

**20447. Misbranding of canned tomatoes. U. S. v. 152 Cases, et al., of Canned Tomatoes. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 27998, 27999. I. S. nos. 46281, 46282. S. nos. 6026, 6036.)**

These actions involved the interstate shipments of quantities of canned tomatoes which fell below the standard promulgated by the Secretary of Agriculture, and which were not labeled to indicate that the product was sub-standard.

On April 25, 1932, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 52 cases of canned tomatoes at Seymour, Tex., and 152 cases of canned tomatoes at Wichita Falls, Tex., alleging that the article had been shipped by Baron Canning Co., Fort Smith, Ark., the former on or about September 13, 1931, and the latter on or about November 18, 1931, and had been transported from the State of Arkansas into the State of Texas, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Baron Brand Tomatoes. \* \* \* Packed by Baron Canning Co., Baron, Oklahoma."

It was alleged in the libels that the article was misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it contained excessive peel and was below the standard for color of canned tomatoes, and the label failed to bear a plain and conspicuous statement indicating that it was below such standard.

On November 22, 1932, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20448. Adulteration of cauliflower. U. S. v. 100 Crates of Cauliflower. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29217. Sample no. 20479-A.)**

This action involved the interstate shipment of a quantity of cauliflower that was found to bear arsenic in an amount which might have rendered it injurious to health.

On October 21, 1932, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 100 crates of cauliflower at New Haven, Conn. It was alleged in the libel that the article had been shipped by I. M. Young, from Riverhead, Long Island, N. Y., on or about October 18, 1932, that it had been transported from the State of New York into the State of Connecticut, and that it was adulterated in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it contained an added poisonous or deleterious ingredient, arsenic, which might have rendered it injurious to health.

On November 7, 1932, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20449. Adulteration of cauliflower. U. S. v. 120 Crates of Cauliflower. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29218. Sample nos. 22375-A, 22378-A.)**

This action involved the interstate shipment of cauliflower that was found to bear arsenic in an amount which might have rendered the article injurious to health.

On October 20, 1932, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 120 crates of cauliflower at Baltimore, Md. It was alleged in the libel that the article had been shipped by I. M. Young & Co., from Calverton, N. Y., on or about October 17, 1932, that it had been transported from the State of New York into the State of Maryland, and that it was adulterated in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it contained an added poisonous or deleterious ingredient, arsenic, which might have rendered it injurious to health.

On November 10, 1932, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20450. Adulteration and misbranding of butter. U. S. v. 14 Cubes of Butter. Product released under bond to be reworked. (F. & D. no. 29567. Sample no. 24299-A.)**

This action involved a quantity of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On October 27, 1932, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 14 cubes of butter, remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about October 22, 1932, by Valley Creamery, Ltd., from Milford, Utah, to Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Case) "Valley Creamery Ltd., Milford, Utah \* \* \* Butter."

It was alleged in the libel that the article was adulterated in that a product containing less than 80 percent of milk fat had been substituted wholly or in part for butter.

Misbranding of the article was alleged for the reason that it was labeled butter, which was false and misleading, since it contained less than 80 percent of milk fat.

On November 14, 1932, the Valley Creamery, Ltd., Milford, Utah, and the Lucerne Cream & Butter Co., Los Angeles, Calif., having filed a claim and answer, and having deposited a cash bond in the amount of \$200, judgment was entered ordering that the product be released to the claimants to be reconditioned. On November 19, 1932, the product having been reworked, a final decree was entered ordering that the release be made permanent, that the bond be exonerated, and that claimant pay costs of the proceedings.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20451. Misbranding of macaroni. U. S. v. Brockway Macaroni & Supply Co. Plea of nolo contendere. Fine, \$100 and costs. (F. & D. no. 28087. I. S. no. 37868.)**

This action involved the interstate shipment of a quantity of macaroni, sample packages of which contained less than 20 pounds, the weight declared on the label.

On June 24, 1932, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Brockway Macaroni & Supply Co., a corporation, Brockway, Pa., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about July 31, 1931, from the State of Pennsylvania into the State of New Jersey, of a quantity of macaroni that was misbranded. The article was labeled in part: (Box) "Union Brand \* \* \* Sublime Quality Spaghetti Macaroni. Extra Net Weight 20 Lbs. \* \* \* Brockway Macaroni and Supply Co., Inc., Brockway, Pa."

It was alleged in the information that the article was misbranded in that the statement "Net Weight 20 Lbs.", borne on the boxes, was false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since each of a number of the said boxes contained less than 20 pounds. 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 packages, since the packages bore an incorrect statement of weight.

On October 15, 1932, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of \$100 and costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*