

17566. Adulteration of butter. U. S. v. 25 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 24884. I. S. No. 036461. S. No. 3182.)

Samples of butter from the herein described interstate shipment having been found to contain less than the legal requirement of butterfat, namely, less than 80 per cent of butterfat, the Secretary of Agriculture reported the matter to the United States attorney for the Northern District of Illinois.

On or about May 29, 1930, the said United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 25 tubs of butter, remaining in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped by the Park Falls Creamery Co., from Park Falls, Wis., on May 16, 1930, and transported from the State of Wisconsin into the State of Illinois, and charging adulteration 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 and lower and injuriously affect its quality and strength, and had been substituted in part for the said article. Adulteration was alleged for the further reason that the article was deficient in butterfat in that it contained less than 80 per cent of butterfat.

On June 19, 1930, the Peter Fox & Sons Co., Chicago, Ill., 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 \$1,000, conditioned in part that it be reprocessed so that it contain not less than 80 per cent of butterfat.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17567. Adulteration of canned cherries and adulteration and misbranding of canned tomato paste. U. S. v. Eagle Canning Co. Plea of guilty. Fine, \$25. (F. & D. No. 22598. I. S. Nos. 20891-x, 21211-x, 21212-x, 21695-x, 21696-x, 21710-x, 21711-x, 21712-x, 21713-x, 21714-x, 24278-x.)

Samples of canned cherries from the herein described interstate shipments having been found to contain worms and decayed fruit, and samples of the tomato paste having been found to be colored with cochineal, the Secretary of Agriculture reported the facts to the United States attorney for the Western District of New York.

On September 16, 1929, the said United States attorney filed in the District Court of the United States for the district aforesaid an information against the Eagle Canning Co., a corporation, Fredonia, N. Y., alleging shipment by said company, in violation of the food and drugs act, on or about August 9, 1927, from the State of New York into the State of Pennsylvania, of quantities of canned cherries which were adulterated; and on or about October 12, 1927, October 13, 1927, December 8, 1927, December 9, 1927, January 9, 1928, and January 31, 1928, from the State of New York into the State of Massachusetts; on or about October 25, 1927, and November 19, 1927, from the State of New York into the States of Connecticut and Rhode Island, respectively, of quantities of canned tomato paste, which was adulterated and misbranded. The canned cherries were labeled in part: "Selmore Brand Red Sour Pitted Cherries * * * Packed by Eagle Canning Co., Inc., Fredonia, N. Y." A portion of the tomato paste was labeled in part: "Eagle Brand Salsa Di Pomodoro. * * * Eagle Brand Tomato Paste, Eagle Canning Co., Inc., Fredonia, N. Y." A portion of the said tomato paste was labeled in part: "Unita Brand * * * Tomato Paste Eagle Canning Co., Inc., Fredonia, N. Y." A portion of the said tomato paste was labeled in part: "Perfect Brand Tomato Paste."

Adulteration of the canned cherries was alleged in the information for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance. Adulteration of the tomato paste was alleged for the reason that a substance, to wit, an artificially colored tomato paste, had been substituted for the said article.

Misbranding of the said tomato paste was alleged for the reason that the statement "Tomato Paste," borne on the label, was false and misleading in that the said statement represented that the article consisted wholly of tomato paste; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of tomato paste, whereas it consisted in part of undeclared artificial color.