

Examination of the article by the Bureau of Chemistry of this department showed that 9 sacks of Alco sweet feed averaged 97.67 pounds net, 15 sacks of Alco hen feed averaged 97.65 pounds net, and 27 sacks of Big Ace sweet feed averaged 97.3 pounds net.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "100 Lbs. Net," borne on the sacks containing the article, was false and misleading, in that the said statement represented that each of said sacks contained 100 pounds net of the said article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said sacks contained 100 pounds net of the article, whereas each of said sacks did not contain 100 pounds net of the article but did contain a less amount. 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.

On March 24, 1925, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13177. Adulteration and misbranding of tomato sauce. U. S. v. 500 Cases of Tomato Sauce. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19441. I. S. No. 17109-v. S. No. E-5065.)

On December 26, 1924, the United States attorney for the Eastern District of Pennsylvania, 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 500 cases, each containing 200 cans, of tomato sauce, remaining in the original unbroken packages at Philadelphia, Pa., alleging that the article had been shipped by the Hershel California Fruit Products Co., from San Francisco, Calif., in part September 27, 1924, and in part October 27, 1924, and transported from the State of California into the State of Pennsylvania, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Naples Style Tomato Sauce Contadina Brand with Basil * * * Packed By Hershel Cal. Fruit Prod. Co. * * * San Jose, Cal."

It was alleged in the libel that the article was adulterated in that artificially-colored pulp (paste or sauce) had been substituted in whole or in part for the said article.

Misbranding was alleged in substance for the reason that the packages enclosing the article contained labels bearing a statement regarding the article and the ingredients and substances contained therein which was false and misleading, in that the said statement indicated to the purchaser that the package contained "Tomato Sauce," whereas, in truth and in fact, it was composed of artificially-colored tomato paste, or sauce.

On March 17, 1925, Antonio Marano, Philadelphia, Pa., 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 \$2,100, in conformity with section 10 of the act, conditioned in part that it be relabeled in accordance with the ruling of this department.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13178. Adulteration of chocolate concentrate. U. S. v. 7 Gallons and 3 Gallons of Chocolate Concentrate. Default decrees of condemnation, forfeiture, and destruction or sale. (F. & D. Nos. 18610, 18612. I. S. Nos. 12939-v. S. Nos. E-4820, E-4822.)

On April 23, 1924, the United States attorney for the District of Connecticut, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 10 gallons of chocolate concentrate, remaining in the original unbroken packages in part at Collinsville, Conn., and in part at Bristol, Conn., alleging that the article had been shipped by the Jack Beverages, Inc., New York, N. Y., in two consignments, on or about March 31, 1923 (1924), and April 5, 1924, respectively, and transported from the State of New York into the State of Connecticut, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "5 Gals. Real Chocolate Concentrate Contains Sodium Benzoate less than $\frac{1}{16}$ of 1% in finished product * * * Jack Beverages, Inc., 235 East 47th Street, New York."