

26205. Adulteration and misbranding of tomato juice. U. S. v. 180 Cases of Canned Tomato Juice. Decree of condemnation and destruction. (F. & D. no. 37278. Sample no. 59167-B.)

This case involved interstate shipments of canned tomato juice that contained excessive mold, and the containers of which were short in volume.

On March 3, 1936, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 180 cases of canned tomato juice at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about October 7 and 13, 1935, by the Nelson Packing Co., from Springdale, Ark. The article was labeled in part: "Nelson's Brand Tomato Juice Contents 12½ Fl. Oz. Delicious Refreshing This Tomato Juice is Pure, Undiluted Pasteurized with Rich Natural Flavor. Extracted from fresh selected vine-ripened tomatoes. * * * Produced in the middle of the Ozarks by Nelson Packing Co. Inc. Springdale, Arkansas."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

The article was alleged to be misbranded (1) in that the statement on the label, "Contents 12½ Fl. Oz.", was false and misleading and tended to deceive and mislead the purchaser when applied to a product the packages of which each contained less than 10 fluid ounces thereof, and (2) in 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, since the quantity stated was not correct.

On May 1, 1936, judgment of condemnation was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26206. Adulteration and misbranding of tomato juice. U. S. v. 63½ Cases of Tomato Juice. Product released under bond. (F. & D. no. 37295. Sample no. 67907-B.)

This case involved a shipment of tomato juice that was short in volume and that contained added water.

On March 16, 1936, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 63½ cases of tomato juice at Cheyenne, Wyo., alleging that the article had been shipped in interstate commerce on or about October 3, 1935, by Libby, McNeill & Libby, from Manzanola, Colo., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "14 Fl. Oz. Net Libby's Fancy Tomato Juice * * * Libby, McNeill & Libby Chicago."

The article was alleged to be adulterated in that water had been mixed and packed therewith so as to reduce or lower its quality or strength, and in that water had been substituted wholly or in part for tomato juice, which the article purported to be.

The article was alleged to be misbranded in that it was labeled so as to deceive and mislead the purchaser, i. e., the label bore the statements, "Fancy Tomato Juice * * * is a good source of vitamins A and B, and an excellent source of vitamin C. * * * is the juice of selected red, vine-ripened tomatoes, * * * Rich in flavor, color, and vitamins; It has much of the food value of the fresh tomato"; and "14 Fl. Oz. Net.", whereas the tomato-solids content was below that of authentic undiluted tomato juice and the article was short in volume; misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly, correctly, and conspicuously stated on the outside of the cans, since the statement "14 Fl. Oz. Net" was not correct.

On May 29, 1936, Libby, McNeill & Libby, having appeared as claimant, an order was entered authorizing delivery of the product to the claimant upon payment of costs and the execution of a bond, conditioned that it should not be disposed of in violation of the Federal Food and Drugs Act and other laws.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26207. Adulteration and misbranding of olive oil. U. S. v. Eight 1-Gallon Cans, et al., of Alleged Olive Oil. Tried to a jury. Verdict for the Government. Product ordered sold. (F. & D. nos. 37308, 37309, 37329, 37330. Sample nos. 65614-B to 65624-B, incl.)

These cases involved olive oil that was adulterated with tea-seed oil.

On March 6 and March 9, 1936, the United States attorney for the District of New Hampshire, acting upon reports by the Secretary of Agriculture, filed