

19973. Adulteration of cabbage. U. S. v. 14,000 Pounds of Cabbage. Default decree of condemnation, forfeiture, and destruction. (No. 6546-A. F. & D. No. 28336.)

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

On May 10, 1932, the United States attorney for the Eastern District of Missouri, 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 14,000 pounds of cabbage at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about May 3, 1932, by M. E. Girard, from Lafayette, La., to St. Louis, Mo., and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that it contained a poisonous substance, to wit, arsenic, which might have rendered the article injurious to health.

On June 23, 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.

HENRY A. WALLACE, *Secretary of Agriculture.*

19974. Adulteration and misbranding of canned pitted red cherries. U. S. v. 41 Cases, et al., of Pitted Red Cherries. Default decrees of condemnation, forfeiture, and sale. (Nos. 8137-A, 8138-A. F. & D. Nos. 28344, 28345.)

These actions involved the interstate shipment of quantities of canned pitted red cherries, samples of which were found to contain excessive amounts of pits.

On May 5, 1932, the United States attorney for the Middle District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 47 cases of pitted red cherries, remaining in the original unbroken packages at York, Pa., alleging that the article had been shipped in interstate commerce in various consignments on or about March 26, 1932, by the Webster Canning Co. (Webster Canning & Preserving Co. (Inc.)), from Webster, N. Y., to Baltimore, Md., and were reshipped from Baltimore, Md., on April 2, April 15, and April 21, 1932, by A. J. Harris & Co., to York, Pa., and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Cans) "Pitted Red Cherries * * * Packed for A. J. Harris & Co., Baltimore, Md. * * * Water Pack."

It was alleged in the libels that the product was adulterated in that cherries containing excessive pits had been substituted for the article.

Misbranding was alleged for the reason that the statement on the label, "Pitted Red Cherries," was false and misleading and deceived and misled the purchaser thereof.

On June 30, 1932, no appearance or answer having been entered or filed, judgment of condemnation and forfeiture was ordered by the court, and it was further ordered and decreed that the word "Pitted" be obliterated from the labels, and the product relabeled "Red Cherries With Excessive Pits," and sold by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

19975. Adulteration and misbranding of olive oil. U. S. v. Twenty-seven 1-Gallon Cans of Alleged Olive Oil. Default decree of condemnation, forfeiture, and destruction. (No. 10301-A. F. & D. No. 28276.)

This action involved the shipment of a quantity of alleged olive oil, samples of which were found to contain little or no olive oil, and to be short weight. The article was labeled to convey the impression that it was a foreign product, whereas it was wholly or in large part of domestic manufacture.

On May 5, 1932, the United States attorney for the District of New Jersey, 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 twenty-seven 1-gallon cans of alleged olive oil, remaining in the original and unbroken packages at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about February 2, 1932, by Korbro Oil Co. (Inc.), from Brooklyn, N. Y., to Newark, N. J., and charging adulteration and misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Cans) "Orazi and Curiazi Olive Oil Distributed by I. Nuccio Orazi and Curiazi Olive Oil Co. Net Contents One Gallon * * * A Compound Olive Oil * * * A Compound Olio D'Oliiva."

It was alleged in the libel that the article was adulterated in that other oil with little or no olive oil had been mixed and packed with and substituted in whole or in part for the article.

Misbranding was alleged for the reason that the statements on the label, "Net Contents One Gallon," "Olive Oil," and "Olio d'Oliva," were false and misleading and deceived and misled the purchaser, when applied to an article short of the declared volume and containing little or no olive oil. Misbranding was alleged for the further reason that it was offered for sale under the distinctive name of another article. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so; and 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 quantity stated was not correct.

On June 13, 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.

HENRY A. WALLACE, *Secretary of Agriculture.*

19976. Misbranding of canned red beans, canned kidney beans, canned pumpkin, canned hominy, canned lima beans, canned corn, and canned spaghetti; and adulteration and misbranding of canned sauerkraut. U. S. v. 74 Cases of Canned Red Beans, et al. Decrees of condemnation and forfeiture. Products released under bond. (Nos. 2015-A, 2020-A to 2025-A, incl., 2076-A, 2077-A, 2101-A, 2102-A, 2122-A to 2124-A, incl., 2151-A, 2352-A. F. & D. Nos. 28454, 28497, 28514, 28533 to 28539, incl., 28587 to 28590, incl.)

Sample cans taken from each of the shipments of canned goods involved in these actions were found to contain less than the declared weight. Samples taken from one of the two shipments of canned sauerkraut also were found to be unsterile and decomposed.

On July 13, July 27, August 1, and August 8, 1932, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 74 cases of canned red beans, 108 cases of canned kidney beans, 205 cases of canned pumpkin, 73 cases of canned sauerkraut, 275 cases of canned hominy, 76 cases of canned lima beans, 6 cases of canned corn, and 6 cases of canned spaghetti, which products had been shipped in interstate commerce into the State of Colorado by the Otoe Food Products Co., Nebraska City, Nebr. It was alleged in the libels that the articles had been shipped in part from Nebraska City, Nebr., and in part from Hamburg, Iowa, between the dates of November 9, 1929 and May 14, 1932, that they remained in the original unbroken packages in various lots at Trinidad, Pueblo, Minnequa, Colorado Springs, and Denver, Colo., respectively, and that they were misbranded in violation of the food and drugs act as amended. On October 29, 1932, the libel filed against the 73 cases of sauerkraut was amended to add the charge that 61 cases of the article also were adulterated. The articles were labeled in part, variously: (Cans) "Jonquil Brand Red Beans, Contents 1 Pound;" "Pallas Brand Red Kidney Beans, Contents 1 Pound;" "Nature's Best Otoe Brand Pumpkin, Net Weight 1 lb. 1½ oz.;" "Nature's Best Brand Sauerkraut Net Weight 1 Lb. 1½ Oz. * * * Packed by Otoe Food Products Co. Nebraska City, Nebraska;" "Silver Brand Sauerkraut Net Weight 16 ozs.;" "Shepard Red Kidney Beans, Net Weight 1 Pound;" "Aboveall Brand Red Kidney Beans, Contents 1 pound;" "Shepard Lye Hominy Net Weight 1 Pound;" "Nature's Best Otoe Brand Hominy Net Weight 1 Lb. 2 oz." [or "Net Weight 1 pound"]; "Aboveall Brand Lima Beans, Contents 1 Pound;" "Y B Your Best Brand Red Kidney Beans Net Weight 16 ozs.;" "Y B Your Best Brand Baby Lima Beans, Net Weight 1 lb. 2 ozs.;" "Y B Your Best Brand Fancy Narrow Grain Sugar Corn Net Weight 1 lb. 2 ozs.;" "Lone Brook Brand Spaghetti Contents 1 Lb. Packed by Hamburg Canning Co. Hamburg, Iowa."

It was alleged in the libels that the articles were misbranded in that the statements, "Contents 1 Pound," "Net Weight 1 Pound," and "Net Weight 16 ozs.," appearing on the labels of respective portions of the canned red kidney beans; the statement "Net Weight 1 lb. 1½ ozs.," on the label of the canned pumpkin; the statements "1 Lb. 1½ Ozs." and "16 ozs.," on the labels of respective portions of the canned sauerkraut; the statement "Net Weight 1 lb. 2 ozs.," on the labels of the canned lima beans and the canned corn; the statement "Contents 1 lb.," on the labels of the canned spaghetti;