

**25732. Misbranding of canned tomatoes. U. S. v. 800 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for relabeling.** (F. & D. no. 37228. Sample no. 59161-B.)

This case involved an interstate shipment of canned tomatoes that fell below the standard established by the Department of Agriculture because the product was not normally colored and flavored, the flavor being that of unripe tomatoes rather than the normal flavor of mature tomatoes, and they were not labeled to indicate that they were substandard.

On or about February 24, 1936, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 800 cases of canned tomatoes at Oklahoma City, Okla., alleging that the article had been shipped in interstate commerce on or about December 5 and 12, 1935, and January 20, 1936, by the Austin-Snow Co., from Springfield, Mo., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "New Deal Brand Hand Packed Tomatoes. Contents 1 Lb. 3 Oz. Distributed by Austin-Snow Company, Springfield, Missouri."

The article 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, in that the canned tomatoes were not normally colored and normally flavored, since the flavor was that of unripe tomatoes rather than the normal flavor of mature tomatoes, and the package or label did not bear a plain and conspicuous statement, as prescribed by the Secretary of Agriculture, indicating that the article fell below such standard.

On March 20, 1936, the Austin-Snow Co. and the Wolfe Brokerage Co., claimants, having admitted the allegations of the libel and consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25733. Misbranding of canned peas. U. S. v. 1,000 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling.** (F. & D. no. 37229. Sample no. 65819-B.)

This case involved an interstate shipment of canned peas represented on the label as "Tender Sweet Peas", but which were Alaska peas of poor quality.

On February 24, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cases of canned peas at Worcester, Mass., alleging that the article had been shipped in interstate commerce on or about January 13, 1936, by the Melrose Canning Co., from Greenmount, Md., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled: "Royal Worcester Brand Tender Sweet Peas Contents 1 Lb. 4 Oz. New England Grocer Supply Co., Worcester, Mass. Distributors."

The article was alleged to be misbranded in that the statement on the label, "Tender Sweet Peas", was false and misleading and tended to deceive and mislead the purchaser when applied to peas that were not tender sweet peas.

On April 1, 1936, Philip D. Gradman and Isadore J. Gradman, doing business as the Melrose Canning Co., Melrose, Md., having appeared as claimants and admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of the Department of Agriculture.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25734. Adulteration and misbranding of olive oil. U. S. v. 25½ Cases of Olive Oil, and 3 other actions. Default decree of condemnation and destruction.** (F. & D. nos. 37292, 37302, 37343, 37416. Sample nos. 29919-B, 52161-B, 52162-B, 56350-B, 62313-B.)

These cases involved interstate shipments of so-called olive oil which contained tea-seed oil, and the bottles of which were short in volume.

On March 4, 1936, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25½ cases, containing 51 dozen bottles of so-called olive oil, at Butler, Pa.; on March 5, 1936, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying