

Danbury, Conn., alleging that the article had been shipped in interstate commerce, on or about December 7, 1933, by the Valentino Salad Oil Co., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Olio Sopraffino Balbo Brand Viva Italia Packed by SB B'klyn, N. Y."

The article was alleged to be misbranded in that the statements on the label, "Olio Sopraffino", "Balbo Brand", and "Viva Italia", were misleading and deceived and mislead the purchaser since they created the impression that the article was Italian olive oil; whereas it consisted chiefly of cottonseed oil of domestic origin. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so.

On December 12, 1934, a claim and answer having been filed, judgment of condemnation and forfeiture was entered and it was ordered that the product be released to the claimant under bond, conditioned that it be relabeled so as to conform to the requirements of the Federal Food and Drugs Act.

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

**23861. Adulteration of butter. U. S. v. 10 Barrels, et al., of Butter. Default decrees of condemnation. Product disposed of for commercial purposes.** (F. & D. nos. 31904 to 31908, incl. Sample nos. 57732-A, 59081-A, 59082-A, 59239-A, 59240-A.)

These cases involved interstate shipments of butter which contained maggots, filth, and other foreign material.

On January 4 and 10, 1934, the United States attorney for the Eastern District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 36 barrels of packing stock butter at St. Louis, Mo., alleging that the article had been shipped in interstate commerce between the dates of October 10 and November 27, 1933, by the Tennessee Egg Co., in various shipments from Atlanta, Ga., Knoxville, Tenn., and Chattanooga, Tenn., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On December 1, 1934, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be denatured and disposed of for commercial purposes.

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

**23862. Adulteration of packing stock butter. U. S. v. 31 Barrels and 36 Barrels of Packing Stock Butter. Product released under bond to be disposed of for commercial purposes.** (F. & D. nos. 31933, 31934. Sample nos. 57731-A, 59238-A.)

These cases involved shipments of packing stock butter which contained maggots, insects, and other filth.

On December 27 and 28, 1933, the United States attorney for the Eastern District of Missouri, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 67 barrels of packing stock butter at St. Louis, Mo., alleging that the article had been shipped in interstate commerce in part on or about October 3, 1933, and in part on or about October 29, 1933, by the Fort Worth Poultry & Egg Co., Fort Worth, Tex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On November 27, 1934, Fred M. Switzer, trading as the Missouri Candy Co., St. Louis, Mo., claimant, having admitted the allegations of the libels, judgments were entered ordering that the product be released under bond, conditioned that it be denatured and used for commercial grease.

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

**23863. Misbranding of cottonseed meal. U. S. v. The Blanton Co. of Delaware (Helena Cotton Oil Mill). Plea of nolo contendere. Fine, \$50.** (F. & D. no. 32089. Sample nos. 16969-A, 29027-A.)

This case was based on two interstate shipments of cottonseed meal that was found to contain less than 43 percent of crude protein, the amount declared on the label. One shipment was also found to contain more crude fiber than declared.

On June 21, 1934, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Blanton Co. of Delaware, a corporation trading as the Helena Cotton Oil Mill at Helena, Ark., alleging shipment by said company, in violation of the Food and Drugs Act on or about December 24, 1932, and June 9, 1933, from the State of Arkansas into the State of Missouri, of quantities of cottonseed meal which was misbranded. The article was labeled in part: (Tag) "Blanco Brand 43% Protein Cottonseed Meal \* \* \* Manufactured by Helena Cotton Oil Mill Helena, Ark., Guaranteed Analysis Crude Protein, not less than 43.00% \* \* \* Crude Fibre, not more than 11.00%."

The article was alleged to be adulterated in that the statements, "43% Protein \* \* \* Guaranteed Analysis Crude Protein, not less than 43.00%", with respect to both lots, and the statement, "Crude Fibre, not more than 11.00%", with respect to one lot, borne on the tags, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since both lots contained less than 43 percent of protein, and one lot contained more than 11 percent of crude fiber.

On August 3, 1934, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of \$50.

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

**23864. Misbranding of canned red raspberries. U. S. v. Hunt Bros. Packing Co. Tried to the court. Judgment of guilty. Fine, \$30. (F. & D. no. 32101. Sample no. 42038.)**

Samples of canned red raspberries taken from the shipments involved in this case were found to contain less than 6 pounds 10 ounces, the weight declared on the label.

On June 16, 1934, 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 the Hunt Bros. Packing Co., a corporation, Puyallup, Wash., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about April 8, 1933, from the State of Washington into the State of Wyoming, of a quantity of canned red raspberries which were misbranded.

The article was alleged to be misbranded in that the statement "Contents 6 Lbs. 10 Oz.", borne on the can label, was false and misleading and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the cans contained less than 6 pounds 10 ounces of the article. 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 container.

On December 28, 1934, the case came on for trial by stipulation of the respective parties by their respective attorneys before the court without a jury, the plaintiff having submitted its cause upon said written stipulation; and the defendant, in addition to the facts stipulated, having adduced evidence denying part of count 1 as follows:

"Said article was further misbranded in that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said cans contained 6 pounds 10 ounces of the article; whereas in truth and in fact, each of said cans did not contain 6 pounds 10 ounces of the article, but did contain a less amount."

The case was then submitted to the court, and the court being fully advised in the premises, made the following findings of fact:

✓ I. That Hunt Brothers Packing Company, a corporation organized and existing under the laws of the State of Delaware, and having a place of business in the City of Puyallup, State of Washington, did, within the Southern Division of the Western Judicial District of Washington, and within the jurisdiction of this court, on or about the 8th day of April, the year of our Lord nineteen hundred and thirty-three, then and there, in violation of the act of Congress of June 30, 1906 (known as the Food and Drugs Act, 34 Statutes at Large, 768; Secs. 9 & 10, Title 21, U. S. C. A.) unlawfully ship and deliver for shipment from the City of Puyallup, State of Washington, to the City of Cheyenne, State of Wyoming, consigned to Paxton & Gallagher Co., a certain consignment, to wit, a number of cans, each can containing an article designed and intended to be used as an article of food, which said cans were, then and