

4511. Misbranding of "Lung-Vita." U. S. * * * v. 7 Dozen * * * and 9 Dozen Bottles of "Lung-Vita." Consent decree of condemnation, forfeiture, and destruction. (F. & D. No. 6657. I. S. No. 14158-k. S. No. C-247.)

On June 25, 1915, the United States attorney for the Western District of Wisconsin, 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 7 dozen large and 9 dozen small bottles of "Lung-Vita," so called, remaining unsold in the original unbroken packages at La Crosse, Wis., alleging that the article had been shipped, on or about April 17, 1915, and transported from the State of Tennessee into the State of Wisconsin, and charging misbranding in violation of the Food and Drugs Act, as amended.

Misbranding of the article was alleged in the libel for the reason that the packages, bottles, labels, circulars or pamphlets, and cartons of said drug bore certain statements regarding it and the ingredients and substances contained therein and the curative effects thereof which were false and misleading, and that among the said false and misleading statements were the following, that is to say: (On circulars or pamphlets) "Lung-Vita—Lung-Vita is composed of harmless agents and contains five per cent pure grain alcohol, which is not used for its medical qualities but to preserve the vegetable syrups entering into the compound. Lung-Vita is only recommended for tuberculosis and asthma, but for any trouble of the respiratory tract, we know nothing better than Lung-Vita. As a tissue builder, there is nothing better for a weakened and run down state of health. Tubercular bacilli cannot live in Lung-Vita, and the claim for it above all others is that it will invade the tissues occupied by the bacilli, and as they cannot occupy the same space the bacilli have to recede or give back. Lung-Vita goes wherever there is circulation of blood as a medicament in the blood. * * * Aiding the blood in giving cell production for the building of tissue. This forces away diseased and broken down tissue, occupying its place, forming cicatrices, closing in upon and healing over their walls, thus preserving all surrounding structures ——— separating the good from the bad." (On bottles) "Lung-Vita, the universal lung remedy for tuberculosis and asthma." (On cartons) "Lung-Vita. Lung-Vita. The Universal Lung Remedy for consumption," which said several statements, and each of them, were false and misleading, in that said Lung-Vita consisted essentially of a petroleum oil, saponifiable oil, and a solution containing sugar and glycerin, with a small quantity of benzoic acid, and said drug contained no ingredients, nor combination of ingredients, capable of producing the therapeutic or curative effects claimed for it in said statements, nor any of them, and in that said drug Lung-Vita was not a tissue builder and had no beneficial effect for persons in a weakened or run-down state of health, and that it would not invade the tissues occupied by tubercular bacilli, and that tubercular bacilli would not recede or give back or be destroyed when said drug was taken by a tubercular person, and that Lung-Vita did not act as a medicament in the blood wherever there is circulation of blood; that it did not aid in the production of blood cells or in the building of tissue, and in that Lung-Vita did not force away or destroy diseased or broken down tissue or occupy its place, and in that it did not form cicatrices or close up or heal over their walls, and did not preserve surrounding structures, and in that it did not separate the bad tissue from the good, and that said drug was not an universal lung remedy for consumption, tuberculosis, or asthma, and was, in fact, no remedy at all for any of said diseases. Misbranding was alleged for the further reason that said several statements above set forth were each false and fraudulent, and each of them was applied to said article knowingly, and in reckless and wanton disregard of its truth or

falsity so as to represent falsely and fraudulently to the purchasers thereof, and to create in the minds of purchasers thereof the impression and belief, that it was, in whole or in part, composed of, or contained, ingredients or medicinal agents effective, among other things, for the prevention and cure of consumption and asthma, and for the destruction of tubercular bacilli, and for the building of healthy tissue, when, in truth and in fact, said article was not, in whole or in part, so composed, and did not contain such ingredients or medicinal agents.

On December 29, 1915, the answer of the Nashville Medicine Co., Nashville, Tenn., claimant, that had appeared and made claim to the property, having been withdrawn by stipulation and said claimant having consented to a decree, 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.*