

tomato paste and 667 cases of canned peeled tomatoes at Brooklyn, N. Y., alleging that the articles had been shipped in interstate commerce on or about September 18, 1936, by the Riverbank Canning Co., from Stockton, Calif., and charging misbranding in violation of the Food and Drugs Act. The articles were labeled in part: (Cans) "Bortolo Brand Tomato Paste [or "Bortolo Brand Italian Style Peeled tomatoes"] * * * Packed expressly for Bortolo Bendin Inc. Wallabout Market Brooklyn N. Y."

They were alleged to be misbranded in that the Italian national colors (red, white, and green) and the design of pear-shaped tomatoes characteristic of those imported from Italy, borne on the labels, in the absence of any statement of foreign origin, were false and misleading and tended to deceive and mislead the purchaser into believing that the articles were of foreign origin; whereas they were not of foreign origin.

On January 7, 1937, Bortolo Bendin, Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of forfeiture was entered and it was ordered that the product be released under bond to be relabeled.

H. A. WALLACE, *Secretary of Agriculture.*

27293. Adulteration of salmon. U. S. v. 11,610 Cases of Canned Salmon (and 10 other seizure actions). Consolidated consent decree of condemnation. Portion of product released under bond. Balance exonerated and ordered released unconditionally. (F. & D. nos. 38474, 38475, 38481, 38482, 38483, 38510, 38517, 38526, 38528, 38707, 38712. Sample nos. 22263-C, 22269-C, 22282-C, 22283-C, 22291-C, 23706-C, 23715-C, 23716-C, 23720-C, 29239-C, 29243-C, 29258-C, 29279-C, 29280-C, 29293-C, 32376-C, 32379-C, 32388-C, 32389-C.)

These cases involved canned salmon that was in whole or in part decomposed.

On October 29 and 30 and November 4, 9, 10, and 25, 1936, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 29,258 cases and 11,686 cartons of salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce between the dates of August 14 and September 11, 1936, by the Ocean Packing Co. from Klawock, Alaska, and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "North Bay Brand Pink Salmon * * * Distributed by Wesco Foods Company * * * Cincinnati, Ohio." The remainder was unlabeled.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On May 11, 1937, the Ocean Packing Co. and the Wesco Foods Co., claimants for respective portions of the article, having admitted the allegations of the libels insofar as they concerned certain portions of the article and having consented to the entry of a decree, a consolidated judgment was entered finding portions of the product adulterated and ordering that it be condemned and released under bond conditioned that it should not be disposed of in violation of the Food and Drugs Act. The remainder of the product was adjudged unadulterated and was ordered released unconditionally. On May 19, 1937, the portion of the product belonging to the Wesco Foods Co. which was required by the decree of May 11, 1937, to be reconditioned having been sold to Carl Rubenstein, a supplemental decree was entered condemning said goods and permitting their release to Carl Rubenstein under the same conditions as set forth in the original decree.

H. A. WALLACE, *Secretary of Agriculture.*

27294. Adulteration of butter. U. S. v. Bert Brice Nash, Fritz Ortman, and Charlie H. Gallagher (Salt City Creamery). Plea of guilty. Fine, \$25 and costs. (F. & D. no. 38633. Sample no. 14102-C.)

This case involved butter that was deficient in milk fat.

On March 12, 1937, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Bert Brice Nash, Fritz Ortman, and Charlie H. Gallagher, copartners trading as Salt City Creamery, Oklahoma City, Okla., charging shipment by said defendants in violation of the Food and Drugs Act, on or about September 1, 1936, from the State of Oklahoma into the State of Illinois of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a

product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

On May 19, 1937, a plea of guilty was entered on behalf of the defendants and the court imposed a fine of \$25 and costs.

H. A. WALLACE, *Secretary of Agriculture.*

27295. Adulteration of tomato puree. U. S. v. William E. Everitt and Frank H. Everitt (Everitt Packing Co.). Plea of guilty. Fine, \$50. (F. & D. no. 38684. Sample no. 21495-C.)

Samples of this product were found to contain insect fragments and mold.

On April 9, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William E. Everitt and Frank H. Everitt, trading as the Everitt Packing Co., at Underwood, Ind., alleging shipment by said company in violation of the Food and Drugs Act on or about August 5, 1936, from the State of Indiana into the State of Missouri of a quantity of tomato puree that was adulterated. The article was labeled in part: "Deluxe Brand Tomato Puree * * * Packed Especially for Lowell-Krekeler Grocer Co. St. Louis, Mo."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On April 21, 1937, a plea of guilty was entered on behalf of the defendants, and the court entered judgment imposing a fine of \$50 against said defendants.

H. A. WALLACE, *Secretary of Agriculture.*

27296. Adulteration and misbranding of cream of tartar. U. S. v. Max Heller (Exeller Chemical Co.). Plea of guilty. Fine, \$50. (F. & D. no. 38594. Sample no. 72311-B.)

This product was represented to conform to the standard laid down in the United States Pharmacopoeia but fell below such standard and its own standard was not declared.

On April 1, 1937, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Max Heller trading as the Exeller Chemical Co., at Brooklyn, N. Y., alleging shipment by said company in violation of the Food and Drugs Act on or about November 5, 1935, from the State of New York into the State of New Jersey of a quantity of cream of tartar that was adulterated and misbranded. The article was labeled in part: "Exeller Brand Cream of Tartar Pure U. S. P. Exeller Chemical Co. Brooklyn, N. Y."

It was alleged to be adulterated in that it was sold under and by a name recognized in the United States Pharmacopoeia, and differed from the standard of strength, quality, and purity as determined by the test laid down in said pharmacopoeia official at the time of investigation since when dried to constant weight at 100° C., it contained less than 99.5 percent, namely, not more than 90.7 percent of potassium bitartrate, whereas the pharmacopoeia provides that potassium bitartrate, i. e., cream of tartar, when dried to constant weight at 100° C., shall contain not less than 99.5 percent of potassium bitartrate; and its own standard of strength, quality, and purity was not declared on the container.

The article was alleged to be misbranded in that the statement "Cream of Tartar * * * U. S. P.", borne on the cans, was false and misleading since it represented that the article was cream of tartar that conformed to the standard laid down in the United States Pharmacopoeia; whereas it was not cream of tartar which conformed to said standard.

On April 23, 1937, the defendant entered a plea of guilty and the court imposed a fine of \$50.

H. A. WALLACE, *Secretary of Agriculture.*

27297. Adulteration of butter. U. S. v. Producers Creamery Co. Plea of guilty. Fine, \$1 and costs. (F. & D. no. 38601. Sample no. 14524-C.)

This case involved butter that was deficient in milk fat.

On January 23, 1937, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Producers Creamery Co., a corporation, Kirksville, Mo., alleging shipment by said company in violation of the Food and Drugs Act on or about August 21, 1936, from the State of Missouri into the State of Illinois of a quantity of butter that was adulterated.