

1281. Adulteration and misbranding of canned oysters. U. S. v. 50 Cases of Oysters. Consent decree of condemnation and destruction. (F. D. C. No. 2539. Sample No. 13295-E.)

This product consisted mainly of cuts and pieces of oysters of various sizes. It contained pieces of shell, many of them small enough to be swallowed and lodged in the throat. They were also sharp and capable of inflicting injury in the mouth.

On August 13, 1940, the United States attorney for the Southern District of California filed a libel against 50 cases of oysters at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about July 17, 1940, by Wiegardt Bros. from Ocean Park, Wash.; and charging that it was adulterated and misbranded. The article was labeled in part: (Cans) "Best for Soup Brand * * * Oysters."

It was alleged to be adulterated in that it contained a deleterious substance, namely, pieces of shell which might have rendered it injurious to health; in that an article containing shell fragments had been substituted wholly or in part for oysters, which it purported to be; and in that shell fragments had been mixed or packed with it so as to reduce its quality.

The article was alleged to be misbranded in that the picture of a whole oyster that was shown on the can label was false and misleading since it consisted largely of cut oysters.

On October 9, 1940, Wiegardt Bros. filed a claim and answer and petitioned permission to withdraw samples and on October 10, 1940, the court ordered that a dozen cans be delivered to the claimant and a like number to the Government.

On November 9, 1940, the claimant having withdrawn its answer and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

1282. Adulteration and misbranding of canned tuna fish. U. S. v. 13 Cases of Tuna Fish. Default decree of condemnation. Product ordered delivered to benevolent organization. (F. D. C. No. 2348. Sample No. 33113-E.)

This product was yellowfin or a similar species of tuna. It was in interstate commerce when examined and was found to be labeled "Fancy White Meat Tuna."

On July 12, 1940, the United States attorney for the Eastern District of New York filed a libel against 13 cases of tuna fish at Brooklyn, N. Y., alleging that the article had been shipped on or about August 19, 1939, by the Sea Foods Corporation from Zamboanga, P. I. At the time of shipment the cases were stenciled "Canned Tuna Fancy product of Philippines," but the cans were unlabeled. At the time of filing the libel the cans were labeled in part: "Brookline Brand * * * Fancy White Meat Tuna The Brooklyn Wholesale Grocery Co. Brooklyn, N. Y. Distributors."

The article was alleged to be adulterated in that light meat tuna had been substituted wholly or in part for white meat tuna, which it purported to be. It was alleged to be misbranded in that the statement "Fancy White Meat Tuna" was false and misleading since it was not white meat tuna; and in that it was offered for sale under the name of another food.

On September 6, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a benevolent organization for use by that organization.

1283. Adulteration and misbranding of tuna fish. U. S. v. 5 Cases of Tuna Fish. Default decree of condemnation. Product ordered distributed to charitable institutions. (F. D. C. No. 3171. Sample No. 34484-E.)

This product was yellow fin or some similar species of tuna and not white meat tuna as labeled.

On October 15, 1940, the United States attorney for the District of New Jersey filed a libel against five cases of tuna fish at West New York, N. J., alleging that the article had been shipped in interstate commerce on or about August 15, 1940, by the Sweet Life Food Corporation from Brooklyn, N. Y.; and charging that it was adulterated and misbranded. The article was labeled in part: (Cans) "White Meat Tuna Fish."

The article was alleged to be adulterated in that a substance, light meat tuna, had been substituted wholly or in part for white meat tuna, which it purported