

and misbranding of the article, and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on June 17, 1908, the said Secretary reported the facts and evidence (F. & D. No. 113) to the Attorney-General, by whom they were referred to the United States attorney for the western district of Missouri, who filed an information against the said Paddock Coffee and Spice Company, with the result hereinbefore stated.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *January 10, 1910.*

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(N. J. 137.)

### MISBRANDING OF CHEESE.

(UNDER WEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of *The United States v. 50 Packages of Cheese*, a proceeding of libel under section 10 of the act in the district court of the United States for the western district of North Carolina for seizure and condemnation of the said cheese for the reason that it was misbranded within the meaning of section 8 of the act in that the box containing it bore figures falsely representing its weight. Baird Brothers, Asheville, N. C., consignees of the cheese, having set up their claim thereto and agreeing with the United States attorney to submit the matter to the court for decision, and the matter having come on for final hearing on March 1, 1909, upon the statements of the respective parties the court adjudged the cheese misbranded and rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, WESTERN DISTRICT OF NORTH  
CAROLINA—AT ASHEVILLE.

UNITED STATES OF AMERICA }  
                                  *v.* }  
50 PACKAGES OF CHEESE. }

This cause coming on to be heard, and it appearing to the court that upon the libel filed herein warrant of arrest was duly issued and served on the 21st day of January, 1909, and that by virtue of said warrant the marshal has seized and now holds 50 boxes of cheese, of the approximate value of \$250, the said 50 boxes of cheese having been seized upon the premises and in the possession of Baird Bros., a partnership formed and doing business in the city of Asheville, N. C., within the said district, and that the said cheese is now in storage in the custody of the said marshal; and it appearing that Baird Bros.,

the respondents herein, the owners of the said 50 boxes of cheese so seized, were duly warned to appear herein, and that due and legal notice and proclamation were given to all persons having or claiming to have any right, title, or interest therein, or in or to said property, to appear and answer said libel, and that said Baird Bros. have so appeared; the libelant and respondent each making a statement to the court of their evidence and agreeing in open court to submit the same to the court, and the court now being fully advised in the premises finds for the libelant, and finds that the said 50 boxes of cheese contain articles of food, and that the said boxes are misbranded within the meaning of the act of Congress of June 30, 1906, the same having been transported in interstate commerce from the city of Louisville, Ky., consigned to Baird Bros., at Asheville, N. C., being all of such consignment found in original unbroken packages; that is, the court finds that the said articles of food are misbranded in violation of the said act of Congress in that said boxes and each of them contain less in weight than the amount as shown by the brands thereon, and that the said articles of food were transported in interstate commerce and consigned and delivered to the claimants aforesaid, wholesale dealers, at Asheville, N. C.

The court further finds that the articles of food contained in said 50 boxes of cheese is not adulterated, poisonous, or deleterious, but that the violation of the said act of Congress is in the misbranding of the said boxes, and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said 50 boxes of cheese, with the contents as aforesaid, be, and they are hereby, declared to be misbranded in violation of the act of June 30th, 1906, as is charged in said libel, and it is further ordered that the said 50 boxes of cheese, with the contents as aforesaid, be, and they hereby are, condemned and forfeited, as provided for in the said act of June 30th, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerk's, marshal's costs, and costs of hauling, storage, watchmen, and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Baird Bros. to the libelant of a good and sufficient bond in the penalty of three hundred dollars, conditioned that the said 50 boxes of cheese, with the contents as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or to the laws of any State, Territory, or insular possession, that said marshal shall redeliver the said 50 boxes of cheese with such of their contents as they now contain, or may contain at the time of such redelivery, to Baird Bros. in lieu of the retention and destruction thereof; the clerk of this court will tax the costs in accordance with this order and furnish a copy thereof to claimants.

The clerk will enter. This March 1, 1909.

JAS. E. BOYD, *U. S. Judge.*

We consent to this decree.

J. G. MERRIMON,  
*Attorney for Claimants.*

A. E. HOLTON,  
*U. S. Attorney.*

The facts in the case were as follows:

On or about January 18, 1909, an inspector of the Department of Agriculture found in the possession of Baird Brothers, Asheville, N. C., 50 boxes of cheese which had been shipped to the said Baird Brothers by Crosby & Meyers from Louisville, Ky., on or about Janu-

ary 11, 1909, and which said boxes of cheese were labeled: "Full cream. In compliance with National Pure Food Law. Crosby & Meyers," and in addition, each box bore upon it penciled figures purporting to indicate the true weight of the cheese contained therein. The inspector weighed the boxes and found an average shortage per cheese of from  $1\frac{1}{2}$  to 2 pounds. The cheese were therefore misbranded within the meaning of section 8 of the Food and Drugs Act, in that the statement of weight was incorrect, and on January 19, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of North Carolina, who filed a libel for seizure and condemnation of the said cheeses, with the result hereinbefore stated.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *January 10, 1910.*

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(N. J. 138.)

**MISBRANDING OF CHEESE.**

(UNDER WEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 10 Packages of Cheese, a proceeding of libel under section 10 of the act in the district court of the United States for the western district of North Carolina for seizure and condemnation of the said cheese for the reason that it was misbranded within the meaning of section 8 of the act, in that the box containing it bore figures falsely representing its weight. Mustin Robertson Company, Asheville, N. C., consignees of the cheese, having set up their claim thereto and agreeing with the United States attorney to submit the matter to the court for decision, and the matter having come on for final hearing on March 1, 1909, upon the statements of the respective parties the court adjudged the cheese misbranded and rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, WESTERN DISTRICT OF NORTH  
CAROLINA—AT ASHEVILLE.

UNITED STATES OF AMERICA	} Decree of condemnation.
v.	
10 PACKAGES OF CHEESE.	

This cause coming on to be heard and it appearing to the court that upon the libel filed herein warrant of arrest was duly issued and served on the 21st day