

21394. Adulteration and misbranding of butter. U. S. v. 9 Cartons and 29 Cartons of Butter. Consent decree of condemnation. Product released under bond. (F. & D. no. 30830. Sample nos. 29520-A, 29522-A.)

This case involved a shipment of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter established by Congress.

On July 12, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 38 cartons of butter at Riverside, Calif., alleging that the article had been shipped in interstate commerce on or about July 8, 1933, by Delta Valley Creamery Co., from Delta, Utah, and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part (Carton) "Butter." A portion of the article was in quarter-pound prints, unlabeled.

It was alleged in the libel that the article was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

Misbranding was alleged for the reason that the statement "Butter" appearing on the label was false and misleading, since the product contained less than 80 percent of milk fat. Misbranding was alleged with respect to the quarter-pound prints 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 August 16, 1933, Whitehead Bros., Inc., Riverside, Calif., claimants, 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 to be brought into conformity with the law upon payment of costs and the execution of a bond in the sum of \$100.

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

21395. Adulteration of apple pomace. U. S. v. 700 Bags and 35,000 Pounds of Apple Pomace. Decree of condemnation entered. Product released under bond. (F. & D. no. 30098. Sample no. 20197-A.)

This case involved a shipment of apple pomace, which contained arsenic and lead in amounts which might have rendered the article injurious to health.

On April 14, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 700 bags and 35,000 pounds of apple pomace at Anaheim, Calif., alleging that the article had been shipped in interstate commerce, in part on or about November 10, 1932, and in part on or about December 22, 1932, by the Olympia Canning Co., from Olympia, Wash., 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 added poisonous and deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On August 1, 1933, the Mutual Citrus Products Co., Anaheim, Calif., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation 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 \$1,500, conditioned that it be brought into conformity with the law under the supervision of this Department.

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

21396. Misbranding of butter. U. S. v. 43 Cases of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 30727. Sample no. 43260-A.)

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

On June 27, 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 43 cases of butter at Hackensack, N.J., alleging that the article had been transported in interstate commerce, on or about June 6, 1933, from the premises of Armour Creameries, Fargo, N.Dak., to the premises of Armour & Co., Hackensack, N.J., and charging misbranding

in violation of the Food and Drugs Act as amended: The article was labeled in part: "Armour's Cloverbloom Full Cream Butter * * * 1 Lb. Net Weight."

It was alleged in the libel that the article was misbranded in that the statement on the label, "1 Lb. Net Weight", 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 of weight was incorrect.

On July 28, 1933, Armour & 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 upon payment of costs and the execution of a bond in the sum of \$300, conditioned that it should not be disposed of in violation of the Federal Food and Drugs Act, and all other laws. The article was reprinted in full 1-pound prints.

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

21397. Adulteration of cauliflower. U. S. v. A Quantity of Cauliflower. Default decree of destruction. (F. & D. no. 30911. Sample no. 42649-A.)

This case involved a quantity of cauliflower which was found to bear arsenic in an amount which might have rendered it injurious to health.

On July 28, 1933, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of a quantity of cauliflower at Cincinnati, Ohio, alleging that the article had been shipped in interstate commerce, on or about July 20, 1933, by the Western Vegetable Distributors, from Denver, Colo., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Rosa Del Rancho [Rose of the Ranch] Brand Colorado Cauliflower, Western Vegetable Distributors, * * * Denver, Colo."

It was alleged in the libel that the article was adulterated in that it contained arsenic, an added poisonous or deleterious ingredient, which might have rendered it injurious to health.

On September 25, 1933, no claimant having appeared for the property, judgment was entered nunc pro tunc as of July 29, 1933, ordering that the product be destroyed by the United States marshal.

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

21398. Misbranding of canned salmon. U. S. v. 57 Cases, et al., of Canned Salmon. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 30800. Sample nos. 22259-A, 22260-A.)

This case involved quantities of canned salmon which was labeled to convey the impression that it was red salmon, and which was in fact coho or medium red salmon.

On August 1, 1933, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 136 cases of canned salmon at St. Paul, Minn., alleging that the article had been shipped in interstate commerce by the Kelley-Clarke Co., from Seattle, Wash., in part on or about January 11, 1933, and in part on or about March 20, 1933, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Serv-Well brand selected medium Red Salmon * * * Distributed by Twin City Wholesale Grocer Co., St. Paul and Minneapolis, Minn." The words "Red Salmon" were emphasized and the word "medium" was in smaller, less conspicuous type.

It was alleged in the libel that the article was misbranded in that the emphasized statement "Red Salmon", borne on the label, was false and misleading and deceived and misled the purchaser.

On September 11, 1933, the respondent and claimant having admitted the material 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 \$150, conditioned that it be relabeled under the supervision of this Department.

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