

The article was alleged to be adulterated in that it consisted in whole and in part of a decomposed animal substance.

On June 8, 1939, a jury having been waived and the case having been submitted to the court on stipulation and briefs, the following memorandum of conclusions and minute order were entered:

HOLLZER, *Judge*. "It appearing, from the stipulation of facts, that defendant caused to be shipped in interstate commerce certain canned food intended to be used as an article of food which was clearly adulterated within the meaning of the Food and Drugs Act, in that it consisted in large part of highly decomposed animal substance; and

"It further appearing that the only inspection given to said food prior to shipment thereof in interstate commerce was one similar to the method of inspection which the defendant had been following for a number of years and which method in the year 1935 resulted in the prosecution and in the year 1936 in the conviction of defendant on the charge of shipping in interstate commerce canned tuna in violation of said act; and

"It further appearing that said food prior to the shipment thereof was not subjected to the method of inspection which in the latter part of 1936 said defendant had instructed its employees to make prior to shipping food packed in its plants, and that had said food been subjected to the latter method of inspection discovery would have been made readily that said food was clearly adulterated within the meaning of said act, in that it consisted in large part of highly decomposed animal substance;

"The court concludes that all of the material allegations of the information filed herein have been proved beyond all reasonable doubt, and that the defendant is guilty of each and all of the offenses charged in said information. (See *Union Dairy v. U. S.* 250 F. 231; *Philadelphia Pickling Co. v. U. S.* 202 F. 150; *Armour & Co. v. U. S.* 215 F. 585.)

Minute Order

"For the reasons set forth in the memorandum of conclusions this day filed, it is ordered that the defendant appear before this court on June 16, 1939, at 10 a. m., which time is fixed for the pronouncement of judgment herein."

On June 16, 1939, a fine of \$800 was imposed, i. e., \$200 on each of the four counts of the information.

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

30873. Adulteration of butter. U. S. v. Tekamah Cooperative Creamery Co. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 42752. Sample Nos. 60245-D, 60678-D, 60679-D.)

This product contained less than 80 percent by weight of milk fat.

On September 2, 1939, 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 Tekamah Cooperative Creamery Co., a corporation, Tekamah, Nebr., alleging shipment by said defendant in violation of the Food and Drugs Act on or about April 26 and May 2, 1939, from the State of Nebraska into the State of New York of quantities of butter that was adulterated.

Adulteration was alleged in that a product which contained 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.

On September 15, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50 and costs.

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

30874. Adulteration and misbranding of feeds. U. S. v. 110 Sacks of Feeding Oat Meal (and 4 other seizure actions against similar products). Tried to the court; judgment for the Government. Decrees of condemnation and destruction. (F. & D. Nos. 41293, 41294, 41462, 41463, 41774. Sample Nos. 902-C, 903-C, 4921-D to 4924-D, inclusive.)

These products were represented to be feeding oatmeal, pulverized oats, or ground oats, but contained in addition thereto other ingredients such as rice hulls, rice fragments, rice bran, barley, barley hulls, and cassava meal.

On December 30, 1937, and January 18 and February 18, 1938, the United States attorney for the District of Massachusetts, acting upon reports by the