

3719. Adulteration of crab meat. U. S. v. 3 Barrels of Crab Meat (and 4 additional seizure actions against crab meat). Default decrees of condemnation and destruction. (F. D. C. Nos. 7503 to 7507, incl. Sample Nos. 54742-E, 74249-E, 87580-E, 87583-E, 89438-E.)

Between April 28 and May 1, 1942, the United States attorneys for the Eastern District of Pennsylvania, Southern District of New York, and the District of Maryland filed libels against 1 barrel containing 98 pound cans of crab meat at Philadelphia, Pa.; 4 barrels containing a total of 380 pound cans of crab meat at New York, N. Y.; and 3 barrels each containing 100 pound cans of crab meat at Baltimore, Md., alleging that the article had been shipped in interstate commerce within the period from on or about April 24 to on or about April 27, 1942, by Louisiana Blue Crab Distributors, Inc., from Westwego and Harvey, La.; and charging that it was adulterated in that it had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or whereby it might have been rendered injurious to health.

Between May 15 and June 9, 1942, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

3720. Adulteration of oysters. U. S. v. 434 Pints and 270 Pints of Oysters. Default decrees of condemnation and destruction. (F. D. C. Nos. 6315, 6560. Sample Nos. 64470-E, 78003-E.)

This product contained added water.

On November 28 and December 22, 1941, the United States attorney for the Western District of Pennsylvania filed libels against a total of 704 pints of oysters at Altoona, Pa., alleging that the article had been shipped in interstate commerce on or about November 24 and December 15, 1941, by the Union Fish Co. from Baltimore, Md.; and charging that it was adulterated in that water had been substituted in part therefor, and in that water had been added thereto or mixed or packed therewith so as to increase its bulk or weight and reduce its quality.

On December 19, 1941, and January 16, 1942, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

3721. Alleged adulteration of canned oysters. U. S. v. 1,232 Cases of Canned Oysters. Tried to the court. Decree entered ordering case dismissed and product restored to claimant. (F. D. C. No. 4943. Sample No. 49209-E.)

On June 16, 1941, the United States attorney for the Western District of Missouri filed a libel against 1,232 cases, each containing 24 5-ounce cans, of oysters at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about June 3, 1941, by the Anticich Canning Co. from Biloxi, Miss.; and charging that it was adulterated. The article was labeled in part: "American Beauty Brand Oysters."

It was alleged to be adulterated (1) in that it contained added deleterious substances, shell fragments, which might have rendered it injurious to health; (2) in that an article containing shell fragments had been substituted wholly or in part for oysters; and (3) in that shell fragments had been mixed or packed therewith so as to reduce its quality.

The Anticich Canning Co. appeared as claimant and filed a motion for the removal of the case to the Southern District of Mississippi. The motion was argued September 15, 1941, and was overruled by the court without opinion. On October 29, 1941, the case came on for trial before the court without a jury. At the conclusion of the Government's case, the claimant moved the court to exclude the evidence offered on behalf of the Government and find for the defendant. The court announced that it would reserve ruling on the motion until the claimant's evidence was completed. On October 30, 1941, the taking of testimony having been concluded, the case was taken under advisement by the court, and on February 28, 1942, the court handed down the following memorandum opinion:

REEVES, *District Judge*. "This is a proceeding by the process of libel to condemn an alleged adulterated food product. Such food consists of 1,232 cases of oysters, each case containing 24 cans marked 'American Beauty Brand Oysters.'

"As a basis for condemnation, it is alleged by the Government that said article 'contains shell fragments, many of them small enough to be swallowed and become lodged in the esophagus, and that said shell fragments are sharp and capable of inflicting injury in the mouth.'