

20815. Misbranding of canned tomatoes. U. S. v. 800 Cases and 219 Cases of Canned Tomatoes. Product ordered released under bond to be relabeled. (F. & D. nos. 29619, 29656. Sample no. 21283-A.)

These cases involved an interstate shipment of canned tomatoes that contained excessive peel and excessive liquid. The article fell below the standard for canned tomatoes established by this Department and was not labeled to indicate that fact.

On or about December 12 and 19, 1932, the United States attorney for the Eastern District of New York, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States libels praying seizure and condemnation of 1,019 cases of canned tomatoes, remaining in the original packages at Brooklyn, N.Y., alleging that the article had been shipped in interstate commerce on or about September 6, 1932, by the Harbor City Canning Co., from Harbor City, Calif., to Brooklyn, N.Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Campagnola Brand Tomatoes with Puree from Trimmings. Packed by Harbor City Canning Co., Los Angeles, Cal."

It was alleged in the libels 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 of the presence of excessive peel and because of its low drained weight, and the labels did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard.

On January 20, 1933, Paolo Alonge & Bro., claimants, having admitted the allegations of the libels and having consented to the entry of decrees, judgments were entered ordering that the product be released to the claimant upon payment of costs and the execution of bonds totaling \$2,000, conditioned that it be relabeled, "Below U.S. Standard, Low Quality But Not Illegal."

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

20816. Adulteration and misbranding of butter. U. S. v. Red 73 Creamery, Inc. Plea of guilty. Fine, \$25. (F. & D. no. 28196. I. S. no. 42942.)

This case was based on an interstate shipment of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On October 8, 1932, 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 an information against the Red 73 Creamery, Inc., a corporation, Union City, Ohio, alleging shipment by said company in violation of the Food and Drugs Act, on or about February 3, 1932, from the State of Ohio into the State of Pennsylvania, of a quantity of butter that was adulterated and misbranded. The article was labeled in part: "Red 73 Company Country Roll Butter * * * Packed by Red 73 Creamery Co., Union City, Ind."

It was alleged in the information that the article was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as defined and required by the act of March 4, 1923.

Misbranding was alleged for the reason that the statement "Butter", borne on the packages, was 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 statement "Butter" represented that the article contained not less than 80 percent by weight of milk fat as required by law, whereas it contained less than 80 percent of milk fat.

On February 18, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25.

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

20817. Adulteration of butter. U. S. v. George William Woerlein (Groveport Creamery Co.). Plea of guilty. Fine, \$10. (F. & D. no. 28199. I. S. nos. 43132, 43142.)

This case was based on the interstate shipment of two lots of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On October 22, 1932, 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 an information against George William Woerlein,

trading as the Groveport Creamery Co., Groveport, Ohio, alleging shipment by said defendant in violation of the Food and Drugs Act, on or about February 3 and February 10, 1932, from the State of Ohio into the State of Pennsylvania, of quantities of butter that was adulterated.

It was alleged in the information that the article was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as required by the act of March 4, 1923, which the article purported to be.

On February 8, 1933, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$10.

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

20818. Adulteration and misbranding of canned frozen eggs. U. S. v. Kraft-Phenix Cheese Corporation. Plea of guilty. Fine, \$800. (F. & D. no. 27488. I. S. nos. 20420 to 20424, incl., 30009, 30010, 30011.)

This action was based on the interstate shipment of several carload lots of frozen eggs, labeled "Whole Eggs", which consisted in part of added egg whites. Samples taken from certain of the lots were found to be decomposed.

On June 18, 1932, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States an information against the Kraft-Phenix Cheese Corporation, trading at Dallas, Tex., alleging shipment by said company in violation of the Food and Drugs Act, in part on or about February 4, 1931, and in part on or about February 5, 1931, from the State of Texas into the State of New Jersey, of quantities of canned frozen eggs that were adulterated and misbranded. The article was labeled in part: (Tag) "Kraft-Phenix Cheese Corporation Egg Division Morgan Warehouse Dallas, Texas, Whole Eggs"; (cover) "Whole Eggs."

It was alleged in the information that the article was adulterated, in that added egg whites had been substituted in part for whole eggs, which the article purported to be. Adulteration was alleged with respect to a portion of the article for the reason that it consisted in whole and in part of a filthy, decomposed, and putrid animal substance.

Misbranding was alleged for the reason that the statement "whole eggs", borne on the tag, was false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since it did not consist of whole eggs but did consist in part of added egg whites.

On February 18, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$800.

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

20819. Adulteration of butter. U. S. v. 16 Cubes of Butter. Product ordered released under bond. (F. & D. no. 29262. Sample no. 14505-A.)

This case involved an interstate shipment of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On October 25, 1932, the United States attorney for the Northern District of California, 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 16 cubes of butter, remaining in the original unbroken packages at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about May 31, 1932, by the Mount Angel Cooperative Creamery, from Portland, Oreg., to San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that a product containing less than 80 percent of butterfat had been substituted for the said article.

On February 7, 1933, the Purity Stores, Ltd., San Francisco, Calif., having appeared as claimant for the property, judgment was entered finding that the allegations of the libel were true, and ordering that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$300, conditioned that it be made to comply with the law under the supervision of this Department.

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