

On October 1, 1920, no claimant having appeared for the property, judgment of the court was entered declaring the product to be misbranded and ordering its destruction by the United States marshal.

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

**10162. Misbranding of Wendell's Ambition Brand pills. U. S. \* \* \* v. 85 Packages and 77 Packages of \* \* \* Wendell's Pills. Default decrees declaring product to be misbranded and ordering its destruction.** (F. & D. Nos. 13616, 13617. I. S. Nos. 8592-t, 8593-t, 8597-t. S. Nos. E-2489, E-2490, E-2514.)

On or about September 13, 1920, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 162 packages of Wendell's Ambition Brand pills, remaining unsold in the original packages at Wheeling, W. Va., alleging that the article had been shipped by the Wendell Pharmacal Co., Syracuse, N. Y., on or about February 23, March 22, and June 27 [17], 1920, respectively, and transported from the State of New York into the State of West Virginia, 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 plant tissues and extracts, including nux vomica and cinchona, phosphorus, aloin, and spices, coated with a mixture of sugar and calcium carbonate and colored with a red dye.

Misbranding of the article was alleged in substance in the libels for the reason that the cartons containing the said article bore the following statements regarding its curative and therapeutic effect, "\* \* \* Pills Ambition Brand. Beneficial in the treatment of \* \* \* Nervous Debility, Sleeplessness, Despondency, Mental Depression, Hysteria, Nervous Headaches, Dyspepsia, Indigestion, \* \* \* Affections of the Nervous System," which statements were false and fraudulent in that the said article contained no ingredient or combination of ingredients capable of producing the curative and therapeutic effect claimed.

On April 12, 1921, no claimant having appeared for the property, judgments of the court were entered declaring the product to be misbranded and ordering its destruction by the United States marshal.

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

**10163. Adulteration and misbranding of canned tomatoes. U. S. \* \* \* v. 497 Cases of Canned Tomatoes. Decree ordering product released under bond.** (F. & D. No. 13688. I. S. No. 8623-t. S. No. E-2744.)

On or about September 22, 1920, the United States attorney for the Northern District of West 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 497 cases of canned tomatoes, remaining unsold in the original packages at Wheeling, W. Va., alleging that the article had been shipped by W. M. Wright & Son, Preston, Md., on or about July 28, 1920, and transported from the State of Maryland into the State of West Virginia, and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it contained added water averaging 15 per cent or more.

Misbranding was alleged in substance for the reason that the labels of the cans containing the article bore the following statement regarding the contents thereof, "Collins Brand Tomatoes" (design of a red ripe tomato) "Contents 2 lbs., Packed by F. M. Collins, Preston, Md.," which statement was false and misleading and was intended to deceive and mislead the purchaser in that the said cans did not contain tomatoes in the condition represented by the said statement. Misbranding was alleged for the further reason that the said article was an imitation of, and was offered for sale under the distinctive name of, another article.

On April 6, 1921, F. M. Collins, Preston, Md., claimant, having offered to pay the costs of the proceedings, having tendered a bond in the sum of \$500, in conformity with section 10 of the act, and having offered to relabel the product by placing across the design of a red ripe tomato a sticker containing the words; "Water added not to exceed average 15 per cent," judgment of the court was entered approving the said bond and ordering that the product be delivered to the said claimant upon payment of the costs of the proceedings.

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