

out a case for condemnation by clear and satisfactory evidence. A mere preponderance of the evidence is not sufficient. *Van Camp Sea Food Co., Inc. v. United States*, 82 F. (2d) 365 (C.C.A. 3). This burden, in the opinion of the court, has not been carried.

"Conclusions of Law. My conclusion of law is that the seized herring roe is not adulterated as charged in the libel and bill of particulars filed by the United States and that said libel should be dismissed.

"An order in accordance with the views herein expressed may be presented after notice."

On January 23, 1940, judgment was entered ordering that the product be released to the claimant. On motion of the United States attorney execution was stayed and on February 5, 1940, further stay was ordered. On March 13, 1940, the court ordered that the stay of execution be set aside.

582. Adulteration of oysters. U. S. v. 480 Tins and 1,440 Tins of Oysters. Default decree of condemnation and destruction. (F. D. C. No. 1692. Sample Nos. 3581-E, 3582-E.)

This product contained added water.

On March 23, 1940, the United States attorney for the Western District of Pennsylvania filed a libel against 1,920 tins of oysters at Altoona, Pa., alleging that the article had been shipped in interstate commerce on or about March 18, 1940, by Carol Dryden & Co. from Crisfield, Md.; and charging that it was adulterated. It was labeled in part: "Pride of the Chesapeake Oysters."

It was alleged to be adulterated in that water had been substituted wholly or in part therefor and had been added thereto or mixed or packed therewith so as to increase its bulk or weight, to reduce its quality or strength, or to make it appear better or of greater value than it was.

On April 10, 1940, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

583. Adulteration of frozen oysters. U. S. v. 9 Cups and 180 Cases of Oysters. Default decrees of condemnation and destruction. (F. D. C. No. 1861. Sample Nos. 7423-E to 7433-E, incl.)

This product was in interstate commerce at the time of examination and was found to be discolored and to show evidence of decomposition at that time.

On April 23, 1940, the United States attorney for the Southern District of California filed libels against 9 cups, and 180 cases each containing 12 cups, of frozen oysters at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about October 11 and November 2, 1937, by the Glacier Bay Oyster Co. from Seattle, Wash.; and charging that it was adulterated in that it contained a filthy, putrid, or decomposed substance. The article was labeled in part: "Sea-Kold Fresh Oysters."

On May 15, 1940, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

584. Adulteration of frozen skinless pollack fillets. U. S. v. 15 Boxes of Fish Fillets. Default decree of condemnation and destruction. (F. D. C. No. 1393. Sample No. 80315-D.)

Examination showed the presence of decomposed fish.

On January 26, 1940, the United States attorney for the Southern District of Indiana filed a libel against 15 boxes of fish fillets at Indianapolis, Ind., alleging that the article had been shipped in interstate commerce on or about December 12, 1939, by Genoa Fisheries, Inc., from Boston, Mass.; and charging that it was adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 30, 1940, no claimant having appeared, a decree of condemnation was entered and the product was ordered destroyed.

585. Misbranding of canned salmon. U. S. v. 100 Cartons of Salmon. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 848. Sample No. 49000-D.)

This product was labeled to indicate that it was red salmon; whereas it was coho salmon, a different species. The flesh varied in color from very light pink to deep pink but could not properly be described as red.

On October 31, 1939, the United States attorney for the District of Massachusetts filed a libel against 100 cartons of salmon at Cambridge, Mass., alleging