

**23303. Adulteration of evaporated apple chops. U. S. v. Charles J. Allen and Frank C. Hutteman (Battletown Fruit Co.). Plea of nolo contendere. Fine, \$50. (F. & D. no. 32169. Sample nos. 26993-A, 32750-A.)**

This case was based on interstate shipments of apple chops, samples of which were found to be filthy because of insect infestation and rodent contamination.

On July 2, 1934, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles J. Allen and Frank C. Hutteman, members of a partnership trading as the Battletown Fruit Co., Staunton, Va., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about December 17, 1932, from the State of Virginia into the State of Pennsylvania, and on or about January 13, 1933, from the State of Virginia into the State of Ohio of quantities of a product, invoiced as apple chops, which were adulterated.

The article was alleged to be adulterated in that it consisted in whole and in part of a filthy vegetable substance.

On October 22, 1934, a plea of nolo contendere was entered and the court imposed a fine of \$50.

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

**23304. Misbranding of Kraft Velveeta. U. S. v. 1,200 Dozen Packages and 250 Cartons of Kraft Velveeta. Consent decrees of condemnation. Product released under bond. (F. & D. no. 32685. Sample nos. 67707-B, 67710-A, 67711-A.)**

These cases involved a product labeled to convey the impression that it was essentially cheese and could be used in place of cheese in cheese recipes. It consisted, however, of a mixture of cheese and other substances and contained considerably less butterfat than was declared on the label.

On May 7 and 11, 1934, 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 1,200 dozen packages and 250 cartons of Kraft Velveeta at Jersey City, N. J., alleging that the article had been shipped in interstate commerce in various shipments on or about April 18, 23, and 26, 1934, by the Kraft-Phenix Cheese Corporation, from Green Bay, Wis., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Kraft Velveeta \* \* \* Velveeta is a cheese food. \* \* \* It contains \* \* \* 43% of butter fat. Kraft-Phenix Corp. General Offices, Chicago, Ill. Write \* \* \* for the new recipe book, 'Cheese and Ways to Serve It.'"

The article was alleged to be misbranded in that the statement "It contains \* \* \* 43% of butter fat", was false and misleading and tended to deceive and mislead the purchaser, since it contained materially less butterfat than declared; and for the further reason that the statements, "Velveeta is a cheese food \* \* \* Write \* \* \* for the new recipe book, 'Cheese and Ways to Serve It'", were false and misleading and tended to deceive and mislead the purchaser, since they implied that the article was essentially cheese, whereas it was not.

The Kraft-Phenix Cheese Corporation appeared as claimant and filed an answer admitting the allegations of the libel, except the allegation that the statement "Velveeta is a cheese food" constituted misbranding; and consented to the entry of a decree. On August 25, 1934, judgment of condemnation was entered, and it was ordered that the product be released to the claimant under bond, conditioned that it be relabeled by changing the statement of butterfat content to read "It contains \* \* \* 25% butter fat", and by deleting the statement, "Write \* \* \* for the new recipe book, 'Cheese and ways to serve it'", and all references to the recipe book appearing on the labeling. On January 12, 1935, the decree was amended to permit return of the product to the factory for the purposes of dehydrating, reworking, or other lawful disposition, after the removal of the labels.

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

**23305. Adulteration of canned shrimp. U. S. v. 1,176 Cans and 1,896 Cans of Shrimp. Default decrees of condemnation and destruction. (F. & D. nos. 32853, 33069. Sample nos. 56594-A, 56663-A.)**

These cases involved canned shrimp that was found to be in part decomposed.

On June 14 and July 17, 1934, the United States attorney for the Northern District of Iowa, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 3,072 cans of

shrimp at Sioux City, Iowa, alleging that the article had been shipped in interstate commerce, on or about April 28, 1934, by the Gulf Coast Canneries, from Biloxi, Miss., and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled in part: (Can) "Mallory's Brand Fancy Wet Shrimp, \* \* \* Packed for Pratt-Mallory Co., Sioux City, Iowa." The cans containing the remainder were unlabeled.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On October 31, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

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

**23306. Misbranding of canned peas. U. S. v. 1,100 Cases of Canned Peas. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 33058. Sample no. 65487-A.)**

This case involved a shipment of canned peas that contained an excessive amount of ruptured and hard peas, and that were not labeled to indicate that they were substandard.

On July 7, 1934, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,100 cases of canned peas at Detroit, Mich., alleging that the article had been shipped in interstate commerce, on or about May 8, 1934, by the G. L. Webster Canning Co., Inc., from Cheriton, Va., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Webster's Select Quality Early June Peas \* \* \* Packed by G. L. Webster Company, Incorporated, Cheriton, Virginia."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture 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.

On August 22, 1934, the G. L. Webster Co., Inc., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

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

**23307. Misbranding of vermouth. U. S. v. 74 Cases of Patri Vins Vermouth, et al. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33287. Sample nos. 6549-B, 6550-B.)**

This case involved a shipment of vermouth labeled "French or "Italian" type", to convey the impression that it was of foreign origin, but which consisted of a domestic product manufactured from wine made from California grapes. The labeling of the "French" type contained unwarranted curative and therapeutic claims.

On August 22, 1934, 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 99 cases of vermouth at New York, N. Y., alleging that the article had been shipped in interstate commerce, in various lots, on or about May 12, May 21, and June 22, 1934, by the Imperial Distilling Corporation, from Hoboken, N. J., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Patri Vins Vermouth \* \* \* French Type Dry"; "Santa Vino Vermouth \* \* \* Sweet Italian Type."

The article was alleged to be misbranded under the provision of the law relating to food in that the statement on the labels, "Patri Vins Vermouth—Vermouth Francais Qualite Superieure", and the prominent word "French" in the statement, "French Type Dry", with respect to the "French" type, and the statement, "Santo Vino Vermouth—Vermouth Italiano Qualita Superiore Torino Type", and the prominent word "Italian" in the statement, "Sweet Italian Type", with respect to the "Italian" type, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was of foreign origin; whereas it was not. The libel also alleged that the "French" type was further misbranded in that the following statement appearing on the label, was a statement regarding the curative or therapeutic effects of the article and was false and fraudulent: (English, French, Spanish, and Italian) "Its Tonic, stimulating and astringent