

Court of the United States for the district aforesaid a libel praying seizure and condemnation of 496 cases of canned shrimp, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about April 26, 1932, by Dorgan, McPhillips Packing Corporation from Mobile, Ala., to New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Gulf Kist Brand Fancy Medium Shrimp Packed by Dorgan, McPhillips Packing Corp., Mobile, Ala."

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed animal substance.

On June 23, 1932, no appearance or claim having been entered, judgment of condemnation, forfeiture, and destruction was decreed and the court ordered the product destroyed by the United States marshal. Subsequently the Great Atlantic & Pacific Tea Co., at New York, N. Y., appeared on behalf of the Dorgan, McPhillips Packing Corporation and filed a motion to vacate the decree, and on July 6, 1932, an order was entered granting the motion and permitting intervenor to file a claim and stipulation for costs. On December 2, 1932, the claim was withdrawn and the court ordered that the writ of destruction issue. The motion to withdraw stipulation for costs was denied and costs were assessed against claimant.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20498. Misbranding of sirup. U. S. v. 10½ Cases, et al., of Sirup. Product released under bond to be relabeled. (F. & D. no. 28794. Sample nos. 2245-A, 2246-A, 2247-A.)

This action involved the interstate shipment of a product represented to be cane-flavored sirup, sample cans of which were found to contain less than the declared volume. Examination also showed that the article contained no flavor of cane sirup.

On August 25, 1932, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 16 cases and 42 cases of sirup, remaining in the original packages at Clovis, N. Mex., alleging that the article had been shipped in interstate commerce, in part on or about April 15, 1932, and in part on or about June 18, 1932, by the H. A. Marr Grocery Co., from Amarillo, Tex., to Clovis, N. Mex., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Bliss Pancake Brand Cane Flavor Syrup Bliss Syrup and Preserving Co., Kansas City, Mo. Net Weight 2 Lbs. 8 Ozs. [or "Net Weight Five Lbs.]."

It was alleged in the libel that the article was misbranded in that the statements, "Contents Two Lbs. Eight Ozs.", "Contents Five Lbs.", and "Cane Flavor", borne on the can labels, were false and misleading and deceived and misled the purchaser, since the cans contained less than the declared weight, and since the article had no flavor of cane sirup. 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 statements made were incorrect.

On December 7, 1932, the Bliss Syrup & Preserving Co., Kansas City, Mo., having appeared as claimant for the property and having admitted the allegations of the libel and the court having found that the product should be relabeled to show its true nature and the correct quantity of the contents in terms of fluid measure, judgment was entered ordering that the product be released to the claimant upon payment of costs and execution of a bond in the sum of \$200. conditioned that the cans labeled "5 Lbs." be relabeled "Contents **3 Pints 4 Fluid Ounces**", that the cans labeled "2 Lbs. 8 Ozs." be relabeled "One Pint 8 Fluid Ounces", and that the statement "Cane Flavor" be completely removed from the label.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20499. Adulteration of butter. U. S. v. 11 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (F. & D. no. 28843. Sample no. 12024-A.)

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

On August 9, 1932, 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 the district aforesaid a libel praying seizure and condemnation of 11 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 3, 1932, by Arrow Creamery Co., Hazen, N. Dak., through Northwest Dairy Forwarding Co., from Duluth, Minn., to New York, N. Y., and charging adulteration in violation of the Food and Drugs Act.

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 act of March 4, 1923.

Joseph J. Herold, New York N. Y., interposed a claim for the property as agent for the Arrow Creamery Co., Hazen, N. Dak., admitted the allegations of the libel, consented to the entry of a decree, and agreed that the product be reconditioned so that it contain at least 80 percent of butterfat. On November 29, 1932, 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 costs and the execution of a bond in the sum of \$300, conditioned in part that the product be reworked so that it comply with the Federal Food and Drugs Act and all other laws.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20500. Adulteration and misbranding of shelled peanuts. U. S. v. 225 Bags of Shelled Peanuts. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 28825. Sample no. 15138-A.)

This action involved a quantity of shelled peanuts that were found to be in part wormy and worm eaten; no declaration of quantity of contents appeared on the packages.

On September 1, 1932, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 225 bags of shelled peanuts, remaining in the original unbroken packages at Tacoma, Wash., alleging that the article had been shipped in interstate commerce on or about June 25, 1932, by Columbian Peanut Co., from Norfolk, Va., to Tacoma, Wash., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

It was alleged in the libel that the article was adulterated in that it was wormy and worm eaten and consisted of a filthy vegetable substance.

Misbranding was alleged for the reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On October 24, 1932, Fisher-Dahl Nut Products Co., Tacoma, Wash., having appeared as claimant, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant for reconditioning, upon payment of costs and the execution of a bond in the sum of \$500, conditioned in part that the peanuts should not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act or the laws of any State, Territory, District, or insular possession, and the further condition that the claimant should furnish satisfactory evidence of its compliance with the terms of said bond.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20501. Adulteration of apples. U. S. v. 25 Bushel of Grimes Golden Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29084. Sample no. 24630-A.)

This action involved the interstate shipment of a quantity of apples which were found to bear arsenic and lead in amounts that might have rendered the article injurious to health.

On September 30, 1932, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 25 bushels of Grimes Golden apples at Muncie, Ind., alleging that the article had been shipped in interstate commerce on or about September 21, 1932, by William Hamilton, from Bangor, Mich., to Muncie, Ind., and charging adulteration in violation of the Food and Drugs Act.