

21262. Misbranding of Brano Flakes. U. S. v. Three Hundred and Thirty 10-Pound Cases of Brano Flakes. Consent decree of condemnation and forfeiture. Product released under bond for relabeling. (F. & D. no. 30605. Sample no. 35373-A.)

This case involved a product which was labeled to convey the impression that it was composed of bran, but which was found to contain approximately 68 percent of substances other than bran. The labeling of the article also bore unwarranted curative and health claims.

On or about June 16, 1933, 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 three hundred and thirty 10-pound cases of Brano Flakes at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about January 14, 1933, by the W. K. Kellogg Co., from Battle Creek, Mich., and charging misbranding in violation of the Food and Drugs Act as amended.

It was alleged in the libel that the article was misbranded under the provision of the law applicable to food in that the statements, "Brano Flakes", and "Brano", appearing in the labeling, were false and misleading and deceived and misled the purchaser. It was further alleged that the article was misbranded under the provisions of the law applicable to drugs in that the following statements on the package label, regarding its curative or therapeutic effects, were false and fraudulent, since it contained no ingredient or combination of ingredients capable of producing the effects claimed: "An easy way to avoid constipation. * * * Eat Kellogg's Brano Flakes daily for extreme cases. Eat it with every meal. * * * A corrective food for constipation. * * * It will assist greatly in the elimination of * * * poisons from the body. Office workers and persons of sedentary habits find in Kellogg's Brano Flakes the one food that their bodies need in order to keep them fit all the time. * * * Eat Brano for better health. * * * Medical authorities have long recognized the healthful properties of bran in the treatment of chronic constipation. * * * Brano is also rich in certain good minerals which have a laxative effect on the system and at the same time strengthen and purify the blood, our body's great purifying media. Pills and cathartics can not and do not cure. They aggravate an already grave and dangerous condition. The only safe and sure way is to eat Brano every day and for chronic cases eat it with every meal. You will enjoy this delicious healthful food and at the same time it will build up and fortify the system against disease."

On June 28, 1933, the Kellogg Sales Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant for relabeling under the supervision of this Department, upon payment of costs and the execution of a bond, conditioned that it should not be disposed of contrary to the Federal Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

21263. Adulteration of canned tomato puree. U. S. v. 48 Cases of Tomato Puree. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 30526. Sample no. 32137-A.)

This case involved the interstate shipment of a quantity of canned tomato puree that was found to be filthy and decomposed.

On May 25, 1933, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 cases of tomato puree at Wilkes-Barre, Pa., alleging that the article had been shipped on or about April 4, 1933, by the Holley Canning Co., from Holley, N.Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Holleyripe Tomatoes Pure * * * Packed by Holley Canning Co. Holley, N.Y."

It was alleged in the libel that the article was adulterated in that it consisted wholly or in part of filthy and decomposed vegetable substances.

On June 23, 1933, 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.

M. L. WILSON, *Acting Secretary of Agriculture.*