

and the execution of a bond in the sum of \$2,000, conditioned that it be relabeled under the supervision of this Department.

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

21946. Misbranding of canned tomatoes. U. S. v. 1,900 Cases and 1,000 Cases of Canned Tomatoes. Consent decrees of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. nos. 31784, 31789. Sample nos. 61661-A, 61663-A, 61665-A.)

Sample cans taken from the canned tomatoes involved in these cases were found to have excessive headspace. The article was misbranded because the cans contained less than the declared weight and were not labeled to indicate that they were slack filled.

On December 27 and December 28, 1933, the United States attorney for the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 2,900 cases of canned tomatoes at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce, in various shipments, on or about September 2, 8, and 12, 1933, by C. W. Baker & Sons, in part from Delmar, Del., and in part from Aberdeen, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Bakers Brand Tomatoes Contents One Lb. Three Oz. Distributors C. W. Baker & Sons, Aberdeen, Md."

Misbranding of the article was alleged in the libels for the reason that the statement on the label, "Contents One Lb. Three Oz.", was false and misleading and deceived and misled the purchaser, and for the further reason that it 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. Misbranding was alleged for the further reason that the article was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture, because of excessive headspace, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

C. W. Baker & Sons filed claims and answers admitting the allegations of the libels but averring that only a part of the product was misbranded, and petitioned release of the goods for separation and relabeling of such portion. On February 14, 1934, judgments of condemnation and forfeiture were entered, nunc pro tunc as of February 1, 1934, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of bonds totaling \$1,000, conditioned that the entire lot be relabeled to comply with the Federal Food and Drugs Act.

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

21947. Adulteration and misbranding of Sunshine Leaf Meal. U. S. v. 40 Bags of Sunshine Leaf Meal. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31785. Sample no. 68556-A.)

This case involved a product which was represented to consist of alfalfa leaf meal but which was found to consist of a mixture of stem and leaf meal containing less protein and more fiber than was declared on the label.

On December 28, 1933, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 bags of Sunshine Leaf Meal at Denton, Md., alleging that the article had been shipped in interstate commerce on or about October 10, 1933, by the Acton Co., from Philadelphia, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "Sunshine Leaf Meal * * * Protein not less than 20% * * * Fibre not more than 18% * * * United Milling Corporation Roscoe, California This Alfalfa Leaf Meal is Manufactured from the Highest Grade Antelope Valley Hay."

It was alleged in the libel that the article was adulterated in that a mixture of stem and leaf meal had been substituted for leaf meal, which the article purported to be.

Misbranding was alleged for the reason that the statements on the tag, "Leaf Meal", "Protein not less than 20%", and "Fibre not more than 18%", were false and misleading and deceived and misled the purchaser, and for the further reason that the article was sold under the distinctive name of another article.

On February 7, 1934, 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.*

21948. Adulteration of butter. U. S. v. 13 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (F. & D. no. 31798. Sample no. 51933-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 established by Congress.

On December 9, 1933, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 tubs of butter at New York, N.Y., alleging that the article had been shipped in interstate commerce on or about November 29, 1933, by the Waterville Cooperative Creamery, from Waterville, 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 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 as provided by the act of March 4, 1923.

On December 13, 1933, the Waterville Creamery Co., Waterville, Minn., 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 \$400, conditioned that it be reworked so that it contain at least 80 percent of milk fat.

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

21949. Adulteration of apples. U. S. v. 92 Bushels of Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31800. Sample no. 64875-A.)

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

On November 25, 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 92 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 20, 1933, by L. Latchaw, from Pullman, 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 and deleterious ingredients, arsenic and lead, in amounts that might have rendered it injurious to health.

On January 9, 1934, 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.*

21950. Adulteration of canned shrimp. U. S. v. 1,200 Cases of Canned Shrimp. Decree of condemnation and forfeiture. Product released under bond for segregation and destruction of decomposed portions. (F. & D. no. 31801. Sample nos. 58715-A, 58716-A.)

This case involved a shipment of canned shrimp that was found to be in part decomposed.

On December 29, 1933, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,200 cases of canned shrimp at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about October 8, 1933, by the Sea Coast Packing Co., from Biloxi, Miss., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Miss. Miss Brand Shrimp. [or "Clipper Brand Shrimp"] Packed by Sea Coast Packing Co., Inc., Biloxi, Miss."

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed animal substance.

On January 25, 1934, the Sea Coast Packing Co. having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it