

21032. Misbranding and alleged adulteration of butter. U. S. v. 20 Cases of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 30437. Sample no. 23050-A.)

This case involved a quantity 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. The quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since they contained less than the weight declared.

On March 28, 1933, the United States attorney for the District of Hawaii, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of butter at Honolulu, Hawaii, consigned by the Wing Coffee Co., alleging that the article had been shipped from San Francisco, Calif., to Honolulu, Hawaii, on March 22, 1933, and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Carton) "Net Weight One Pound Buttercup Brand Creamery Butter * * * Distributed by O. Casperson & Sons, San Francisco"; (paper wrapper on individual prints) "Buttercup Brand Creamery Butter Net Weight 4 Ounces."

It was alleged in substance in the libel that the article was adulterated in that the milk fat content did not meet the standard established by law, since the article contained less than 80 percent by weight of milk fat.

Misbranding was alleged for the reason that the packages did not have the quantity of the contents plainly and conspicuously marked on the outside thereof.

On March 28, 1933, O. Casperson & Sons, San Francisco, Calif., and the Wing Coffee Co., a Hawaiian copartnership, having appeared and admitted the misbranding of the product and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered. On the same date, costs of the proceedings having been paid, the court ordered the butter released to O. Casperson & Sons under the terms of a bond requiring that it be reshipped to San Francisco, Calif., and repacked, and that it should not be sold or disposed of in violation of the Federal Food and Drugs Act or the laws of the Territory of Hawaii.

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

21033. Adulteration and misbranding of tomato catsup. U. S. v. 87 Cases and 100 Cases of Tomato Catsup. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 29584, 29663. Sample nos. 28467-A, 30126-A.)

These cases involved interstate shipments of tomato catsup which contained excessive mold and which was also found to contain added artificial color.

On December 6 and December 23, 1932, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 187 cases of tomato catsup at Chicago, Ill. It was alleged in the libels that the article had been shipped in interstate commerce, in part on or about October 22, 1932, and in part on or about December 7, 1932, by the Summit Packing Co., from Wellesboro, Ind., and that it was adulterated in violation of the Food and Drugs Act. Subsequently the libels were amended to charge that the article was also misbranded.

It was alleged in the libels as amended that the article was adulterated in that it consisted in part of a decomposed vegetable substance.

Misbranding was alleged for the reason that the statement "Tomato Catsup", appearing on the label, was false and misleading and deceived and misled the purchaser, when applied to a product containing artificial color which was not declared on the label.

On April 4, 1933, no claimant having appeared for the property, judgments of condemnation and forfeiture were 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.*

21034. Adulteration and misbranding of cottonseed meal and cottonseed cake. U. S. v. Standard Cake & Meal Co. Plea of guilty. Fine, \$50. (F. & D. no. 28149. I. S. nos. 45585, 45597, 47484, 47493, 50951.)

This case was based on the interstate shipment of quantities of cottonseed meal and cottonseed cake. Samples taken from each of the shipments were

found to contain less than 43 percent of protein, the amount declared on the label.

On August 24, 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 of the United States an information against the Standard Cake & Meal Co., a corporation, Kansas City, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, between the dates of October 20, 1931, and February 27, 1932, from the State of Missouri into the State of Kansas, of quantities of cottonseed meal and cottonseed cake that were adulterated and misbranded. Certain lots were labeled in part: "Standard Quality Cotton Seed Meal or Cake * * * Manufactured by Standard Cake and Meal Co., Kansas City, Mo. Analysis Protein Basis 43 percent." One lot was further labeled: "Interstate Brand 43 percent Protein." The remainder were labeled in part: "Cottonseed Cake and Meal 'Superior Quality' * * * Guaranteed Analysis Protein, not less than 43% * * * Distributed by Superior Cake & Meal Co. * * * Kansas City, Mo."

It was alleged in the information that the articles were adulterated in that a product containing less than 43 percent of protein had been substituted for a product containing 43 percent of protein, which the articles purported to be.

Misbranding was alleged for the reason that the statements, "Guaranteed Analysis Protein, not less than 43%", and "Analysis Protein Basis 43 percent * * * 43% Protein", borne on the tags attached to the sacks containing the articles, were false and misleading and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since they contained less than 43 percent of protein.

On April 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.

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

21035. Adulteration of apples. U. S. v. 40 Bushels of Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29655. Sample no. 28433-A.)

This case involved an interstate shipment of apples found to bear arsenic and lead in amounts which might have rendered them injurious to health.

On December 1, 1932, 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 40 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on November 29, 1932, by George Heidema from Holland, Mich., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On April 4, 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.*

21036. Adulteration of butter. U. S. v. Richard V. Gustafson. Plea of nolo contendere. Fine, \$50 and costs. (F. & D. no. 29443. I. S. no. 42702.)

This case was based on an interstate 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 March 4, 1933, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Richard V. Gustafson, a member of a partnership trading as Gustafson Bros. Dairy Co., Burlington, Iowa, alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 9, 1931, from the State of Iowa into the State of Illinois, of a quantity 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 by weight of milk fat as required by law, which the article purported to be.