

tomato paste, and the misbranding was not corrected by the inconspicuous vertical declaration "Harmless Color Added", appearing on the side panel.

On April 8, April 22, April 29, May 27, June 3, and June 27, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24734. Misbranding of canned mackerel. U. S. v. 200 Cases of Canned Mackerel. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 34880. Sample no. 29107-B.)

This case involved canned mackerel which was short weight.

On January 14, 1935, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned mackerel at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about December 1, 1934, by Cohn-Hopkins, Inc., from San Diego, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Wood's Quality Brand California Deep Sea Light Meat Mackerel Fillet. Contents 7 Oz. Packed by Cohn-Hopkins, Inc. San Diego, Calif."

The article was alleged to be misbranded in that the statement, "Contents 7 Oz.", appearing on the label, was false and misleading and tended to deceive and mislead the purchaser, and for the further reason 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 statement made was incorrect.

On June 12, 1935, the United States Warehouse Co., Detroit, Mich., 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 it be reshipped to Cohn-Hopkins, Inc., for relabeling under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

24735. Adulteration and misbranding of olive oil. U. S. v. 2 Cases, et al., of Alleged Olive Oil. Default decrees of condemnation and destruction. (F. & D. nos. 35051 to 35056, incl., 35130 to 35133, incl. Sample nos. 26001-B, 26002-B, 26004-B.)

These cases involved a product consisting of a vegetable oil other than olive oil, artificially colored and flavored, which was labeled to create the impression that it was pure olive oil.

On February 2 and February 11, 1935, the United States attorney for the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 9 cases and 41 cans of alleged olive oil at Worcester, Mass., and 37 cans of alleged olive oil at Fitchburg, Mass., charging that the article had been shipped in interstate commerce in various shipments on or about December 21, 1934, January 15, and January 16, 1935, by the Italia Importing Co., from Bridgeport, Conn., and that it was adulterated and misbranded in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a vegetable oil other than olive oil had been substituted wholly or in part for olive oil. Adulteration was alleged for the further reason that the article had been colored in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the following statements appearing on the label, (main panels) "Pure Olive Oil * * * Italy * * * Philip Berio and C. Lucca Tuscany * * * Olio d'Olive Puro * * * Italia * * * Filippo Berio * * * Lucca Toscana", (side panels) "Prize awarded at the Chicago Exposition 1893 for Pure Olive Oil to Philip Berio and C. of Lucca Onde Proteggere la nostra marca dalle continue contraffazioni ciascuna latta deve portare la nostra firma autentica invece della nostra ditta stampato come per il passato. Ogni contraffattore della nostra marca sara punito a termini di legge. Olio Puro D'Olive della ditta Filippo Berio & C. Di Lucca Premiato All' Esposizione di Chicago 1893 Salvo * * * Lucca Packed in Italy", and (imprinted in ends of can) "Packed in Italy", were false and misleading and tended to deceive and mislead the purchaser, since the article was not Italian olive oil. Misbranding was alleged for the further reasons that the article was an imitation of another article, namely, olive oil;

that it was offered for sale under the distinctive name of another article, namely, olive oil; and that it purported to be a foreign product when not so.

On April 8 and April 22, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24736. Adulteration of canned tomato puree. U. S. v. 396 Cases of Canned Tomato Puree. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 35060. Sample no. 25486-B.)

This case involved canned tomato puree that contained excessive mold.

On February 5, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 396 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 17, 1934, by St. Marys Packing Co., from St. Marys, Ohio, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Plymouth Rock Puree of Tomatoes * * * Distributed by Sprague, Warner and Company, Chicago, Ill."

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

On June 13, 1935, St. Marys Packing Co., claimant, 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 the decomposed portion be segregated and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24737. Adulteration of tomato puree. U. S. v. 893 Cases and 46 Cases of Tomato Puree. Decree of condemnation. Portion of product destroyed. Remainder released under bond for segregation and destruction of unfit portion. (F. & D. nos. 35150, 35354. Sample nos. 21942-B, 21947-B, 29280-B.)

These cases involved shipments of canned tomato puree, a part of which contained excessive mold.

On or about February 21, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 893 cases of tomato puree at Chicago, Ill. On April 11, 1935, a libel was filed in the Southern District of New York against 46 cases of canned tomato puree at New York, N. Y. It was alleged in the libels that the article had been shipped in interstate commerce in part on or about November 21, 1934, and in part on or about January 17, 1935, by the Crampton Canneries, Inc., from Celina, Ohio, and that it was adulterated in violation of the Food and Drugs Act. A portion of the article was labeled: "Mill Brand Tomato Puree * * * Packed by Crampton Canneries Inc. Celina, Ohio." The remainder was labeled: "Erna Brand Tomato Puree * * * H. B. Day Co. New York City Distributors."

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

On April 18, 1935, the Crampton Canneries, Inc., having appeared as claimant for the product seized at Chicago, and 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 the unfit portion be segregated and destroyed. On May 4, 1935, no claim having been entered for the product seized at New York, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24738. Misbranding of tomato paste. U. S. v. 102 Cases of Tomato Paste. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 35151. Sample no. 25495-B.)

This case involved tomato paste of domestic manufacture which was labeled to convey the impression that it was of foreign origin.

On February 16, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 102 cases of tomato