

Adulteration of the article was alleged in substance in the libel for the reason that it consisted of saccharin and 48 per cent of sugar, and was sold under and by a name recognized in the United States Pharmacopœia and differed from the standard, strength, quality, and purity of such article as determined by the tests laid down in said Pharmacopœia, official at the time of the investigation, and for the further reason that its strength and purity fell below the professed standard and quality under which it was sold.

Misbranding was alleged in substance for the reason that the said article was labeled "10 Lbs. Sach." and invoiced as "10 Lbs. Saccharin," which was false and misleading in that it contained a considerable quantity of sugar.

On May 7, 1920, 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.*

9573. Adulteration and misbranding of canned tomatoes. U. S. * * * v. 1,000 Cases of Canned Tomatoes. Consent decree finding product to be adulterated and misbranded. Product released under bond. (F. & D. No. 14217. I. S. Nos. 6301-t, 7507-t. S. No. E-3049.)

On January 20, 1921, the United States attorney for the District of Connecticut, 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 1,000 cases of canned tomatoes, remaining unsold in the original unbroken packages at New Haven, Conn., alleging that the article had been shipped by Libby, McNeill & Libby, Wyoming, Del., on or about May 27, 1920, and transported from the State of Delaware into the State of Connecticut, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "* * * Happy-Vale Brand Tomatoes * * * Guaranteed by and Packed for Emery Food Co. Main Office Chicago."

Adulteration of the article was alleged in the libel for the reason that it contained added tomato pulp, which had been mixed and packed with, and substituted wholly or in part for, the said article. Adulteration was alleged for the further reason that the article was mixed in a manner whereby damage and inferiority were concealed.

Misbranding was alleged in substance for the reason that the statement on the label of each can thereof, to wit, "Happy-Vale Brand Tomatoes," together with a design showing a whole ripe tomato, was false and misleading and deceived and misled the purchaser, and for the further reason that the article was an imitation of, and was offered for sale under the distinctive name of, another article.

On April 9, 1921, the Emery Food Co., Chicago, Ill., having filed its claim and answer admitting the allegations of the libel with the exception of the allegation relative to the adulteration of the product, and having consented to a decree, judgment was entered finding the product adulterated and misbranded, and it was ordered by the court that it be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$2,123, in conformity with section 10 of the act, conditioned in part that the article be relabeled by placing on each of the cans containing the same a label bearing the statement, "Tomatoes with Puree from Trimmings."

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

9574. Adulteration and misbranding of tankage. U. S. * * * v. Morris & Co., a Corporation. Plea of guilty. Fine, \$20. (F. & D. No. 9303. I. S. No. 19715-m.)

On January 14, 1919, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the District Court