

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed or putrid vegetable substance.

On May 25, 1926, the Davis Canning Co., Laurel, Del., having entered an appearance and 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 destroyed by the United States marshal.

W. M. JARDINE, *Secretary of Agriculture.*

14368. (Supplement to Notice of Judgment No. 13528.) Misbranding of meat and bone scrap. U. S. v. 359 Bags of Meat and Bone Scrap. Consent decree of forfeiture. Product released under bond. (F. & D. No. 19981. I. S. No. 14114-v. S. No. E-5271.)

On January 14, 1926, an order of the court was entered, vacating the decree of destruction theretofore entered in the above case involving the shipment of 359 bags of misbranded meat and bone scrap, shipped by the Mutual Rendering Co., from the State of Pennsylvania into the State of New Jersey. On the same date, the Mutual Rendering Co., Inc., Philadelphia, Pa., having appeared as claimant for the property 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 said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, conditioned in part that it not be sold or shipped unless relabeled in part: "Guaranteed Analysis Protein 42% Min., Grease 10% Min., Fibre 2% Max., B. P. L. 15% Max."

W. M. JARDINE, *Secretary of Agriculture.*

14369. Adulteration and misbranding of butter. U. S. v. 26 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 21158. I. S. No. 8162-x. S. No. E-5742.)

On June 21, 1926, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 26 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the Farmers Creamery, Garber, Iowa, on or about June 10, 1926, and transported from the State of Iowa into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act.

Adulteration of the article was alleged in the libel for the reason that a substance deficient in butterfat had been mixed and packed therewith so as to reduce or lower or injuriously affect its quality or strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article.

On July 7, 1926, the Farmers Creamery Co., Garber, Iowa, claimant, having admitted the allegations of the libel and having consented to the entry of a decree and to recondition the product so that it would contain at least 80 per cent of butterfat, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,300, conditioned in part that it be reworked and reprocessed so that it would comply with the law.

W. M. JARDINE, *Secretary of Agriculture.*

14370. Misbranding of cottonseed meal and cottonseed cake. U. S. v. 300 Sacks of Cottonseed Meal, et al. Decrees entered adjudging products misbranded and ordering their release under bond. (F. & D. Nos. 20798, 20919. I. S. Nos. 365-x, 366-x, 431-x. S. Nos. W-1855, W-1915.)

On February 2 and March 11, 1926, respectively, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying seizure and condemnation of 478 sacks of cottonseed meal and 100 sacks of cottonseed cake, remaining in the original unbroken packages in part at Denver, Colo., and in part at Colorado Springs, Colo., consigned by the Quanah Cotton Oil Co., Quanah, Tex., alleging that the articles had been shipped from Quanah, Tex., in part on or about January 18, 1926, and in part on or about

February 12, 1926, and transported from the State of Texas into the State of Colorado, and charging misbranding in violation of the food and drugs act. The cottonseed cake and a portion of the cottonseed meal were labeled in part: "Crude Protein not less than 43.00 Per Cent." The remainder of the cottonseed meal was labeled in part: "43% Protein Cottonseed Meal Prime Quality Manufactured by Quanah Cotton Oil Company Quanah, Texas Guaranteed Analysis Crude Protein not less than 43.00 Per Cent."

Misbranding of the articles was alleged in the libels for the reason that the statements "43% Protein" and "Crude Protein not less than 43.00 Per Cent," as the case might be, were false and misleading and deceived and misled the purchaser, since the said products did not contain 43 per cent of protein.

On March 11, and April 2, 1926, respectively, the Quanah Cotton Oil Co., Quanah, Tex., having appeared as claimant for the property, decrees were entered, finding the products mislabeled in violation of said act, and it was ordered by the court that the said products be released to the claimant upon payment of the costs of the proceedings and the execution of bonds in the aggregate sum of \$1,550, conditioned in part that they not be sold or otherwise disposed of until relabeled to show the correct contents.

W. M. JARDINE, *Secretary of Agriculture.*

14371. Alleged adulteration of wheat middlings. U. S. v. 200 Sacks of Wheat Middlings. Tried to the court. Libel ordered dismissed.
(F. & D. No. 12659. I. S. No. 24527-r. S. No. C-1943.)

On May 24, 1920, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 200 sacks of wheat middlings. On September 14, 1920, and March 19, 1923, respectively, amended libels were filed in the case. It was alleged in the libel as amended that the article had been shipped by the Ismert-Hincke Milling Co., from Kansas City, Kans., April 8, 1920, that it had been transported from the State of Kansas into the State of Michigan, and remained in the original sacks at Ann Arbor, Mich., and that it was adulterated in violation of the food and drugs act. The article was labeled in part: "A. B. C. Middlings Wheat Middlings with mill run ground screenings * * * Manufactured By The Ismert-Hincke Milling Co. Kansas City, Kansas, Topeka, Kansas."

Adulteration of the article was alleged in the libel for the reason that it had been mixed and powdered in a manner whereby inferiority was concealed.

On May 2, 1924, the Ismert-Hincke Milling Co., Kansas City, Kans., having appeared as claimant for the property, the case was submitted to the court on an agreed statement of facts together with depositions to prove the issues agreed upon. On May 20, 1926, judgment was entered for the said claimant as will more fully and at large appear from the following opinion of the court (Simons, D. J.):

"This is a libel filed by the Government against 200 sacks of middlings in statutory proceedings pursuant to section 10 of the food and drugs act (act of Congress of June 30, 1906, chapter 3915, 34 Statutes at Large, 771), for the seizure and confiscation of such middlings on the ground that they are adulterated within the meaning of section 7 of said act. The libel as originally filed alleged that said middlings, which were there referred to as 'alleged middlings,' were also misbranded within the meaning of section 8 of the act, but by amendment that charge was later withdrawn, and it is now conceded by the Government that the articles in question are in fact as they were labeled, middlings, as hereinafter more fully described. The sole statutory basis for the claim of adulteration advanced by the Government is that said middlings were mixed and powdered in a manner whereby * * * inferiority is concealed.

"After seizure of these middlings on the libel, the Ismert-Hincke Milling Co., a Kansas corporation, filed its intervening petition herein as claimant and its answer denying both the misbranding and the adulteration alleged. The case is now before the court for final decree upon the pleadings, an agreed statement of facts, and depositions taken in accordance therewith. The jurisdictional allegations of the libel, including that concerning the requisite interstate shipment of the products involved, are not disputed and have been proved. The food and drugs act, already cited, prohibits, by fine or imprisonment or both, the interstate shipment of any article used for food by man or other animals, which is adulterated within the meaning of the act. Section 10