

the Wisconsin State law requires a fat content of at least 45 percent on a dry basis for such cheese.

On February 14, 1933, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five wheels of cheese at San Francisco, Calif., alleging that the article had been shipped in interstate commerce, on or about December 1, 1932, by Carl Marty & Co., from Monroe, Wis., and charging adulteration and misbranding in violation of the Food and Drugs Act. One wheel was labeled in part: "Meadow Grove Swiss Cheese."

It was alleged in the libel that the article was adulterated in that a substance containing less than 45 percent of fat on a dry basis had been substituted for Swiss cheese, which the article purported to be.

Misbranding was alleged for the reason that the following statements on the labels were false and misleading and deceived and misled the purchaser, when applied to a product containing less than 45 percent of fat on a dry basis: (First lot, one wheel) "Swiss Cheese Wisconsin Dept. of Agriculture and Markets Wisconsin Fancy"; (second lot, three wheels) "Wisconsin Dept. of Agriculture and Markets Wisconsin Standard"; (third lot, one wheel) "Wisconsin Department of Agriculture and Markets Wisconsin Open Standard." Misbranding of the lot labeled, "Meadow Grove Swiss Cheese", was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On May 18, 1933, no claimant having appeared for the property, and the court having found that the deficiency in fat did not render the article unwholesome or unfit for food, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be delivered to the United States Army engineer at San Francisco.

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

21088. Adulteration of butter. U. S. v. Boone Dairy, Inc. Plea of guilty. Fine, \$25 and costs. (F. & D. no. 29494. I. S. nos. 37639, 42354.)

This action 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 prescribed by Congress.

On May 8, 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 the Boone Dairy, Inc., Boone, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, on or about March 23, 1932, from the State of Iowa into the State of Maryland, of quantities of butter which was adulterated. A portion of the article was labeled: (Box) "From Boone Dairy, Inc., * * * Boone, Iowa."

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 should contain not less than 80 percent by weight of milk fat as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

On June 10, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25 and costs.

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

21089. Misbranding of canned pears. U. S. v. 199 Cases and 100 Cases of Canned Pears. Consent decrees of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. nos. 30044, 30045. Sample no. 22979-A.)

These cases involved quantities of canned pears, which were falsely branded as to name of packer and State in which produced.

On April 4 and April 5, 1933, the United States attorney for the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 299 cases of canned pears at San Francisco, and Sacramento, Calif., alleging that the article had been shipped in interstate commerce on or about March 14, 1933, by Ray-Maling Co., Inc., from Portland, Oreg., to San Francisco, Calif.; that a portion had been reshipped to Sacramento, Calif., on or about March 20, 1933; and that the article was misbranded in violation of the Food and

Drugs Act. The article was labeled in part: (Cans) "Sacramento Valley Bartlett Pears * * * Packed by Bercut Richards Pkg. Co., Sacramento, Cal."

It was alleged in the libels that the article was misbranded in that the statement on the label, "Sacramento Valley Standard Bartlett Pears, Packed by Bercut Richards Pkg. Co., Sacramento, Calif.", was false and misleading and deceived and misled the purchaser when applied to a product packed by Starr Fruit Products Co., at Portland, Oreg.

The Bercut-Richards Packing Co., appeared as claimant for the lot seized at Sacramento, Calif.; and Henri Bercut, Peter Bercut, and Jean Bercut, trading as Bercut Bros., having filed a claim for the lot seized at San Francisco, Calif., on June 3 and June 13, 1933, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the respective claimants upon payment of costs and the execution of bonds totaling \$315.50, conditioned that it be relabeled under the supervision of this Department.

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

21090. Adulteration of apples. U. S. v. 31 Boxes of Winesap Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 30441. Sample no. 36103-A.)

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

On April 11, 1933, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 31 boxes of apples at Colorado Springs, Colo., consigned by the Herman Ranch, Utahco, Wash., alleging that the article had been shipped in interstate commerce, on or about February 20, 1933, from Toppenish, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Harvest Moon Brand Yakima Valley Fruit * * * C. F. Schaefer Company, Packers, Distributors, Yakima, Washington."

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

On May 19, 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.*

21091. Adulteration of apples. U. S. v. 72 Boxes and 544 Boxes of Apples. Default decree of condemnation and destruction. (F. & D. nos. 30089, 30105. Sample nos. 33712-A, 33713-A, 33715-A, 34161-A.)

These cases involved interstate shipments of apples found to bear lead in an amount which might have rendered them injurious to health.

On March 21, 1933, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 72 boxes of apples at St. Louis, Mo. On or about March 30, 1933, the United States attorney for the Southern District of Texas filed a libel against 544 boxes of apples at Houston, Tex. It was alleged in the libels that the article had been shipped in interstate commerce, by Gahringer Nicholson, Inc., from Wenatchee, Wash., on or about February 27 and March 1, 1933, and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Persian Brand Northwest Apples C. C. Smith Fruit Co., Yakima and Wenatchee, Washington." A portion was further labeled: "Packed by Gahringer Nicholson, Wenatchee, Wash."

The libels charged that the article was adulterated in that it contained an added poisonous and deleterious ingredient, lead, which might have rendered the article injurious to health.

No claim or answer was filed in the cases. On May 2, 1933, judgment of condemnation was entered in the Eastern District of Missouri, and the court ordered that the apples be destroyed by the United States marshal. On May 10, 1933, a decree containing the same provisions was entered in the Southern District of Texas.

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