

26205. Adulteration and misbranding of tomato juice. U. S. v. 180 Cases of Canned Tomato Juice. Decree of condemnation and destruction. (F. & D. no. 37278. Sample no. 59167-B.)

This case involved interstate shipments of canned tomato juice that contained excessive mold, and the containers of which were short in volume.

On March 3, 1936, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 180 cases of canned tomato juice at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about October 7 and 13, 1935, by the Nelson Packing Co., from Springdale, Ark. The article was labeled in part: "Nelson's Brand Tomato Juice Contents 12½ Fl. Oz. Delicious Refreshing This Tomato Juice is Pure, Undiluted Pasteurized with Rich Natural Flavor. Extracted from fresh selected vine-ripened tomatoes. * * * Produced in the middle of the Ozarks by Nelson Packing Co. Inc. Springdale, Arkansas."

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

The article was alleged to be misbranded (1) in that the statement on the label, "Contents 12½ Fl. Oz.", was false and misleading and tended to deceive and mislead the purchaser when applied to a product the packages of which each contained less than 10 fluid ounces thereof, and (2) in 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 quantity stated was not correct.

On May 1, 1936, judgment of condemnation was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26206. Adulteration and misbranding of tomato juice. U. S. v. 63½ Cases of Tomato Juice. Product released under bond. (F. & D. no. 37295. Sample no. 67907-B.)

This case involved a shipment of tomato juice that was short in volume and that contained added water.

On March 16, 1936, 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 63½ cases of tomato juice at Cheyenne, Wyo., alleging that the article had been shipped in interstate commerce on or about October 3, 1935, by Libby, McNeill & Libby, from Manzanola, Colo., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "14 Fl. Oz. Net Libby's Fancy Tomato Juice * * * Libby, McNeill & Libby Chicago."

The article was alleged to be adulterated in that water had been mixed and packed therewith so as to reduce or lower its quality or strength, and in that water had been substituted wholly or in part for tomato juice, which the article purported to be.

The article was alleged to be misbranded in that it was labeled so as to deceive and mislead the purchaser, i. e., the label bore the statements, "Fancy Tomato Juice * * * is a good source of vitamins A and B, and an excellent source of vitamin C. * * * is the juice of selected red, vine-ripened tomatoes, * * * Rich in flavor, color, and vitamins; it has much of the food value of the fresh tomato"; and "14 Fl. Oz. Net.", whereas the tomato-solids content was below that of authentic undiluted tomato juice and the article was short in volume; misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly, correctly, and conspicuously stated on the outside of the cans, since the statement "14 Fl. Oz. Net" was not correct.

On May 29, 1936, Libby, McNeill & Libby, having appeared as claimant, an order was entered authorizing delivery of the product to the claimant upon payment of costs and the execution of a bond, conditioned that it should not be disposed of in violation of the Federal Food and Drugs Act and other laws.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26207. Adulteration and misbranding of olive oil. U. S. v. Eight 1-Gallon Cans, et al., of Alleged Olive Oil. Tried to a jury. Verdict for the Government. Product ordered sold. (F. & D. nos. 37308, 37309, 37329, 37330. Sample nos. 65614-B to 65624-B, incl.)

These cases involved olive oil that was adulterated with tea-seed oil.

On March 6 and March 9, 1936, the United States attorney for the District of New Hampshire, acting upon reports by the Secretary of Agriculture, filed

in the district court libels praying seizure and condemnation of 143 cans, in various sizes, of alleged olive oil at Manchester and Nashua, N. H., alleging that the article had been shipped in interstate commerce on or about September 16, December 19, 1935, and January 25, 1936, by Cosmos Food [Stores] Inc., from Lynn, Mass., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cosmos Brand Pure Italian Olive Oil."

The article was alleged to be adulterated in that tea-seed oil had been mixed and packed therewith so as to reduce or lower its quality or strength; and in that tea-seed oil had been substituted in whole or in part for olive oil, which the article purported to be.

The article was alleged to be misbranded in that the following statements and designs were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil, (cans) "Imported Extra Fine Virgin Pure Italian Olive Oil, [designs of medals inscribed "Vittorio Emanuele III Re D'Italia" and "Exposition Agricoltura Roma Medaglia D'Oro"] Gold Medal Award * * * Extra Fine Pure Olive Oil This Olive Oil is guaranteed absolutely pure and of the finest quality * * * Extra Fine Olio D'Oliva Sopraffino Quest' olio essendo assolutamente puro non sole e raccomandato come medicinale ma anche per tutti quegli usi in cui e indicato L'olio D'oliva * * * Pure Italian Olive Oil"; and in that it was offered for sale under the distinctive name of another article, namely, olive oil.

On June 16, 1936, the Cosmos Food Stores, Inc., having appeared as claimant and having contested the cases, they were tried to a jury which returned a verdict on June 23, 1936, for the Government. On July 8, 1936, judgment was entered decreeing that the product was adulterated and misbranded and ordering that it be destroyed or sold and that the claimant pay the cost of the proceeding. On September 17, 1936, supplemental decrees were entered ordering that the product be sold.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26208. Adulteration of dried codfish. U. S. v. 180 Boxes and 109 Boxes of Dried Salt Codfish. Default decrees of condemnation and destruction. (F. & D. nos. 37317, 37318. Sample nos. 52164-B, 52165-B.)

These cases involved interstate shipments of dried salt codfish which were infested with nematode worms, a portion of which, in addition, contained maggots and were putrid, and another portion of which had undergone mold decomposition.

On March 7, 1936, the United States attorney for the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court two libels, one praying seizure and condemnation of 180 boxes, and the other praying seizure and condemnation of 109 boxes of dried salt codfish at Youngstown, Ohio, alleging that the 180 boxes of the article had been shipped on or about September 20, 1935, by James Walsh from Caraquet, New Brunswick, and that the 109 boxes of the article had been shipped on or about October 4, 1935, by James Walsh from Grand River, Quebec, and that the article in both cases was adulterated in violation of the Food and Drugs Act. The article in both cases was labeled: "Lion Brand Codfish Gaspe Cure Product of Canada Medium [or Large] 100 Lbs. Net."

The article was alleged to be adulterated in that it was infested with nematode worms, some of the fish in addition contained maggots and were putrid, and other fish had undergone brown spot mold decomposition in violation of the Food and Drugs Act providing that an article of food shall be deemed to be adulterated if it consists in whole or in part of a filthy, decomposed, or putrid animal substance.

On April 30, 1936, no claimant having appeared, judgment of condemnation and forfeiture was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26209. Adulteration of blackberry preserves. U. S. v. 30 Cases and 75 Cases of Blackberry Preserves. Default decree of condemnation and destruction. (F. & D. no. 37363. Sample no. 65213-B.)

This case involved blackberry preserves that contained excessive mold.

On March 12, 1936, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 105 cases of blackberry preserves at Oakland, Calif., alleging that the article had been shipped