

28603. Misbranding of Strawberry Flow and Raspberry Flow. U. S. v. 30 Cases of Strawberry Flow and 50 Cases of Raspberry Flow. Default decrees of condemnation and destruction. (F. & D. Nos. 40676, 40725. Sample Nos. 10538-C, 10548-C.)

These products consisted respectively of diluted sweetened strawberry and raspberry juice. The Strawberry Flow failed to bear on its label a plain and conspicuous statement of the quantity of contents.

On November 4 and 12, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 80 cases of Strawberry Flow and Raspberry Flow at Philadelphia, Pa., alleging that the articles had been shipped in interstate commerce on or about October 1 and 14, 1937, from Los Angeles, Calif., by Pure Foods Corporation, of Los Angeles, Calif., and charging misbranding in violation of the Food and Drugs Act.

The articles were labeled in part: "Golden Flow Brand Pure Strawberry [or "Raspberry"] Flow * * * Pure Foods Corp. Los Angeles, Calif." The label of the Strawberry Flow bore the printed statement "Net Contents 15 Fl. Oz." An apparent attempt had been made to change the figure "15" to "12" with pencil. However, the "15" was still conspicuous and the "12" illegible.

The Strawberry Flow was alleged to be misbranded in that the statements, "Pure Strawberry Flow * * * 'Drink Your Berries' * * * A Pure Juice Beverage Made from Genuine Strawberries—Sweetened," and the design of juice flowing out of a cornucopia into a glass, were false and misleading and tended to deceive and mislead the purchaser as applied to a diluted sweetened strawberry juice; 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 printed statement "Net Contents 15 fl. oz." was not correct.

The Raspberry Flow was alleged to be misbranded in that the statements "Pure Raspberry Flow * * * Fruit Juice Beverage" and the designs of whole raspberries and of juice flowing out of a cornucopia into a glass, were false and misleading and tended to deceive and mislead the purchaser since they represented that the article was raspberry juice; whereas the article was not raspberry juice, and this was not corrected by the inconspicuous statement on the side panel, "the juice and pulp of genuine raspberries—water—sweetened."

On February 18, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

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

28604. Adulteration of crab meat. U. S. v. Carl L. Veach (J. M. Clayton Co.). Tried to the court and a jury. Verdict of guilty. Motion for new trial overruled. Fine, \$50 and costs. (F. & D. No. 38651. Sample Nos. 7806-C, 7958-C, 7961-C, 7969-C, 7971-C, 7975-C.)

This product consisted in part of a filthy animal substance.

On April 16, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Carl L. Veach, a member of a partnership trading as the J. M. Clayton Co., Cambridge, Md., alleging shipment by the defendant on or about August 19, 20, 24, 25, and 26, 1936, from the State of Maryland into the District of Columbia and the States of New York, New Jersey, and Delaware of quantities of crab meat that was adulterated in violation of the Food and Drugs Act.

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

On December 10, 1937, the case came on for trial before the court and a jury and was concluded on December 11, 1937. Following the arguments of counsel the court instructed the jury as follows:

CHESNUT, *District Judge*: Well, gentlemen of the jury, the custom in this Court is that, at the conclusion of the testimony, it becomes the duty then of the Court to instruct the Jury as to the law of the case and to make some summary of the evidence for the purpose of aiding the jury, possibly, in reaching their verdict.