

labeled: "Kitty Brand No." The 2 boxes contained labels bearing the statements "Kitty Brand Tomato Paste Net Contents 6 Oz. Salsa Di Pomodoro Packed By New Central Canning Co. Inc. Buena Park, Cal."

Adulteration of the article was alleged in the libel for the reason that a substance, an artificially-colored tomato paste, 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.

On December 24, 1924, the New Central Canning Co., Inc., Buena Park, Calif., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation 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 \$1,500, in conformity with section 10 of the act, conditioned in part that the statement "Artificially Colored" appear conspicuously on the labels, and that it be inspected by a representative of this department before final disposition or sale.

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

13216. Adulteration and misbranding of tomato paste. U. S. v. 400 Cases of Tomato Paste. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19191. I. S. No. 22638-v. S. No. C-4540.)

On November 22, 1924, the United States attorney for the Eastern District of Louisiana, 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 400 cases of tomato paste, remaining in the original unbroken packages at New Orleans, La., alleging that the article had been shipped by Morici & Co., from San Francisco, Calif., on or about October 25, 1924, and transported from the State of California into the State of Louisiana, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Tomato Sauce Net Weight 6 Oz. Packed By Hershel Cal. Fruit Prod. Co Packers Of Contadina Brand San Jose, Cal."

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 on the labels, was false and misleading and deceived and misled the purchaser when applied to a tomato paste containing artificial color not declared on the label.

On January 3, 1925, J. Cusimano, New Orleans, La., having appeared as claimant for the property and having confessed the allegations of the libel, judgment of condemnation 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 \$1,500, in conformity with section 10 of the act, conditioned in part that it be relabeled so that the statement "Artificially Colored" appear conspicuously on the labels, and that it not be sold or disposed of without inspection by a representative of this department.

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

13217. Misbranding and alleged adulteration of vinegar. U. S. v. 70 Barrels, et al., of Vinegar. Decree of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 12130, 15518, 15605, 15624, 15625, 15635, 15636, 15707, 17121. I. S. Nos. 12412-r, 518-t, 555-t, 22555-t, 22557-t, 22559-t, 22560-t, 9211-v. S. Nos. C-1701, C-2948, C-3293, C-3297, C-3320, C-3328, C-3331, C-3354.)

On or about the respective dates of February 3, 1920, November 1, 10, 18, 22, and 26, and December 6, 1921, and January 11, 1923, the United States attorney for the Northern District of Ohio, 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 470 barrels of vinegar, in various lots, at Cleveland, Massillon, and Uhrichsville, Ohio, respectively, alleging that the article had been shipped by the Douglas Packing Co., in part from Canastota, N. Y., and in part from Fairport, N. Y., in various consignments, namely, on or about September 19, 1919, and August 1, September 19, 21, and 30, October 10, and November 2, 1921, and September 26, 1922, respectively, and transported from the State of New York into the State of Ohio, and charging adulteration and misbranding with respect to a portion of the

product and misbranding with respect to the remainder thereof, in violation of the food and drugs act. A portion of the article was labeled in part: (Barrel) "Douglas Packing Co. Excelsior Brand Apple Cider Vinegar Made From Selected Apples Reduced To 4 Per Centum Rochester, N. Y." and "Guaranteed To Comply With All Pure Food Laws Douglas Packing Co. Rochester, N. Y." The remainder of the said article was labeled in part: (Barrel) "Pure Apple Cider Vinegar" or "Apple Cider Vinegar."

Adulteration was alleged in substance in the libels with respect to all the product, with the exception of the consignment of September 26, 1922, for the reason that vinegar made from evaporated or dried apple products had been mixed and packed with and substituted wholly or in part for the said article.

Misbranding was alleged with respect to the product consigned September 19, 1919, November 2, 1921, and September 26, 1922, respectively, for the reason that the statements, "Apple Cider Vinegar made from Selected Apples," "Guaranteed To Comply With All Pure Food Laws," "Pure Apple Cider Vinegar," or "Apple Cider Vinegar," as the case might be, appearing in the labeling, were false and misleading and deceived and misled the purchaser. Misbranding was alleged with respect to the product involved in the remaining consignments for the reason that it was labeled "Pure Apple Cider Vinegar" or "Apple Cider Vinegar Made From Selected Apples," as the case might be, so as to deceive and mislead the purchaser, and for the further reason that the said statements were false and misleading and deceived and misled the purchaser, in that the said portion of the product contained barium. Misbranding was alleged with respect to the product involved in all the said consignments, with the exception of that of September 26, 1922, for the reason that it was an imitation of and was offered for sale under the distinctive name of another article.

On January 15, 1925, the cases having been consolidated into one cause of action and the Douglas Packing Co., Rochester, N. Y., having appeared as claimant for the property, judgment of the court was entered, finding the product misbranded and ordering its condemnation and forfeiture, and it was further ordered by the court that the said product might be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$2,500, in conformity with section 10 of the act.

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

13218. Adulteration and misbranding of canned tomatoes. U. S. v. 270 Cases of Tomatoes. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19422. I. S. No. 19935-v. S. No. C-4048.)

On December 26, 1924, the United States attorney for the Eastern District of Texas, 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 270 cases of tomatoes, remaining in the original unbroken packages at Lufkin, Tex., alleging that the article had been shipped by the Davis Canning Co., from Laurel, Del., October 13, 1924, and transported from the State of Delaware into the State of Texas, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Dee Bee Brand Tomatoes * * * Packed By Davis Canning Co. Laurel, Del. U. S. A."

Adulteration of the article was alleged in the libel for the reason that water had been mixed and packed therewith so as to reduce or 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" was 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 February 19, 1925, the Davis Canning Co., Laurel, Del., 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 to be relabeled in accordance with law upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act.

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