

**25672. Misbranding of canned tuna. U. S. v. 420 Cases of Canned Tuna. Consent decree of condemnation and forfeiture providing for release of the product under bond for relabeling.** (F. & D. no. 36521. Sample nos. 42151-B, 42185-B, 50237-B.)

The label of this article bore an inaccurate statement as to weight.

On October 18, 1935, the United States attorney for the Southern 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 420 cases of canned tuna at New York, N. Y., alleging that the article had been shipped in interstate commerce, on or about August 12, 1935, by the Van Camp Sea Food Co., from Terminal Island, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "The Famous Royal Scarlet Brand Light Meat Tuna Fish Packed in Oil Contents 7 oz. avoirdupois 198 grams R. C. Williams & Co. Inc. Distributors New York U. S. A."

Misbranding of the product was charged (a) under the allegation that the label bore the statement, to wit, "Contents 7 oz. avoirdupois 198 grams"; that the said statement was false and misleading and tended to deceive and mislead the purchaser; (b) under the allegation that the product was 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 January 31, 1936, the product having been claimed by R. C. Williams & Co., Inc., a consent decree of condemnation and forfeiture was entered, providing for release of the product to the claimant for relabeling upon furnishing of bond in the sum of \$1,500.

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

**25673. Adulteration of canned peas. U. S. v. 412 Cases of Canned Peas, and other actions. Decrees of condemnation. Portion of product released under bond. Remainder destroyed.** (F. & D. nos. 36531, 36532, 36858. Sample nos. 26942-B, 26952-B, 34879-B.)

These cases involved canned peas samples of which were found to be infested with weevils or worms.

On October 19, October 21, and December 20, 1935, the United States attorneys for the Northern District of California and the Southern District of California, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 694 cases of canned peas in various lots at San Francisco, Sacramento, and Los Angeles, Calif., alleging that the article had been shipped in interstate commerce between the dates of July 19 and August 20, 1935, by Libby, McNeill & Libby, in part from Portland, Oreg., and in part from Walla Walla, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Libby's Green Sweet and Tender Jumbo Peas, Libby, McNeill and Libby, Chicago."

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

Libby, McNeill & Libby appeared as claimant. On November 5 and November 12, 1935, the claimant having admitted the allegations with respect to the lots libeled at San Francisco and Sacramento and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the lots might be taken down under bond conditioned that those portions approved by this Department as fit for food be released. On February 21, 1936, the claim having been withdrawn for the lot seized at Los Angeles, judgment of condemnation was entered and the goods were ordered destroyed.

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

**25674. Adulteration and misbranding of strawberry, raspberry, cherry, pineapple, and blackberry jam. U. S. v. 15 Cases of Alleged Strawberry Jam, et al. Consent decree of condemnation. Products released under bond to be relabeled.** (F. & D. no. 36535. Sample nos. 43016-B to 43019-B, incl., 43023-B.)

This case involved an interstate shipment of alleged jams which were deficient in fruit and contained added pectin and excessive moisture.

On October 23, 1935, 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 15 cases of alleged strawberry, raspberry, cherry, pineapple, and blackberry jams at Hartford, Conn., alleging that said articles had been shipped in interstate commerce on or about September 20, 1935, by Fresh Grown Preserve Corporation, from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was variously labeled in part: "Milrey Brand Pure Strawberry [or "Raspberry"] Jam, Milrey Packing Co. \* \* \* N. Y. C."; "Nature's Own Pure Cherry [or "Imported Pineapple" or "Blackberry"] Jam, Fresh Grown Preserve Corp., Brooklyn, N. Y."

The articles were alleged to be adulterated in that jellified mixtures of water, sugar, and pectin had been mixed and packed with the articles so as to reduce, lower, and affect their quality; in that mixtures of fruit, sugar, water, and pectin containing less than the normal proportion of fruit had been substituted for jams; and in that they had been mixed in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statements on the labels "Pure Strawberry Jam", or "Pure Raspberry Jam", "Pure Cherry Jam", "Pure Pineapple Jam", or "Pure Blackberry Jam", were false and misleading and tended to deceive and mislead the purchaser when applied to products resembling jams, but which contained less than the normal fruit content of jam; and for the further reason that they were imitations of and offered for sale under the distinctive names of other articles.

On June 11, 1933, the Fresh Grown Preserve Corporation, 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 products be released under bond conditioned that they be transferred to properly labeled containers.

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

**25675. Adulteration of tomato catsup. U. S. v. 84 Cases of Tomato Catsup. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 36539. Sample no. 45164-B.)**

This product contained excessive mold.

On October 23, 1935, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 cases of tomato catsup at Cincinnati, Ohio, consigned on or about September 14, 1935, alleging that the article had been shipped in interstate commerce by the Arthur Baehr Co., Cincinnati, Ohio, from Windfall, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Heart of Indiana Brand Tomato Catsup, Distributed by John S. Mitchell, Inc., Windfall, Ind."

Adulteration of the product was charged under the allegation that it consisted in whole or in part of a decomposed vegetable substance.

On December 17, 1935, no claimant having appeared, a default decree of condemnation, forfeiture, and destruction was entered.

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

**25676. Misbranding of wine. U. S. v. 84 Bottles of Wine. Default decree of condemnation and forfeiture, providing for delivery of the product to the district supervisor of the Alcohol Tax Unit of the Treasury Department. (F. & D. no. 36548. Sample no. 30993-B.)**

This article was sold as wine, produced in Italy and containing 14 percent of alcohol, but in fact had been made in this country and contained less than 14 percent of alcohol.

On October 31, 1935, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 bottles of wine at Englewood Cliffs, N. J., alleging that the article had been shipped in interstate commerce on or about September 27, 1935, by John Aquino Sons, Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Alcohol by Volume Not Over 14% Vulcan Red Cragnano Product of Italy \* \* \* John Aquino Sons Inc. Importers New York, N. Y. Naples, Italy."

Misbranding of the article was charged (a) under the allegation that the statements borne on the labels, to wit, "Alcohol by Volume Not Over 14%" and "Product of Italy", were false and misleading and tended to deceive and mislead the purchaser; and (b) under the allegation that the article purported to be imported Italian wine, whereas it was made in the United States.

On December 20, 1935, no claimant having appeared, a default decree of condemnation and forfeiture was entered providing for delivery of the product to the Treasury Department.

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