

28094. Adulteration of tomato puree. U. S. v. Frazier Packing Corporation. Plea of guilty. Fine, \$50. (F. & D. No. 39472. Sample Nos. 4968-C, 4969-C.)

This product contained excessive mold.

On June 15, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information (amended October 16, 1937) against the Frazier Packing Corporation, Elwood, Ind., alleging shipment by the defendant on or about November 24 and 29, 1936, from the State of Indiana into the State of Illinois of quantities of tomato puree which was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Ward Rose Brand Tomato Puree Packed for C. E. Ward & Sons Decatur, Ill."

It was alleged to be adulterated in that it consisted in whole and in part of a filthy and decomposed vegetable substance.

On October 16, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of \$50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28095. Adulteration of canned beets. U. S. v. 279 Cases of Beets. Default decree of destruction. (F. & D. No. 39564. Sample No. 30449-C.)

This product was in part decomposed.

On May 5, 1937, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 279 cases of canned beets at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about January 19, 1937, by the Mammoth Springs Canning Co. from Sussex, Wis., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Summer Girl Brand Beets Packed for the H. D. Lee Mercantile Company, Kansas City, Missouri, Salina, Kansas."

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

On October 18, 1937, no claimant having appeared, the product was adjudged adulterated and its destruction was ordered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28096. Adulteration and misbranding of tomato catsup. U. S. v. 173 Cases of Tomato Catsup. Default decree of destruction. (F. & D. No. 39583. Sample No. 22568-C.)

This product contained filth resulting from worm infestation and was short weight.

On May 14, 1937, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 173 cases of tomato catsup at Marianna, Fla., alleging that the article had been shipped in interstate commerce on or about November 14, 1936, by the San Carlos Canning Co. from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Topco Brand Tomato Catsup * * * Net Contents 6 Lb. 12 Oz. Packed by Tomato Packing Corp., Harbor City, California."

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

It was alleged to be misbranded in that the statement on the label, "Net Contents 6 Lb. 12 Oz.," was false and misleading and deceived and misled the purchaser; and in that it was food in package form and the correct quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On November 23, 1937, no claimant having appeared, judgment was entered ordering that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28097. Adulteration and misbranding of frozen egg yolk. U. S. v. 381 Cans of Frozen Egg Yolk. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 39687. Sample No. 8877-C.)

This product contained excess added egg white.

On June 4, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 381 cans of frozen egg yolk at Jersey

City, N. J., alleging that the article had been shipped in interstate commerce on or about May 17, 1937, by the Highway Butter & Egg Co. from Indianapolis, Ind., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Yolks with approx. 10% Sugar."

The article was alleged to be adulterated in that a mixture of egg yolk, egg white, and sugar had been substituted wholly or in part for egg yolk and sugar, which it purported to be.

It was alleged to be misbranded in that the statement "Yolks with approx. 10% Sugar" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that contained excess egg white.

On July 1, 1937, the Highway Butter & Egg Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28098. Adulteration and misbranding of ground oats. U. S. v. Shawnee Milling Co. (a corporation, trading as Okeene Milling Co.). Plea of guilty. Fine, \$50 and costs. (F. & D. No. 39819. Sample No. 2082-C.)

This product contained excess oat hulls and less protein and more fiber than declared.

On November 19, 1937, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Shawnee Milling Co., a corporation trading as the Okeene Milling Co., at Okeene, Okla., alleging shipment by said company on or about November 20, 1936, from the State of Oklahoma into the State of Texas of a quantity of ground oats that were adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "Ground Oats Manufactured by Hugo Milling Co., Hugo, Oklahoma."

The article was alleged to be adulterated in that excessive oat hulls had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength and had been substituted in part for ground oats, which it purported to be.

It was alleged to be misbranded in that the statements on the tag, "Ground Oats" and "Guaranteed Analysis Crude Protein not less than 10.00% Crude Fiber, not more than 11.00%," were false and misleading and were borne on the tag so as to deceive and mislead the purchaser since said statements represented that the article consisted wholly of ground oats and contained not less than 10 percent of crude protein and not more than 11 percent of crude fiber; whereas it consisted in large part of excessive oat hulls, and contained less than 10 percent of crude protein, namely, not more than 8.44 percent, and contained more than 11 percent of crude fiber, namely, not less than 21.54 percent.

On December 14, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28099. Misbranding of canned tomatoes. U. S. v. 316 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for re-labeling. (F. & D. Nos. 40130, 40131, 40132. Sample Nos. 43793-C, 43795-C, 43796-C.)

This product was not normally colored and was not labeled to indicate that it was substandard. A portion was falsely labeled as to the State in which it was packed.

On August 27, 1937, the United States attorney for the Northern District of Florida, acting upon reports by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 316 cases of canned tomatoes in various lots at Quincy and Tallahassee, Fla., alleging that the article had been shipped in interstate commerce on or about June 9 and 17, 1937, from Thomasville, Ga., by Allen Packing Co., Inc., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the product was labeled in part: "Palm Beach Gardens Brand Tomatoes * * * Allen Packing Co., Inc., Thomasville, Georgia." The remainder was labeled in part: "Palm Beach Brand Tomatoes * * * Packed Fresh From the Sunny Fields of Florida Sunshine Canning Corporation, Pahokee, Florida, Distributors."