

21731. Misbranding of canned tomatoes. U. S. v. 996 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 31553. Sample nos. 50128-A, 55400-A.)

This case involved an interstate shipment of canned tomatoes in which the cans were not filled to the standard promulgated by this Department, and which were not labeled to indicate that they were slack filled.

On November 8, 1933, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 996 cases of canned tomatoes at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about September 7, 1933, by W. L. Wheatly, from Clayton, Del., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Tropic Brand Tomatoes."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, because the cans were slack filled, and the label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On November 13, 1933, W. L. Wheatly, Clayton, Del., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$2,000, conditioned in part that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

21732. Misbranding of Mrs. Tucker's shortening. U. S. v. 95 Cartons of Mrs. Tucker's Shortening. Product released under bond. (F. & D. no. 31214. Sample no. 46400-A.)

Sample packages of shortening taken from the shipment involved in this case were found to contain less than 1 pound, the labeled weight.

On October 11, 1933, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 95 cartons, each containing 30 packages of Mrs. Tucker's shortening, at Texarkana, Ark., alleging that the article had been shipped in interstate commerce in various lots on or about August 25, September 7, September 13, and September 25, 1933, by the Interstate Cotton Oil Refining Co., from Sherman, Tex., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Mrs. Tucker's Shortening 1 lb. net."

It was alleged in the libel that the article was misbranded in that the statement on the label, "1 lb. net", was false and misleading and deceived and misled the purchaser, and 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, since the statement made was incorrect.

On November 15, 1933, the Interstate Cotton Oil Refining Co. having appeared as claimant for the property and having executed a bond in the sum of \$250, conditioned that the claimant pay costs of the proceedings and that the article should not be sold or otherwise disposed of contrary to the Federal Food and Drugs Act and all other laws, it was ordered by the court that the product be delivered to the claimant.

M. L. WILSON, *Acting Secretary of Agriculture.*

21733. Adulteration of apples. U. S. v. 51 Bushels of Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31589. Sample nos. 59563-A, 59567-A.)

This case involved the interstate shipment of a quantity of apples, examination of which showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 27, 1933, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the