

district court a libel praying seizure and condemnation of eight cases of tomato paste at Pensacola, Fla., alleging that the article had been shipped in interstate commerce, on or about July 2, 1932, by F. G. Favalaro Sons, Inc., from Georgetown, Miss., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Contents 5 Oz. Indian Girl Brand Tomato Paste Color Added * * * Packed by F. G. Favalaro Sons, Inc."

It was alleged in the libel 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 further 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 package.

This Department did not recommend charge of short weight against this product since no shortage in weight was found in the samples examined.

On May 6, 1933, 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.

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

21136. Adulteration and misbranding of cottonseed meal and cottonseed screenings. U. S. v. Swift & Co. Plea of guilty. Fine, \$50. (F. & D. no. 29349. I. S. nos. 32638, 47496, 47497, 50958.)

This case was based on several interstate shipments of cottonseed meal and cottonseed screenings which contained less than 43 percent of protein, the amount declared on the label.

On December 6, 1932, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation trading at Little Rock, Ark., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 26, March 10, and March 17, 1932, from the State of Arkansas into the State of Kansas, and on or about March 10, 1932, from the State of Arkansas into the State of Montana, of quantities of cottonseed screenings and cottonseed meal which were adulterated and misbranded. The articles were labeled, variously: "Guaranteed Analysis Protein 43% * * * Manufactured * * * For S. P. Davis, Shipper, Little Rock, Ark."; "Hayes Brand Cottonseed Meal and Cracked Screened Cottonseed Cake. * * * Guaranteed Analysis Protein 43.00%. * * * Manufactured for Hayes Grain & Commission Company, Little Rock, Arkansas"; "Cotton Seed Cake and Meal 'Superior Quality' * * * Guaranteed Analysis Protein, not less than 43% * * * Distributed By Superior Cake & Meal Co. * * * Kansas City, Mo."

It was alleged in the information that the articles were adulterated in that products deficient in protein, in that they contained less than 43 percent of protein, had been substituted for the articles.

Misbranding was alleged for the reason that the statements, "Guaranteed Analysis Protein 43%" and "Guaranteed Analysis Protein not less than 43%", borne on the tags attached to the sacks containing the articles, were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since they contained less than 43 percent of protein.

On June 13, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

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

21137. Misbranding of tomato juice. U. S. v. Edgar F. Hurff. Plea of guilty. Fine, \$25. (F. & D. no. 29364. I. S. nos. 38683, 38917, 42519.)

This case was based on several interstate shipments of tomato juice in various-sized containers. Samples taken from each of the shipments were found to contain less than the labeled volume.

On April 10, 1933, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Edgar F. Hurff, Swedesboro, N. J., alleging shipment by

said defendant in violation of the Food and Drugs Act as amended, on or about August 18 and August 20, 1931, from the State of New Jersey into the State of New York, and on or about October 17, 1931, from the State of New Jersey into the State of Massachusetts, of quantities of tomato juice that was misbranded. The article was labeled, variously: "Lucky Boy Brand Pure Tomato Juice Contents 1 Pound 4 Ounces * * * Embassy Grocery Corp. Distributors New York, N. Y."; "Hatchet Brand Pure Tomato Juice * * * Contents 1 Pint 3 Fl. Oz. The Twitchell-Champlin Co. Distributors Portland, Maine and Boston, Mass."; "Hurff Brand Tomato Juice * * * Contents 13 Fluid Ozs. * * * 13 Oz. * * * Packed by Edgar F. Hurff Swedesboro, New Jersey."

It was alleged in the information that the article was misbranded in that the statements, "Contents 1 Pound 4 Ounces", "Contents 1 Pint 3 Fl. Oz.", or "13 Oz. * * * Contents 13 Fluid Ozs.", borne on the cans, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the cans contained less than declared. 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, since the statements made on the cans were incorrect.

On June 12, 1933, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

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

21138. Adulteration of canned salmon. U. S. v. 149 Cases of Canned Salmon. Default decree of condemnation and destruction. (F. & D. no. 29292. Sample no. 21761-A.)

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

On November 12, 1932, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 149 cases of canned salmon at Pittsburgh, Pa., alleging that the article had been shipped on or about September 29, 1932, by Oceanic Sales Co., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act.

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

On June 29, 1933, no claimant having appeared for the property, judgment of condemnation was 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.*

21139. Adulteration of apples. U. S. v. Yakima Fruit & Cold Storage Co. Plea of guilty. Fine, \$75. (F. & D. no. 29401. I. S. nos. 22490, 46508, 46509.)

This case was based on the interstate shipment and the delivery for shipment to a foreign country, of quantities of apples found to bear arsenic and lead in amounts which might have rendered them injurious to health.

On January 3, 1933, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Yakima Fruit & Cold Storage Co., a corporation, Yakima, Wash., alleging shipment by said defendant, on or about February 1 and February 5, 1932, from the State of Washington into the State of California, also the delivery for shipment to Germany, on or about March 4, 1932, of quantities of apples that were adulterated in violation of the Food and Drugs Act. The product delivered for shipment to a foreign country was labeled in part: (Box) "Persian Brand Northwest Apples C. C. Smith Fruit Co. Yakima and Wenatchee"; (stenciled on box) "Packed by Yakima Fruit & Cold Storage Co. Yakima, Wash."

It was alleged in the information that the article was adulterated in that it contained added poisonous and deleterious ingredients, arsenic, or arsenic and lead, in amounts which might have rendered it injurious to health.

On May 4, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$75.

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