

upon payment of costs and the execution of bonds in the sum of \$1,200, conditioned in part that it should not be sold or disposed of contrary to the provisions of the food and drugs act, or the laws of any State, Territory, district, or insular possession.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19233. Adulteration of tomato puree. U. S. v. 32 Cases of Tomato Puree. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 26725-a. I. S. No. 11815. S. No. 4876.)

Samples of tomato puree from the shipment herein described having been found to contain excessive mold, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of California.

On July 22, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 32 cases of tomato puree, remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped on or about April 8, 1931, by the Pleasant Grove Canning Co., from Pleasant Grove, Utah, and had been transported in interstate commerce from the State of Utah into the State of California, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Cans) "Fresh Ripe, Brand Tomato Puree Packed for Pacific Wholesale Grocery Company, Los Angeles."

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed vegetable substance.

On January 23, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19234. Misbranding of tomato paste. U. S. v. 15,250 Cans, et al., of Tomato Paste. Product ordered released under bond. (F. & D. Nos. 26134, 26135. I. S. Nos. 17514, 17515. S. No. 4446.)

Sample cans of tomato paste from the shipment herein described having been found to contain less than the declared weight, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Texas.

On April 28, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 24,750 cans of tomato paste, remaining in the original packages at Houston, Tex., alleging that the article had been shipped by F. G. Favaloro Sons (Inc.), from Georgetown, Miss., on or about June 18, 1930, and had been transported from the State of Mississippi into the State of Texas, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Net Contents 5 Oz. Indian Girl Brand Color Added Tomato Paste Salsa Di Pomodoro Packed by F. G. Favaloro Sons, Inc., Packed in Georgetown, Miss."

It was alleged in the libels that the article was misbranded in that the statement "Net Contents 5 Oz.," borne on the label, deceived and misled the purchaser as to the correct weight of the contents of the said cans, since the average net weight of the contents of the cans was less than 5 ounces. Misbranding was alleged for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the can label bore the statement "Net Contents 5 Oz.," whereas the average weight of the contents of the said cans was less than 5 ounces.

The F. G. Favaloro Sons (Inc.), New Orleans, La., entered an appearance and filed motions to quash the libels, which motions were argued on June 6, 1931, and taken under advisement by the court. On November 2, 1931, the court having overruled the motions to quash, decrees were entered finding the material allegations of the libels to be true and ordering that the product be released to the claimant upon payment of costs and the execution of bonds totaling \$1,200, conditioned in part that it should not be sold or otherwise disposed of contrary to the laws of the United States or of any State, Territory, district, or insular possession.

ARTHUR M. HYDE, *Secretary of Agriculture.*