

24772. Misbranding of canned cherries. U. S. v. 19 Cases and 16 Cases of Canned Cherries. Default decrees of condemnation. Product delivered to charitable organizations. (F. & D. nos. 35383, 35384. Sample nos. 28580-B, 28581-B.)

These cases involved two lots of canned cherries which fell below the standard established by this Department, and which were not labeled to indicate that they were substandard.

The labeling was further objectionable, since one lot was short of the declared weight, and the other was falsely labeled as to the name of the manufacturer and place of manufacture.

On April 16, 1935, the United States attorney for the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 35 cases of canned cherries at Youngstown, Ohio, alleging that the article had been shipped in interstate commerce in part on or about January 29, 1935, and in part on or about February 18, 1935, by the North East Preserving Works, Inc., from North East, Pa., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled: "Cedar Grove Brand R. S. P. Sour Cherries in Water Contents 1 Lb. 5 Ozs. Fancy Quality Packed by North East Preserving Works Inc. North East, Pa." The remainder was labeled: "North East Brand Pitted Red Cherries in Syrup Contents 1 Lb. 4 Oz. Packed by Stittville Canning Co. Principal Office, Utica, N. Y."

The North East brand was alleged to be misbranded in that the statement, "Packed by Stittville Canning Co., Utica, N. Y.," was false and misleading and tended to deceive and mislead the purchaser, since the goods were packed by the North East Preserving Works, Inc., North East, Pa. Misbranding of the Cedar Grove brand was alleged for the reason that the statements, "Fancy Quality" and "Contents 1 Lb. 5 Ozs.," were false and misleading and tended to deceive and mislead the purchaser when applied to a substandard product which was short of the declared net contents. Misbranding of the Cedar Grove brand was alleged for the further reason 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 statement was incorrect. Misbranding was alleged with respect to both brands for the further reason that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture because of the presence of excessive pits in both lots, and because one lot was water-packed 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.

On June 3, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be delivered to charitable organizations.

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

24773. Misbranding of canned peas. U. S. v. 250 Cases et al., of Canned Peas. Decrees of condemnation. Product released under bond to be relabeled. (F. & D. nos. 35393, 35632, 35656, 35700, 35701. Sample nos. 24299-B, 28213-B, 31934-B, 32529-B, 32530-B, 32531-B, 36267-B.)

These cases involved canned peas which fell below the standard established by this Department, since they contained an excessive percentage of ruptured peas and, in some lots, excessive water-insoluble solids, and which were not labeled to indicate that they were substandard.

On April 17, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 cases of canned peas at Philadelphia, Pa. On June 7, June 18, June 28, and July 1, 1935, libels were filed against 915 cases of the product at St. Louis, Mo., 64 cases at Boston, Mass., 300 cases at Detroit, Mich., and 856 cases at Ottumwa, Iowa. The libels alleged that the article had been shipped in interstate commerce in various shipments between the dates of February 11 and May 3, 1935, by the G. L. Webster Co., Inc., from Cheriton, Va., and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Webster's [or "Tower Hill Brand", "Park Hall Brand", or "Eyre Hall Brand"] Early June Peas * * * Packed by G. L. Webster Company Incorporated Cheriton, Virginia."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture because the peas were not immature, and the package or label

did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On April 30, July 5, August 1, and August 30, 1935, the G. L. Webster Co., Inc., and R. Schayowitz & Son, Detroit, Mich., having appeared as claimants for respective portions of the property, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

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

24774. Adulteration of lemon extract. U. S. v. 221 Bottles, et al., of Lemon Extract. Default decrees of condemnation and destruction. (F. & D. nos. 35278, 35382, 35414. Sample nos. 6009-B, 14073-B, 37043-B.)

These cases involved shipments of lemon extract that contained isopropyl alcohol.

On or about March 22, 1935, 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 221 bottles of lemon extract at Fort Monroe, Va. On or about April 19 and April 30, 1935, libels were filed against 117 bottles of lemon extract at Bragg, N. C., and 5 cartons of lemon extract at Atlanta, Ga. The libels charged that the article had been shipped in interstate commerce between the dates of February 11 and February 21, 1935, by the de Calais Laboratories, from New York, N. Y., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Calais Brand Pure Lemon Extract de Calais Laboratoire * * * New York, N. Y."

The article was alleged to be adulterated in that a substance, isopropyl alcohol, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality, and had been substituted for lemon extract. Adulteration was alleged for the further reason that the article contained an added poisonous and deleterious ingredient, isopropyl alcohol, which might have rendered it injurious to health.

On May 25, July 13, and September 12, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

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

24775. Adulteration of canned field peas. U. S. v. 32 Cases of Canned Field Peas. Default decree of condemnation and destruction. (F. & D. no. 35418. Sample no. 6015-B.)

This case involved a shipment of canned field peas which were worm-infested and moldy.

On April 27, 1935, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 32 cases of canned field peas at Jacksonville, Fla., consigned by Crine Enterprise, Inc., alleging that the article had been transported in interstate commerce on or about August 14, 1934, from Cairo, Ga., into the State of Florida, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crine's Quality Field Peas * * * Packed by Crine Enterprises, Inc. Cairo, Ga."

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

On May 29, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

24776. Adulteration of assorted jams and jellies. U. S. v. 54 Cases of Assorted Jams and Jellies. Consent decree of condemnation and destruction. (F. & D. no. 35421. Sample nos. 26216-B to 26223-B, incl.)

These cases involved interstate shipments of assorted jams and jellies that contained lead in an amount that might have rendered them harmful to health.

On May 3, 1935, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 54 cases of assorted jams and jellies at Cheyenne, Wyo., alleging that the articles had been shipped in interstate commerce between the dates of February 16, 1934, and February 16, 1935, by the Pure Food Manufacturing Co., from Denver, Colo., and charging adulter-