

25776. Misbranding and alleged adulteration of macaroni products . U. S. v. 1,000 Cases of Macaroni Products. Consent decree of condemnation and forfeiture for misbranding, providing for release of the product to the claimant for relabeling. (F. & D. no. 87076. Sample no. 44722-B.)

It was charged that this product was a substitute for what it purported to be and that its label bore an erroneous statement concerning an essential ingredient.

On or about January 16, 1936, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cases of macaroni products at Louisville, Ky., alleging that the article had been shipped in interstate commerce on or about January 4, 1936, from New Cumberland, Pa., to Louisville, Ky., and charging adulteration and misbranding in violation of the Food and Drugs Act. The shipment in question was a returned shipment to the original consignee, namely, the Kentucky Macaroni Co., Louisville, Ky. The article was labeled in part: (Case) "Okay Brand Macaroni Products Nothing Cheap but the Price Kentucky Macaroni Co., Louisville, Ky Made from hard wheat flour Net weight 20 Lbs."

Adulteration of the product was charged under the allegation that a substance containing an excessive amount of ash was substituted for what the product purported to be, namely, macaroni made from hard wheat flour.

Misbranding of the product was charged under the allegations that the label bore the statement, "Macaroni * * * Nothing Cheap But the Price Made from Hard Wheat Flour", and that the said statement was false and misleading and tended to deceive and mislead the purchaser.

On March 13, 1936, the Kentucky Macaroni Co., Louisville, Ky., having appeared as claimant, a consent decree of condemnation and forfeiture for misbranding only was entered, providing for release of the product to the claimant for relabeling.

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

25777. Misbranding of canned peas. U. S. v. 24 Cases and 19 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. no. 37096. Sample nos. 54241-B, 54242-B.)

This case involved an interstate shipment of canned peas that fell below the standard established by the Department of Agriculture, because of the presence of an excessive proportion of ruptured peas, and the product was not labeled to indicate that it was substandard.

On January 22, 1936, 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 24 cases and 19 cases of canned peas at Shenandoah, Pa., alleging that the article had been shipped in interstate commerce, on or about July 6, 1934, by Howard E. Jones & Co., from Baltimore, Md., and that it was misbranded in violation of the Food and Drugs Act as amended. The article in the lot of 24 cases was labeled in part: "Farm Queen Brand Early Variety Size No. 3 Small May Peas Contents 1 Lb. 4 Oz. Distributed by Wm. Numsen & Sons, Inc. Baltimore, Md." The article in the lot of 19 cases was labeled in part: "Fedora Brand First Quality Garden Run Peas Contents 1 Lb. 4 Oz. Guaranteed to comply with the National and State pure food laws * * * Packed by Fredonia Preserving Co. Main Office Fredonia, Chautauqua Co. N. Y."

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 for such canned food, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 27, 1936, 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.*

25778. Misbranding of canned peas. U. S. v. 16 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 87103. Sample no. 67603-B.)

This case involved an interstate shipment of canned peas which fell below the standard established by the Department of Agriculture because of the presence of an excessive proportion of ruptured peas and because the liquor was not reasonably clear, and the product was not labeled to indicate that it was substandard.

On January 23, 1936, 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 16 cases of canned peas at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce, on or about November 25 and 30, 1935, by Howard E. Jones & Co., from Baltimore, Md., and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled: "Furnace Brand Early June Peas Contents 1 Lb. 3 Oz. Distributed by W. T. Onley Canning Co., Girdletree, Md."

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 for such canned food, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 5, 1936, the W. T. Onley Canning Co., claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that the product be relabeled under the supervision of the Department of Agriculture.

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

25779. Adulteration of cheese. U. S. v. 5 Wheels and 8 Wheels of Swiss Cheese. Consent decree of condemnation. Product released under bond for processing. (F. & D. nos. 37105, 37116. Sample nos. 48215-B, 48217-B.)

These cases involved interstate shipments of cheese which was found to be deficient in fat.

On January 28 and 29, 1936, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation, in one case, of five wheels, and in the other case, of eight wheels, of cheese, at Chicago, Ill., alleging that the article had been shipped in interstate commerce, in one case on or about November 15, 1935, by Jacob Mueller, from Haugen, Wis., and in the other case on or about November 30, 1935, by Carl Marty & Co., from Monroe, Wis., and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance deficient in fat had been substituted in whole or in part for the article.

On April 23, 1936, C. E. Zuercher, Chicago, Ill., having appeared as claimant and admitted the allegations of the libels and the actions having been consolidated for the purpose, a judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that it be processed under supervision of the Department of Agriculture.

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

25780. Misbranding of maple sirup. U. S. v. 151 Cases of Maple Sirup. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. 37106. Sample no. 55576-B.)

This case involved an interstate shipment of maple sirup, the cans of which contained less than the weight represented on the label.

On January 28, 1936, 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 151 cases of maple sirup at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about August 29, 1935, by the Vermont Maple Cooperative, Inc., from Essex Junction, Vt., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Net Wt Eleven Ozs. Co-Op 100% Pure Vermont Maple Sap Sirup * * * Vermont Maple Co-Operative, Inc., Essex Junction, Vt."

The article was alleged to be misbranded in that the statement "Net Wt. 11 Ozs.", borne on the label, was false and misleading and tended to deceive and mislead the purchaser, and in 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 quantity stated was incorrect.

On February 18, 1936, the Great Atlantic & Pacific Tea Co., Chicago, Ill., claimant, having admitted the allegations of the libel and consented to a decree, judgment of condemnation was entered, and it was ordered that the product