On January 18, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the San Diego Macaroni Manufacturing Co., a corporation, San Diego, Calif., alleging shipment by said company in violation of the Food and Drugs Act, as amended, on or about July 15, 1931, from the State of California into the State of Arizona, of a quantity of vermicelli that was misbranded. The article was labeled in part: "De Rocco's Chef Brand Vermicelli * * * Net Weight 8 oz. or over. San Diego Macaroni Mfg. Co. San Diego, Calif."

It was alleged in the information that the article was misbranded in that the statement "Net Weight 8 oz. or over", borne on the packages, 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 8 ounces. 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, since the statement made was incorrect, and it was in such small type as not to be plain and conspicuous.

On January 30, 1933, a plea of nolo contendere to the information was entered on behalf of the defendant company. On March 17, 1933, judgment of guilty was entered and the court imposed a fine of $200. Payment of the fine was ordered suspended for a period of 2 years.

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

21015. Adulteration of butter. U. S. v. The Merchants Creamery Co., Inc. Plea of guilty. Fine, $10. (F. & D. no. 29335. I. S. nos. 36429, 36430.)

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

On December 16, 1932, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Merchants Creamery Co., Inc., trading at Springfield, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about July 13 and August 8, 1931, from the State of Missouri into the State of Ohio, 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 of milk fat, which the article purported to be.

On April 3, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of $10.

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

21016. Adulteration and misbranding of canned shrimp. U. S. v. 459 Cases of Canned Shrimp. Adulterated portion condemned and destroyed. Misbranded portion released under bond to be relabeled. (F. & D. no. 29760. Sample no. 27076-A.)

This case involved an interstate shipment of canned shrimp, a part of which was coded and the remainder of which was uncoded. The product contained in the coded cans was found to be in part decomposed. The cans in the uncoded portion were found to contain less than the declared weight; they also contained excessive liquid and were not labeled to indicate that they were slack filled.

On January 18, 1933, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 459 cases of canned shrimp at Cincinnati, Ohio, consigned by the Biloxi Canning & Packing Co., Inc., Biloxi, Miss., November 2, 1932, alleging that the article had been shipped in interstate commerce from the State of Mississippi into the State of Ohio, and charging adulteration of a portion and misbranding of the remainder, in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Sea Beach Brand Shrimp Packed by Biloxi Canning & Packing Co., Inc., Biloxi, Miss. Contents Wet Pack 5¾ Ozs."

The libel charged that the coded portion of the article was adulterated in that it consisted in part of a decomposed animal substance.

Misbranding was alleged with respect to the uncoded portion for the reason that the statement "Contents * * * 5¾ Oz.", was false and misleading

and deceived and misled the purchaser; for the further reason that it was 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 incorrect; and for the further reason that because it contained an excessive amount of packing medium, it fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, and its package or label failed to bear a plain and conspicuous statement prescribed by this Department indicating that it fell below such standard.

On April 26, 1933, the Biloxi Canning & Packing Co., Inc., Biloxi, Miss., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment was entered ordering that the uncoded portion. consisting of 157 cases, be released to the claimant upon payment of costs and the execution of a bond in the sum of $1,000, conditioned that it be relabeled under the supervision of this Department. The decree further ordered that the remainder of the product be condemned and destroyed.

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

21017. Adulteration of apples. U. S. v. 85 Bushels of Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29808. Sample no. 28443–A.)

This case involved an interstate shipment of apples found to bear arsenic and lead in amounts which might have rendered them injurious to health.

On January 5, 1933, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 85 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on October 3, 1932, by J. R. Paxton, from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, in amounts which might have rendered it injurious to health.

On April 4, 1933, 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.

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

21018. Adulteration and misbranding of butter. U. S. v. Perry Bros. Plea of guilty. Fine, $5 and costs. (F. & D. no. 29433. I. S. no. 23283.)

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 established by Congress, and which was also short weight. The label failed to bear a plain and conspicuous statement of the quantity of the contents, as required by law, since the statement made was incorrect.

On April 10, 1933, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Perry Bros., a corporation, Seattle, Wash., alleging shipment by said company in violation of the Food and Drugs Act, as amended, on or about April 5, 1932, from the State of Washington to Alaska, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Perry's Best Butter Cream Quality One Pound Net Packed by Perry Bros. Seattle."

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 should contain not less than 80 percent of milk fat, which the article purported to be.

Misbranding was alleged for the reason that the statements, "Butter" and "One Pound Net", borne on the label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 80 percent by weight of milk fat, the standard for butter prescribed by law, and the packages contained less than 1 pound net. 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 April 27, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of $5 and costs.

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