

the district court a libel praying seizure and condemnation of 161 cases of canned tomatoes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about September 4 and 17, 1936, by Capolino Food Products Corporation from Merced, Calif., and charging misbranding in violation of the Food and Drugs Act. It was labeled variously in part: "Somma Brand, Net Contents 1 lb. 12 oz. [or "15 ozs. avoirdupois." Italian Peeled Tomatoes \* \* \* Packed in California for Unico Distributing Co. New York."

It was alleged to be misbranded in that the statement "Italian Peeled Tomatoes Pomodoro Pelati Italiani", and the device on the label, of a picture of a monk and pear-shaped tomatoes conveyed the impression that it was an Italian product; whereas it was not an Italian product but was of domestic origin. A portion of the article was alleged to be misbranded further in that the statement "Net Contents 1 Lb. 12 Oz." was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short in weight; and 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 by reason of the fact that the quantity stated was not correct.

On April 7, 1937, the Unico Distributing Co., claimant, having admitted the allegations of the libel, and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond to be relabeled under the supervision of this Department.

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

**27175. Adulteration of tomato paste. U. S. v. 60 Cases and 22 Cases of Tomato Paste. Default decrees of condemnation and destruction. (F. & D. nos. 38945, 38946. Sample nos. 15381-C, 15382-C.)**

These cases involved canned tomato paste that contained excessive mold.

On January 13, 1937, the United States attorney for the Middle District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 82 cases of canned tomato paste at Wilkes-Barre, Pa., alleging that the article had been shipped in interstate commerce in part on or about October 8, 1936, and in part on or about November 19, 1936, by Stanley Packing Co., Inc., from Forestville, N. Y., and charging adulteration in violation of the Food and Drugs Act.

The article was labeled in part: "Benito Brand with sweet basil tomato paste \* \* \* Packed by Stanley Packing Co., Inc., Forestville, N. Y."

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

On May 14, 1937, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

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

**27176. Misbranding of canned tomatoes. U. S. v. 178 Cases and 294 Cases of Canned Tomatoes. Consent decrees of condemnation. Product released under bond to be relabeled. (F. & D. nos. 38960, 38978. Sample nos. 23874-C, 23875-C, 38960-C, 38978-C.)**

This product fell below the standard established by this Department for canned tomatoes since it did not consist of whole or large pieces and a portion was not normally colored, and it was not labeled to indicate that it was substandard. The label of one lot was further objectionable since it represented that the goods were packed by a firm other than the real packer.

On or about January 20 and 22, 1937, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 472 cases of canned tomatoes at Tacoma, Wash., alleging that they had been shipped in interstate commerce on or about September 22, 1936, by Walter M. Field Co., from San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled: (Can) "Bohemian Tomatoes with Puree from Trimmings Packed in California U. S. A. Packed and Guaranteed by Bayside Canning Company Alviso Santa Clara Co. California \* \* \*." The remainder was labeled: "Brimfull Brand Tomatoes with puree from trimmings \* \* \* Distributed by Kitchen Products Inc. Chicago, Buffalo, San Francisco."

One lot of the article was alleged to be misbranded in that the statements, (case) "Bayside Canning Co. Alviso Calif." and (can) "Packed and Guaranteed by Bayside Canning Company Alviso Santa Clara Co. California", were false and misleading and tended to deceive and mislead the purchaser in that