

Examination by the Bureau of Chemistry of this department of samples consisting of 24 cans from each of the two consignments showed average shortages in the net contents of 3.3 ounces and 2.3 ounces, respectively.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Contents 2 Pounds," borne on the labels, was false and misleading, in that the said statement represented that each of the cans contained 2 pounds of tomatoes, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said cans contained 2 pounds of tomatoes, whereas each of said cans did not contain 2 pounds of tomatoes but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On June 6, 1925, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$50.

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

13597. Misbranding and alleged adulteration of canned tomatoes. U. S. v. 96 Cases of Tomatoes. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19213. I. S. No. 17329-v. S. No. E-5032.)

On or about December 8, 1924, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States a libel praying the seizure and condemnation of 96 cases of tomatoes, remaining in the original unbroken packages at Staunton, Va., consigned on or about September 4, 1924, alleging that the article had been shipped by the H. J. McGrath Co., from Baltimore, Md., and transported from the State of Maryland into the State of Virginia, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "McGrath's Tomatoes * * * Champion Brand Packed by The H. J. McGrath Co. Baltimore, Md."

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

Misbranding was alleged for the reason that the statement "Tomatoes," borne on the label, was false and misleading and deceived the purchaser into the belief that the article was in fact tomatoes, whereas it consisted in part of another substance, namely, added water. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of tomatoes, whereas it consisted in part of another article, namely, water.

On June 10, 1925, the H. J. McGrath Co., Baltimore, Md., having appeared as claimant for the property, judgment of the court was entered, finding the product misbranded and ordering its condemnation and forfeiture, and it was further ordered by the court that the said product be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, conditioned in part that it be relabeled.

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

13598. Adulteration and misbranding of pickles. U. S. v. Bond Pickle Co. Plea of guilty. Fine, \$10. (F. & D. No. 18351. I. S. No. 6749-v.)

On December 31, 1924, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Bond Pickle Co., a corporation, Sobieski, Wis., alleging shipment by said company, in violation of the food and drugs act as amended, on or about October 16, 1923, from the State of Wisconsin into the State of Missouri, of a quantity of pickles which were adulterated and misbranded. The article was contained in casks labeled in part: "Bond Pickle Co. 45 Gals. 800 Size" (or "1200 Size") "Dill Pickles Oconto Wis."

Examination by the Bureau of Chemistry of this department of 10 barrels from the consignment showed an average shortage of 3.08 gallons. A count of 7 barrels of the alleged 1,200 size and 5 barrels of the alleged 800 size showed an average count of 1,049 pickles and 681 pickles, respectively.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, brine, had been substituted in part for pickles, which the said article purported to be.