

**13188. Adulteration and misbranding of canned tomatoes. U. S. v. 75
Cartons of Canned Tomatoes. Consent decree of condemnation
and forfeiture. Product released under bond to be relabeled.
(F. & D. No. 19202. I. S. No. 13402-v. S. No. E-5023.)**

On or about November 25, 1924, the United States attorney for the Eastern District of New York, 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 75 cartons of canned tomatoes, remaining unsold in the original packages at Brooklyn, N. Y., alleging that the article had been shipped by the H. J. McGrath Co., Baltimore, Md., September 5, 1924, and transported from the State of Maryland into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part (Can) "McGrath's Tomatoes Champion Brand * * * Packed by The H. J. McGrath Co. Baltimore, Md."

Adulteration of the article was alleged in the libel for the reason that water had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the designation "Tomatoes" and the cut of a red ripe tomato appearing on the labels, were false and misleading and deceived and misled the purchaser, and for the further reason that it was sold under the distinctive name of another article.

On March 12, 1925, the H. J. McGrath Co., Baltimore, Md., having appeared as claimant for the property and having consented to the entry of a decree, 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 \$262, in conformity with section 10 of the act, conditioned in part that it be relabeled to bear in a conspicuous place on the labels the statement "Contains 15% Added Water."

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

**13189. Adulteration and misbranding of canned tomatoes. U. S. v. 999
Cases of Canned Tomatoes. Consent decree of condemnation and
forfeiture. Product released under bond to be relabeled. (F. &
D. No. 19390. I. S. No. 13203-v. S. No. E-5056.)**

On December 17, 1924, the United States attorney for the Southern District of New York, 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 999 cases of canned tomatoes, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by W. E. Robinson & Co., from Laurel, Del., on or about October 16, 1924, and transported from the State of Delaware into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Dee-Bee Brand Tomatoes * * * Quality First Packed By Davis Canning Co. Laurel, Del. U. S. A."

Adulteration of the article was alleged in the libel for the reason that a substance, added water, had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the designation "Tomatoes" was false and misleading and deceived and misled the purchaser, and for the further reason that it was offered for sale under the distinctive name of another article.

On March 13, 1925, the Davis Canning Co., Laurel, Del., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, 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 \$2,000, in conformity with section 10 of the act, conditioned in part that it be relabeled "Water 50% Tomatoes 50% These tomatoes were canned with an additional equal amount of water Packed by Davis Canning Co. Laurel, Del. Canned Tomatoes Should Be Packed In their Own Juice Without Added Water" and be disposed of after such relabeling to the satisfaction of this department.

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