3555. Misbranding of Dr. Herman Koch's brand phosphate, celery, and gin compound. U. S. v. 5 Cases * * * Herman Koch Brand Phosphate, Celery, and Gin Compound. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5555. I. S. No. 7818-h. S. No. 2092.)

On January 26, 1914, 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 5 cases, each containing 1 dozen 1-quart bottles and 1 dozen half-pint bottles, more or less, of Herman Koch brand phosphate, celery, and gin compound, remaining unsold in the original unbroken packages at Pittsburgh, Pa., alleging that the product had been shipped on or about December 31, 1913, and transported from the State of Ohio into the State of Pennsylvania, and charging misbranding in violation of the Food and Drugs Act. Each case was labeled, in part: "Glass This side up with care. Herman Koch Brand Phosphate, Celery & Gin Compound Recommended as a Kidney-Bladder-Blood and Nerve Remedy This case contains One Dozen full quarts and one dozen half pints. See that you get them. Alcoholic strength 60 proof. Guaranteed Serial No. 12141. Furst Bros., Cincinnati, Ohio." Each bottle was labeled, in part: "Dr. Herman Koch's Brand Phosphate, Celery & Gin Compound HK Trade Mark is unrivaled in all the world unequaled by any other remedy on earth as a Kidney, Bladder, Blood and Nerve Remedy. Directions: Take a wine glass full four times a day and positively before retiring. Alcoholic strength 32% by volume.. Bottled by Furst Bros., Cincinnati, O."

Misbranding of the product was alleged in the libel for the reason that the statement on the label that "The product is unrivaled in all the world, unequaled by any other remedy on earth, as a Kidney, Bladder, Blood and Nerve Remedy," was false and misleading and fraudulent, because there was no ingredient in the preparation that could be relied upon to produce the therapeutic effects claimed, and hence the product was misbranded in violation of section 8 of the Food and Drugs Act as amended by the Sherley amendment approved August 23, 1912, paragraph 3, under drugs. Misbranding was alleged for the further reason that the declaration upon the label that the preparation was phosphate, celery, and gin was false and misleading, since there was no substantial amount of phosphate present.

On June 17, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 13, 1915.*