

22137. Misbranding of canned tomatoes. U. S. v. 800 Cases of Canned Tomatoes. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 31930. Sample no. 51468-A.)

This case involved a shipment of canned tomatoes which contained excessive peel, and which were not labeled to indicate that they were substandard.

On February 1, 1934, 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 800 cases of canned tomatoes at New York, N.Y., alleging that the article had been shipped in interstate commerce on or about September 8 and September 22, 1933, by Thomas Roberts & Co., from Harrington, Del., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Q and E Tomatoes * * * Thrasher, Churchill & Rothrock Distributors Philadelphia, Pa."

It was alleged in the libel that the article was 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 excess peel, 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.

Thos. Roberts & Co. filed a claim for the property as agent for L. Oppenheimer, Inc., New York, N.Y., admitted the allegations of the libel, and consented to the entry of a decree. On March 6, 1934, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$2,000, conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

22138. Misbranding of salad oil. U. S. v. 25 Cans of Salad Oil. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31936. Sample no. 52145-A.)

This case involved a lot of salad oil labeled to convey the impression that it was imported olive oil, but which was found to consist principally of domestic cottonseed oil.

On February 5, 1934, 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 25 cans of salad oil at Harrison, N.J., alleging that the article had been shipped in interstate commerce, on or about November 6, 1933, by the Import Oil Corporation, from New York, N.Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Samaritana Brand Oil Tipo Lucca * * * Packed by Import Oil Corp."

It was alleged in the libel that the article was misbranded in that the statements, "Samaritana Brand Oil, Tipo Lucca * * * Packed by Import Oil Corp." together with the design of olive trees and a figure of a woman bearing a jar suggesting a jar of olive oil, appearing on the label, were false and misleading and deceived and misled the purchaser, since they created the impression that the article was imported olive oil, whereas it consisted largely of domestic cottonseed oil. Misbranding was alleged for the further reason that the article purported to be a foreign product, when not so.

On March 13, 1934, 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.

M. L. WILSON, *Acting Secretary of Agriculture.*

22139. Adulteration and misbranding of olives. U. S. v. 99 Cases of Olives. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 31937. Sample no. 65304-A.)

This case involved an interstate shipment of olives which were found to be in part wormy. Examination also showed that the article contained excessive brine; that the drained weight of the contents was less than the weight declared on the label; and that it was labeled to create a misleading impression as to the manufacturer.

On or about February 6, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of

olives at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 6, 1933, by John Magee & Co., from Saybrook, Conn., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Budlong Selected Olives, Budlong Pickle Co., Chicago, Ill. Selected Olives contents Three and one-fourth fluid ounces."

It was alleged in the libel that the article was adulterated in that excessive brine had been substituted in part for the article. Adulteration was alleged for the further reason that the article consisted in part of a filthy vegetable substance.

Misbranding was alleged for the reason that the statements on the bottle label, "Budlong Pickle Co. * * * Three and one-fourth fluid ounces", were false and misleading and deceived and misled the purchaser, since they created the impression that the Budlong Pickle Co. was the packer of the product, whereas it was not so, and since the article was short of the declared weight. 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, since the statement made was incorrect.

On March 6, 1934, the Budlong Pickle Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entering of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned that the unfit portion be eliminated and the remainder washed, repacked, and relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

22140. Adulteration of butter. U. S. v. 9 Cans of Butter. Default decree of condemnation and forfeiture. Product ordered sold as inedible grease. (F. & D. no. 31955. Sample no. 54373-A.)

This case involved a shipment of butter which was found to contain rodent and human hairs, paper, parts of insects, mold, and other filth.

On or about January 29, 1934, 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 nine cans of butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce, on or about November 15, 1933, by S. Roberts Estate, from Milton W. Va., and charging adulteration in violation of the food and drugs act. The article was labeled in part: "From S. Roberts' Estate * * * Milton, W. Va."

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On March 17, 1934, 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 sold by the United States marshal as inedible grease.

M. L. WILSON, *Acting Secretary of Agriculture.*

22141. Adulteration of olives. U. S. v. 23 Dozen Jars of Olives. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31964. Sample no. 52202-A.)

This case involved a shipment of olives which were found to be in part wormy.

On February 9, 1934, 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 23 dozen jars of olives at Jersey City, N.J., alleging that the article had been shipped in interstate commerce, on or about December 6, 1933, by Mawer-Gulden Annis, Inc., from Brooklyn, N.Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "La Sevillana Selected Spanish Olives * * * Mawer-Gulden-Annis, Inc. New York."

It was alleged in the libel that the article was adulterated in that it consisted in part of a filthy vegetable substance.

On March 21, 1934, 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.

M. L. WILSON, *Acting Secretary of Agriculture.*