

and condemnation of 392 cases of tomato paste, remaining in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped by the Hershel California Fruit Products Co., from San Jose, Calif., September 30, 1924, and transported from the State of California into the State of Illinois, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Sirena Brand Tomato Sauce * * *;" (case) "Sirena Brand Tomato Paste."

Adulteration of the article was alleged in the libel for the reason that an artificially-colored product had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statements "Tomato Sauce" and "Tomato Paste," appearing on the labels, were false and misleading and deceived and misled the purchaser when applied to a tomato sauce or paste containing artificial color.

On December 26, 1924, Viviano Bros. Co., Inc., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of the court was entered, finding the product to be 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 \$1,000, in conformity with section 10 of the act, conditioned in part that the cans and cases be stamped, "Artificially Colored," under the supervision of this department.

W. M. JARDINE, *Secretary of Agriculture.*

12936. Adulteration and misbranding of mixed oats. U. S. v. 150 Sacks of Mixed Oats. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. No. 13691. I. S. No. 18308-v. S. No. E-3928.)

On or about May 20, 1924, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 150 sacks of mixed oats, at Waynesville, N. C., alleging that the article had been shipped by S. Zorn & Co., Louisville, Ky., May 9, 1924, and transported from the State of Kentucky into the State of North Carolina, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Mixed Oats & Other Grains Cresnet Zorn Bleached Grain," the words "Other Grains" being inconspicuously placed on the label.

Adulteration of the article was alleged in the libel for the reason that a substance, screenings, had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the designation "Mixed Oats" was false and misleading and deceived and misled the purchaser, in that the said statement purported the article to be mixed oats, whereas it was not but was an admixture of screenings bleached with sulfur dioxide, and the words "Other Grains," being inconspicuously placed, did not correct the misleading impression. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, mixed oats.

On June 2, 1924, S. Zorn & Co., Louisville, Ky., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be relabeled, "Bleached Crescent Grain Screenings."

W. M. JARDINE, *Secretary of Agriculture.*

12937. Adulteration and misbranding of evaporated milk. U. S. v. 580 Cases of Evaporated Milk. Decree of condemnation, forfeiture, and destruction. (F. & D. Nos. 17982, 17983. I. S. No. 874-v. S. No. E-4568.)

On or about November 21, 1923, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 580 cases of evaporated milk, remaining in the original unbroken packages at Charleston, S. C., alleging that

the article had been shipped by F. H. Tiedeman, from New York, N. Y., on or about August 7, 1923, and transported from the State of New York into the State of South Carolina, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Danish Pride Evaporated Milk Made in U. S. A. Net Weight 1 Pound Unsweetened Sterilized."

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

Misbranding was alleged for the reason that the statements in the labeling, "Danish Pride Evaporated Milk Made in U. S. A. Net Weight 1 Pound Unsweetened Sterilized Yours for Health," were false and misleading and deceived the purchaser.

On January 21, 1924, no claimant having appeared for the property, a jury was impanelled, which, after the submission of evidence, returned a verdict that the product was misbranded and adulterated as alleged in the libel. Thereupon judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

W. M. JARDINE, *Secretary of Agriculture.*

12938. Adulteration and misbranding of tomato sauce. U. S. v. 415 Cases of Tomato Paste. Decree of condemnation. Product released under bond. (F. & D. No. 19176. I. S. No. 20353-v. S. No. W-1610.)

On December 11, 1924, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel of information praying the seizure and condemnation of 415 cases of tomato paste, remaining in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by the Hershel California Fruit Products Co., from San Jose, Calif., November 13, 1924, and transported from the State of California into the State of Massachusetts, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Salsina Concentrated Tomato Sauce With Basil * * * Packed & Guaranteed By Hershel Cal. Fruit Products Company San Jose, Calif."

Adulteration of the article was alleged in the libel for the reason that a substance, an artificially colored tomato paste, or sauce, had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "Tomato Sauce," appearing in the labeling, was false and misleading and deceived and misled the purchaser when applied to a tomato sauce containing artificial color not declared on the label.

On December 26, 1924, C. L. Jones & Co., Boston, Mass., having entered an appearance as claimant for the property and having filed a satisfactory bond in conformity with section 10 of the act, judgment of condemnation was entered, and it was ordered by the court that the product might be released to the claimant upon payment of the costs of the proceedings.

W. M. JARDINE, *Secretary of Agriculture.*

12939. Misbranding of extract of vanilla. U. S. v. Thomson & Taylor Co., a Corporation. Plea of guilty. Fine, \$50. (F. & D. No. 18324. I. S. No. 11397-v.)

On May 28, 1924, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Thomson & Taylor Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the food and drugs act as amended, on or about March 7, 1923, from the State of Illinois into the State of New Mexico, of a quantity of extract of vanilla which was misbranded. The article was labeled in part: "Extract of Vanilla * * * 2 Fluid Ozs."

Examination of the article by the Bureau of Chemistry of this department showed that the bottles contained an average of 1.91 fluid ounces of the said article.

Misbranding of the article was alleged for the reason that the statement, to wit, "2 Fluid Ozs.," borne on the labels of the bottles containing the said article, was false and misleading, in that the said statement represented that the bottles contained 2 fluid ounces of the said article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the pur-