

Misbranding was alleged in substance for the reason that the cans containing the article bore a certain statement and a design or device regarding the article and the ingredients and substances contained therein, to wit, "Plum Point Brand Tomatoes" (design showing red, ripe tomato) "Contents 2 Lbs.," which were false and misleading and deceived and misled the purchaser into believing that the article consisted wholly and entirely of tomatoes, and that no other substance such as tomato pulp had been mixed therewith. Misbranding was alleged in substance for the further reason that the article was an imitation of, and was offered for sale under the distinctive name of, another article, and for the further reason that the article was food in package form, and the quantity of the contents thereof was not plainly, conspicuously, and correctly marked on the outside of the said packages.

On October 12, 1921, no claimant having appeared for the property, judgment of the court was entered ordering that the product be destroyed by the United States marshal.

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

10514. Adulteration and misbranding of apple cider, cider vinegar, distilled vinegar, and distilled white vinegar. U. S. * * * v. Cornelius William Davis (C. W. Davis & Son). Collateral of \$150 forfeited. (F. & D. No. 15000. I. S. Nos. 8652-t, 8674-t, 8675-t, 8676-t, 8677-t, 8682-t, 8683-t, 8685-t, 16790-r, 16791-r.)

On January 18, 1922, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against Cornelius William Davis, trading as C. W. Davis & Son, Washington, D. C., alleging that between the dates of April 26 and November 17, 1920, the said company did offer for sale and sell at the District of Columbia, in violation of the Food and Drugs Act, as amended, certain quantities of apple cider, cider vinegar, and distilled vinegar which were adulterated and misbranded. The articles were labeled in part, respectively: "Contents 32 Ozs. Pure Apple Cider * * * C. W. Davis & Son, * * * Washington, D. C."; "Pure Cider Vinegar * * * 16 Oz."; "Analostan Brand Distilled Spirit Vinegar Colored * * *"; "Analostan Brand High Grade Distilled White Vinegar * * *"

Analyses of samples of the articles by the Bureau of Chemistry of this department showed the presence of added water. Examination of the articles by the said bureau showed a portion of the apple cider and all the so-called "Pure Cider Vinegar" to be short in volume.

Adulteration of the articles was alleged in the information for the reason that a substance, to wit, water, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength and had been substituted in part for pure apple cider, pure cider vinegar, vinegar, or high grade distilled white vinegar, which the said articles purported to be.

Misbranding of the articles was alleged in substance for the reason that the statements, to wit, "Pure Apple Cider," "Contents 32 Ozs.," "Pure Cider Vinegar Made From The Juice of Fresh Apples 16 Oz.," "Distilled Spirit Vinegar," "High Grade Distilled White Vinegar," borne on the labels attached to the bottles containing the respective articles, regarding the said articles and the ingredients and substances contained therein, were false and misleading in that the said statements represented that the articles consisted wholly of pure apple cider, pure cider vinegar, distilled spirit vinegar, or distilled white vinegar, as the case might be, that a portion of the bottles containing the said apple cider contained 32 fluid ounces thereof and that each of the bottles containing the said cider vinegar contained 16 fluid ounces thereof, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that they consisted wholly of pure apple cider, pure cider vinegar, distilled spirit vinegar, or distilled white vinegar, as the case might be, that a portion of the bottles containing the said apple cider contained 32 fluid ounces thereof and that each of the bottles containing the said cider vinegar contained 16 fluid ounces thereof, whereas, in truth and in fact, the said articles did not consist wholly of pure apple cider, pure cider vinegar, distilled spirit vinegar, or distilled white vinegar, as the case might be, but did consist in part of added water, a portion of the bottles containing the said apple cider contained less than 32 fluid ounces thereof, and the bottles containing the said cider vinegar contained less than 16 fluid ounces thereof. Misbranding was alleged for the further reason that the articles were products composed

in part of added water prepared in imitation of pure apple cider, pure cider vinegar, distilled spirit vinegar, or distilled white vinegar, as the case might be, and were offered for sale and sold under the distinctive names of other articles, to wit, pure apple cider, pure cider vinegar, distilled spirit vinegar, or distilled white vinegar. Misbranding was alleged for the further reason that the articles were food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the respective packages.

On January 18, 1922, the defendant having failed to enter an appearance, the \$150 collateral which had been deposited by him to insure his appearance was declared forfeited by the court.

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

10515. Misbranding of Lung Germine. U. S. * * * v. 23 Bottles, 24 Bottles, and 33 Bottles of Lung Germine. Default decrees ordering destruction of the product. (F. & D. Nos. 15226, 15227, 15228. Inv. Nos. 32818, 32819, 32820. S. No. E-3477.)

On or about July 22, 1921, the United States attorney for the Eastern District of 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 23 bottles, 24 bottles, and 33 bottles of Lung Germine, remaining in the original unbroken bottles at Richmond, Va., alleging that the article had been shipped by the Lung Germine Co., Jackson, Mich., on or about March 7 and 23 and May 16, 1921, respectively, and transported from the State of Michigan into the State of 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 essentially of sulphuric acid and water with small amounts of iron sulphate, alcohol, and aromatics.

Misbranding of the article was alleged in substance in the libels for the reason that the carton and bottle containing the said article and the accompanying booklet bore the following statements regarding the curative and therapeutic effect of the said article, (bottle) “* * * Treatment For Relief Of Defective Nutrition and for Increasing Strength and General Health where Mucous Membranes are Susceptible to Lung Disease and Pulmonary Disorganization with Bronchial Irritation. (In Pre-tubercular Stages) * * * Use no other lung medicine while using Lung Germine. Read carefully the circular accompanying this bottle * * *” (carton) “* * * Your Lungs Are They Weak Or Painful? Do your lungs ever bleed? Do you have night sweats? Are you short of breath? Have you pains in chest and sides? Do you spit yellow and black matter? Do you have pains under your shoulder blades? These Are Regarded Symptoms of Lung Trouble Do Not Neglect These Symptoms. Keep Lung Germine in your home ready for immediate use at the first sign of Membraneous Lung Disease or Bronchial Irritation. * * * Treatment For Relief Of Defective Nutrition and for Increasing Strength and General Health where Mucous Membranes are Susceptible to Lung Diseases and Pulmonary Disorganization with Bronchial Irritation (In Pre-tubercular Stages). * * *” (booklet, “Your Lungs,” in English) “* * * What You Want To Know About Lung Germine. As a sufferer from mucous membrane affections of the lungs and bronchial irritation, readily susceptible to the primary or pre-tubercular stage of pulmonary consumption, you are deeply interested in learning all that you can about any medicine or treatment for relieving these distressing afflictions. In the following paragraphs will be found a brief description of what Lung Germine is, what it has done for others, how it is used, and what you may reasonably hope it may do for you. In recommending Lung Germine to the world of sufferers from incipient mucous membrane affection of the lungs, and bronchial irritation, we do so with the fullest confidence. * * * The remarkable results it has accomplished * * * excessive coughs for months * * * splendid results * * * weak membranes of the lungs and * * * nearly always suffering from a severe cough and weakness, * * * Lung Germine relieved the trouble. * * * before taking Lung Germine their lungs had been * * * affected, and that after using Lung Germine * * * their lungs were * * * found to be relieved. * * * recommended for lung and bronchial troubles, * * * We recommend Lung Germine for alleviating the cough, increasing the strength and general health in such conditions of cellular hyperplasia, affecting the mucous mem-