

It was alleged in the information that the article was misbranded in that the statement, "Guaranteed Analysis Protein, not less than 43%", borne on the tag, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein.

On January 27, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50 and costs.

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

20994. Adulteration of apple butter. U. S. v. 36 Jars of Apple Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29765. Sample no. 26547-A.)

This case involved a shipment of apple butter that contained insects of the storage type, indicating that it had been made from apples that were insect-infested.

On January 21, 1933, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 36 jars of apple butter at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about September 22, 1932, by the Old Virginia Packing Co., from Front Royal, Va., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Maiden Blush Brand Apple Butter * * * Old Virginia Packing Co. Front Royal, Va."

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 16, 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.

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

20995. Misbranding of canned artichokes. U. S. v. 20 Cases of Canned Artichokes. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 29798. Sample no. 2975-A.)

This case involved a shipment of canned artichokes in which the cans were labeled as containing from 20 to 27 artichokes each, with a net weight of 12 ounces. Examination showed a drained weight of less than 12 ounces, and a smaller count than represented, the cans examined containing from 18 to 27 each, the average count being 21.

On February 6, 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 20 cases of canned artichokes at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about October 7, 1932 and January 3, 1933, by the Pratt-Low Preserving Co., from Santa Clara, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Pratt Low Brand 20-27 in Can * * * Artichokes Net Contents 12 Oz. Pratt-Low Preserving Company * * * Santa Clara, California."

It was alleged in the libel that the article was misbranded in that the statements on the label, "20-27 in Can * * * Net Contents 12 Oz.", were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further 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, since the statement made was incorrect.

On April 5, 1933, a claim and answer having been filed admitting 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 \$100, conditioned that it be relabeled under the supervision of this Department.

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

20996. Misbranding of canned cherries. U. S. v. 92 Cases of Canned Cherries. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 29306. Sample nos. 22416-A, 22417-A.)

This action involved an interstate shipment of a product, labeled "pitted cherries", which was found to consist in part of unpitted cherries. The article

contained sugar solution of insufficient strength to bring the liquid portion up to the standard prescribed by this Department and was not labeled to indicate that it was substandard.

On November 17, 1932, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States a libel praying seizure and condemnation of 92 cases of canned cherries at Harrisonburg, Va., alleging that the article had been shipped in interstate commerce, on or about August 15, 1932, by Orrtanna Canning Co., from Orrtanna, Pa., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Homeland Brand [or "Orrtanna Favorite Brand"] Red Sour Pitted Cherries, Packed by Orrtanna Canning Co., Orrtanna, Pa."

It was alleged in the libel that the article was misbranded in that the above-quoted statements on the label were false and misleading and deceived and misled the purchaser, since they represented that the article consisted of pitted cherries, whereas it consisted in part of unpitted cherries. 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, since the liquid portion read less than 16 degrees Brix, and the label did not bear a plain and conspicuous statement indicating that the article was substandard.

A. J. Harris & Co., Baltimore, Md., appeared as claimant for the property, admitted the allegations of the libel, and consented to condemnation and forfeiture of the product. On March 22, 1933, judgment was entered finding the product misbranded and ordering that it be released to the claimant upon payment of costs and the execution of a bond in the sum of \$250, conditioned that it be relabeled with the substandard legend: "Below U. S. Standard—Good Food—Not High Grade", together with the further statement, "Water Pack Partially Pitted Red Sour Cherries."

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

20997. Misbranding of cottonseed screenings. U. S. v. Terminal Oil Mill Co. Plea of guilty. Fine, \$1 and costs. (F. & D. no. 29471. I. S. no. 47491.)

This case was based on an interstate shipment of cottonseed screenings that contained less protein and more fiber than declared in the labeling.

On April 4, 1933, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Terminal Oil Mill Co., a corporation, Oklahoma City, Okla., alleging shipment by said company, in violation of the Food and Drugs Act, on or about February 12, 1932, from the State of Oklahoma into the State of Kansas, of a quantity of cottonseed screenings that were misbranded. The article was labeled in part: "'Tomco Prime' Cottonseed Cake or Meal Guaranteed Analysis Protein, not less than 43% * * * Crude Fibre, not more than 12% * * * Manufactured by Terminal Oil Mill Co., Oklahoma City, Oklahoma."

It was alleged in the information that the article was misbranded in that the statements, "Guaranteed analysis protein, not less than 43% * * * Crude fibre, not more than 12%", borne on the tag, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein, and more than 12 percent of crude fiber.

On May 3, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$1 and costs.

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

20998. Adulteration of dates. U. S. v. Capitol Candied Nuts, Inc. Plea of guilty. Fine, \$50. Sentence suspended. (F. & D. no. 29398. I. S. no. 31701.)

This case was based on an interstate shipment of dates in which approximately 21 percent of those examined showed evidence of insect infestation.

On January 24, 1933, 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 an information against the Capitol Candied Nuts, Inc., a corporation, New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 9, 1931, from the State of New York into the State of Colorado, of a quantity of dates that were adulterated. The