

19774. Adulteration and misbranding of sirup. U. S. v. Chauvin Bros. Preserving Co. Plea of guilty. Fine, \$50. (F. & D. No. 27502. I. S. Nos. 24315, 24316.)

This action was based on the interstate shipment of two lots of sirup, in both of which samples were found to be short of the declared volume. Samples taken from one lot were found to contain added molasses.

On March 28, 1932, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Chauvin Bros. Preserving Co., a corporation, Burnside, La., alleging shipment by said company on or about April 22, 1931, in violation of the food and drugs act, from the State of Louisiana into the State of Mississippi of quantities of sirup, a portion of which was misbranded and the remainder of which was adulterated and misbranded. A portion of the article was labeled in part: (Can) "Lucky Strike Brand Pure Open Kettle Sugar Cane Syrup Contents 3 Qts. 8 Fl. Oz." The remainder was labeled in part: "Louisiana Maid Pure Cane Syrup We guarantee this Syrup to be made from the Pure Juice of the Sugar Cane * * * Contents 3 Quarts—7 Fluid Ounces."

Adulteration was alleged in the information with respect to the Louisiana Maid sirup for the reason that an undeclared and added substance, to wit, molasses, had been substituted in part for pure sugar cane sirup, which the article purported solely to be.

Misbranding was alleged for the reason that the statement "Contents 3 Qts. 8 Fl. Oz." with respect to the Lucky Strike brand sirup, and "Pure Cane Syrup * * * We Guarantee this Syrup to be made from the Pure Juice of the Sugar Cane * * * Contents 3 Quarts 7 Fluid Ounces," with respect to the Louisiana Maid sirup, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser; since the said statements represented that the cans each contained the amount labeled thereon, and that the said Louisiana Maid sirup was pure cane sirup made exclusively from the pure juice of the sugar cane, whereas the cans in each lot contained less than labeled and the Louisiana Maid sirup was made in part from an added and undeclared substance, namely, molasses. Misbranding was alleged with respect to the Louisiana Maid sirup for the further reason that the article was offered for sale under the distinctive name of another article, namely, sugar cane sirup, which it purported solely to be. Misbranding was alleged with respect to both lots for the 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, since the quantity stated on the package was incorrect.

On April 11, 1932, a plea of guilty to the information was entered on behalf of the defendant company and the court imposed a fine of \$50.

HENRY A. WALLACE, *Secretary of Agriculture.*

19775. Misbranding of cottonseed cake and meal. U. S. v. Graco Milling Co. Tried to the court. Judgment in favor of the Government on two counts. Fine, \$200 and costs. Judgment for defendant on remaining 12 counts. (F. & D. No. 25020. I. S. Nos. 09602, 09603, 09604, 09608, 09611, 09636, 09645, 025850.)

This action was based on the interstate shipment of seven lots of cottonseed meal and cake. Samples taken from four of the consignments were found to contain less than 43 per cent of protein, the amount declared on the label, and certain sacks examined from the said shipments were also found to be short of the declared weight. In one of the remaining consignments, certain sacks were found to be short weight, and in the other two lots analyses showed less protein than declared.

On August 14, 1930, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information containing 14 counts, against the Graco Milling Co., a corporation, Sherman, Tex., alleging shipment by said company, in violation of the food and drugs act as amended, between the dates of May 6, 1929 and September 27, 1929, from the State of Texas into the State of Kansas, and on or about November 13, 1929, from the State of Texas into the State of Colorado, of quantities of cottonseed meal and cottonseed cake that was misbranded. A portion of the article was labeled in part: (Tag) "100 Pounds Net Graco 43% Brand 43% Protein Prime Cottonseed Cake or Meal * * * Guaranteed Analysis Protein, not less than 43% * * * Manufactured by Graco Milling Company, Sherman, Texas. Cairo,

Illinois." The remainder of the said article was labeled in part: "100 Pounds Net * * * Guaranteed Analysis: Protein, not less than 43%."

It was alleged in counts 3 and 6 of the information that the article covered by said counts was misbranded in that the statements, "100 Pounds Net," and "Guaranteed Analysis Protein not less than 43%," borne on the tags attached to the sacks containing the article, were false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser; since the sacks contained less than 100 pounds net of the article, and the product contained less than 43 per cent of protein. Similar charges were made in the remaining 12 counts, with the exception that 1 count charged short weight only, and 2 of the counts charged deficiency of protein only. Misbranding was alleged with respect to all but 2 lots of the article, 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, since the statement made was not correct.

On April 6, 1932, a jury having been waived, the case came on for trial before the court. After hearing the evidence and arguments of counsel, the court found in favor of the Government on counts 3 and 6, and in favor of the defendant on all other counts. A penalty of \$200 and costs was imposed against the defendant company.

HENRY A. WALLACE, *Secretary of Agriculture.*

19776. Adulteration of tomato puree. U. S. v. 31 Cases, et al., of Canned Tomato Puree. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 27969, 28003. I. S. Nos. 46484, 46486. S. Nos. 6015, 6051.)

These actions involved the interstate shipment of quantities of tomato puree, samples of which were found to contain excessive mold.

On March 31, 1932 and April 13, 1932, the United States attorney for the Southern District of California, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 66 cases of tomato puree at Los Angeles, Calif. It was alleged in the libels that the article had been shipped in interstate commerce by the Pleasant Grove Canning Co., from Pleasant Grove, Utah, to Los Angeles, Calif., on February 23, 1931, and that it was adulterated in violation of the food and drugs act. The article was labeled in part: (Can) "Timpanogos Brand Tomato Puree Packed by Pleasant Grove Canning Company, Pleasant Grove—Orem, Utah."

Adulteration of the article was alleged in the libels for the reason that it consisted in part of a decomposed vegetable substance.

On May 10, 1932 and May 17, 1932, 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.

HENRY A. WALLACE, *Secretary of Agriculture.*

19777. Adulteration of butter. U. S. v. 11 Tubs of Butter. Default decree of condemnation, forfeiture, and destruction. (8156-A. F. & D. No. 28318.)

This action involved the interstate shipment of a quantity of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress.

On May 2, 1932, 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 the district aforesaid a libel praying seizure and condemnation of 11 tubs of butter, remaining in the original unbroken packages, alleging that the article had been shipped in interstate commerce on or about April 27, 1932, by the Jersey Butter Co. (Inc.), from Baltimore, Md., to Philadelphia, Pa., and charging adulteration in violation of the food and drugs act as amended.

It was alleged in the libel that the article was adulterated in that a product containing less than 80 per cent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 per cent of milk fat.

On May 20, 1932, 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.

HENRY A. WALLACE, *Secretary of Agriculture.*