

"Section 3, to which reference is made, provides: 'Sec. 3. Regulations for carrying out food and drug laws. The Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce shall make uniform rules and regulations for carrying out the provisions of sections 1 to 15, inclusive, of this title, including the collection and examination of specimens of food and drugs manufactured or offered for sale in the District of Columbia, or in any Territory of the United States, or which shall be offered for sale in unbroken packages in any State other than that in which they shall have been respectively manufactured or produced, or which shall be received from any foreign country, or intended, for shipment to any foreign country, or which may be submitted for examination by the chief health, food, or drug officer of any State, Territory or the District of Columbia, or at any domestic or foreign port through which such product is offered for interstate commerce, or for export or import between the United States and any foreign port or country.'

"This reference to section 3 shows that the sentence last quoted from paragraph 3 of section 10 is not part of the definition of the offense but is a direction as to the exercise of administrative power. The court is only concerned with whether the offense is described with such reasonable certainty as to be valid and is not, in a case such as the present, concerned with those parts of the law having to do with its administrative features.

"The demurrer to these counts will likewise be overruled.

"The clerk will notify the attorneys for the parties of the foregoing ruling."

On September 24, 1932, the defendant company entered a plea of guilty to count 2 of the information, and the court imposed a fine of \$100. Nolle prosequi was entered as to the remaining counts.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20140. Adulteration of dried figs. U.S. v. 10 Boxes of Dried Figs. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 28541. Sample Nos. 645-A, 1450-A.)

This action involved the shipment of a quantity of dried figs, samples of which were found to be insect-infested and filthy.

On July 28, 1932, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 10 boxes of dried figs, remaining in the original unbroken packages in possession of the transportation company at Portland, Ore. The article had been shipped by the Otzen Packing Co., from San Francisco, Calif., to Weiser, Idaho, and reshipped to the said firm by way of Portland, Ore. It was alleged in the libel that the article had been shipped in interstate commerce on or about July 19, 1932, from Weiser, Idaho, to Portland, Ore., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: (Boxes) "Otzen's Ex Choice Black Figs Packed by Otzen Packing Co., San Francisco, California."

It was alleged in the libel that the article was adulterated in that it consisted wholly or in part of a filthy, decomposed, or putrid vegetable substance.

On September 17, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20141. Adulteration of canned tomato puree. U.S. v. 87 Cases, et al., of Canned Tomato Puree. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 28508, 28542, 28543, 28544. Sample Nos. 5987-A, 5993-A, 5994-A, 5995-A, 5996-A, 5997-A.)

These actions involved the interstate shipment of quantities of canned tomato puree, samples of which were found to contain excessive mold.

On July 28, 1932, the United States attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 962 cases of canned tomato puree at Cincinnati, Ohio, consigned by the Haxton Canning Co., Oakfield, N.Y., in part on or about March 10, 1932, from Oakfield, N.Y., and in part on or about June 4, 1932, from Wyoming, N.Y., alleging that the article had been shipped in interstate commerce from the State of New York into the State of Ohio, and charging adulteration in violation of the Food and Drugs Act. The article was labeled