

in violation of the food and drugs act. The article was labeled in part: (Can) "Hougland's Sauerkraut \* \* \* Packed by Hougland Bros. Canning Co., Underwood, Ind."

It was alleged in the libel that the article was adulterated in that sauerkraut low in acidity had been mixed and packed with and substituted in part for the said article, so as to reduce, lower, and injuriously affect its quality. Adulteration was alleged for the further reason that the article consisted in part of a decomposed vegetable substance.

Misbranding was alleged for the reason that the designation "Sauerkraut" was false and misleading and deceived and misled the purchaser.

On July 2, 1929, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered nunc pro tunc as of June 30, 1929, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**17187. Adulteration of canned cherries. U. S. v. 668 Cases of Canned Cherries. Tried to the court and jury. Verdict for claimant. Verdict set aside and new trial granted. Case ordered dismissed. Consent order of destruction entered. (F. & D. No. 19971. I. S. No. 15620-v. S. No. E-5190.)**

On April 6, 1925, the United States attorney for the Western 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 668 cases of canned cherries at Westfield, N. Y., alleging that the article had been shipped by the Westfield Fruit Products Co., from Pittsburgh, Pa., on or about March 13, 1925, and transported from the State of Pennsylvania into the State of New York, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Can) "Pride of Westfield Brand Red Pitted Sour Cherries, Packed by the Westfield Fruit Products Co., Inc., Westfield, N. Y."

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

On July 29, 1925, the Westfield Fruit Products Co., having appeared as claimant for the property, the case came on for trial before the court and a jury. After the submission of evidence and arguments by counsel, the jury returned a verdict for the claimant. Thereupon the Government filed a motion for a new trial. On September 28, 1925, the motion for a new trial was argued, and the verdict of the jury was set aside and a new trial granted. On November 13, 1928, an order was entered dismissing the case. On November 22, 1929, the claimant having expressed a desire that the cherries be destroyed on motion of the United States, judgment was entered ordering that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**17188. Misbranding of butter. U. S. v. 10 Cases of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 24677. I. S. No. 028909. S. No. 2962.)**

On March 3, 1930, the United States attorney for the District of New Jersey, 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 10 cases of butter at Newark, N. J., alleging that the article had been shipped by the June Dairy Products Co. (Inc.), New York, N. Y., in part on or about February 18, 1930, and in part on or about February 24, 1930, and transported from the State of New York into the State of New Jersey, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "June Dairy Sweet Fancy Print Butter One Pound Net Weight."

It was alleged in the libel that the article was misbranded in that the statement on the label, "One Pound Net Weight," was false and misleading and deceived and misled the purchaser; and in 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 statement "One Pound Net Weight" was incorrect.

On April 9, 1930, 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.*