

in the formula", since the statements implied that the article had been given all of the therapeutic attributes to be expected by direct radiation of the sun's rays and since the correct amount of Vitamin D required by an individual is dependent upon age, other sources of Vitamin D in the diet, and other factors.

On September 8, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and it was ordered that the product be delivered to a charitable organization.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22949. Misbranding of canned tomatoes. U. S. v. 400 Cases and 795 Cases of Canned Tomatoes. Consent decrees of condemnation. Product released under bond to be relabeled.** (F. & D. nos. 33097, 33118, 33119. Sample nos. 4257-B, 4265-B, 4266-B.)

These cases involved a shipment of canned tomatoes that fell below the standard established by this Department, all being of poor color, and a portion containing excessive peel. The product was not labeled to show that it was substandard.

On July 18 and July 24, 1934, the United States attorney for the Eastern District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,195 cases of canned tomatoes at St. Louis, Mo., alleging that the article had been shipped in interstate commerce, on or about June 16, 1934, by A. S. Beard, from Santa Rosa, Tex., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled in part: "Palm Valley Brand \* \* \* Tomatoes Packed by the H and J Products Co., Elsa, Texas." The remainder was labeled in part: "Santa Rosa Brand Hand Packed tomatoes \* \* \* Packed by A. S. Beard, Santa Rosa, Texas and Roanoke, Va."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because it was all of poor color and a portion contained excessive peel, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On September 7 and 8, 1934, the Rosen-Reichardt Brokerage Co., St. Louis, Mo., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of bonds in the sum of \$3,585, conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22950. Adulteration and misbranding of dressed turkeys. U. S. v. 7 Barrels of Dressed Turkeys. Decree of condemnation and forfeiture. Product released under bond.** (F. & D. no. 33105. Sample no. 4651-B.)

This case involved an interstate shipment of dressed turkeys. Samples taken from the lot were found to contain a pound or more of mixed feed in the body cavity or craw.

On July 19, 1934, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of seven barrels of dressed turkeys at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about March 24, 1934, by the Omaha Cold Storage Co., from Omaha, Nebr., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that mixed feed had been substituted in part for the article.

Misbranding was alleged in that a statement on the barrel label, "turkeys", was false and misleading and tended to deceive and mislead the purchaser, when applied to a product containing a considerable amount of mixed feed.

On August 8, 1934, the Omaha Cold Storage Co. having appeared as claimant, judgment of condemnation and forfeiture was entered, and it was ordered that the product be released to the claimant upon the execution of a good and sufficient bond in the sum of \$500, conditioned that the excess grain be removed.

M. L. WILSON, *Acting Secretary of Agriculture.*