

21879. Adulteration of tomato pulp. U. S. v. 800 and 921 Cans of Tomato Pulp. Decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 28369, 28373. Sample nos. 7123-A, 7125-A.)

These cases involved interstate shipments of tomato pulp that was found to contain maggots.

On June 1, and June 4, 1932, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,721 cases of tomato pulp at New Orleans, La., alleging that the article had been shipped in interstate commerce by J. J. Favaloro, from Miami, Fla., in part on or about May 16, 1932, and in part on or about May 20, 1932, 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 a filthy, decomposed, or putrid vegetable substance.

On January 25, 1934, the claims and answers filed by F. G. Favaloro Sons, Inc., the sole intervener, having been withdrawn, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

21880. Adulteration and misbranding of malted orange compound. U. S. v. 238 Cases and 118 Cases of Golden Age Malted Orange Compound. Product ordered destroyed. (F. & D. nos. 28881, 28881-A. Sample nos. 6128-A, 6129-A.)

This case involved a product labeled to convey the impression that it was a compound consisting essentially of substances derived from natural fruit. Analysis showed that the article was an artificially colored imitation orange product containing a small amount of dehydrated orange juice. Unwarranted health claims were made for the article in the labeling.

On September 12 and September 19, 1932, the United States attorney for the Western District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 356 cases of Golden Age malted orange compound at Kansas City, Mo., alleging that the article had been shipped in interstate commerce by the Malted Products, Inc., from Chicago, Ill., in part on or about July 14, 1932, and in part on or about July 19, 1932, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Golden Age Malted Orange Compound * * * Made only by Malted Products, Inc., * * * Chicago, U. S. A."

It was alleged in the libels that the article was adulterated in that an imitation orange beverage base had been substituted for malted orange. Adulteration was alleged for the further reason that the article had been mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the article was an imitation and was offered for sale under the distinctive name of another article, and in that the designs of fruit on the package label were misleading. Misbranding was alleged for the further reason that the following statements in the labeling were false and misleading and deceived and misled the purchaser: (Package) "Malted Orange * * * Simply dissolve one heaping teaspoon of Golden Age Malted Orange in half a glass of water, rather than being inconvenienced by squeezing the juice from one orange. * * * Fresh orange flavor * * * real orange juice drink", (circular, heading) "Golden Age Malted Orange * * * 1. Aids digestion. * * * Builds Body Resistance. Prevents and corrects Acidosis. Promotes the retention of Calcium, Phosphorous and certain other Food Elements. Promotes the Retention of Calcium, Phosphorous and Certain Other Food Elements. Promotes Normal Functioning for Healthy Mouth and Perfect Teeth. It stimulates Growth in Children. * * * The protective food elements necessary for health and proper growth. * * * so necessary to build strong bones, and teeth, rich blood, nerve tissue and helps regulate the body. * * * Excellent for underweight."

The Malted Products, Inc., filed claims and answers denying that the article was adulterated, also denying that it was an imitation, but admitting that the article was misbranded in that the statements upon and within the package and the designs of fruit were misleading. On December 4, 1933, the cases having been called and the defendant having failed to appear, upon motions filed by the United States attorney for judgment on the pleadings, decrees were entered adjudging the product to be adulterated and misbranded and ordering that it be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*