

31042. Adulteration of frozen strawberries. U. S. v. 55 Barrels of Frozen Strawberries. Consent decree of condemnation. Product ordered released under bond. (F. & D. No. 45131. Sample No. 36597-D.)

This product had been shipped in interstate commerce and remained unsold and in the original package. At the time of examination a portion of the berries were found to be moldy.

On April 1, 1939, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 55 barrels of frozen strawberries at Muskogee, Okla.; alleging that the article had been shipped in interstate commerce on or about March 11, 1939, by Allen Fruit Co. from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act. On December 19, 1939, the libel was amended.

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

On December 19, 1939, the Allen Fruit Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that the strawberries be defrosted and the good ones segregated and separated from the moldy berries under the supervision of this Department.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31043. Misbranding of canned cherries. U. S. v. 22 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. & D. No. 45584. Sample No. 70986-D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On January 4, 1940, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cases of canned cherries at Pocatello, Idaho; alleging that on or about November 21, 1939, the Zions Wholesale Grocery shipped the article to themselves, in their own truck, from the Woods Cross Canning Co., of Clearfield, Utah; and charging that it was misbranded in violation of the Food and Drugs Act. It was labeled in part: "Woods Cross Brand Red Sour Pitted Cherries * * * Packed by Woods Cross Canning Co. Woods Cross, Utah."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture in that the fruit was not pitted since there was present more than 1 cherry pit per each 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 23, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31044. Misbranding of canned tomatoes. U. S. v. 71 Cases of Tomatoes. Default decree of condemnation and destruction. (F. & D. No. 45567. Sample No. 61128-D.)

This product was substandard because it was not normally colored and contained excessive peel and blemishes, and it was not labeled to indicate that it was substandard.

On October 9, 1939, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 71 cases of canned tomatoes at Picayune, Miss.; alleging that the article had been shipped in interstate commerce on or about July 31, 1939, by John T. Hall from New Orleans, La.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ret Brand Tomatoes."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture in that the fruit was not normally colored, it was not peeled nor trimmed, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 20, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

GROVER B. HILL, *Acting Secretary of Agriculture.*