

granted the claimant and the Government permission to take further samples and directed the marshal to carry out the order of destruction.

3301. Misbranding of canned flaked fish. U. S. v. 39 Cases of Flaked Fish. Default decree of condemnation and destruction. (F. D. C. No. 7008. Sample No. 90386-E.)

Examination showed that this product was short weight.

On March 9, 1942, the United States attorney for the District of Maine filed a libel against 39 cases, each containing 24 7-ounce cans, of flaked fish at Portland, Maine, alleging that the article had been shipped in interstate commerce on or about January 29, 1942, by Tupman Thurlow Sales Co., Inc., from Gloucester, Mass.; and charging that it was misbranded. The article was labeled in part: "Davis Bros. Flaked Fish Haddock and Codfish * * * Davis Bros. Fisheries Co., Inc., Gloucester, Mass."

It was alleged to be misbranded in that the statement on the label, "Net Weight 7 Oz.," was false and misleading as applied to an article that was short weight; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On April 25, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3302. Adulteration of oysters. U. S. v. 74 Pints and 22 Pints of Oysters. Default decree of condemnation and destruction. (F. D. C. No. 6305. Sample No. 54298-E.)

This product contained added water.

On November 28, 1941, the United States attorney for the Middle District of Pennsylvania filed a libel against 96 pints of oysters at York, Pa., alleging that the article had been shipped in interstate commerce on or about November 25, 1941, by John W. Ruby, clerk of Bob's Food Market from Baltimore, Md.; and charging that it was adulterated. It was labeled in part: "Extra Standards [or "Selects"] * * * Oysters Packed By Union Fish Co. Baltimore, Md."

The article was alleged to be adulterated in that water had been substituted wholly or in part for it; and in that water had been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality.

On January 29, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3303. Adulteration of oysters. U. S. v. 2,500 Cans of Oysters. Consent decree of condemnation. Product ordered released under bond for salvaging of fit portion. (F. D. C. No. 6657. Sample No. 30490-E.)

This product contained added water.

On January 5, 1942, the United States attorney for the Eastern District of Michigan filed a libel against 2,500 cans of oysters at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about December 24, 1941, by Warren Oyster Co. from Greenwich, N. J.; and charging that it was adulterated. It was labeled in part: (Cans) "Sterling Brand Oysters 12- $\frac{3}{4}$ Oz. Net Wt."

The article was alleged to be adulterated in that water had been substituted in part for it; and in that water had been added thereto or mixed or packed therewith so as to increase its bulk or weight and reduce its quality.

On January 5, 1942, Sterling Oyster Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for salvaging of the portion fit for human consumption by removing the excess water, under the supervision of the Food and Drug Administration.

FRUITS AND VEGETABLES

CANNED FRUITS

3304. Adulteration of canned blackberries. U. S. v. 38 Cases of Canned Blackberries. Default decree of condemnation and destruction. (F. D. C. No. 6767. Sample No. 54535-E.)

This product contained maggots and moldy berries.

On January 28, 1942, the United States attorney for the Eastern District of Pennsylvania filed a libel against 38 cases each containing 6 No. 10 cans of blackberries at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about August 5, 1941, by Litteral Canning Co. from Fayetteville, Ark.; and charging that it was adulterated in that it consisted in whole or in part

of a filthy and decomposed substance, to wit, maggots and moldy berries. The article was labeled in part: (Cans) "Faycano Blackberries Packed in Water."

On April 2, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3305. Adulteration of canned blackberries. U. S. v. 80 Cases of Canned Blackberries. Default decree of condemnation and destruction. (F. D. C. No. 6230. Sample No. 60876-E.)

Examination of this product showed the presence of moldy berries.

On November 14, 1941, the United States attorney for the Northern District of California filed a libel against 80 cases each containing 6 No. 10 cans of blackberries at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about October 8, 1941, by MacDonald Andrews Co. from Portland, Oreg.; 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) "Stiefvaters' Best OK Supreme Quality Blackberries in Water."

On April 16, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

Nos. 3306 to 3308, inclusive, report the seizure and disposition of canned cherries that were substandard in quality because of the presence of excessive pits, but were not labeled to indicate that they were substandard.

3306. Misbranding of canned cherries. U. S. v. 269 Cases of Canned Cherries. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 6101. Sample No. 53278-E.)

In addition to containing excessive pits, this product fell below the standard for fill of container. Furthermore, the label indicated that the product was packed in cherry juice; whereas it was packed in water.

On October 30, 1941, the United States attorney for the Southern District of California filed a libel against 269 cases, each containing 6 No. 10 cans, of cherries at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about July 22, 1941, by Colorado Growers Cooperative from Palisade, Colo.; and charging that it was misbranded. It was labeled in part: (Cans) "Colorado Pitted Red Tart Cherries In Cherry Juice."

The article was alleged to be misbranded (1) in that the statement "In Cherry Juice" was false and misleading since the cherries were packed in water; (2) in that it purported to be a food for which a definition and standard of identity had been prescribed by regulations as provided by law, and its label failed to bear the common name [water] of the optional ingredient present; (3) in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard and its label failed to bear in such manner and form as the regulations specify, a statement that it fell below such standard; and (4) in that it purported to be a food for which a standard of fill of container had been prescribed by regulations as provided by law, but it fell below the standard of fill of container applicable thereto since it did not contain the maximum quantity of the optional cherry ingredient which can be sealed in the container and processed by heat to prevent spoilage, without crushing such ingredient, and its label failed to bear in such manner and form as the regulations specify, a statement that it fell below such standard.

On November 28, 1941, Colorado Growers Cooperative, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

3307. Misbranding of canned cherries. U. S. v. 400 Cases of Canned Cherries. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 6781. Sample No. 73385-E.)

On January 28, 1942, the United States attorney for the District of Kansas filed a libel against 400 cases, each containing 6 No. 10 cans, of cherries at Topeka, Kans., alleging that the article had been shipped on or about July 10, 1941, by Loveland Canning Co. from Loveland, Colo.; and charging that it was misbranded. It was labeled in part: (Cans) "Rainbow Brand Water Pack Pitted Red Sour Cherries * * * Selected Products, Inc. Chicago. Ill. Exclusive Distributors."

The article was alleged to be misbranded in that its quality fell below the standard prescribed by regulations as provided by law and its label failed to bear in