labeled in part: "Flaccus Catsup Trade Mark [head of stag] Preserved with 1/10 of 1 % Benzoate of Soda Prepared by The E. C. Flaccus Co., Wheeling, W. Va. U.S.A." (Neck label) "Stag Brand Trade Mark [design head of stag] A Guarantee of Purity The E. C. Flaccus Co., Wheeling, W. Va., U.S.A."

Adulteration of the product was alleged in the libel for the reason that it was partly decomposed. Misbranding was alleged for the reason that each of the bottles was labeled and branded as follows: "Stag Brand Trade Mark [design head of stag] A Guarantee of Purity The E. C. Flaccus Co., Wheeling, W. Va., U.S.A.," which labels were false and misleading and deceptive to the purchaser, in that they severally represented the contents of the bottles to be severally pure, whereas, in truth and in fact, the contents of each of said bottles were partly decomposed and adulterated.

On November 18, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 13, 1915.*