

22783. Misbranding of caviar. U. S. v. 4 11/12 Dozen Jars of Caviar. Default decree of condemnation. Portion of product delivered to charitable institutions. Remainder destroyed. (F. & D. no. 32725. Sample no. 7889-A.)

Sample jars of caviar taken from the shipment involved in this case were found to contain less than 2 ounces, the labeled weight.

On May 19, 1934, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 4 11/12 dozen jars of caviar at Stamford, Conn., alleging that the article had been shipped in interstate commerce, on or about May 1, 1933, and April 9, 1934, by the Phenix Packing Co., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Bakou Brand Genuine Russian Caviar. Net Wt. Two Ozs. Packed by Bakou Imp. & Exp. Co. New York."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Wt. Two Ozs.", was false and misleading and tended to deceive and mislead the purchaser. 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, since the quantity stated was incorrect.

On July 2, 1934 no claimant having appeared for the property, judgment of condemnation was entered and it was ordered by the court that the product be delivered to charitable institutions with the exception of eleven-twelfths dozen jars which were ordered delivered to a representative of this Department for weighing in the presence of a representative of the shipper, after which they were to be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

22784. Misbranding of beer. U. S. v. 200 Cases and 800 Cases of Beer. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 32728. Sample nos. 66432-A, 66433-A.)

This case involved a shipment of dark beer and light beer which contained alcohol by volume (dark 3.88 percent, light 3.90 percent), and which was misbranded, since it was labeled: "Does not contain more than 6% Alcohol by volume", the words, "Does not contain more than", being small and inconspicuous and the words and figures "6% Alcohol by volume" being large and prominently displayed.

On May 21, 1934, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of dark beer and 800 cases of light beer at Dallas, Tex., alleging that the article had been shipped in interstate commerce, on or about May 11, 1934, by the National Brewing Co., Inc., from New Orleans, La., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottles) "Eagle Beer * * * Brewed and Bottled by National Brewing Co., Inc., New Orleans, La."

It was alleged in the libel that the article was misbranded in that the statement, "Eagle Beer does not contain more than six percent alcohol by volume", was false and misleading, since the purchaser would be led to believe, and it was intended that the purchaser should believe, that the article might contain 6 percent of alcohol by volume; whereas the dark beer contained 3.88 percent of alcohol and the light beer contained 3.90 percent of alcohol by volume.

On June 11, 1934, C. T. Miller having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a good and sufficient bond, conditioned that it would not be sold or disposed of in violation of the Food and Drugs Act, and all other laws. The misbranding was corrected by obliterating the statement, "Does not contain more than 6% alcohol by volume."

M. L. WILSON, *Acting Secretary of Agriculture.*

22785. Adulteration of tomato puree. U. S. v. 175 Cases, more or less, of Tomato Puree. Default decree of condemnation. (F. & D. no. 32729. Sample nos. 12232-A, 62506-A.)

This case involved a shipment of tomato puree that contained excessive mold.