

in part: (Cans) "Banner Mill Brand Hand Packed Tomatoes Packed By Miss Hester Fringer, Lithia, Va."

On January 13 and February 26, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

Nos. 4645 to 4652 report legal actions involving tomato products made in part from rotten material as evidenced by mold.

4645. Adulteration of tomato catsup. U. S. v. 63 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. D. C. No. 8994. Sample No. 7918-F.)

On December 9, 1942, the United States attorney for the District of Minnesota filed a libel against 63 cases, each containing 24 bottles, of tomato catsup at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about October 14, 1942, by the Columbia Conserve Co. from Indianapolis, Ind.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Bottle) "Co-op Tomato Catsup * * * Packed for National Co-Operatives, Inc. Chicago, Illinois."

On January 27, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

4646. Adulteration of tomato puree and tomato catsup. U. S. v. 226 Cases of Tomato Puree (and 3 seizure actions against tomato catsup). Default decrees of condemnation and destruction. (F. D. C. Nos. 8920, 9028, 9104, 9420. Sample Nos. 2688-F, 4465-F, 8950-F, 9102-F.)

Between November 24, 1942, and February 24, 1943, the United States attorneys for the Middle District of Tennessee, the Eastern District of Louisiana, the Western District of Missouri, and the Northern District of Texas filed libels against 226 cases of tomato puree at Nashville, Tenn., 115 cases of tomato catsup at New Orleans, La., 131 cases of tomato catsup at North Kansas City, Mo., and 99 cases of tomato catsup at Houston, Tex., alleging that the articles had been shipped in interstate commerce within the period from on or about October 31, 1942, to January 18, 1943, by the Morgan Packing Co. from Austin, Ind.; and charging that they were adulterated in that they consisted in whole or in part of decomposed substances. The articles were labeled in part: (Cans) "Scott Co. Brand Tomato Puree," "American Beauty * * * Tomato Catsup," "Scott Co. Brand * * * Tomato Catsup," or "Royal Gem Brand Tomato Catsup * * * Packed By Scottsburg Canning Co. Scottsburg, Ind."

Between January 14 and March 26, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

4647. Adulteration of tomato juice. U. S. v. 998½ Cases of Canned Tomato Juice. Default decree of condemnation and destruction. (F. D. C. No. 7127. Sample No. 86646-E.)

On April 1, 1942, the United States attorney for the Eastern District of Wisconsin filed a libel against 998½ cases, each full case containing 24 cans, of tomato juice at Milwaukee, Wis., alleging that the article had been shipped in interstate commerce on or about February 25, 1942, by Otto W. Cuyler, from Webster, N. Y.; and charging that it was adulterated in that it consisted wholly or in part of a decomposed substance. The article was labeled in part: (Can) "L. D. C. Brand * * * Tomato Juice Packed For Louis Dobbratz Co., Milwaukee, Wis."

On April 26, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

4648. Adulteration of tomato paste. U. S. v. West Coast Packing Co. Plea of nolo contendere. Fine, \$75. (F. D. C. No. 7686. Sample Nos. 72641-E, 81548-E, 89090-E, 12902-F.)

On November 14, 1942, the United States attorney for the Southern District of California filed an information against the West Coast Packing Co., a corporation, Long Beach, Calif., alleging shipment in the period from on or about October 28 to December 5, 1941, from the State of California into the States of Colorado and New York of quantities of tomato paste that was adulterated in that it consisted in whole or in part of a decomposed substance. The information alleged further that the defendant on or about July 9, 1941, gave to Bireley's Inc., at Hollywood, Calif., a guaranty that all food sold under a contract entered into on that day would be neither adulterated nor misbranded in violation of the Federal Food, Drug, and Cosmetic Act; that on or about May 22, 1942, the defendant sold and delivered to Bireley's Inc., in the name of the Italian Food

Products Co., Inc., a quantity of tomato paste; that on or about June 15 and July 8, 1942, quantities of the tomato paste so guaranteed were shipped by the purchaser from the State of California into the State of Oregon; and charged that by such acts the defendant had given a guaranty that was false since the tomato paste so sold and delivered and shipped in interstate commerce was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Campania Brand * * * Tomato Paste * * * Packed * * * By Italian Food Products Co., Inc."; "Appetit Brand * * * Tomato Paste * * * Distributors J. Ossola Co. New York, N. Y."; "Tomato Paste * * * Bireley's * * * Paste for Tomato Cocktail * * * Packed for Bireley's Inc., Hollywood, Calif."

On January 18, 1943, the defendant entered a plea of nolo contendere and the court imposed a fine of \$75.

4649. Adulteration of tomato paste. U. S. v. Uddo Taormina Corporation, Salvador J. Uddo, and Angelo Glorioso. Pleas of not guilty. Tried to the court. Corporation found guilty and fined \$350. Angelo Glorioso found not guilty. Case ordered dismissed with respect to Salvador J. Uddo. (F. D. C. No. 7294. Sample No. 53663-E.)

On August 3, 1942, the United States attorney for the Southern District of California filed an information against the Uddo Taormina Corporation, Salvador J. Uddo, and Angelo Glorioso, vice-president and plant superintendent, respectively, of the corporation, alleging shipment on or about November 10, 1941, from the State of California into the State of New York of a quantity of tomato paste that was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Tomato Paste * * * Flag Brand * * * Packed for La Sierra Heights Canning Co., Inc. Los Angeles, California."

On December 10, 1942, pleas of not guilty having been entered on behalf of all defendants, the case came on for trial before the court. Evidence was introduced on behalf of the Government, at the conclusion of which the defense moved for dismissal of the charge against Salvador J. Uddo, which motion was granted. The defense also moved for dismissal of the charges against Angelo Glorioso and the corporation, which motion was denied. The evidence for the defense was completed on December 10, and the case was continued to December 11 for argument. At the conclusion of the argument the court made a finding of not guilty as to Angelo Glorioso and a finding of guilty with respect to the corporation, and imposed a fine of \$350 against the latter.

4650. Adulteration of tomato paste. U. S. v. 50 Cases and 10 Cases of Tomato paste. Default decrees of condemnation and destruction. (F. D. C. Nos. 7884, 7998. Sample Nos. 72641-E, 12902-F.)

On July 13 and 27, 1942, the United States attorney for the District of Oregon filed libels against 60 cases of tomato paste at Portland, Oreg. On August 7, 1942, the libel filed on July 13 was amended. The libels alleged that the article had been shipped in interstate commerce from Los Angeles, Calif., the former shipment for Bireley's, Inc., on or about June 15, 1942, and the latter shipment by Bireley's, Inc., on or about July 8, 1942; and charged that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Tomato Paste * * * Bireley's * * * Base for Tomato Cocktail."

On September 8, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

4651. Adulteration of tomato paste. U. S. v. 898 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. D. C. No. 6988. Sample No. 90623-E.)

On March 5, 1942, the United States attorney for the District of Massachusetts filed a libel against 898 cases, each containing 48 cans, of tomato paste at Boston, Mass., alleging that the article had been shipped in interstate commerce within the period from on or about November 15 to December 16, 1941, by the Hartmann Canning Co., Inc., Macedon, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cans) "Scarlatti Tomato Paste With Sweet Basil."

On March 22, 1943, the Hartmann Canning Co., Inc., claimant, having failed to answer the allegations of the libel, default was noted, judgment of condemnation was entered, and the product was ordered destroyed.