

24609. Misbranding of canned tomatoes. U. S. v. 235 Cases and 310 Cases of Canned Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 35256. Sample nos. 22821-B, 22822-B.)

This case involved a shipment of canned tomatoes which fell below the standard established by this Department, and which were not labeled to indicate that they were substandard.

On March 13, 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 545 cases of canned tomatoes at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about October 24, 1934, by the Fettig Canning Co., from Elwood, Ind., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Mary's Choice Brand Extra Standard Tomatoes * * * Packed by Fettig Canning Co. Elwood, Ind."

The article was alleged to be misbranded in that it was canned food and fell below the standard and quality promulgated by the Secretary of Agriculture because it was not whole or in large pieces as evidenced by its low drained weight, 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. Misbranding was alleged for the further reason that the statement on the label, "Extra Standard", was false and misleading and tended to deceive and mislead the purchaser, since the product was substandard.

On June 19, 1935, the Fettig Canning Co. having appeared as claimant for the property, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

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

24610. Adulteration of poultry. U. S. v. 10 Barrels and 24 Barrels of Dressed Poultry. Default decree of condemnation and destruction. (F. & D. nos. 35268, 35269. Sample nos. 16953-B, 16954-B.)

Examination of the dressed poultry involved in this case showed some of the fowls to be diseased.

On March 14, 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 34 barrels of dressed poultry at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 28, 1935, by M. Zimmerman, from Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was in part a product of diseased animals.

On April 9, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

24611. Adulteration of canned huckleberries. U. S. v. 200 Cases of Canned Huckleberries. Default decree of condemnation and destruction. (F. & D. no. 35276. Sample no. 15346-B.)

This case involved an interstate shipment of canned huckleberries which were insect-infested.

On March 18, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned huckleberries at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about January 18, 1935, by James Fenwick Co., from Portland, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fenwick Brand Water Pack Huckleberries * * * Packed for James Fenwick Co., Portland, Oregon."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 20, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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