

22154. Adulteration and misbranding of condensed buttermilk. U. S. v. 41 Unlabeled Barrels, et al., of Condensed Buttermilk. Decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 32056. Sample nos. 55533-A, 55534-A, 55535-A.)

This case involved a shipment of a product represented to be condensed buttermilk but which was found to be deficient in total solids and butterfat.

On March 1, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 unlabeled barrels, 10 unlabeled half-barrels, 10 unlabeled kegs, and 3 labeled barrels of condensed buttermilk, at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about February 2, 1934, by the Merchants Creamery Co., Inc., from Cincinnati, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was shipped in unlabeled barrels under a contract which read in part: "Pure Buttermilk Condensed to Milk Solids Minimum 27% Butterfat Minimum 2%, Protein Minimum 10%." Three barrels of the product were labeled at the time of investigation: "Condensed Buttermilk Guaranteed Analysis Protein (Milk Albumin & Casein) 10.00%; Fat (Pure Butter Fat) 2.00; Lactic Acid 4.00; Ash (Mostly Calcium) 3.80; Total Solids 27.00 Fiber none Produced by Vacuum Process for Ronck & Bevis Co., Philadelphia, Pa."

It was alleged in the libel that the article was adulterated in that a product consisting of insufficiently concentrated buttermilk containing less total solids and less butterfat than condensed buttermilk, had been mixed and packed with the article so as to reduce or lower or injuriously affect its quality or strength, and had been substituted in whole or in part for the article.

Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article. Misbranding was alleged with respect to the three labeled barrels of the product for the reason that the following statements appearing in the labeling were false and misleading and tended to deceive and mislead the purchaser: "Condensed Buttermilk Guaranteed Analysis Protein * * * 10.00%; Fat * * * 2.00; * * * Total Solids 27.00."

On March 15, 1934, the Merchants Creamery Co., Inc., Cincinnati, Ohio, having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be released to the claimant upon payment of costs and the execution of a bond in the sum of \$150, conditioned that it should not be disposed of contrary to law. The product was reworked to a satisfactory consistency.

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

22155. Misbranding of canned cherries. U. S. v. 112 Cases of Sour Pitted Cherries. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 32059. Sample no. 58750-A.)

This case involved a shipment of canned cherries labeled "Extra Quality." Examination showed that the article was substandard, that the label failed to bear a statement prescribed by regulation of this Department to indicate that it was substandard, and that it was short weight.

On March 1, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 112 cases of sour pitted cherries at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about July 26, 1933, by the Alton Canning Co., from Alton, N.Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Extra Quality Sour Pitted Cherries contents 1 lb. 5 oz."

It was alleged in the libel that the article was misbranded in that the statements on the label, "Extra quality" and "Contents 1 lb. 5 oz.," were false and misleading and tended to deceive and mislead the purchaser. 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. 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, because the liquid portion read below 16° Brix and because the