

On June 21, 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.*

**10042. Adulteration and misbranding of vinegar. U. S. \* \* \* v. 4 Barrels of Vinegar \* \* \*. Default decree of condemnation, forfeiture, and destruction.** (F. & D. No. 13974. I. S. No. 3561-t. S. No. C-2597.)

On November 29, 1920, the United States attorney for the District of North Dakota, 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 4 barrels of vinegar, at Fargo, N. D., alleging that the article had been shipped by Barrett & Co., Minneapolis, Minn., August 18, 1920, and transported from the State of Minnesota into the State of North Dakota, 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 distilled vinegar had been mixed and packed therewith, by which mixture the quality and strength of the said article had been lowered and reduced. Adulteration was alleged for the further reason that the said article was colored with a caramel product in such manner that its inferiority was concealed.

Misbranding was alleged in substance for the reason that the article was an imitation of, and was offered for sale under the distinctive name of, another article, to wit, "Maize Sugar Fermented Vinegar"; for the further reason that the said article was falsely branded and labeled "Maize Sugar Fermented Vinegar," which brand was calculated to and did deceive and mislead purchasers thereof; and for the further reason that the said article was food in package form, and the quantity of the contents of the said packages was not conspicuously marked on the outside thereof in terms of weight or measure or in any manner.

On November 17, 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.*

**10043. Misbranding of canned tomatoes. U. S. \* \* \* v. 298 Cases of Tomatoes. Decree of condemnation and forfeiture. Product released under bond.** (F. & D. No. 13985. I. S. No. 5721-t. S. No. E-2907.)

On December 2, 1920, the United States attorney for the Western District of Pennsylvania, 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 298 cases of tomatoes, remaining in the original unbroken packages at Pittsburgh, Pa., alleging that the article had been shipped by E. L. Fooks, Preston, Md., on or about September 23, 1920, and transported from the State of Maryland into the State of Pennsylvania, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "I X L Brand Tomatoes \* \* \* Packed By Preston Canning Co. Preston, Maryland."

Misbranding of the article was alleged in substance in the libel for the reason that the label of the can containing the said article bore the statement, "Average Net Weight Of Contents 6 Pounds 7 Ozs.," which was false and misleading and deceived and misled the purchaser, since examination showed the product to be short weight. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages in terms of weight or measure.

On April 9, 1921, the Preston Canning Co., Preston, Md., having entered an appearance as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act.

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