

**24618. Adulteration of tomato catsup. U. S. v. 694 Cases of Tomato Catsup.** Tried to the court. Judgment for the Government. Decree of condemnation and destruction. Adulteration of tomato puree and adulteration and misbranding of tomato catsup. U. S. v. 1,303 Cases of Tomato Puree, et al. Decrees of condemnation. Puree released under bond; catsup destroyed. (F. & D. nos. 34739, 35266, 35270, 35318, 35332, 35333, 35348. Sample nos. 3821-B, 21750-B, 27861-B, 28278-B, 32944-B, 32945-B, 32960-B, 32987-B, 32988-B.)

These cases involved shipments of tomato puree and tomato catsup that contained excessive mold. One lot of tomato catsup was short volume.

On January 10, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,303 cases of tomato puree at Minneapolis, Minn. On March 14, March 22, April 1, April 4, and April 5, 1935, libels were filed in various district courts against 545½ cases of tomato catsup at Lincoln, Nebr., 740 cases of tomato catsup at Omaha, Nebr., 200 cases of tomato catsup at New York, N. Y., 281½ cases of tomato catsup at Jackson, Tenn., and 697 cases of tomato catsup at Mattoon, Ill. The libels alleged that the articles had been shipped in interstate commerce between the dates of October 4, 1934, and March 20, 1935, by the Shirley Canning Co., from Shirley, Ind., and that they were adulterated; and that one shipment of the tomato catsup was also misbranded in violation of the Food and Drugs Act as amended. The articles were labeled, variously: "Shirley (Brand) Tomato Puree \* \* \* Packed by Shirley Canning Co. Shirley, Indiana"; "Polly Brand Catsup \* \* \* H. P. Lau Co. Distributors Lincoln-Fremont Nebr."; "Checker Tomato Catsup \* \* \* Seeman Brothers, Inc. Wholesale Distributors, New York"; "Shirley Brand Quality Supreme Catsup Packed by Shirley Canning Co. Shirley, Ind."; "Pantry Pride Tomato-Catsup Holmes Wildhaber Company, Omaha, Nebr. Distributors"; "14 Fluid Ozs. [or "14 Ozs."] Special Brand Tomato Catsup Packed for Hulman & Co. Terre Haute, Ind."

The articles were alleged to be adulterated in that they consisted wholly or in part of decomposed vegetable substances.

Misbranding was alleged with respect to one lot of the tomato catsup for the reason that the statement "14 Fluid Ozs." was false and misleading and tended to deceive and mislead the purchaser; and for the further reason that it 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 was incorrect.

On July 30, 1935, the Shirley Canning Co. having appeared as claimant for 694 cases of the product seized at Omaha, Nebr., the case came on for trial before the court. Evidence having been introduced on behalf of the Government and the claimant, judgment was entered July 31, 1935, finding that the product was adulterated and ordering that it be condemned and destroyed. On April 29, 1935, the Farmers' Canning Co., having appeared as claimant for the tomato puree libeled at Minneapolis, Minn., judgment of condemnation was entered and it was ordered that the product be released upon the deposit of a cash bond conditioned that it should not be disposed of in violation of the Federal Food and Drugs Act. On April 23, April 25, June 22, July 31, and September 23, 1935, no claim having been entered for the tomato catsup seized in the remaining cases, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24619. Adulteration of tea. U. S. v. 449 Cases and 150 Cases of Tea. Consent decree of condemnation. Product released under bond conditioned that the deleterious substance be removed. (F. & D. no. 35361. Sample nos. 17650-B, 21646-B, 21650-B.)**

This case involved tea, a part of which was packed in aluminum-lined cases and a part packed in lead-foil-lined cases. Examination showed that the tea in the lead-foil-lined cases contained an excessive amount of lead.

On April 11, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 599 cases of tea at New York, N. Y., alleging that the article had been imported on or about November 15, 1934, the shipment having been made by T. H. Estabrooks Co., Ltd., from St. Johns, New Brunswick, into the State of New York, and charging that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.