

On June 15, 1928, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17044. Misbranding of canned cherries. U. S. v. 637 Large-Size Cans, et al., of Unlabeled Cherries. Product relabeled and ordered released. (F. & D. No. 24220. I. S. No. 013780. S. No. 2464.)

On November 7, 1929, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 637 large-size cans and 752 small-size cans of unlabeled cherries at Cleveland, Ohio, alleging that the article had been shipped by F. S. Huzley & Son (F. B. Huxley & Son) from Ontario, N. Y., August 28, 1929, and transported from the State of New York into the State of Ohio, and charging misbranding in violation of the food and drugs act as amended.

It was alleged in the libel that the article was misbranded 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.

On December 28, 1929, F. B. Huxley & Son, Ontario, N. Y., having appeared as claimant for the property, and the said claimant having relabeled the product under the supervision of this department with a correct statement of the contents, a decree was entered ordering that the said product be released upon payment of costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17045. Adulteration of frozen blue fish. U. S. v. 22,478 Pounds of Frozen Blue Fish. Default decree of condemnation and forfeiture. Product ordered destroyed or sold for fertilizer. (F. & D. No. 24165. I. S. No. 08192. S. No. 2384.)

On October 14, 1929, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 22,478 pounds of frozen blue fish, remaining in the original unbroken package at Buffalo, N. Y., consigned by the Ashtabula Fish Co., Ashtabula, Ohio, alleging that the article had been shipped from Ashtabula, Ohio, August 31, 1929, and transported from the State of Ohio into the State of New York, and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed animal substance.

On November 11, 1929, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal, or sold by the marshal for fertilizer after having been denatured.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17046. Misbranding and alleged adulteration of canned tomatoes. U. S. v. 100 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 24206. I. S. No. 020378. S. No. 2430)

On November 2, 1929, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 100 cases of canned tomatoes, remaining in the original unbroken packages at Greenville, Ala., alleging that the article had been shipped by the Dunbrooke Canning Co., from Dunbrooke, Va., September 11, 1929, and transported from the State of Virginia into the State of Alabama, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Mount Vernon Brand Tomatoes * * * Distributors C. W. Baker & Sons, Aberdeen, Md. [design of red ripe tomato]."

It was alleged in the libel that the article was adulterated in that added water had been mixed and packed with and substituted in part for the said article.

Misbranding was alleged for the reason that the statement "Tomatoes" and the design of a red ripe tomato, appearing on the label, were false and misleading and deceived and misled the purchaser.

On November 20, 1929, C. W. Baker & Sons, Aberdeen, Md., having appeared as claimant for the property and having admitted the material allegations of the libel, a decree was entered adjudging the product misbranded and mislabeled, and ordering its condemnation and forfeiture, and it was further