

*Capon Springs Water Case P. 164*  
**United States Department of Agriculture**

**FOOD AND DRUG ADMINISTRATION**

**NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT**

[Given pursuant to section 4 of the food and drugs act]

**19201-19350**

[Approved by the Secretary of Agriculture, Washington, D. C., October 17, 1932]

**19201. Adulteration of canned salmon. U. S. v. 500 Cases, et al., of Canned Salmon. Consent decrees of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 27005, 27019, 27104. I. S. Nos. 22961, 22963, 12618. S. Nos. 5222, 5242, 5348.)**

Samples of salmon from the shipments herein described having been found to be decomposed, the Secretary of Agriculture reported the matter to the United States attorney for the District of Oregon.

On September 28, September 30, and October 22, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 1,029 cases of canned salmon, remaining in the original unbroken packages in part at Astoria, Oreg., and in part at Portland, Oreg., alleging that the article had been shipped on or about September 12 and October 2, 1931, by the Altoona Packing Co., from Altoona, Wash., and had been transported in interstate commerce from the State of Washington into the State of Oregon, and charging adulteration in violation of the food and drugs act. A portion of the article was labeled in part: (Cans) "Odiva Fancy Columbia River Salmon \* \* \* Packed by Altoona Packing Co., Altoona, Washington." The remainder was labeled in part: (Cans) "Altoona Brand Salmon \* \* \* Selected Fancy Columbia River Chinook Salmon."

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

On February 29, 1932, the Altoona Packing Co., claimant, having consented to the entry of decrees, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant, upon payment of costs and the execution of bonds totaling \$8,250, conditioned that the adulterated portion be separated from the portion that was not adulterated and that it should not be sold or disposed of contrary to the Federal food and drugs act and other existing laws. The decrees further provided for the destruction of the portion of the article containing decomposed salmon.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**19202. Adulteration of tullibeas. U. S. v. 218 Boxes of Tullibeas. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 27850. I. S. No. 35022. S. No. 5060.)**

Samples of tullibeas from the shipment herein described having been found to be infested with worms and unfit for food, the Secretary of Agriculture reported the matter to the United States attorney for the Northern District of Illinois.

On August 12, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 218 boxes of tullibeas at Chicago, Ill., alleging that the article had been shipped by the W. J. Guest Co. (Ltd.), from Winnipeg, Manitoba, in the Dominion of Canada, on or about August 4, 1931, and had been transported from Canada into the State of Illinois, 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 filthy, decomposed, and putrid animal substance. Adulteration was alleged for the further reason that the article consisted of a portion of an animal unfit for food.

On February 11, 1932, 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.*

**19203. Adulteration and misbranding of scallops.** U. S. v. Sydney Frank Smith (Cape Charles Sea Food Co.; S. F. Smith & Co.). Plea of guilty. Fine, \$150. Sentence suspended. (F. & D. No. 26689. I. S. Nos. 15781, 28966.)

Samples of scallops from the shipments herein described having been found to contain excessive water, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Virginia.

On November 13, 1931, the United States attorney filed in the District Court of the United States of the district aforesaid an information against Sydney Frank Smith, trading as Cape Charles Sea Food Co., Oyster, Va., and as S. F. Smith & Co., Cape Charles, Va., alleging shipments by said defendant in violation of the food and drugs act, in part on or about January 23, 1931, from the State of Virginia into the State of Massachusetts, and in part on or about March 3, 1931, from the State of Virginia into the State of New York, of quantities of scallops that were adulterated, and a portion of which were also misbranded. One consignment of the article was labeled: (Tag and can) "Scallops."

Adulteration was alleged in the information for the reason that excessive water had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength, and had been substituted in part for the said article. Adulteration was alleged for the further reason that scallop solids, a valuable constituent of the article, had been in part abstracted.

Misbranding was alleged with respect to a portion of the article for the reason that the statement "Scallops," borne on the can and on the tag, was false and misleading in that the said statement represented that the article consisted wholly of scallops; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of scallops; whereas it did not so consist but did consist in part of excessive water. Misbranding of the said portion was alleged for the further reason that the article was composed in part of excessive water and was offered for sale and sold under the distinctive name of another article, to wit, scallops.

On November 16, 1931, the defendant entered a plea of guilty to the information and the court imposed a fine of \$150, which fine was suspended for two years.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**19204. Misbranding of canned peas.** U. S. v. 998 Cases of Peas. Decree of condemnation and forfeiture. Product released under bond for relabeling. (F. & D. No. 27003. I. S. No. 44176. S. No. 5206.)

Examination of samples of canned peas from the shipment herein described having shown that the article contained an excessive proportion of hard peas, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Wisconsin.

On September 28, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 998 cases of canned peas, remaining in the original unbroken packages at Milwaukee, Wis., alleging that the article had been shipped on or about July 21, 1931, by the Wabash Canning Corporation, from Wabash, Ind., and had been transported in interstate commerce from the State of Indiana into the State of Wisconsin, 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 canned food and fell below the standard of quality promulgated by the Secretary of Agriculture for such canned food, in that it contained an excess of hard peas and the package did not bear a plain and conspicuous statement as prescribed by the Secretary of Agriculture indicating that such product fell below such standard.