

milk fat, as defined and prescribed by the act of March 4, 1923, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was butter, to wit, a product containing not less than 80 per cent by weight of milk fat, whereas it was not butter, in that it contained less than 80 per cent by weight of milk fat. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, to wit, butter.

On May 19, 1925, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50.

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

13421. Adulteration and misbranding of canned tomatoes. U. S. v. 1,000 Cases, et al., of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 19430, 19431. I. S. No. 3730-v. S. No. E-5072.)

On or about January 2 and 7, 1925, respectively, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 1,200 cases of canned tomatoes, remaining unsold in the original unbroken packages at Jacksonville, Fla., alleging that the article had been shipped by the H. J. McGrath Co., from Baltimore, Md., on or about October 7, 1924, and transported from the State of Maryland into the State of Florida, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Tomatoes * * * Packed by The H. J. McGrath Co. Baltimore, Md. U. S. A."

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

Misbranding was alleged for the reason that the statement "Tomatoes," borne on the label, was false and misleading and deceived and misled the purchaser, and for the further reason that the article was offered for sale under the distinctive name of another article.

On April 10, 1925, the H. J. McGrath Co., Baltimore, Md., having appeared as claimant for the property and having admitted the allegations of the libels, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$5,000, in conformity with section 10 of the act, conditioned in part that it be correctly and accurately relabeled.

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

13422. Adulteration and misbranding of tomato sauce. U. S. v. 195 Cases of Tomato Sauce. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. No. 19444. I. S. No. 13389-v. S. No. E-5079.)

On December 31, 1924, the United States attorney for the Eastern District of New York, 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 195 cases of tomato sauce, remaining in the original unbroken packages at Brooklyn, N. Y., alleging that the article had been shipped by the Hershel California Trust (Fruit) Products Co., from San Francisco, Calif., October 20, 1924, and transported from the State of California into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Patria Brand Tomato Sauce Made From Choice Tomatoes."

Adulteration of the article was alleged in the libel for the reason that an artificially colored tomato paste, or sauce, had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "Tomato Sauce," borne on the labels, was false and misleading and deceived and misled the purchaser when applied to a tomato paste containing artificial color not declared upon the label.

On May 8, 1925, the Hershel California Fruit Products Co. 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 upon payment