

in the district court libels praying seizure and condemnation of 143 cans, in various sizes, of alleged olive oil at Manchester and Nashua, N. H., alleging that the article had been shipped in interstate commerce on or about September 16, December 19, 1935, and January 25, 1936, by Cosmos Food [Stores] Inc., from Lynn, Mass., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cosmos Brand Pure Italian Olive Oil."

The article was alleged to be adulterated in that tea-seed oil had been mixed and packed therewith so as to reduce or lower its quality or strength; and in that tea-seed oil had been substituted in whole or in part for olive oil, which the article purported to be.

The article was alleged to be misbranded in that the following statements and designs were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil, (cans) "Imported Extra Fine Virgin Pure Italian Olive Oil, [designs of medals inscribed "Vittorio Emanuele III Re D'Italia" and "Exposition Agricoltura Roma Medaglia D'Oro"] Gold Medal Award * * * Extra Fine Pure Olive Oil This Olive Oil is guaranteed absolutely pure and of the finest quality * * * Extra Fine Olio D'Oliva Sopraffino Quest' olio essendo assolutamente puro non sole e raccomandato come medicinale ma anche per tutti quegli usi in cui e indicato L'olio D'oliva * * * Pure Italian Olive Oil"; and in that it was offered for sale under the distinctive name of another article, namely, olive oil.

On June 16, 1936, the Cosmos Food Stores, Inc., having appeared as claimant and having contested the cases, they were tried to a jury which returned a verdict on June 23, 1936, for the Government. On July 8, 1936, judgment was entered decreeing that the product was adulterated and misbranded and ordering that it be destroyed or sold and that the claimant pay the cost of the proceeding. On September 17, 1936, supplemental decrees were entered ordering that the product be sold.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26208. Adulteration of dried codfish. U. S. v. 180 Boxes and 109 Boxes of Dried Salt Codfish. Default decrees of condemnation and destruction. (F. & D. nos. 37317, 37318. Sample nos. 52164-B, 52165-B.)

These cases involved interstate shipments of dried salt codfish which were infested with nematode worms, a portion of which, in addition, contained maggots and were putrid, and another portion of which had undergone mold decomposition.

On March 7, 1936, the United States attorney for the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court two libels, one praying seizure and condemnation of 180 boxes, and the other praying seizure and condemnation of 109 boxes of dried salt codfish at Youngstown, Ohio, alleging that the 180 boxes of the article had been shipped on or about September 20, 1935, by James Walsh from Caraquet, New Brunswick, and that the 109 boxes of the article had been shipped on or about October 4, 1935, by James Walsh from Grand River, Quebec, and that the article in both cases was adulterated in violation of the Food and Drugs Act. The article in both cases was labeled: "Lion Brand Codfish Gaspe Cure Product of Canada Medium [or Large] 100 Lbs. Net."

The article was alleged to be adulterated in that it was infested with nematode worms, some of the fish in addition contained maggots and were putrid, and other fish had undergone brown spot mold decomposition in violation of the Food and Drugs Act providing that an article of food shall be deemed to be adulterated if it consists in whole or in part of a filthy, decomposed, or putrid animal substance.

On April 30, 1936, no claimant having appeared, judgment of condemnation and forfeiture was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26209. Adulteration of blackberry preserves. U. S. v. 30 Cases and 75 Cases of Blackberry Preserves. Default decree of condemnation and destruction. (F. & D. no. 37363. Sample no. 65213-B.)

This case involved blackberry preserves that contained excessive mold.

On March 12, 1936, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 105 cases of blackberry preserves at Oakland, Calif., alleging that the article had been shipped

in interstate commerce on or about March 1, 1936, by National Fruit Canning Co., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Valamont Brand Pure Blackberry Preserves National Fruit Canning Co. Seattle, Wash."

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

On August 18, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26210. Misbranding of Gammel Ost. U. S. v. 20 Cartons of Viking Brand Gammel Ost. Default decree of condemnation and destruction. (F. & D. no. 37393. Sample no. 65209-B.)

This case involved a shipment of Gammel Ost that was short in weight.

On March 18, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cartons of Gammel Ost at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about February 7, 1936, by the A. C. Kirchhoff Co., from Chicago, Ill., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Viking Brand Gammel Ost Imported from Norway * * * Packed by August C. Kirchhoff and Co., Chicago Net Weight 7¾ Ozs. When Packed Partly Skim Milk."

The article was alleged to be misbranded in that the statement on the label, "Net Weight 7¾ Ozs.", was false and misleading and tended to deceive and mislead the purchaser; and 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 stated was not correct.

On July 24, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26211. Adulteration and misbranding of wine. U. S. v. 237 Bottles of Alleged Blackberry Wine. Default decree of condemnation and destruction. (F. & D. no. 37424. Sample no. 62902-B.)

This product was a mixture of grape wine, alcohol, and blackberry flavor and was represented to be blackberry wine.

On March 24, 1936, 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 237 bottles of alleged blackberry wine at Petersburg, Va., alleging that the article had been shipped in interstate commerce on or about March 4, 1936, by the Eastern Wine Corporation from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Dona Clara Finest Vintage Blackberry Wine * * * Prepared and bottled by Eastern Wine Corp. Tulare, Cal. New York, N. Y."

The article was alleged to be adulterated in that a mixture of grape wine, alcohol, and blackberry flavor had been substituted for blackberry wine, which the article purported to be.

The article was alleged to be misbranded in that the statements on the label, "Blackberry Wine" and "We Guarantee the contents of this package to be made from fresh fruits", were false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of grape wine, alcohol, and blackberry flavor, and in that it was an imitation of and offered for sale under the distinctive name of another article, namely, blackberry wine.

On August 27, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26212. Adulteration of canned stringless beans. U. S. v. 300 Cartons of Canned Stringless Beans. Default decree of forfeiture and destruction. (F. & D. no. 37430. Sample no. 53458-B.)

This case involved canned stringless beans that were worm-damaged.

On March 26, 1936, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 cartons of canned stringless beans at Lewiston, Idaho, alleging that the article had been shipped in interstate