

24805. Adulteration of canned tomato sauce. U. S. v. 100 Cases of Canned Tomato Sauce. Decree of condemnation and destruction. (F. & D. no. 32247. Sample no. 67257-A.)

This case involved canned tomato sauce that contained excessive mold.

On March 7, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of canned tomato sauce at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 13, 1934, by the Italian Food Products Co., from Long Beach, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "1888 Brand Tomato Sauce."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

The Italian Food Products Co. Inc., filed an appearance and claim for the product. On June 26, 1935, the time to answer having expired and no answer having been filed by the claimant, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

24806. Adulteration of canned sardines. U. S. v. 78 Cases of Canned Sardines. Decree of condemnation and destruction. (F. & D. no. 32447. Sample nos. 61594-A, 61595-A.)

This case involved a shipment of canned sardines which were in part decomposed.

On March 30, 1934, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 78 cases of canned sardines at Havre, Mont., alleging that the article had been shipped in interstate commerce on or about October 10, 1933, by the California Packing Corporation, from Alameda, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sun-Kist Brand * * * California Sardines Tomato Sauce California Packing Corp. * * * San Francisco, Calif."

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On July 29, 1935, the California Packing Co., having appeared as claimant, the case came on for hearing before the court, judgment of condemnation was entered, and it was ordered that the product be destroyed.

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

24807. Alleged adulteration of canned tuna. U. S. v. 200 Cases of Canned Tuna. Tried to the court and a jury. Verdict for claimant. Judgment releasing goods and taxing costs against Government. Appeal by Government as to latter provision. Decree modified by striking provision of judgment taxing costs against Government. (F. & D. no. 32552. Sample nos. 60762-A, 60765-A.)

On April 14, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned tuna at Tacoma, Wash., alleging that the article had been shipped by the Dyson Shipping Co., on or about March 19, 1934, from San Francisco, Calif., into the State of Washington, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Amocat Brand Tuna * * * distributed by West Coast Grocery Company, Tacoma, Washington."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 4, 1935, the French Sardine Co., Inc., having appeared as claimant for the property, the case came on for trial before the court and a jury. Evidence, oral and documentary, having been introduced and arguments of counsel heard, the jury on April 9, 1935, returned a verdict for the claimant. On April 16, 1935, judgment was entered ordering that the product be surrendered to the claimant, and that costs be taxed against the Government. Appeal was taken to the provision of the judgment taxing costs against the Government. On December 2, 1935, the Circuit Court of Appeals for the Ninth Circuit handed down the following decision striking from the judgment the provision taxing costs against the Government: