

5088. Adulteration and misbranding of beans. U. S. * * * v. 400 Cases of Beans. Tried to the court and a jury. Verdict for Government. Judgment of condemnation, forfeiture, and destruction. (F. & D. No. 7316. I. S. No. 10897-1. S. No. C-473.)

On April 17, 1916, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 400 cases of beans, remaining unsold in the original unbroken packages at Green Bay, Wis., alleging that the article had been shipped on or about January 4, 1916, by the Sycamore Preserve Works, Sycamore, Ill., and transported from the State of Illinois into the State of Wisconsin, and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration of the article was alleged in substance in the libel for the reason that it consisted in part of a decomposed vegetable substance, and for the further reason that it was labeled, "Beans with Tomato Sauce," whereas in fact it contained no appreciable amount of tomato sauce, but contained annatto, a coloring matter product, by which said article was colored in a manner whereby damage and inferiority were concealed.

Misbranding was alleged for the reason that the statement, "Beans with Tomato Sauce," was false and misleading in that the article contained no appreciable amount of tomato sauce; and for the further reason that it was labeled as aforesaid so as to give the impression that it was beans mixed with tomato sauce, whereas, in truth and in fact, it contained no appreciable amount of tomato sauce, but contained annatto, a coloring matter product, by which it was colored in such a manner as to deceive and mislead the purchaser into the false impression and belief that said product was beans with tomato sauce.

On July 17, 1916, the Joannes Bros. Co., Green Bay, Wis., claimant, filed its answer, denying the allegations in the libel. On December 4, 1916, the case having come on for trial before the court and a jury, and no appearance having been made for the libelee at the trial, after the submission of evidence by the Government, the court directed the jury to find for the libelant. Thereafter on December 5, 1916, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal and that the costs of the proceeding should be taxed against said claimant company.

CLARENCE OUSLEY, *Acting Secretary of Agriculture.*