were such that as a whole the labeling indicates that the packages contained food colors of the quality known as certified colors, when they did not contain colors of that quality, or if you determine that the labeling indicates that the packages contained nothing but coal-tar colors and you believe that such was not the fact, then your verdict should be for the Government.

"7. Any foreign substance not declared on the label of an article of food and not a normal constituent of the article as described by the label renders that article adulterated, and if from all the facts in evidence you determine that a foreign substance has been mixed and packed with the colors the labels purport the packages to contain, so as to reduce, lessen, or weaken the quality or strength of the article, then the verdict should be for the Government.

"8. The substitution of any material other than a normal constituent of the article of food offered by its label is adulteration, and if from the evidence in this case you determine that substances other than the normal constituents of color have been in whole or in part substituted for the color the labeling purports the article to be, then the verdict should be for the Government.

"9. The substitution of another and different article for the article of food offered by the label constitutes adulteration, and if from the evidence in this case you believe the colors involved were by their label offered as certified colors and were not certified colors, then that state of facts would constitute a substitution of a different article from the article which the label purports the article to be, and the verdict should be for the Government.

"10. If from the evidence in this case you determine that the labeling of the colors as set out in the libel indicates to the purchaser that the packages involved are composed entirely of colors, and if from the evidence it is determined that said packages are not so composed but contain in addition to color other substances, then those other substances would render the article adulterated and the verdict should be for the Government.

"The defendant's points read as follows:

"1. The food and drugs act and the food inspection decisions thereunder did not require the intervening defendant to certify samples of the batches of color mixture, parts of which have been seized in this proceeding, unless the intervening defendant desired to and did sell the mixture as one which had been certified to the Department of Agriculture.

"2. Unless you find that the labeling on the packages in this suit was so similar to the manner in which the intervening defendant labeled colors which had been certified to the Department of Agriculture and which it sold as certified colors so as to lead the color trade generally familiar with colors manufactured and sold by the intervening defendant to believe that the colors in this suit were certified colors, then you must find that the colors in this suit are neither misbranded nor adulterated under the food and drugs act.

"3. If you find that the color content of the articles in this suit have been certified by the intervening defendant to the Department of Agriculture, then you must find that the articles are not misbranded or adulterated within the meaning of the food and drugs act.

"4. Under the pleadings and all the evidence you must find that the articles are not misbranded under the food and drugs act.

"5. Under the pleadings and all the evidence you must find that the articles are not adulterated within the meaning of the food and drugs act.

"6. Under the pleadings and all the evidence you must find that the articles are neither misbranded nor adulterated within the meaning of the food and drugs act."

On May 11, 1925, the jury after due deliberation returned a verdict for the Government on the misbranding charge, and for the defendant on the adulteration charge. On December 9, 1925, a decree of condemnation and forfeiture was entered, and the court ordered that the product be destroyed by the United States marshal.

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

13971. Misbranding of Volta powder. U. S. v. 11⅙ Dozen Cans of Volta Powder. Default decree adjudging product misbranded and ordering its destruction. (F. & D. No. 20431. I. S. No. 560–x. S. No. W–1782.)

On or about September 16, 1925, the United States attorney for the Southern District of California, acting upon a request 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 11–1/6 dozen cans of Volta

powder, remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped by the Volta Co. of America, Inc., from Philadelphia, Pa., on or about May 1, 1924, and transported from the State of Pennsylvania into the State of California, and charging misbranding in violation of the food and drugs act as amended.

Analysis by the Bureau of Chemistry of this Department of a sample of the article showed that it consisted essentially of a mixture of sulphur and iron oxide perfumed with methyl salicylate.

Misbranding of the article was alleged in the libel for the reason that the label on the can containing the said article bore the following statements regarding its curative or therapeutic effects: "Adapted To The Treatment of Rheumatism of the joints and Muscles, Sciatica, Lumbago, Gout and Neuritis * * * Medication By Absorption Saves The Stomach * * * to eliminate Excess Uric Acid poison from the body either through the pores of the skin or through the kidneys, and thereby to stimulate the system. * * * Use * * * until you find some relief * * * Better results should be obtained by applying after first bathing the feet in hot water, so as to open the pores of the skin, as most sufferers from Rheumatism have dry skin and seldom perspire," which statements were false and fraudulent, in that the said article contained no ingredient or combination of ingredients capable of producing the effects claimed.

On October 7, 1925, no claimant having appeared for the property, a decree was entered, adjudging the product to be misbranded and ordering its destruction by the United States marshal.

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

13972. Adulteration of tomato puree. U. S. v. 9½ Cases of Tomato Puree. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 20626. I. S. No. 5442-x. S. No. E-5578.)

On November 18, 1925, the United States attorney for the District of Massachusetts, 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 9½ cases of tomato puree, remaining in the original unbroken packages at New Bedford, Mass., alleging that the article had been shipped by the Keough Canning Co., from Glassboro, N. J., October 7, 1925, and transported from the State of New Jersey into the State of Massachusetts, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Can) "Holly Bush Brand Tomato Puree Packed By Keough Canning Co. Glassboro, N. J."

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance.

On December 19, 1925, 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.

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

13973. Adulteration of canned shrimp. U. S. v. 24½ Cases of Canned Shrimp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 20653. I. S. Nos. 5448-x, 5449-x, 5450-x, 5451-x. S. No. E-5591.)

On November 27, 1925, the United States attorney for the District of Massachusetts, 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 24½ cases of canned shrimp, remaining in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by the Houma Packing Co., Inc., from Houma, La., October 27, 1925, and transported from the State of Louisiana into the State of Massachusetts, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Ho-Ma Brand Shrimp Packed By Houma Packing Co., Houma, La."

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, and putrid animal substance.

On December 19, 1925, 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.

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