

On June 5 and June 14, 1935, no claim having been entered for the product seized in the District of Idaho, and the Utah Canning Co., claimant in the remaining case, having consented to the entry of a decree, judgments of condemnation were entered and it was ordered that the product be destroyed.

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

24934. Misbranding of canned peas. U. S. v. 747½ Cases of Canned Peas. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 35447. Sample no. 23670-B.)

This case involved an interstate shipment of canned peas that fell below the standard established by this Department because of the presence of an excessive number of hard peas, and that were not labeled to indicate that they were substandard.

On April 30, 1935, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 747½ cases of canned peas at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about September 29, 1934, by the Elkhart Lake Canning Co., from Elkhart Lake, Wis., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Expert Sweet Peas * * * Distributors Jesse C. Stewart Co., Pittsburgh, Pa."

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 of the presence of an excessive number of hard peas, 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 July 11, 1935, the Jesse C. Stewart Co., Pittsburgh, Pa., 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 relabeled under the supervision of this Department.

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

24935. Adulteration and misbranding of egg noodles, macaroni, and spaghetti. U. S. v. 97 Cases of Egg Noodles, et al. Default decrees of condemnation. Portion delivered to charitable institutions; remainder destroyed. (F. & D. nos. 35462, 35472, 35473, 35485, 35486, 35487, 35490, 35491, 35505, 35506, 35582. Sample nos. 21371-B, 21372-B, 21373-B, 24308-B, 28693-B to 28699-B incl., 36044-B to 36048-B incl., 36056-B, 36057-B, 36409-B, 37282-B.)

These cases involved egg noodles and macaroni which contained soybean meal and turmeric, a yellow coloring substance.

On or about May 6, 1935, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 152 cases and 59 cartons of egg noodles at Baltimore, Md. Between the dates of May 8 and May 29, 1935, libels were filed against 199 cases of egg noodles and 36 cases of macaroni at Baltimore, Md.; 340 cases of egg noodles and 1,433 cases of macaroni at Buffalo, N. Y.; 232 cases of egg noodles and 681 cases of spaghetti at New York, N. Y.; and 149 cases of egg noodles at Trenton, N. J. The libels charged that the articles had been shipped in interstate commerce between the dates of February 5 and May 10, 1935, by the Keystone Macaroni Manufacturing Co., from Lebanon, Pa., that they were misbranded, and with the exception of one lot of macaroni, were also adulterated in violation of the Food and Drugs Act. Portions of the articles were labeled in part, variously: "Pure Egg Noodles Keystone Macaroni Manufacturing Co. Lebanon, Pa."; "Pure Semolina"; "Asco Brand Egg Noodles * * * All Asco Egg Noodle products are guaranteed to be the finest possible quality. * * * American Stores Co. Distributors—Philadelphia"; "Great Lakes Pure Egg Noodles"; "Tagliatelle Fine Bologna Style Macaroni * * * Niagara Mac. Mfg. Co. * * * Buffalo, N. Y."; "Krasdale Brand Pure Egg Noodle Distributor A. Krasne New York City"; "Krasdale Brand Spaghetti"; "San Giorgio Brand Macaroni Extra Fine Gragnano Style Pure Semola Finest Italian Style Macaroni * * * Keystone Macaroni M'FG Co."; "Alimentary Paste Genova [or "Naples" or "Bologna"] Style Macaroni Extra Quality * * * Manufactured by Keystone Macaroni Mfg. Co."

The libels alleged that the egg noodles, spaghetti, and certain lots of the macaroni were adulterated in that articles containing soybean meal and added color, turmeric, had been substituted for egg noodles, spaghetti, and macaroni which the articles purported to be; and for the further reason that they were colored in a manner whereby inferiority was concealed. Adulteration was alleged with respect to one lot of macaroni for the reason that an article containing soybean meal and added color, turmeric, had been substituted for pure semolina (macaroni) which the article purported to be.

The products, with the exception of one lot of macaroni, were alleged to be misbranded in that the following statements in the labeling were false and misleading and tended to deceive and mislead the purchaser: "Pure Egg Noodles", "Fine Egg Noodles", "Pure Semolina", "Noodles Pure Egg * * * Macaroni Products", "Egg Noodles * * * All Asco Egg Noodle products are guaranteed to be the finest possible quality", "Macaroni", "Spaghetti Pure Semolina", "Spaghetti Made From Durum Flour", "Pure Egg Macaroni", "High Grade Macaroni", "Pure Semola", "Finest * * * Macaroni", and "Alimentary Paste * * * Macaroni Extra Quality." Misbranding was alleged with respect to the remaining lot of macaroni for the reason that it was offered for sale under the distinctive name of another article, semolina macaroni.

On June 10, 13, 17, 18, 21, 28, and August 23, 1935, no claimant appearing, judgments of condemnation were entered. The products seized at New York, N. Y., and Buffalo, N. Y., were ordered delivered to charitable institutions, and those covered by the remaining cases were ordered destroyed.

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

24936. Adulteration of canned tuna. U. S. v. 9 Cases of Canned Tuna. Portion of product released unconditionally; remainder condemned and destroyed. (F. & D. no. 35465. Sample no. 15891-B.)

This case involved a shipment of canned tuna which was in part decomposed.

On May 7, 1935, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cases of canned tuna at Yuma, Ariz., alleging that the article had been shipped in interstate commerce on or about January 4 and January 31, 1935, by Cohn-Hopkins, Inc., from San Diego, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Golden Strand Brand California Light Meat Tuna * * * Packed by Cohn-Hopkins, Inc. San Diego, Calif."

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

No claimant appeared for the property. On June 17, 1935, judgment was entered finding that three cases and eight cans of the product were not adulterated and ordering that they be delivered to the consignee in whose possession they were when seized, and that the remainder be condemned and destroyed.

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

24937. Adulteration of butter. U. S. v. 12 Cases of Butter. Default decree of condemnation and destruction. (F. & D. no. 35469. Sample nos. 28290-B, 28291-B, 28292-B.)

This case involved a shipment of butter that contained mold and other extraneous matter.

On April 5, 1935, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 cases of butter at Peoria, Ill., alleging that the article had been shipped in interstate commerce on or about March 27 and March 28, 1935, by the Sugar Creek Creamery Co., from St. Louis, Mo., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Golden Grain Creamery Butter", or "Blue Ribbon * * * Creamery Butter."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On June 26, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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