

acting upon a report by the Secretary of Agriculture, upon presentment by the United States attorney for the said district, returned in the district court aforesaid an indictment in two counts against John S. Mitchell, Inc., a corporation, Windfall, Ind., charging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about September 28, 1922, from the State of Indiana into the State of Illinois, of a quantity of tomato paste which was misbranded. The article was labeled in part: (Cans) "Concentrated Tomato Concentrato Di Pomodoro Trade Mark Liberty Bell \* \* \* Contents 12-Oz. Net."

Examination of a sample of the article by the Bureau of Chemistry of this department showed that the average net weight of 72 cans was 11.43 ounces.

Misbranding of the article was alleged in the indictment for the reason that the statement, to wit, "12-Oz. Net," borne on the cans containing the article, was false and misleading in that it represented that each of the said cans contained not less than 12 ounces net of the article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said cans contained not less than 12 ounces thereof, whereas, in truth and in fact, each of said cans did contain less than 12 ounces net of the said article. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 29, 1923, a plea of guilty to the indictment was entered on behalf of the defendant company, and the court imposed a fine of \$200 and costs.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**11608. Adulteration of cocoa beans. U. S. v. 33 Bags of Cocoa Beans. Default decree of condemnation, forfeiture, and destruction.** (F. & D. No. 17443. I. S. No. 376-v. S. No. E-4348.)

On April 2, 1923, 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 of the United States for said district a libel praying the seizure and condemnation of 33 bags of cocoa beans, remaining unsold in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by J. L. Villaneuva, from Port de Paix, Haiti, on or about February 24, 1913, and transported from a foreign country into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On May 16, 1923, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**11609. Misbranding of Fernet De Vecchi. U. S. v. 23 Bottles, et al., of Fernet De Vecchi. Default decrees of condemnation, forfeiture, and destruction.** (F. & D. Nos. 17482, 17483, 17484. S. Nos. E-4372, E-4379, E-4380.)

On May 2, 1923, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 121 bottles of Fernet De Vecchi, remaining in the original unbroken packages at Philadelphia, Pa., consigned by the Banfi Co., Inc., of New York, N. Y., alleging that the article had been shipped from New York, N. Y., in various consignments, namely, on or about December 2, 1922, and March 29 and April 4, 1923, respectively, and transported from the State of New York into the State of Pennsylvania, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that the product consisted essentially of 39.5 per cent of alcohol, 2.8 per cent of extractives from plant drugs including aloes, a small quantity of alkaloid, and water.

Misbranding of the article was alleged in substance in the libel for the reason that the bottle label and accompanying circular contained statements, designs, and devices, regarding the curative or therapeutic effects of the said article, to wit, (bottle and circular) "digestive \* \* \* antifebrile