

It was alleged in the libels that the article was misbranded in that the statement on the tag, "U. S. Number 1", was false and misleading and deceived and misled the purchaser.

On November 28, 1933, the two libels having been consolidated into one cause of action, and Diercks, Huxtable & Baldwin, Chicago, Ill., claimants, having admitted the allegations of the libels 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 claimants for relabeling under the supervision of this Department, upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it should not be sold or otherwise disposed of contrary to the Federal Food and Drugs Act and all other laws.

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

**21729. Adulteration and misbranding of potatoes. U. S. v. 266 Bags of Potatoes. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 31618. Sample no. 59876-A.)**

This case involved an interstate shipment of potatoes which were represented to be United States grade No. 1, but which were found to be below grade because of excessive grade defects.

On or about November 24, 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 266 bags of potatoes at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 8, 1933, by Chris Christensen, from Shelley, Idaho, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "US Number One, Selected Idaho Indian Chief Potatoes, Chris Christensen Produce Co., Shelley, Idaho."

It was alleged in the libel that the article was adulterated in that potatoes below the grade indicated on the label had been substituted for it.

Misbranding was alleged for the reason that the statement on the label, "US Number 1", was false and misleading and deceived and misled the purchaser.

On November 24, 1933, S. Friedman & Sons, Chicago, Ill., claimants, 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 claimants to be relabeled under the supervision of this Department, upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it should not be sold or otherwise disposed of contrary to the Federal Food and Drugs Act and all other laws.

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

**21730. Adulteration of butter. U. S. v. Joe S. McIlhaney (McIlhaney Creamery Co.). Plea of guilty. Fine, \$25. (F. & D. no. 30165. Sample no. 12021-A.)**

This case was based on 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 August 18, 1933, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joe S. McIlhaney, trading as McIlhaney Creamery Co., Lubbock, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 21, 1932, from the State of Texas into the State of New York, of an article of food, butter, which was adulterated.

It was alleged in the information 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.

On December 11, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25.

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