

30355. Misbranding of canned tomatoes. U. S. v. 35 Cases of Canned Tomatoes. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 44470. Sample No. 3883-D.)

This product was substandard because the fruit was not normally colored, and it was not labeled to indicate that it was substandard.

On December 5, 1938, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 cases of canned tomatoes at Greggton, Tex.; alleging that the article had been shipped in interstate commerce on or about October 15, 1938, by Putman Canning Co. from Avoca, Ark.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Putman Brand Hand Packed Tomatoes."

It was alleged to be misbranded 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 it was not normally colored, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 13, 1939, no claimant having appeared, judgment of condemnation was entered, and the product was ordered delivered to a charitable institution for a nominal sum.

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

30356. Misbranding of oil. U. S. v. 21 Gallon Cans of Oil. Default decree of condemnation. Product delivered to charitable institutions. (F. & D. No. 44673. Sample No. 35374-D.)

This product was labeled to indicate that it was imported olive oil, whereas it consisted of an artificially flavored mixture of corn and cottonseed oils containing little or no olive oil. It also was short of the declared volume.

On January 12, 1939, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 gallon cans of oil at Providence, R. I.; alleging that the article had been shipped in interstate commerce on or about December 22, 1938, by F. Lupo from New York, N. Y.; and charging misbranding in violation of the Food and Drugs Act.

Misbranding was alleged in that the following statements and design appearing in the labeling were false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of corn and cottonseed oils which was not a foreign product and which was short volume: "Net Contents One Gallon * * * Pure Olive Oil Napoli Canta * * * Lucca-Italy * * * Prodotto Garantito Puro Olio D'Oliva * * * Lucca-Italia [design of a foreign scene, presumably representing the Bay of Naples] * * * Imported Pure Olive Oil." The article was alleged to be misbranded further 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 statement made was incorrect.

On February 28, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to public or charitable institutions after its removal from the original cans.

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

30357. Adulteration of walnut meats. U. S. v. 27 Cases, et al., of Walnut Meats. Default decree of condemnation and destruction. (F. & D. Nos. 44876 to 44879, inclusive. Sample No. 41597-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be worm-damaged.

On February 21, 1939, 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 29 cases, 99 pound, and 479 half-pound packages of walnut meats at Ogden, Utah; alleging that the article had been shipped on or about December 6, 1938, by Max Clarke from Los Angeles, Calif.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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