

12246. Adulteration and misbranding of canned shrimp. U. S. v. Carl L. Shephard, Homer L. Oliver, and Samuel E. Montgomery (Acme Packing Co.). Nolle prosequi as to Carl L. Shephard and Homer L. Oliver. Plea of nolo contendere by Samuel E. Montgomery. Fine, \$25. (F. & D. No. 17239. I. S. Nos. 4054-v, 5429-v.)

On November 6, 1923, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Carl L. Shephard, Homer L. Oliver, and Samuel E. Montgomery, copartners, trading as the Acme Packing Co., Apalachicola, Fla., alleging shipment by said defendants, in violation of the food and drugs act, as amended, on or about March 31, 1922, from the State of Florida into the State of Minnesota, and on or about May 19, 1922, from the State of Florida into the State of Wisconsin, of quantities of canned shrimp which was adulterated and misbranded. The article was labeled in part: (Can) "Wet contents 5½ Oz. Harbor Brand * * * Fancy Shrimp * * * Packed By Acme Packing Co., Apalachicola, Florida."

Examination by the Bureau of Chemistry of this department showed that the average weight of 12 cans from one shipment was 5.23 ounces and that the average weight of 20 cans from the other shipment was 5.16 ounces.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, excessive brine, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in part for shrimp, which the article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Shrimp" and "Contents 5½ Oz.," borne on the labels attached to the cans containing the article, were false and misleading, in that they represented that the article consisted wholly of shrimp, and that each of the said cans contained 5½ ounces of the article, and for the further reason that the article was labeled as afore-said so as to deceive and mislead the purchaser into the belief that it consisted wholly of shrimp, and that each of said cans contained 5½ ounces of the article, whereas, in truth and in fact, it did not consist wholly of shrimp but did consist in part of excessive brine, and each of said cans did not contain 5½ ounces of the article but did contain a less amount. 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.

On January 7, 1924, a nolle prosequi having been entered with respect to Carl L. Shephard and Homer L. Oliver, a plea of nolo contendere was entered by Samuel E. Montgomery, and the court imposed a fine of \$25.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12247. Adulteration of shell eggs. U. S. v. Harry H. McNemar. Plea of guilty. Fine, \$100. (F. & D. No. 16969. I. S. No. 1105-v.)

On April 3, 1923, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Harry H. McNemar, Petersburg, W. Va., alleging shipment by said defendant, in violation of the food and drugs act, on or about July 24, 1922, from the State of West Virginia into the State of Maryland, of a quantity of shell eggs which were adulterated. The article was labeled in part: "From H. H. McNemar * * * Petersburg, W. Va."

Examination by the Bureau of Chemistry of this department of 360 eggs from the consignment showed that 31, or 8.6 per cent of those examined, were inedible eggs, consisting of mixed or white rots, moldy eggs, and black rots.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy and decomposed and putrid animal substance.

On April 1, 1924, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$100.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12248. Misbranding of canned shrimp. U. S. v. 55 Cases of Shrimp. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18498. I. S. No. 2914-v. S. No. E-3910.)

On March 19, 1924, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 55 cases of canned shrimp, remaining in the original

unbroken packages at Philadelphia, Pa., consigned by Marine Products, Inc., New Orleans, La., from Gulfport, Miss., alleging that the article had been shipped from Gulfport, Miss., on or about September 6, 1923, and transported from the State of Mississippi into the State of Pennsylvania, and charging misbranding in violation of the food and drugs act, as amended.

Misbranding of the article was alleged in substance in the libel for the reason that the label on the retail package containing the article bore the following statements, "Seafooco Brand Shrimp * * * Wet Pack Packed By Sea Food Co., Biloxi, Miss. * * * Contents 5½ Ozs. Shrimp * * * Sea Food Co.", which were false and misleading, in that they represented to the purchaser that each package [can] contained 5½ ounces of shrimp, when, in fact, it did not.

On April 9, 1924, the Seafood Co., Biloxi, Miss., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$200, in conformity with section 10 of the act, conditioned in part that it be relabeled under the supervision of this department.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12249. Adulteration of coal-tar color. U. S. v. 1 Can, et al., of Coal-Tar Color. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 14782, 14783. I. S. Nos. 504-t, 1596-t. S. Nos. C-2963, C-2966.)

On April 12 and 14, 1921, respectively, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 1 can containing 5 pounds and 3 cans, each containing 1 pound of coal-tar color, in part at Springfield and in part at Cincinnati, Ohio, consigned by the W. B. Wood Mfg. Co., St. Louis, Mo., on or about March 15 and 22, 1921, respectively, alleging that the article had been shipped from St. Louis, Mo., and transported from the State of Missouri into the State of Ohio, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "5 Lbs. Net" (or "1 Lb. Net") " * * * W. B. Wood Mfg. Co. * * * St. Louis, Mo. * * * Complies With All Requirements Warranted * * * Contents Red."

Adulteration of the article was alleged in the libels for the reason that sodium chloride and sodium sulphate had been mixed and packed with and substituted wholly or in part for the said article. Adulteration was alleged for the further reason that the article contained an added poisonous or deleterious ingredient, arsenic, which might render it injurious to health.

On November 15, 1921, and February 25, 1924, respectively, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12250. Adulteration of butter. U. S. v. 143 Pounds of Butter. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 18180. I. S. No. 1968-v. S. No. E-4647.)

On December 17, 1923, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 143 pounds of butter, remaining in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by the J. H. Neil Creamery Co., from Tama, Iowa, on or about November 10, 1923, and transported from the State of Iowa into the State of Massachusetts, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Blue Ribbon Fancy Creamery Butter * * * One Pound Net."

Adulteration of the article was alleged in the libel for the reason that a substance, to wit, a product deficient in milk fat and high in moisture, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly and in part for the said article. Adulteration was alleged for the further reason that a valuable constituent of the article, to wit, butterfat, had been in part abstracted.

On March 27, 1924, 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 sold by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*