

21304. Misbranding of butter. U. S. v. 15 Cases of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 30674. Sample no. 43256-A.)

Sample cartons of butter taken from the shipment involved in this case were found to contain less than the declared weight, 1 pound.

On June 10, 1933, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of butter at Passaic, N.J., alleging that the article had been transported in interstate commerce on or about June 7, 1933, from the premises of Alex Grossman, New York, N.Y., to the premises of Oscar Tell, Passaic, N.J., via truck of Oscar Tell, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Carton) "Capital Butter Harding Cream Company Omaha, Kansas City, Des Moines Four-in-One, 1 Lb. Net."

It was alleged in the libel that the article was misbranded in that the statement on the label "1 Lb. Net", was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article 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 statement made was incorrect.

On July 12, 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.*

21305. Misbranding of canned green beans. U. S. v. 878 Cans of Green Beans. Default decree of forfeiture and destruction. (F. & D. no. 30693. Sample no. 41940-A.)

This case involved a shipment of canned string beans, sample cans of which were found to contain less than 11 ounces, the declared weight.

On July 6, 1933, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 878 cans of green beans at Pocatello, Idaho, alleging that the article had been shipped in interstate commerce on or about May 4, 1933, by the Smith Canning Co., from Clearfield, Utah, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Smith Brand Fancy Cut Green Beans Net Contents Eleven Ozs., Smith Canning Co., Clearfield, Utah."

It was alleged in the libel that the article was misbranded in that the statement, "Contents Eleven Ozs.", borne on the label, was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article 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 statement made was incorrect.

On July 29, 1933, no claimant having appeared for the property, judgment of 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.*

21306. Misbranding of flour. U. S. v. 371 Bags of Flour. Decree of condemnation and forfeiture. Product released under bond to be relabeled or repacked. (F. & D. no. 30610. Sample no. 46474-A.)

This case involved a shipment of flour, sample sacks of which were found to contain less than the declared weight, 24 pounds.

On June 15, 1933, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 371 bags of flour at Abbeville, La., alleging that the article had been shipped in interstate commerce on or about May 20, 1933, by the G. B. R. Smith Milling Co., from Sherman, Tex., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "La-Belle Flour 24 Lbs. Net Weight When Packed Bleached La Belle."

It was alleged in the libel that the article was misbranded in that the statement, "24 Pounds Net", borne on the label, was false and misleading and for the further reason that the article 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 statement made was incorrect.

On July 24, 1933, the G. B. R. Smith Milling Co. having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$500, or the deposit of a certified check for like amount, conditioned in part that it be relabeled or repacked to the declared weight.

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

21307. Misbranding of canned cherries. U. S. v. 75 Cases of Canned Cherries. Default decree of forfeiture and destruction. (F. & D. no. 30694. Sample no. 41938-A.)

This case involved a shipment of canned cherries which were labeled, "Solid Pack", and which were found to be packed in a liquid medium. The article fell below the standard for canned cherries, since the sugar solution of the liquid portion was low, and it was not labeled to indicate that it was substandard.

On July 6, 1933, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 75 cases of canned cherries at Pocatello, Idaho, alleging that the article had been shipped in interstate commerce on or about November 9, 1931, by the Pacific Northwest Canning Co., from Puyallup, Wash., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Famous Puyallup Brand Solid Pack Pitted Red Sour Cherries * * * Packed by Pacific Northwest Canning Company, Puyallup, Washington."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Solid Pack", was false and misleading and deceived and misled the purchaser when applied to an article packed in a liquid packing medium. Misbranding was alleged for the further reason that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, because the packing medium read less than 16 degrees Brix, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On July 29, 1933, no claimant having appeared for the property, judgment of 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.*

21308. Misbranding of Flavor-Rite Cho-Co-Malt. U. S. v. 99¾ Dozen Jars of Flavor-Rite Cho-Co-Malt. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 30695. Sample no. 43209-A.)

This case involved a product labeled to convey the impression that it contained chocolate and an appreciable amount of malt. Examination showed that it consisted essentially of cocoa and sugar, with only a small amount, if any, of malt. The statement of the quantity of the contents was not plain and conspicuous.

On or about July 5, 1933, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99¾ dozen jars of the said Flavor-Rite Cho-Co-Malt at Bridgeport, Conn., alleging that the article had been shipped in interstate commerce on or about June 14, 1933, by the Flavor Rite Cho-Co Malt Co., from Brooklyn, N.Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Flavor Rite Cho-Co Malt Co. Brooklyn, N.Y."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Cho-Co-Malt", was false and misleading and deceived and misled the purchaser when applied to an article which consisted essentially of cocoa, sugar, and water. Misbranding was alleged for the further reason that the article was sold under the distinctive name of another article 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.

On July 20, 1933, the Flavor Rite Cho-Co-Malt Co., Brooklyn, N.Y., 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