

9356. Adulteration and misbranding of canned tomatoes. U. S. * * * v. 70 Cases of Canned Tomatoes. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 12872. I. S. No. 421-r. S. No. E-2341.)

On June 18, 1920, the United States attorney for the District of Rhode Island, 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 70 cases of canned tomatoes, consigned by the Phillips Packing Co., Cambridge, Md., remaining unsold in the original unbroken packages at Providence, R. I., alleging that the article had been shipped from Cambridge, Md., on or about December 2, 1919, and transported from the State of Maryland into the State of Rhode Island, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Castle Haven Brand Tomatoes. * * * Our First Quality Carefully Selected Packed For Fine Family Trade Contents Weigh 1 Lb. 3 Oz. Packed By Phillips Packing Co., Cambridge, Md. U. S. A."

Adulteration of the article was alleged in substance in the libel for the reason that tomato pulp had been mixed and packed with, and substituted wholly or in part for, the article.

Misbranding was alleged in substance for the reason that the statements, "Canned Tomatoes," "Tomatoes * * * Our First Quality Carefully Selected * * *," and the design of a whole ripe tomato appearing on the label, were false and misleading and deceived and misled the purchaser, and for the further reason that the article was an imitation of, and was offered for sale under the distinctive name of, another article, to wit, canned tomatoes.

On March 31, 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.

E. D. BALL, *Acting Secretary of Agriculture.*

9357. Misbranding of Damiana Compound with Saw Palmetto. U. S. * * * v. 3 Dozen Bottles of Patent Medicine. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 13733. I. S. No. 9216-t. S. No. E-2785.)

On September 29, 1920, the United States attorney for the Eastern District of North Carolina, 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 3 dozen bottles of patent medicine, known as Damiana Compound with Saw Palmetto, consigned by the Hollander-Koshland Co., Baltimore, Md., remaining in the original unbroken packages at Wilmington, N. C., alleging that the article had been shipped from Baltimore, Md., on or about June 22, 1920, and transported from the State of Maryland into the State of North Carolina, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Bottle and carton) "* * * For use in the treatment of Sexual Weakness * * * Loss of Manhood, Debility, Lack of Virility and Impotency * * * Psychic Impotence, Atonic Impotence, Prostatorrhœa * * * Spermatorrhœa."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of a solution of ferric iron, nuxvomica alkaloids, and damiana extractives, in alcohol and water.

Misbranding of the article was alleged in substance in the libel for the reason that the above-quoted statements, regarding the curative or therapeutic effects thereof, were false and fraudulent in that the said article would not produce