

16463. Adulteration and misbranding of butter. U. S. v. 26 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 23802. I. S. No. 03845. S. No. 1941.)

On April 30, 1929, 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 seizure and condemnation of 26 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the Alta Vista Farmers Creamery Association, from Alta Vista, Iowa, on or before April 24, 1929, and transported from the State of Iowa into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that a substance deficient in butterfat had been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength and had been substituted wholly or in part for the said article.

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

On May 15, 1929, the New Hampton Farmers Creamery Association, New Hampton, Iowa, 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 upon payment of costs and the execution of a bond in the sum of \$800, conditioned in part that it be reworked and reprocessed so that it contain at least 80 per cent of butterfat.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16464. Adulteration of apples. U. S. v. 1 Carload of Apples. Default decree of sale entered. (F. & D. No. 23554. S. No. 1805.)

On March 21, 1929, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 1 carload of apples at Newton, Kans., alleging that the article had been shipped by the Charles Schoenig Orchard Co., from Grand Junction, Colo., on or about March 14, 1929, and transported from the State of Colorado into the State of Kansas, and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that it contained an added poisonous ingredient, to wit, a compound of arsenic and lead, which might have rendered it injurious to health.

On March 26, 1929, the defendant having abandoned the property, it was adjudged and decreed by the court that the United States marshal put the product in cold storage, and that he cause the apples to be wiped to comply with the law and sold.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16465. Misbranding of oleomargarine. U. S. v. 150 Cases of Oleomargarine. Product adjudged misbranded and released under bond. (F. & D. No. 23596. I. S. No. 07873. S. No. 1843.)

On or about April 8, 1929, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 150 cases of oleomargarine, remaining in the original unbroken packages at Boise, Idaho, alleging that the article had been shipped by Swift & Co., from Portland, Oreg., on or about March 25, 1929, and transported from the State of Oregon into the State of Idaho, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Carton) "Gem-Nut Margarine 1 Pound Net Oleomargarine * * * Manufactured by Swift & Company."

It was alleged in substance in the libel that the article was shipped in interstate commerce in violation of paragraphs 2 and 4 of section 8 of said act in that the cartons were short weight, and the statement "One Pound Net" on the label, was false and misleading and deceived and misled the purchaser. Further violation of the act was alleged in that the article was food in package form and failed to bear a plain and conspicuous statement of the quantity of the contents.

On April 19, 1929, Swift & Co., having appeared as claimant for the property, a decree was entered adjudging the product misbranded in respect to the weight of the contents, and it was ordered by the court that the said product be released to the claimant upon payment of costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16466. Adulteration of canned shrimp. U. S. v. 200 Cases of Canned Shrimp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 23662. I. S. No. 0323. S. No. 1907.)

On April 25, 1929, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 200 cases of canned shrimp, remaining in the original unbroken packages at Spokane, Wash., alleging that the article had been shipped by the Dorgan McPhillips Packing Corporation, from Biloxi, Miss., on or about January 18, 1929, and transported from the State of Mississippi into the State of Washington, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Alabama Brand Extra Fancy Selected Shrimp, Alabama Best, Packed by Dorgan McPhillips Packing Corporation, Mobile, Ala."

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

On May 20, 1929, 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.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16467. Adulteration and misbranding of butter. U. S. v. 27 Boxes of Butter. Decree of condemnation and forfeiture. Product released on deposit of collateral. (F. & D. No. 23618. I. S. Nos. 05830, 05831. S. No. 1780.)

On March 11, 1929, 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 a libel praying seizure and condemnation of 27 boxes of butter, remaining in the original unbroken packages at Boston, Mass., consigned about February 25, 1929, alleging that the article had been shipped by the White Mountain Creamery Co., New Bremen, Ohio, and transported from the State of Ohio into the State of Massachusetts, and charging adulteration and misbranding in violation of the food and drugs act as amended. Twenty-five cases of the article were labeled in part: (Shipping package) "1/2 Lb. Plain;" (wrapper) "8 Oz. Net Weight." The remainder of the said article bore no statements of the quantity of contents on the labeling.

It was alleged in the libel that the product contained in the said 25 cases was adulterated in that a substance containing less than 80 per cent by weight of milk fat had been substituted in whole or in part for butter, which the article purported to be, the act of Congress of March 4, 1923, providing that butter contain not less than 80 per cent by weight of milk fat.

Misbranding of the product in the said 25 cases was alleged for the reason that the statement "8 Oz. Net Weight," borne on the labels, was false and misleading in that the said statement represented that each of the packages contained 8 ounces full weight of butter, and in that the said statement was intended to deceive and mislead the purchaser into the belief that each of said packages contained 8 ounces full weight of butter, whereas said packages contained a less amount. Misbranding was alleged with respect to the product contained in the remaining two cases for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 19, 1929, the White Mountain Creamery Co., New Bremen, Ohio, having appeared as claimant for the property and having admitted the allegations of the libel, 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 costs and the deposit of \$300 in lieu of bond in that sum, conditioned in part that the 25 cases of the product be reworked so that it contain at least 80 per cent of butterfat, and the two cases be relabeled so that the true quantity of the article appear plainly and conspicuously on the container.

ARTHUR M. HYDE, *Secretary of Agriculture.*