

13055. Adulteration and misbranding of butter. U. S. v. 5 Tubs of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 18617. I. S. No. 12938-v. S. No. E-4818.)

On April 24, 1924, 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 said district a libel praying the seizure and condemnation of 5 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the F. Hellerick Co., from Philadelphia, Pa., on or about March 20, 1924, and transported from the State of Pennsylvania into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Tub) "From Frank Hellerick & Co. * * * Philadelphia, Pa."

Adulteration of the article was alleged in the libel for the reason that a substance deficient in butterfat and containing excessive moisture had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength and had been substituted in whole or in part for the said article, and for the further reason that a valuable constituent of the article, butterfat, had been abstracted. Adulteration was also alleged for the reason that the article consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article.

On February 7, 1925, 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.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13056. Misbranding and alleged adulteration of vinegar. U. S. v. 34 Barrels of Vinegar. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 15501. I. S. No. 3148-t. S. No. C-3254.)

On October 26, 1921, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 34 barrels of vinegar, remaining unsold in the original packages at Louisville, Ky., consigned by the Douglas Packing Co., August 19, 1921, from Fairport, N. Y., alleging that the article had been shipped from Fairport, N. Y., and transported from the State of New York into the State of Kentucky, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Barrel) "Douglas Packing Co. Rochester, N. Y., Excelsior Brand Apple Cider Vinegar Made From Selected Apples Reduced To 4 Per Centum. Guaranteed To Comply With All Pure Food Laws Douglas Packing Company Rochester, N. Y."

Adulteration of the article was alleged in the libel for the reason that vinegar made from evaporated or dried apple products had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "Apple Cider Vinegar Made from Selected Apples," appearing in the labeling, was false and misleading and deceived and misled the purchaser, in that the said article contained barium. Misbranding was alleged for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article.

On November 22, 1924, the Douglas Packing Co., Rochester, N. Y., having appeared as claimant for the property, judgment of the court was entered, finding the product misbranded and ordering its condemnation and forfeiture, and it was further ordered by the court that the said product be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13057. Misbranding of potatoes. U. S. v. 240 Sacks of Potatoes. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19535. I. S. No. 19098-v. S. No. C-4621.)

On January 23, 1925, 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 said district a libel praying the seizure

and condemnation of 240 sacks of potatoes, remaining in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped by J. R. Beggs & Co., from Dallas, Wis., January 15, 1925, and transported from the State of Wisconsin into the State of Illinois, and charging misbranding in violation of the food and drugs act. The article was labeled in part: "U. S. Grade No. 1."

Misbranding of the article was alleged in the libel for the reason that the statement "United States Grade No. 1," appearing in the labeling, was false and misleading and deceived and misled the purchaser, since the product did not meet the requirements of United States Grade No. 1 potatoes.

On January 24, 1925, Bacon Bros., Chicago, Ill., claimants, 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 upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that the words "U. S. Grade No. 1" be eliminated from the labels under the supervision of this department.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13058. Adulteration and misbranding of tomato paste. U. S. v. 125 Cases, et al., of Tomato Paste. Decree of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 19452, 19453, 19455. I. S. Nos. 13855-v, 13856-v. S. Nos. E-5082, E-5083.)

On December 30, 1924, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 214 cases of tomato paste, remaining in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by the Hershel California Fruit Products Co., from San Francisco, Calif., October 30, 1924, and transported from the State of California into the State of Massachusetts, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Stella del Pacifico Pacific Star Brand Salsina Concentrated Tomato Sauce * * * Packed & Guaranteed By Hershel Cal. Fruit Products Company San Jose, Calif."

Adulteration of the article was alleged in the libels for the reason that a substance, an artificially-colored tomato paste, or sauce, had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "Tomato Sauce," borne on the said cans, was false and misleading and deceived and misled the purchaser when applied to a tomato sauce containing color not declared upon the label.

On January 23, 1925, the cases having been consolidated into one cause of action, and C. L. Jones & Co., Boston, Mass., having entered an appearance as claimant for the property and having filed a satisfactory bond, in conformity with section 10 of the act, judgment of condemnation was entered, and it was ordered by the court that the product might be released to the said claimant upon payment of the costs of the proceedings.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13059. Misbranding of butter. U. S. v. 11 Cases of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19122. I. S. No. 18756-v. S. No. C-4511.)

On or about October 20, 1924, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 11 cases, each containing 30 cartons, of butter, alleging that the article had been shipped by the Beatrice Creamery Co., St. Louis, Mo., on or about October 14, 1924, and transported from the State of Missouri into the State of Arkansas, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "One Pound Full Weight."

Misbranding of the article was alleged in substance in the libel for the reason that the cartons were short of the weight branded and labeled on the said cartons.

On January 5, 1925, R. H. Coffman, Little Rock, Ark., having appeared as claimant for the property and having consented to the entry of a decree, judg-