

30257. Adulteration of flour. U. S. v. 214 Sacks and 177 Sacks of Flour (and 1 similar seizure action). Consent decrees of condemnation. Product released under bond to be denatured. (F. & D. Nos. 44457, 44458. Sample Nos. 38472-D to 38475-D, inclusive.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On September 3, 1938, the United States attorney for the Eastern District of Arkansas, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 765 sacks of flour at Little Rock, Ark.; alleging that the article had been shipped in part on or about April 16, 1938, and in part on or about June 28, 1938, by Wolff Milling Co. from New Haven, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Upper Ten Extra High Patent Flour," and "Wolff's Four Thought Flour."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On October 3, 1938, H. K. Cochran Co., Little Rock, Ark., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be denatured under the supervision of this Department, for the purpose of preventing its being used for human consumption.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30258. Misbranding and alleged adulteration of canned shrimp. U. S. v. W. M. Brooks Packing Co., Inc. Demurrer and motion for bill of particulars overruled. Tried to a jury. Verdict of guilty on one misbranding count and not guilty on adulteration count and remaining misbranding count. Fine, \$200. (F. & D. No. 42567. Sample Nos. 20556-C, 10565-D.)

This product was represented to have been produced under the supervision of this Department, whereas it was not.

On October 5, 1938, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the W. M. Brooks Packing Co., Inc., Fernandina, Fla., alleging shipment by said company in violation of the Food and Drugs Act on or about December 9, 1936, from the State of Florida into the State of Massachusetts of a quantity of canned shrimp which was alleged to be adulterated; and on or about September 8, 1937, from the State of Florida into the State of Pennsylvania of a quantity of canned shrimp which was misbranded. The article was labeled in part: "Florida Sea Brand Shrimp."

Count 1 of the information charged that the product shipped December 9, 1936, was adulterated in that it consisted in part of a decomposed animal substance.

Count 2 charged that the product shipped September 8, 1937, was misbranded in that the statement on the label, "Production supervised by the U. S. Food and Drugs Administration," was false and misleading in that the said statement represented that the article had been produced under the supervision of the United States Food and Drug Administration; whereas it had not been produced under the supervision of the United States Food and Drug Administration.

Count 3 charged that the latter shipment was misbranded further in that the above-quoted statement on the jar label indicated that the article conformed to the requirements of the law and the regulations of the Secretary of Agriculture promulgated thereunder, namely, that the premises, equipment, sanitation, methods of handling, containers, and labels used in the production and packing of the article had been examined and inspected by inspectors designated by the Secretary of Agriculture for such purposes; whereas it did not conform to the requirements of the law and the said regulations, in that the premises, equipment, sanitation, methods of handling, container, and labels had not been so examined and inspected, and the article was so labeled without proper authority to indicate such conformity.

On October 19, 1938, the defendant filed a demurrer and a motion for a bill of particulars. On February 1, 1939, the demurrer and motion were argued and were overruled without opinion. On February 13, 1939, the case came on for trial before a jury and a verdict of guilty was returned on count 2 and not guilty on counts 1 and 3. On February 27, 1939, the defendant's motion to set aside the verdict was denied and the court imposed a fine of \$200.

HARRY L. BROWN, *Acting Secretary of Agriculture.*