

13580. Adulteration of tomato catsup. U. S. v. 1,025 Cases of Tomato Catsup. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19520. I. S. No. 17342-v. S. No. E-4968.)

On January 21, 1925, the United States attorney for the District of Maryland, 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 1,025 cases of tomato catsup, consigned in part on or about October 2, 1924, and in part on or about October 8, 1924, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped by the Davis Canning Co., from Laurel, Del., and transported from the State of Delaware into the State of Maryland, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Tomato Catsup Packed By The Davis Canning Co. Laurel, Del."

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

On July 7, 1925, the Davis Canning Co., Laurel, Del., having appeared as claimant for the property and having admitted the material 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 \$3,500, in conformity with section 10 of the act.

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

13581. Adulteration and misbranding of apples. U. S. v. Fred L. Ferris. Plea of guilty. Fine, \$75. (F. & D. No. 15850. I. S. Nos. 5944-t, 5945-t.)

On October 17, 1922, the United States attorney for the Western 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 an information against Fred L. Ferris, Albion, N. Y., alleging shipment by said defendant, in violation of the food and drugs act as amended, on or about May 11, 1921, from the State of New York into the State of Ohio, and on or about May 12, 1921, from the State of New York into the State of Pennsylvania, of quantities of apples which were adulterated and misbranded. The article was labeled: (Barrel) "Baldwins, New York Standard A Grade Min. Size 2½ F. L. Ferris, Albion, N. Y."

Examination by the Bureau of Chemistry of this department of samples consisting of a number of barrels of the product from each consignment showed that the said samples averaged 41.33 per cent and 73 per cent, respectively, of apples below grade, consisting of undersized, insect injured, and scalded apples.

Adulteration of the article was alleged in the information for the reason that apples of a lower grade than Baldwins, New York Standard A grade, and of a minimum size less than 2½ inches in diameter had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality, and had been substituted wholly or in part for Baldwins, New York Standard A grade apples, of a minimum size not less than 2½ inches in diameter, which the article purported to be.

Misbranding was alleged in substance for the reason that the statement, to wit, "Baldwins, New York Standard A Grade Min. Size 2½," borne on the barrels containing the article, was false and misleading, in that the said statement represented that the article was composed wholly of New York Standard A grade Baldwin apples of a minimum size not less than 2½ inches in diameter, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of Baldwins, New York Standard A grade apples of a minimum size not less than 2½ inches in diameter, whereas it did not so consist but did consist in part of apples less than 2½ inches in diameter and of a lower grade than declared on the labels. Misbranding was alleged for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article, and 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 November 14, 1922, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$75.

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