

11016. Adulteration and misbranding of canned tomatoes. U. S. v. 85 Cases of Canned Tomatoes. Decree entered ordering release of product under bond. (F. & D. No. 16630. I. S. No. 8541-t. S. No. E-4052.)

On July 17, 1922, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 85 cases of canned tomatoes, remaining in the original unbroken packages at Baltimore, Md., consigned on or about May 31, 1922, alleging that the article had been shipped by the C. M. Scott Packing Co., Delmar, Del., and transported from the State of Delaware into the State of Maryland, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Indian Maid Brand Tomatoes * * * Packed by Blue Hen Canning Co. Delmar, Del."

Adulteration of the article was alleged in the libel for the reason that water had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly or in part for the said article, and for the further reason that it had been mixed in a manner whereby damage or inferiority was concealed.

Misbranding was alleged in substance for the reason that the labels of the cans containing the article bore certain statements, to wit, "* * * Tomatoes * * * Contents Weigh 6 Lbs. 7 Oz. * * *," together with the design of a red ripe tomato, which were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, and for the further reason 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 October 4, 1922, Thomas L. North, having entered an appearance as claimant for the property and having admitted the material allegations of the libel, judgment of the court was entered ordering that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a good and sufficient bond, in conformity with section 10 of the act.

C. F. MARVIN, *Acting Secretary of Agriculture.*

11017. Adulteration and misbranding of canned oysters. U. S. v. 32 Cases and 9½ Cases of Oysters. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 16759, 16760. I. S. Nos. 31-v, 33-v. S. Nos. E-4116, E-4117.)

On August 23, 1922, 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 of the United States for said district libels for the seizure and condemnation of 32 cases and 9½ cases, each containing 4 dozen tins, of oysters, remaining in the original unbroken packages, in part at Kingston and in part at Peekskill, N. Y., alleging that the article had been shipped by the Hilton Head Packing Co., Savannah, Ga., February 10 and March 28, 1922, respectively, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Hilton Head Brand Oysters Contains 5 Oz. Oyster Meat * * * Packed By Hilton Head Packing Co. Office: Savannah, Ga.;" (stamped on heads of cans) "5 Oz. Oysters."

Adulteration of the article was alleged in the libels for the reason that a substance, to wit, excessive brine, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and had been substituted wholly or in part for oysters, which the said article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "* * * Oysters Contains 5 Oz. Oyster Meat" and "5 Oz. Oysters," appearing on the labels of the cans containing the article, were false and misleading and deceived and misled the purchaser, since the said cans contained less than 5 ounces of the article. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On September 11, 1922, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*