

26039. Misbranding of tomato paste. U. S. v. 308 Cases of Tomato Paste. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 37459. Sample no. 52096-B.)

This case involved a shipment of tomato paste that was a product of California, whereas the label gave the impression that it was of foreign origin.

On March 27, 1936, the United States attorney for the Western 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 308 cases of tomato paste at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about November 18, 1935, by Flotill Products, Inc., from Stockton, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Fabrica di Conserve Alimentari * * * Marca La Tosca (Naples Style) Made in U. S. A., Natural Pure Tomato Paste (Italian Style Produce) Salsa With Sweet Basil Sole Distributors for U. S. and Canada A. & C. Buscaglia Co. Inc., Buffalo, N. Y."

The article was alleged to be misbranded in that the statements on the label, "Fabrica di Conserve Alimentari * * * Marca La Tosca * * * Italian Style Produce * * * Salsa * * * Sole Distributors for U. S. and Canada", were misleading and tended to deceive and mislead the purchaser when applied to a product of California, in that they created the impression in the mind of the purchaser that the product was of Italian origin and this impression was not corrected by the statement "Made in U. S. A.", which appeared near the bottom of the main panel of the label in such small type that it was not readily observed.

On May 21, 1936, the A. & B. Buscaglia Co., Inc., Buffalo, N. Y., 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 it be relabeled under the supervision of this Department.

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

26040. Adulteration and misbranding of blackberry wine. U. S. v. One Barrel of Alleged Blackberry Wine. Default decree of condemnation and destruction. (F. & D. no. 37460. Sample no. 62856-B.)

This case involved a shipment of artificially colored grape wine that had been substituted for blackberry wine.

On or about March 26, 1936, 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 one barrel of alleged blackberry wine at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about March 10, 1936, by the Eastern Wine Corporation, from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Stenciled) "D. J. Kennedy, Inc., Blackberry Wine."

The article was alleged to be adulterated in that artificially colored grape wine had been substituted for blackberry wine, which the article purported to be.

The article was alleged to be misbranded in that the statement on the label, "Blackberry Wine", was false and misleading and tended to deceive and mislead the purchaser when applied to a product that consisted of artificially colored grape wine; and in that it was offered for sale under the distinctive name of another article, namely, blackberry wine.

On May 7, 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.*

26041. Misbranding of strawberry preserves. U. S. v. 15 Cases and 13 Cases of Strawberry Preserves. Default decrees of condemnation and forfeiture. Product turned over to charitable institution. (F. & D. nos. 37463, 37464. Sample nos. 53132-B, 53137-B.)

These cases involved shipments of strawberry preserves that were short in weight.

On March 26 and April 2, 1936, the United States attorney for the Middle District of North Carolina, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 15 cases and 13 cases of strawberry preserves at Winston-Salem and Durham, N. C., respectively, alleging that the article had been shipped in interstate commerce on or about June 12 and June 15, 1935, by the Ruby Canning Co., from Ruby, S. C.,