On August 11 and 12, 1943, the United States attorneys for the District of Massachusetts and the Western District of Pennsylvania filed libels against 16 dozen cans of cheese sandwiches at Boston, Mass., and 90 boxes of cheese snacks at Pittsburgh, Pa., alleging that the articles had been shipped in interstate commerce within the period from on or about April 22 to July 7, 1943, by the King Kone Corporation, from New York, N. Y. The articles were labeled in part: "Old London Dainty Cheese Sandwiches," or "Toasted Cheese Snacks * * * Net Wt. 2½ Oz."

The cheese sandwiches were alleged to be adulterated (1) in that a valuable constituent, cheese, had been omitted; (2) in that wafer sandwiches containing a filling of cheese, cornstarch, edible oil other than butter fat, and artificial color, had been substituted in whole or in part for "Old London Dainty Cheese Sandwiches," which they were represented to be; (3) in that inferiority had been concealed by the addition of artificial coloring; and (4) in that edible oil other than butter fat, artificial coloring, and cornstarch had been added thereto or mixed or packed therewith so as to make it appear better or of greater value than it was.

The cheese sandwiches were alleged to be misbranded in that the statement, "Old London Dainty Cheese Sandwiches," was false and misleading. The cheese snacks were alleged to be misbranded in that the statement "Net Wt. 2½ Oz." was false and misleading as applied to an article that was short weight, and in that they were in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On September 14 and 20, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

5579. Misbranding of peanut butter sandwiches. U. S. v. Madalynn J. Kelley (Bob Kelley Food Sales Co.) Plea of guilty. Fine, $300 and costs. (F. D. C. No. 9663. Sample No. 32067–F, 32068–F.)

On June 25, 1943, the United States attorney for the Western District of Kentucky filed an information against Madalynn J. Kelley, trading under the name Bob Kelley Food Sales Co. at Louisville, Ky, alleging shipment within the period from on or about March 12 to 23, 1943, from the State of Kentucky into the State of Ohio of a quantity of peanut butter sandwiches which were misbranded. The articles were labeled in part: (Label inserted inside cellophane package) "The Original Bob Kelley's Butter Cracker [or "Cheese Cracker"] and Peanut Butter Sandwich * * * Net Wt. 1¾ Oz."

The articles were alleged to be misbranded (1) in that the statement "Net Wt. 1¾ Oz.," borne on the label, was false and misleading, since the packages did not contain 1¾ ounces net weight, but did contain a smaller amount; and (2) in that they were in package form and did not bear labels containing an accurate statement of the quantity of the contents.

On September 20, 1943, the defendant having entered a plea of guilty, the court imposed a fine of $300 and costs.

5580. Misbranding of peanut butter sandwich. U. S. v. 13,520 Packages of Peanut Butter Sandwich. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9778. Sample Nos. 32067–F, 32068–F.)

This product was short-weight.

On April 8, 1943, the United States attorney for the Southern District of Ohio filed a libel against a total of 13,520 packages of peanut butter sandwich at Cincinnati, Ohio, (consigned on or about March 12 and 20, 1943) alleging that the article had been shipped in interstate commerce by the Bob Kelley Food Sales Co. from Louisville, Ky.; and charging that it was misbranded. The article was labeled in part: "The Original Bob Kelley's * * * Peanut Butter Sandwich * * * Net Wt 1¾ Oz."

The article was alleged to be misbranded in that the statement "Net Wt. 1¾ Oz." on the label was false and misleading as applied to an article that was short-weight; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On April 14, 1943, the Bob Kelley Food Sales Co. having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.