

and condemnation of 106 cases of tomato catsup at Omaha, Nebr., alleging that the article had been shipped in interstate commerce on or about May 23, 1931, by Stokely Bros. Co., from Whiteland, Ind., to Omaha, Nebr., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ruby Brand * * * Tomato Catsup Fame Canning Company, * * * Louisville, Ky."

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

On February 15, 1933, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20812. Misbranding of cottonseed meal. U. S. v. The Greenville Cotton Oil Co. Plea of guilty. Fine, \$150. (F. & D. no. 27549. I. S. no. 18320.)

This case was based on the interstate shipment of cottonseed meal that was short weight.

On May 9, 1932, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States an information against the Greenville Cotton Oil Co., a corporation, Greenville, Tex., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about January 23, 1931, from the State of Texas into the State of Kansas, of a quantity of cottonseed meal that was misbranded. The article was labeled in part: (Tag) "100 Lbs. Net Weight * * * Superior Quality * * * Distributed by Superior Cake & Meal Co., Kansas City, Mo."

It was alleged in the information that the article was misbranded in that the statement "100 Lbs. Net Weight", borne on the tag, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the sacks contained less than 100 pounds net. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 6, 1933, a plea of guilty to the information was entered on behalf of the defendant company and the court imposed a fine of \$150.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20813. Adulteration and misbranding of canned salmon. U. S. v. 247 Cartons of Canned Salmon. Tried to the court. Judgment of condemnation and destruction. (F. & D. no. 25346. I. S. no. 8806. S. no. 3614.)

This case involved an interstate shipment of canned salmon, samples of which were found to be tainted or stale. A portion of the article was not pink salmon as labeled, but was chum salmon.

On November 20, 1930, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 247 cartons, each containing 48 cans of salmon, remaining in the original unbroken packages at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce into the State of Pennsylvania, on or about August 28, 1930, by E. H. Hamlin Co., from Seattle, Wash., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Silver Sea Brand Pink Salmon * * * Packed for West Sales, Inc., Seattle."

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

It was further alleged in the libel that a portion of the article, identified by code mark, was misbranded in that the statement, "Pink Salmon" on the label, was false and misleading and deceived and misled the purchaser,

On December 9, 1930, M. E. Heller and Samuel Perrin, copartners, Pittsburgh, Pa., appeared and filed a claim and answer. The case came on for trial before the court on June 5, 1931. Evidence for the Government and claimant having been introduced and arguments of counsel heard, the court took the case under advisement and on April 27, 1932, handed down the following opinion (Gibson, D. J.):

"The United States seeks the condemnation of 247 cartons of canned salmon shipped from Seattle, Washington, to Pittsburgh, in the State of Pennsylvania, as adulterated and misbranded. Claimants have appeared and have admitted the interstate shipment of the salmon, and that certain cartons of the same, branded '-34W', were misbranded in that they contained 'chum' salmon and not pink salmon, as branded, but have denied that any of the salmon contained in the shipment was decomposed or tainted. Upon hearing, it developed that a number of the cans of salmon in the shipment had been examined. As analyzed in the United States laboratories, approximately one fourth of the cans examined contained salmon in a greater or less stage of decomposition. Other cans contained soft and inferior fish, but not a decomposed product. Other cans contained a fair quality of salmon. Certain witnesses, dealers in salmon, had examined a number of the cans of salmon upon request of the claimants. These witnesses in the main testified that, in their opinion, the cans examined by them contained a product which was fairly marketable. By them it was shown that a very small proportion of the cans examined contained tainted or decomposed fish. A bacteriologist testified on behalf of the claimants to the effect that his examination of a few samples of salmon contained in the shipment disclosed the fact that it was free from bacteria.

"The court finds as a fact that of the cartons seized those marked '-34W' were misbranded, in that the cans contained therein were branded as pink salmon, whereas they were 'chum', or white, salmon of an inferior quality. We find also that a considerable percentage of all the cartons seized contained adulterated salmon, that is, salmon in various stages of decomposition.

"Our finding of fact requires the condemnation of the salmon described in the libel, it being impossible for us, at this time, to determine which cans contained good, and which adulterated, product. (*Anderson & Co. v. United States*, 284 Fed. Rep. 542.) A decree of condemnation will be filed."

On April 27, 1932, judgment was entered condemning the product and ordering that it be destroyed, the marshal being directed, however, to withhold destruction pending decision on a motion by claimant to show cause why the salmon should not be released for uses other than for human consumption. On March 8, 1933, on motion of the United States attorney, supported by proof that claimant had been unable to devise means for the legal disposition of the salmon, the court directed the marshal to carry out the order of destruction.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20814. Adulteration and misbranding of orange fruit emulsion. U. S. v. Natural Products Co. Plea of guilty. Fine, \$25. (F. & D. no. 27569. I. S. no. 34305.)

This case was based on an interstate shipment of a product, described as orange fruit emulsion, which consisted of an artificially colored emulsion of orange oil, and which contained little or no fruit juice.

On January 30, 1933, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Natural Products Co., a corporation, Boston, Mass., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about May 25, 1931, from the State of Massachusetts into the State of Vermont, of a quantity of orange fruit emulsion that was adulterated and misbranded. The article was labeled in part: "Natural Brand Orange Fruit Emulsion * * * Natural Fruit Emulsion * * * Natural Orange, * * * Made Only By Natural Products Company, Boston, Mass."

It was alleged in the information that the article was adulterated in that an artificially colored orange oil emulsion had been substituted in whole and in part for natural orange fruit emulsion, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Orange Fruit Emulsion", "Natural Fruit Emulsion", and "Natural Orange", borne on the label, were false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since the said statements represented that it consisted wholly of natural orange fruit emulsion, whereas it consisted of an imitation orange oil emulsion, and an undeclared added artificial color.

On February 20, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*