

19722. Misbranding of coffee. U. S. v. The Early Coffee Co. Plea of nolo contendere. Fine, \$100. (F. & D. No. 25720. I. S. Nos. 512, 513, 514.)

This action was based on the interstate shipment of quantities of coffee, sample cans of which were found to contain less than the declared weight.

On May 29, 1931, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Early Coffee Co., a corporation, Denver, Colo., alleging shipment by said company, in violation of the food and drugs act as amended, on or about May 20, 1930, from the State of Colorado into the State of New Mexico, of quantities of coffee that was misbranded. The article was labeled in part: (Cans) "Early Breakfast Steel Cut Plantation Coffee, Full Pound [or 'Three Pounds'] Net Weight * * * The Early Coffee Co., Denver, Colo."

It was alleged in the information that the article was misbranded and that the statements, "Full Pound Net Weight," borne on a portion of the cans, and the statement "Three Pounds Net Weight," borne on the remainder, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser since the portion of the cans which were labeled as containing 1 full pound net contained less than 1 pound, and the portion of the cans that were labeled as containing 3 pounds net, contained less than 3 pounds. 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 statements made were incorrect.

On April 7, 1932, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

HENRY A. WALLACE, *Secretary of Agriculture.*

19723. Adulteration of tomato puree. U. S. v. 695 Cases of Tomato Puree. Decree of condemnation and forfeiture. Product released under bond for reconditioning. (F. & D. No. 26419. I. S. No. 22209. S. No. 4718.)

This action was based on a shipment of tomato puree, samples of which were found to contain excessive mold.

On May 21, 1931, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 695 cases of tomato puree, alleging that the article had been shipped in interstate commerce by Meyer Simon Co., from Long Beach, Calif., to Seattle, Wash., on or about April 14, 1931, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Timpanogos Brand Tomato Puree Packed by Pleasant Grove Canning Company, Pleasant Grove—Orem, Utah."

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

On July 6, 1932, Morris Muskatel, Seattle, Wash., claimant, having filed claim, stipulation, and answer, admitting the allegations of the libel and having consented to the entry of the decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be delivered to the said claimant to be reconditioned or segregated under the supervision of this department, upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it should not be sold or disposed of contrary to the provisions of the Federal food and drugs act. In supervising the reconditioning this department required the separation and destruction of the unfit portion.

HENRY A. WALLACE, *Secretary of Agriculture.*

19724. Adulteration and misbranding of butter. U. S. v. 11 Cases of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 27954. I. S. Nos. 50759, 50764. S. No. 5979.)

This action was based on a shipment of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress.

On or about March 8, 1932, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 11 cases of butter at Chicago, Ill.,

alleging that the article had been shipped in interstate commerce, on or about February 23, 1932, by the Farmers Cooperative Creamery Co., from Clear Lake, Wis., to Chicago, Ill., and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Carton) "Bowman Dairy Company, * * * Butter Distributed by Bowman Dairy Company, Chicago, Illinois."

It was alleged in the libel that the article was adulterated in that a substance deficient in butterfat had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength; for the further reason that a substitute deficient in butterfat had been substituted in part for the said article; and for the further reason that it contained less than 80 per cent of butterfat.

Misbranding was alleged for the reason that the article had been sold, shipped, and labeled as butter, which was false and misleading since it contained less than 80 per cent of milk fat.

On March 22, 1932, the Farmers Cooperative Creamery Co., Clear Lake, Wis., 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 said claimant to be reworked under the supervision of this department, upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Federal food and drugs act, and all other laws.

HENRY A. WALLACE, *Secretary of Agriculture.*

19725. Adulteration of butter. U. S. v. 13 Tubs, et al., of Butter. Consent decrees of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 28226, 28265. I. S. Nos. 5394, 54281. S. Nos. 6044, 6108.)

This action involved the interstate shipment of quantities of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress.

On April 4 and April 18, 1932, 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 of the United States for the district aforesaid libels praying seizure and condemnation of 29 tubs of butter at New York, N. Y., alleging that the article had been shipped in part on or about March 26, 1932, and on or about April 8, 1932, by the Union Storage & Transfer Co., Fargo, N. Dak., acting for the Arrow Creamery Co., Hebron (and Hazen), N. Dak., and had been transported from the State of North Dakota into the State of New York, and charging adulteration in violation of the food and drugs act.

It was alleged in the libels that the article was adulterated in that a product containing less than 80 per cent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 per cent of milk fat as provided by law.

The Zenith-Godley Co. (Inc.), New York, N. Y., interposed a claim for the product as agent for the Arrow Creamery Co., and admitted the allegations of the libels, consented to the entry of decrees and agreed that the product be reconditioned so that it contain at least 80 per cent of butterfat. On April 6 and April 20, 1932, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant, upon payment of costs and the execution of bonds totaling \$700, conditioned in part that it be reworked so that it comply with the Federal food and drugs act, and all other laws, and that it should not be disposed of until examined and approved by this department.

HENRY A. WALLACE, *Secretary of Agriculture.*

19726. Adulteration of bluefins. U. S. v. 1 Box of Bluefins. Decree of destruction. (F. & D. No. 27984. I. S. No. 53427. S. No. 6029.)

Samples of bluefins from the shipment herein described having been found to be infested with worms, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Ohio.

On April 5, 1932, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of one box of bluefins at Cincinnati, Ohio, alleging that the article had been shipped in interstate commerce by Sam Johnson & Son's Fisheries (Inc.), from Duluth, Minn., on or about March 2, 1932, having been transported from the