

district court a libel praying seizure and condemnation of 97 cases of canned cherries at Elizabeth, N.J., alleging that the article had been shipped in interstate commerce on or about July 31, 1933, by the Victor Food Corporation, from Victor, N.Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Hersh's Best Brand Sour Pitted Red Cherries Packed in Water Contents 1 Lb. 5 Ozs."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Contents 1 Lb. 5 Ozs., was false and misleading and deceived and misled the purchaser. 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.

On November 16, 1933, L. F. Hersh & Bro., Elizabeth, N.J., claimant, having admitted the allegations of the libel 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 \$300, conditioned that it be relabeled.

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

**21620. Adulteration of herring. U. S. v. 3 Boxes of Fresh Fish. Default decree of destruction. (F. & D. no. 31587. Sample no. 50380-A.)**

On October 31, 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 3 boxes of herring at Columbus, Ohio, alleging that the article had been shipped in interstate commerce on or about October 29, 1933, by the Lake Superior Fish Co., from Duluth, Minn., 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 consisted in part of a filthy, decomposed, or putrid animal substance and in that it consisted of portions of animals unfit for food.

On November 1, 1933, the court having found that the product was spoiled and unfit for human consumption, judgment was entered ordering that it be destroyed by the United States marshal.

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

**21621. Adulteration and misbranding of butter. U. S. v. 5 Tubs of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31302. Sample no. 40396-A.)**

This case involved a 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. Examination also showed that the quantity of the contents was not declared on the label.

On September 28, 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 5 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 19, 1933, by Preston Produce Co., from Preston, Minn., and charging adulteration and misbranding 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 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 provided by the act of March 4, 1923.

Misbranding was alleged for the 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 November 13, 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.*

**21622. Misbranding of cottonseed screenings. U. S. v. Lucian C. Worth (L. C. Worth Commission Co.). Plea of guilty. Fine, \$1. (F. & D. no. 30327. Sample no. 19806-A.)**

This case was based on an interstate shipment of cottonseed screenings that contained less than 43 percent of protein, the amount declared on the tag.

On November 4, 1933, 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 Lucian C. Worth, trading as L. C. Worth Commission Co., Kansas City, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about June 28, 1932, from the State of Missouri into the State of Kansas, of a quantity of cottonseed screenings that were misbranded. The article was labeled in part: (Tag) "K. C. Brand Cake and Meal \* \* \* Guaranteed Analysis Protein, not less than 43% \* \* \* Manufactured for Kansas City Cake and Meal Co. \* \* \* Kansas City, Mo."

It was alleged in the information that the article was misbranded in that the statement, "Protein, not less than 43%", was 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 43 percent of protein.

On November 25, 1933, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$1.

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

**21623. Adulteration of apples. U. S. v. 150 Bushels of Ben Davis Apples. Decree of confiscation. Apples delivered to a charitable institution.** (F. & D. no. 31540. Sample no. 57873-A.)

This case involved an interstate shipment of apples, that were found to bear arsenic in an amount that might have rendered them injurious to health.

On October 18, 1933, the United States attorney for the Northern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 bushels of apples at Tulsa, Okla., alleging that the article had been shipped on or about October 15, 1933, by Allen Bement, Tulsa, Okla., from Springdale, Ark., and that the article had been guaranteed by W. B. Brogdon of Springdale, Ark., 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 arsenic, which might have rendered it deleterious to health.

On October 27, 1933, W. B. Brogdon & Sons having appeared and admitted the allegations of the libel and having consented to the entry of a decree, judgment of confiscation was entered, and it was ordered by the court that the apples be rewashed so as to be in condition for use and delivered to a charitable institution.

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

**21624. Adulteration and misbranding of butter. U. S. v. Marshall County Cooperative Creamery. Plea of guilty. Fine, \$25.01.** (F. & D. no. 29459. I.S. no. 17089.)

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.

On March 3, 1933, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Marshall County Cooperative Creamery, a corporation, Lewisburg, Tenn., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 17, 1932, from the State of Tennessee into the State of Alabama, of a quantity of butter that was adulterated and misbranded. The article was labeled in part: "Sunlight Creamery Butter \* \* \* The Cudahy Packing Co., Distributors General Office Chicago."

It was alleged in the first count of the information that the article was adulterated 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 was alleged in the second count of the information for the reason that the statement, "Butter", 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 said statement represented that the article was butter, a product which should contain not less than 80 percent by weight of milk fat, whereas it contained less than 80 percent by weight of milk fat.