

**21278. Misbranding of potatoes. U. S. v. 257 Sacks and 260 Sacks of Potatoes. Product released under bond to be resacked.** (F. & D. nos. 30552, 30555. Sample nos. 39025-A, 46461-A.)

These cases involved shipments of potatoes in which certain sacks examined were found to contain less than the declared weight, 100 pounds.

On June 2, 1933, the United States attorney for the Southern District of Iowa, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 517 sacks of potatoes at Des Moines, Iowa, alleging that the article had been shipped in interstate commerce on or about May 25 and May 26, 1933, by L. Markman, from Lockport, La., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Unclassified Selected Potatoes One Hundred Pounds When Packed, Markman Produce Co., Des Moines, Iowa."

It was alleged in the libels that the article was misbranded in that the statement, "One Hundred Pounds When Packed", was 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 of the package, since the statement made was incorrect.

On June 3, 1933, the Markman Produce Co., Des Moines, Iowa, having appeared as claimant for the property and having filed bonds, conditioned that the potatoes be resacked to conform with the law, decrees were entered ordering that the product be released to the claimant in accordance with the conditions of the bond and that the claimant pay the costs of the proceedings.

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

**21279. Adulteration of tullibeas. U. S. v. 22 Boxes and 8 Boxes of Tullibeas. Default decrees of condemnation, forfeiture, and destruction.** (F. & D. nos. 30648, 30725. Sample nos. 32142-A, 35450-A.)

These cases involved shipments of tullibeas that were infested with worms.

On May 24 and June 21, 1933, respectively, the United States attorneys for the Southern District of New York and the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 30 boxes of tullibeas at New York, N.Y., and Chicago, Ill., alleging that the article had been shipped in interstate commerce, the former on or about May 20, 1933, and the latter on or about June 17, 1933, by the Warroad Fish Co., from Warroad, Minn., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libels that the article was adulterated in that it consisted in part of a filthy, decomposed, and putrid animal substance, and in that it consisted of portions of animals unfit for food.

On June 12 and September 28, 1933, 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.

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

**21280. Adulteration of currants. U. S. v. 800 Barrels and 262 Barrels of Currants. Consent decree of condemnation and forfeiture. Product released under bond.** (F. & D. nos. 30906, 30935. Sample nos. 32055-A, 32056-A, 32057-A, 32060-A to 32065-A incl., 43635-A to 43640-A incl.)

These cases involved several shipments of currants that were found to be contaminated with arsenic and lead.

On July 21 and July 27, 1933, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,062 barrels of currants at Jersey City, N.J., alleging that the article had been shipped in interstate commerce between the dates of June 30 and July 19, 1933, by A. Carobine, from Middle Hope, N.Y., and charging adulteration in violation of the Food and Drugs Act.

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

On July 29, 1933, A. Carobine, New York, N.Y., having appeared as claimant for 800 barrels of the product and having admitted the allegations of the libel and 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 \$10,000, conditioned that the currants of different growers be separated and examined, that all lots found to bear excessive lead and arsenic be treated to remove such deleterious ingredients, that all portions found after such examination and treatment to bear excessive lead and arsenic be destroyed, and that those found fit for human consumption be released. On August 16, 1933, the remaining case was consolidated with the aforesaid case, and the conditions and terms of the decree of July 29, 1933, were made applicable to the product involved in both cases.

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

**21281. Adulteration and misbranding of tullibeas. U. S. v. 19 Boxes and 8 Boxes of Tullibeas. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 30670, 30673. Sample nos. 32145-A, 32146-A.)**

These cases involved interstate shipments of fish labeled, "Perch", which were found to be tullibeas infested with parasitic worms.

On June 7 and June 8, 1933, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 27 boxes of tullibeas at New York, N.Y., alleging that the article had been shipped on or about June 3 and June 5, 1933, by the Warroad Fish Co., from Warroad, Minn., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "Perch From Warroad Fish Co., Warroad, Minn."

It was alleged in the libels that the article was adulterated in that it consisted in part of a filthy, decomposed, and putrid substance and in that it consisted of portions of animals unfit for food.

Misbranding was alleged for the reason that the statement, "Perch", borne on the label was false and misleading, since the fish were tullibeas.

On July 27, 1933, 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.

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

**21282. Adulteration and misbranding of Chocco-Yeast. U. S. v. 1,200 Boxes and 100 Cartons of Chocco-Yeast. Decrees of condemnation entered. Portion of product destroyed. Remainder released under bond. (F. & D. nos. 30570, 30660. Sample nos. 17373-A, 29735-A.)**

These cases involved a product which was labeled to convey the impression that it contained an appreciable amount of yeast and was valuable as a source of the yeast vitamins. Examination of the article showed that it contained an insignificant amount of yeast, also that it contained no ingredients capable of producing certain curative and therapeutic effects claimed in the labeling.

On June 13 and June 23, 1933, the United States attorney for the Southern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,200 boxes and 100 cartons of Chocco-Yeast at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce in part on or about April 20, from Springfield, Mass., and in part on or about May 31, 1933, from New York, N.Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The shipping records indicate that the 100 cartons of the product were shipped by Chocco Yeast, Inc. The records do not disclose the identity of the shipper of the remainder of the product.

It was alleged in the libels that the article was adulterated in that a mixture containing peanut butter, chocolate, sugar, and a negligible proportion of yeast had been substituted for the article, and for the further reason that it had been mixed in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statements, "Chocco-Yeast", "Made with fresh yeast", "Contains vitamins", "Fresh yeast in luscious chocolate", and "Fresh active live yeast in luscious chocolate form", appearing on the labels of the containers, were false and misleading, since they created the impression that the article was essentially a mixture of yeast and chocolate, whereas it contained but an inconsequential proportion of yeast. Misbranding was alleged for the further reason that the article was sold under the name of another article, namely, yeast prepared with chocolate. Misbranding was alleged for the further reason that the following statements on the label, regarding the curative or therapeutic effects of the article, were false and fraudulent: "Eat three every day for your health", "Made with fresh yeast for your