

product and misbranding with respect to the remainder thereof, in violation of the food and drugs act. A portion of the article was labeled in part: (Barrel) "Douglas Packing Co. Excelsior Brand Apple Cider Vinegar Made From Selected Apples Reduced To 4 Per Centum Rochester, N. Y." and "Guaranteed To Comply With All Pure Food Laws Douglas Packing Co. Rochester, N. Y." The remainder of the said article was labeled in part: (Barrel) "Pure Apple Cider Vinegar" or "Apple Cider Vinegar."

Adulteration was alleged in substance in the libels with respect to all the product, with the exception of the consignment of September 26, 1922, for the reason that vinegar made from evaporated or dried apple products had been mixed and packed with and substituted wholly or in part for the said article.

Misbranding was alleged with respect to the product consigned September 19, 1919, November 2, 1921, and September 26, 1922, respectively, for the reason that the statements, "Apple Cider Vinegar made from Selected Apples," "Guaranteed To Comply With All Pure Food Laws," "Pure Apple Cider Vinegar," or "Apple Cider Vinegar," as the case might be, appearing in the labeling, were false and misleading and deceived and misled the purchaser. Misbranding was alleged with respect to the product involved in the remaining consignments for the reason that it was labeled "Pure Apple Cider Vinegar" or "Apple Cider Vinegar Made From Selected Apples," as the case might be, so as to deceive and mislead the purchaser, and for the further reason that the said statements were false and misleading and deceived and misled the purchaser, in that the said portion of the product contained barium. Misbranding was alleged with respect to the product involved in all the said consignments, with the exception of that of September 26, 1922, for the reason that it was an imitation of and was offered for sale under the distinctive name of another article.

On January 15, 1925, the cases having been consolidated into one cause of action and the Douglas Packing Co., Rochester, N. Y., having appeared as claimant for the property, judgment of the court was entered, finding the product misbranded and ordering its condemnation and forfeiture, and it was further ordered by the court that the said product might be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$2,500, in conformity with section 10 of the act.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13218. Adulteration and misbranding of canned tomatoes. U. S. v. 270 Cases of Tomatoes. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19422. I. S. No. 19935-v. S. No. C-4048.)

On December 26, 1924, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 270 cases of tomatoes, remaining in the original unbroken packages at Lufkin, Tex., alleging that the article had been shipped by the Davis Canning Co., from Laurel, Del., October 13, 1924, and transported from the State of Delaware into the State of Texas, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Dee Bee Brand Tomatoes * * * Packed By Davis Canning Co. Laurel, Del. U. S. A."

Adulteration of the article was alleged in the libel for the reason that water had been mixed and packed therewith so as to reduce or lower or injuriously affect its quality or strength, and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the designation "Tomatoes" was false and misleading and deceived and misled the purchaser, and for the further reason that it was sold under the distinctive name of another article.

On February 19, 1925, the Davis Canning Co., Laurel, Del., having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant to be relabeled in accordance with law 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.

R. W. DUNLAP, *Acting Secretary of Agriculture.*