

21121. Adulteration and misbranding of tomato paste. U. S. v. 19 Cases, et al., of Tomato Paste. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 28595, 28596, 28597. Sample nos. 7182-A, 7183-A, 7186-A.)

These actions involved quantities of a product represented to be tomato paste, but which was insufficiently concentrated to be deemed paste. Sample cans of the article taken from two of the shipments were found to contain less than the declared weight. The article in the said two shipments failed to bear a plain and conspicuous statement of the quantity of the contents, since the statement appearing on the label was incorrect.

On August 8, 1932, the United States attorney for the Northern District of Florida, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of three consignments consisting of 49 cases of tomato paste at Pensacola, Fla., alleging that the article had been shipped in interstate commerce, in part on or about October 31, 1931, June 20, 1932, and June 24, 1932, by the Uddo-Taormina Corporation, from New Orleans, La., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Buffalo Brand Tomato Paste * * * Net Contents 5 oz. Packed by Uddo Taormina Corp., New Orleans, La."

It was alleged in the libels that the article was adulterated in that an insufficiently concentrated, strained tomato product had been substituted for tomato paste.

Misbranding was alleged for the reason that the statements "Tomato Paste" and "Net Contents 5 Oz.", were false and misleading and deceived and misled the purchaser; for the reason that the article was offered for sale under the distinctive name of another article; and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

This Department recommended charges of short weight against only the 29 cases of the product shipped October 31, 1931, and June 20, 1932, no shortage in weight having been found in the shipment of June 24, 1932.

On May 6, 1933, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

21122. Adulteration of canned salmon. U. S. v. 573 Cases of Canned Salmon. Decree of condemnation entered. Portion of product ordered released unconditionally. Portion ordered destroyed. Remainder ordered released under bond for further examination. (F. & D. no. 29196. Sample no. 7061-A.)

This case involved a certain interstate shipment of canned salmon, samples of which were found to be decomposed.

On November 8, 1932, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 573 cases of canned salmon at Birmingham, Ala., alleging that the article had been shipped in interstate commerce, on or about September 11, 1932, by McGovern & McGovern, from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Spot Lite Brand Alaska Pink Salmon." A portion of the article was coded, and the remainder was uncoded.

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed animal substance.

On March 18, 1933, the case came on for hearing before the court, without a jury, and evidence was introduced on behalf of the Government and the claimant, the Davis Brokerage Co., Birmingham, Ala. On May 27, 1933, the court entered judgment, condemning the product and ordering that a portion of the product identified under code number 31 be destroyed, that the portions bearing code numbers 22 and 23 be released unconditionally, and that the remainder be released to the claimant under a bond in the sum of \$1,000, conditioned that it be examined and held for further orders of the court.

M. L. WILSON, *Acting Secretary of Agriculture.*