

**20537. Adulteration of caraway seed. U. S. v. 7 Bags, et al., of Caraway Seed. Default decrees of condemnation and destruction. (F. & D. nos. 28707, 28714. Sample nos. 8672-A, 8928-A.)**

These actions involved the interstate shipment of quantities of caraway seed that was found to contain rodent excreta.

On August 18, 1932, the United States attorney for the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 12 bags of caraway seed, remaining in the original unbroken packages at Pittsburgh, Pa., alleging that the article had been shipped by Archibald & Kendall, Inc., in part from New York on or about June 9, 1932, and in part from St. Louis, Mo., on or about June 30, 1932, and had been transported from the States of New York and Missouri, respectively, into the State of Pennsylvania, and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libels that the article was adulterated in that it consisted wholly or in part of filthy vegetable substances.

On December 19, 1932, no claimant having appeared for the property, judgments of condemnation were entered and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20538. Adulteration and misbranding of tomato paste. U. S. v. 243 Cases, et al., of Tomato Paste. Decrees of condemnation entered. Portion of product released under bond to be relabeled. Remainder destroyed. (F. & D. nos. 28008, 28401, 28402, 28406. Sample nos. S. 6063, 7341-A, 7397-A.)**

These cases involved several shipments of a product represented to be canned tomato paste, but which consisted of a strained tomato product insufficiently concentrated to be designated as tomato paste. Sample cans taken from two of the lots also were found to contain less than the declared weight, 5 ounces.

On April 13, 1932, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court a libel praying seizure and condemnation of 243 cases of tomato paste at New Orleans, La. On June 16, 1932, libels were filed in the Southern District of Mississippi against 75 cases of tomato paste at Jackson, Miss., and on the same date a libel was filed in the Western District of Louisiana against 43 cases of the product at Lake Charles, La. It was alleged in the libels that the article had been shipped in interstate commerce, by F. G. Favoloro Sons, Inc.; that certain of the lots had been shipped on or about December 30, 1930, and May 6, 1932, from Baltimore, Md., into the State of Louisiana, and that the remainder had been shipped on or about April 18, 1932, from New Orleans, La., into the State of Mississippi, and that it was adulterated and misbranded in violation of the Food and Drugs Act as amended. The articles was labeled in part: "Cowboy Brand Tomato Paste, Contents 5 Ounces [or "Carmela Brand Color Added Tomato Paste, Net Weight 5 Ounces"] \* \* \* Packed by F. G. Favoloro Sons, Inc. Harrington, Del. [or "New Orleans, La.]."

It was alleged in substance in the libels that the article was adulterated in that an insufficiently concentrated tomato product had been substituted for the article.

Misbranding was alleged for the reason that the statement "Tomato Paste", borne on the labels, was false and misleading and deceived and misled the purchaser, and for the further reason that the article was offered for sale under the distinctive name of another article. Misbranding was alleged with respect to the product libeled in the Eastern and Western Districts of Louisiana for the further reason that the statements, "Net Weight 5 Ounces" or "Contents 5 Ounces", were false and misleading and deceived and misled the purchaser, 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, since the statement made was incorrect.

On November 16, 1932, F. G. Favoloro Sons, Inc., New Orleans, La., having appeared as claimant for the product seized in the Western District of Louisiana, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$250, conditioned that it be relabeled. On April 5, 1933, no claim having been made for the property