

**24211. Misbranding of canned mixed vegetables. U. S. v. 154 Cases of Canned Mixed Vegetables. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 32869. Sample no. 67794-A.)**

This case involved an interstate shipment of canned vegetables which were labeled to convey the impression that the varieties pictured on the label were present in appreciable amounts. Examination showed that a large proportion of the product consisted of two vegetables, carrots and potatoes, and that certain vegetables depicted on the label were entirely absent or present in relatively small amounts.

On May 2, 1934, the United States attorney for the Eastern 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 154 cases of canned mixed vegetables at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about February 16, 1934, by the Fairmont Canning Co., from Fairmont, Minn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Gerbro Brand Vegetables \* \* \* Gerber Bros. Distributors, Brooklyn, N. Y."

The article was alleged to be misbranded in that the design on the label, a vignette which included prominent pictorial representations of string beans, lima beans, asparagus, peas, carrots, and a pimiento, was false and misleading and tended to deceive and mislead the purchaser since approximately 60 percent of the product consisted of carrots and potatoes, and it contained no string beans or asparagus and but a small amount of peas and lima beans.

On January 21, 1935, Gerber Bros., Brooklyn, N. Y., claimants, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

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

**24212. Adulteration of tomato paste. U. S. v. 67 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. no. 32845. Sample no. 69759-A.)**

This case involved an interstate shipment of tomato paste which was found to contain excessive mold.

On June 12, 1934, the United States attorney for the Eastern 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 67 cases of canned tomato paste at Brooklyn, N. Y., consigned by the Italian Food Products Co., Inc., Long Beach, Calif., alleging that the article had been shipped in interstate commerce on or about December 4, 1933, and January 31, 1934, from Long Beach, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Campania Brand Concentrated Tomato Paste \* \* \* Packed by Italian Food Products Co. Inc. Long Beach, California."

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

On February 11, 1935, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

**24213. Misbranding of bread. U. S. v. Continental Baking Co. Plea of nolo contendere. Fine, \$30. (F. & D. no. 32888. Sample nos. 1743-A, 49033-A, 49037-A.)**

This case was based on interstate shipments of bread which was misbranded because of failure to declare the true quantity of the contents, sample loaves having been found to contain less than the declared weight.

On August 17, 1934, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Continental Baking Co., a corporation trading at Spokane, Wash., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 25, 1932, and September 12 and September 21, 1933, from the State of Washington into the State of Idaho, of quantities of bread which was misbranded. The article was labeled in part: "Wonder-Cut Bread Weight 1½ Lbs. \* \* \* Continental Baking Company."

The article was alleged to be misbranded in that it 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 of the contents was less than the declared weight.

On January 31, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of \$30.

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

**24214. Misbranding of canned orange juice. U. S. v. Henry A. Baker. Plea of nolo contendere. Fine, \$50. (F. & D. no. 32892. Sample nos. 42004-A, 42005-A.)**

This case was based on interstate shipments of canned orange juice which was found to be short volume.

On October 31, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Henry A. Baker, trading at Anaheim, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about December 3 and December 22, 1932, from the State of California into the State of Colorado, of quantities of canned orange juice which was misbranded. The article was labeled in part: "Hanson's 100% Pure California Fruit Juices \* \* \* Hanson & Choate Products Company Los Angeles, California Net Contents ½ Gallon [or "1 Gallon" or "100 oz." or 6½ pints"]".

The article was alleged to be misbranded in that the statements regarding the quantity of the article contained in the variously sized cans, namely, "Net Contents ½ Gallon", "Net Contents 1 Gallon", "100 oz.", and "Net Contents 6½ Pints", respectively, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the cans contained less than the declared quantity.

On January 7, 1935, the defendant entered a plea of nolo contendere, and the court imposed a fine of \$50.

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

**24215. Misbranding of canned cherries. U. S. v. 130 Cases of Canned Cherries. Product released under bond to be relabeled. (F. & D. no. 32980. Sample no. 76602-A.)**

This case involved an interstate shipment of canned cherries which fell below the standard prescribed by the Secretary of Agriculture for such products, because of the presence of excessive pits, and which was not labeled to indicate that it was substandard.

On June 20, 1934, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 130 cases of canned cherries at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about November 8, 1933, and April 6, 1934, by the Geneva Preserving Co., from Geneva, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Monogram Red Sour Pitted Cherries \* \* \* Water Pack Packed for The Staples Grocery Co. Inc. Richmond, Va."

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 for such canned food because it contained an excessive number of pits, 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 January 25, 1935, the Geneva Preserving Co., Geneva, N. Y., having appeared as claimant for the property, judgment was entered ordering that the product be released to the claimant under bond, conditioned that it be relabeled in order to comply with the law.

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

**24216. Misbranding of salad oil. U. S. v. 300 Cans of Salad Oil. Consent decree of condemnation. Product released under bond. (F. & D. no. 33024. Sample no. 70433-A.)**

This case involved a product consisting essentially of cottonseed oil with a slight taste of olive oil, which was labeled to convey the impression that it was olive oil of foreign origin. Sample cans taken from the shipment were found to contain less than the declared volume.

On June 28, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the