

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.

On April 10, 1933, the Sentinel-Missoula Creamery 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 \$167, conditioned that it be made to comply with the law under the supervision of this Department.

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

21012. Adulteration and misbranding of flour. U. S. v. 420 Sacks of Flour. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 29930. Sample no. 31387-A.)

This case involved an interstate shipment of flour found to consist of bleached flour containing benzoyl peroxide or its residue, benzoic acid.

On March 13, 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 420 sacks of flour at Newark, N. J., alleging that the article had been shipped in interstate commerce, on or about February 4, 1933, by the Beatrice Mills, Whitewright, Tex., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "First Premium Flour Beatrice Mills Whitewright, Texas."

It was alleged in the libel that the article was adulterated in that bleached flour containing benzoyl peroxide or its residue, benzoic acid, had been substituted in whole or in part for the article.

Misbranding was alleged for the reason that the statement "Flour", appearing on the label, was false and misleading and deceived and misled the purchaser, when applied to a flour bleached with and containing benzoyl peroxide or its residue, benzoic acid.

On March 20, 1933, the Beatrice Mills, Whitewright, Tex., 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 \$1,000, conditioned that it be relabeled, "Bleached with Benzoyl Peroxide."

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

21013. Adulteration of apple butter. U. S. v. 30½ Cases of Apple Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29935. Sample nos. 27140-A, 27141-A, 26947-A.)

This case involved interstate shipments of apple butter which was found to contain insects.

On March 14, 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 30½ cases of apple butter at Cincinnati, Ohio, alleging that the article had been shipped in interstate commerce, in part on or about January 27, 1933, and in part on or about February 20, 1933, by the Goodwin Preserving Co., from Louisville, Ky., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled in part: "Tip Toe Brand * * * Apple Butter." The remainder was labeled in part: "Dot's Good * * * Pure Apple Butter."

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

On April 25, 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.

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

21014. Misbranding of vermicelli. U. S. v. San Diego Macaroni Manufacturing Co. Plea of nolo contendere. Judgment of guilty. Fine, \$200; suspended for two years. (F. & D. no. 29385. I. S. no. 21403.)

This action was based on an interstate shipment of vermicelli, in which the packages were found to contain less than 8 ounces, the weight declared on the label. The statement of weight was small and inconspicuous.

On January 18, 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 an information against the San Diego Macaroni Manufacturing Co., a corporation, San Diego, Calif., alleging shipment by said company in violation of the Food and Drugs Act, as amended, on or about July 15, 1931, from the State of California into the State of Arizona, of a quantity of vermicelli that was misbranded. The article was labeled in part: "De Rocco's Chef Brand Vermicelli * * * Net Weight 8 oz. or over. San Diego Macaroni Mfg. Co. San Diego, Calif."

It was alleged in the information that the article was misbranded in that the statement "Net Weight 8 oz. or over", borne on the packages, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the packages contained less than 8 ounces. 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 made was incorrect, and it was in such small type as not to be plain and conspicuous.

On January 30, 1933, a plea of nolo contendere to the information was entered on behalf of the defendant company. On March 17, 1933, judgment of guilty was entered and the court imposed a fine of \$200. Payment of the fine was ordered suspended for a period of 2 years.

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

21015. Adulteration of butter. U. S. v. The Merchants Creamery Co., Inc. Plea of guilty. Fine, \$10. (F. & D. no. 29335. I. S. nos. 36429, 36430.)

This case was based on interstate shipments 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 December 16, 1932, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Merchants Creamery Co., Inc., trading at Springfield, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about July 13 and August 8, 1931, from the State of Missouri into the State of Ohio, of quantities of butter that 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 must contain not less than 80 percent of milk fat, which the article purported to be.

On April 3, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$10.

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

21016. Adulteration and misbranding of canned shrimp. U. S. v. 459 Cases of Canned Shrimp. Adulterated portion condemned and destroyed. Misbranded portion released under bond to be re-labeled. (F. & D. no. 29760. Sample no. 27076-A.)

This case involved an interstate shipment of canned shrimp, a part of which was coded and the remainder of which was uncoded. The product contained in the coded cans was found to be in part decomposed. The cans in the uncoded portion were found to contain less than the declared weight; they also contained excessive liquid and were not labeled to indicate that they were slack filled.

On January 18, 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 459 cases of canned shrimp at Cincinnati, Ohio, consigned by the Biloxi Canning & Packing Co., Inc., Biloxi, Miss., November 2, 1932, alleging that the article had been shipped in interstate commerce from the State of Mississippi into the State of Ohio, and charging adulteration of a portion and misbranding of the remainder, in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Sea Beach Brand Shrimp Packed by Biloxi Canning & Packing Co., Inc., Biloxi, Miss. Contents Wet Pack 5¼ Ozs."

The libel charged that the coded portion of the article was adulterated in that it consisted in part of a decomposed animal substance.

Misbranding was alleged with respect to the uncoded portion for the reason that the statement "Contents * * * 5¼ Oz.", was false and misleading