

Weight", were false and misleading and deceived and misled the purchaser, and for the further reason that the articles were in package form and the quantities of the contents were not plainly and conspicuously marked on the outside of the packages, since the quantities stated were incorrect.

On June 30, 1933, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

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

**21133. Adulteration and misbranding of canned frozen whole eggs and egg yolk. U. S. v. Frigid Food Products, Inc. Plea of guilty. Fine, \$100 and costs. (F. & D. no. 28038. I. S. nos. 28328, 28334.)**

This action was based on interstate shipments of canned frozen eggs and frozen egg yolk, which contained added undeclared sugar.

On October 6, 1932, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Frigid Food Products, Inc., a corporation trading at Omaha, Nebr., alleging shipment by said company in violation of the Food and Drugs Act, in part on or about January 5, 1931, and in part on or about February 19, 1931, from the State of Nebraska into the State of Pennsylvania, of quantities of canned frozen eggs and egg yolk that were adulterated and misbranded. The article was labeled in part: (Cans) "Frigidegs Frozen Strictly Fresh \* \* \* Packed Exclusively by Frigid Food Products, Inc." A portion were further labeled "Gold yolks."

It was alleged in the information that the article was adulterated in that added sugar had been substituted in part for frozen eggs, which the article purported to be.

Misbranding was alleged for the reason that the statement, "Frigidegs Frozen", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the statement represented that the article consisted wholly of frozen eggs, whereas it consisted in part of undeclared added sugar. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, Frigidegs.

On May 15, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100 and costs.

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

**21134. Adulteration and misbranding of canned cherries. U. S. v. 6 $\frac{2}{3}$  Cases of Canned Cherries. Default decree of condemnation and forfeiture. (F. & D. no. 28007. I. S. no. 39545. S. no. 6062.)**

This case involved an interstate shipment of a product, represented to be canned pitted cherries, which was found to contain excessive pits.

On April 16, 1932, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6 $\frac{2}{3}$  cases of canned cherries at Alderson, W. Va., alleging that the article had been shipped in interstate commerce on or about February 15, 1932, by the Webster Canning & Preserving Co., from Webster, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that partially pitted cherries had been substituted for pitted cherries.

Misbranding was alleged for the reason that the article was labeled, "New York State Products Packed by Webster Canning & Preserving Company, Webster, New York, net weight 6 pounds 9 ounces, Pitted Red Cherries, packed in water", whereas it consisted of partially pitted cherries.

On May 6, 1933, no claimant having appeared for the property, judgment was entered ordering condemnation and forfeiture of the product.

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

**21135. Adulteration and misbranding of tomato paste. U. S. v. 8 Cases of Tomato Paste. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 28598. Sample no. 7185-A.)**

This action involved a quantity of a product represented to be tomato paste, but which was insufficiently concentrated to be deemed paste.

On August 8, 1932, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of eight cases of tomato paste at Pensacola, Fla., alleging that the article had been shipped in interstate commerce, on or about July 2, 1932, by F. G. Favalaro Sons, Inc., from Georgetown, Miss., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Contents 5 Oz. Indian Girl Brand Tomato Paste Color Added \* \* \* Packed by F. G. Favalaro Sons, Inc."

It was alleged in the libel that the article was adulterated in that an insufficiently concentrated strained tomato product had been substituted for tomato paste.

Misbranding was alleged for the reason that the statements, "Tomato Paste" and "Net Contents 5 Oz.", were false and misleading and deceived and misled the purchaser; for the further reason that the article was offered for sale under the distinctive name of another article, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

This Department did not recommend charge of short weight against this product since no shortage in weight was found in the samples examined.

On May 6, 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.*

**21136. Adulteration and misbranding of cottonseed meal and cottonseed screenings. U. S. v. Swift & Co. Plea of guilty. Fine, \$50. (F. & D. no. 29349. I. S. nos. 32638, 47496, 47497, 50958.)**

This case was based on several interstate shipments of cottonseed meal and cottonseed screenings which contained less than 43 percent of protein, the amount declared on the label.

On December 6, 1932, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation trading at Little Rock, Ark., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 26, March 10, and March 17, 1932, from the State of Arkansas into the State of Kansas, and on or about March 10, 1932, from the State of Arkansas into the State of Montana, of quantities of cottonseed screenings and cottonseed meal which were adulterated and misbranded. The articles were labeled, variously: "Guaranteed Analysis Protein 43% \* \* \* Manufactured \* \* \* For S. P. Davis, Shipper, Little Rock, Ark."; "Hayes Brand Cottonseed Meal and Cracked Screened Cottonseed Cake. \* \* \* Guaranteed Analysis Protein 43.00%. \* \* \* Manufactured for Hayes Grain & Commission Company, Little Rock, Arkansas"; "Cotton Seed 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 products deficient in protein, in that they contained less than 43 percent of protein, had been substituted for the articles.

Misbranding was alleged for the reason that the statements, "Guaranteed Analysis Protein 43%" and "Guaranteed Analysis Protein not less than 43%", 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 June 13, 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.*

**21137. Misbranding of tomato juice. U. S. v. Edgar F. Hurff. Plea of guilty. Fine, \$25. (F. & D. no. 29364. I. S. nos. 38683, 38917, 42519.)**

This case was based on several interstate shipments of tomato juice in various-sized containers. Samples taken from each of the shipments were found to contain less than the labeled volume.

On April 10, 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 an information against Edgar F. Hurff, Swedesboro, N. J., alleging shipment by