

26237. Misbranding of canned pears. U. S. v. 25 Cases of Canned Pears. Default decree of condemnation and destruction. (F. & D. no. 37701. Sample no. 69679-B.)

This case involved shipments of canned pears that fell below the standard established by the Secretary of Agriculture, since the fruit was not in unbroken halves because of excessive trimming, and which were not labeled to indicate that they were substandard. The product was not packed in heavy sirup as claimed.

On May 1, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of canned pears at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about April 4, 1936, by the Howard Terminal, from Oakland, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Good Rich Pear Compote in Heavy Syrup Bartlett Pears * * * Drew Canning Co. Ltd. Campbell, California."

The article was alleged to be misbranded in that the statement on the label "Pear Compote in Heavy Syrup" was false and misleading and tended to deceive and mislead the purchaser since the product was not packed in heavy sirup; and in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food since the fruit was not in unbroken halves because of excessive trimming, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On August 31, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26238. Adulteration and misbranding of canned tomato juice. U. S. v. 130 Cases of Canned Tomato Juice. Product released under bond to be relabeled. (F. & D. no. 37702. Sample no. 68058-B.)

This case involved a shipment of canned tomato juice that was short in volume and a part of which contained added water.

On May 2, 1936, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 130 cases of tomato juice at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce from Oakland, Calif., in part on or about October 11, 1935, by Van Camp's Inc., and in part on or about March 3, 1936, by the California Packing Co., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Van Camp's Tomato Juice. Contents 20½ Fluid Ounces Prepared by Van Camp's Inc., Indianapolis, Ind., U. S. A."

A portion of the article was alleged to be adulterated in that water had been mixed and packed therewith so as to reduce or lower its quality or strength, and in that water had been substituted in whole or in part for tomato juice, which the article purported to be.

The article was alleged to be misbranded in that the statements on the label "Contents 20½ Fluid Ounces", with respect to all lots, and "Tomato Juice", with respect to a portion, were false and misleading and tended to deceive and mislead the purchaser when applied to a product packed in cans containing less than 20½ fluid ounces and a part of which contained added water; and in 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 quantity stated was not correct.

On August 8, 1936, O. P. Dorr, Oakland, Calif., claimant, having admitted the allegations of the libel, judgment was entered finding the product adulterated and misbranded and ordering that it be released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*