

It was alleged in the libel that the article was adulterated in that it consisted in part of a filthy, decomposed, or putrid vegetable substance.

On February 20, 1933, no claimant having appeared for the property and a jury having found that the allegations of the libel were true and correct, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20773. Adulteration and misbranding of butter. U. S. v. Frye & Co. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 29473. I. S. nos. 23305, 23315. Sample nos. 1333-A, 1704-A.)

This case was based on several shipments of butter that was short weight; and one shipment contained less than 80 percent by weight of milk fat, the standard for butter established by Congress.

On March 10, 1933, the United States attorney filed in the District Court of the United States for the Western District of Washington, an information against Frye & Co., a corporation, trading at Seattle, Wash., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about April 1, April 8, April 15, and April 22, 1932, from the State of Washington into the Territory of Alaska, of quantities of butter that was misbranded, and a portion of which was also adulterated. The article was labeled: "Fancy Favorite Butter Quality One Pound Net Weight"; or "Wild Rose Fancy Creamery Butter The Best One Pound Net Weight."

The information charged adulteration of one lot of the article, 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 March 4, 1923, which the article purported to be.

Misbranding of the said lot was alleged for the reason that the statement "Butter", borne on the label, was false and misleading and for the further reason that it was labeled butter, so as to deceive and mislead the purchaser, since it contained less than 80 percent by weight of milk fat. Misbranding of the remaining lots was alleged for the reason that the statement "One Pound Net Weight", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the packages contained less than 1 pound. Misbranding of the lots that bore an incorrect statement of the net weight 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 March 31, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50 and costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20774. Misbranding of sirup. U. S. v. 100 Cases and 148 Cases of Sirup. Decrees of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. nos. 28983, 28984. Sample nos. 2144-A, 2148-A.)

Examination showed that this product had no flavor of cane sirup and that the cans contained less than 5 pounds, the declared amount. Moreover, the statement of the quantity of the contents was not made on the label in terms of fluid measure.

On October 7, 1932, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States libels praying seizure and condemnation of 248 cases of sirup, in part at Alamosa, Colo., and in part at Walsenburg, Colo., consigned by the Bliss Syrup & Preserving Co., alleging that the article had been shipped on or about May 26, 1932, from Kansas City, Mo., into the State of Colorado, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Bliss Pancake Brand Cane Flavor Syrup Bliss Syrup & Preserving Company, Kansas City, Mo., Net Weight 5 Lbs."

It was alleged in the libels that the article was misbranded in that the statements "Cane Flavor * * * Net Weight 5 Lbs.", were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside since the statement was incorrect and was not in terms of fluid measure.

On March 10, 1933, the Bliss Syrup & Preserving Co., Kansas City, Mo., having appeared as claimant for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of bonds in the sum of \$200, conditioned that it be relabeled under the supervision of this Department.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20775. Adulteration and misbranding of vinegar. U. S. v. 161 Cases of Vinegar. Product released under bond to be relabeled. (F. & D. no. 29114. Sample no. 16627-A.)

This case involved an interstate shipment of vinegar that was diluted with water or a diluted acid solution.

On October 25, 1932, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States a libel praying seizure and condemnation of 161 cases, each containing 4 glass jugs of vinegar, at Quitman, Ga., alleging that the article had been shipped in interstate commerce, on or about April 6, 1932, by the Speas Manufacturing Co., from Memphis, Tenn., to Quitman, Ga., and charging adulteration and misbranding in violation of the Food and Drugs Act. This article was labeled in part: "Speas Old Time Apple Cider Vinegar * * * Speas Mfg. Co., Kansas City and Branches."

It was alleged in the libel that the article was adulterated in that added water or diluted acid solution had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength, and had been substituted in part for the article.

Misbranding was alleged for the reason that the statement on the label, "Apple Cider Vinegar", was false and misleading and deceived and misled the purchaser when applied to an article containing added water or diluted acid solution. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On March 21, 1933, the Speas Manufacturing Co. filed an answer admitting the allegations of the libel and petitioned release of the goods under bond in the sum of \$400, conditioned that it be relabeled under the supervision of this Department.

On March 22, 1933, the court ordered the product released for relabeling under the conditions of the bond.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20776. Misbranding of canned peaches. U. S. v. 1,098 Cases of Canned Peaches. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 29612. Sample no. 29005-A.)

This case involved an interstate shipment of canned peaches that fell below the standard established by this Department, and that was not labeled to show that it was substandard.

On December 9, 1932, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States a libel praying seizure and condemnation of 1,098 cases of canned peaches at Emporia, Kans., alleging that the article had been shipped in interstate commerce on or about November 5, 1932, by the Smith Canning Co., from Layton, Utah, into the State of Kansas and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Water Pack Yellow Free Peaches, packed by Smith Canning Co., Clearfield, Utah."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because the fruit was excessively ragged and consisted in large part of broken halves, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard.

On March 30, 1933, the Theo Poehler Mercantile Co., Emporia, Kans., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$2,000, conditioned that it be relabeled under the supervision of this Department.

R. G. TUGWELL, *Acting Secretary of Agriculture.*