

80 per cent of milk fat, and that each of the said cartons contained 1 pound net thereof; whereas the product in each of a number of the said cartons contained less than 80 per cent of milk fat, and each of a number of the cartons contained less than 1 pound net of the article. Misbranding was alleged for the further reason 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 said packages contained less than represented.

On May 7, 1931, the case having come on for final disposition, and the court having refused to accept a plea of nolo contendere, a plea of not guilty was entered by counsel for the defendant company. A jury was thereupon impaneled, before which the Government introduced its evidence. Counsel for defendant having announced that no evidence would be introduced in rebuttal, the court instructed the jury that the case presented by the Government authorized a verdict of guilty. The jury, without retiring, returned a verdict of "Guilty as charged," and the court imposed a fine of \$100 on each of the three counts of the information.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18437. Adulteration of canned sweetpotatoes. U. S. v. 123 Cases, et al., of Canned Sweetpotatoes. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 26180, 26181. I. S. Nos. 16145, 16146. S. Nos. 4514, 4515.)

Samples of canned sweetpotatoes from the shipments herein described having been found to be decomposed, the Secretary of Agriculture reported the matter to the United States attorney for the District of Maryland.

On April 6, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 152 cases of canned sweetpotatoes, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped by H. L. Chase & Sons (Inc.), from Parksley, Va., on or about September 30, 1930, and had been transported from the State of Virginia into the State of Maryland, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Can) "Chase's Brand Sweet Potatoes * * * Packed by H. L. Chase & Sons, Inc., Parksley, Va."

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

On May 5, 1931, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18438. Adulteration and misbranding of butter. U. S. v. Joe Smith (Smith's Creamery and Smith's Creamery Co.). Plea of guilty. Fine, \$100. (F. & D. No. 25711. I. S. Nos. 923, 926, 1135.)

Examination of the three shipments of butter herein described having shown that the product involved in two of the shipments was short weight, and that the product in the third shipment fell below the standard provided by Congress, since it contained less than 80 per cent of milk fat, the Secretary of Agriculture reported the matter to the United States attorney for the District of Idaho.

On May 16, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid an information against Joe Smith, trading as Smith's Creamery and as Smith's Creamery Co., Lewiston, Idaho, alleging shipment by said defendant, in violation of the food and drugs act, as amended, from the State of Idaho into the State of Washington, in various consignments, on or about July 18, 1930, July 19, 1930, and January 10, 1931, of quantities of butter, a portion of which was misbranded, and the remainder of which was adulterated. The article was labeled in part: (Packages) "Creamery Butter * * * Manufactured by Smith's Creamery Co., Lewiston, Idaho, * * * One Pound Net Weight."

Adulteration was alleged with respect to a portion of the article for the reason that a substance containing less than 80 per cent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 per cent by weight of milk fat, as required by the act of March 4, 1923, which the article purported to be.

Misbranding was alleged in the information with respect to portions of the article for the reason that the statement, to wit, "One Pound Net Weight," borne on the label of the packages, was false and misleading in that the said statement represented that the packages each contained 1 pound of butter; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said packages each contained 1 pound of butter; whereas they did not, but did contain a less amount. Misbranding was alleged with respect to the said portions of the article for the further 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, since the statement was not correct.

On May 16, 1931, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$100.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18439. Adulteration of canned prunes. U. S. v. 419 Cases of Canned Prunes. Default decree of condemnation and destruction. (F. & D. No. 25938. I. S. Nos. 24040, 24041. S. No. 4169.)

Samples of canned prunes from the shipment herein described having been found to be decomposed, the Secretary of Agriculture reported the matter to the United States attorney for the District of Kansas.

On or about February 26, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 419 cases of canned prunes, remaining in the original unbroken packages at Liberal, Kans., alleging that the article had been shipped by the Ray-Maling Co., from Hillsboro, Oreg., on or about October 27, 1930, and had been transported from the State of Oregon into the State of Kansas, and charging adulteration in violation of the food and drugs act. A portion of the article was labeled in part: (Case) "Raybrook Brand Fresh Prunes Packed by Ray Maling Company, Inc. * * * Hillsboro, Oregon;" (can) "Raybrook Brand Fresh Prunes." The remainder of the said article was labeled in part: (Case) "Bar B Q Brand Prunes Packed for Jett & Wood' Wichita, Kans.;" (can) "Bar B. Q. Brand Prunes."

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

On May 21, 1931, no claimant having appeared for the property, a decree was entered by the court, which was amended on June 22, 1931. The decree as amended adjudged the product adulterated, and ordered that it be condemned and destroyed.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18440. Adulteration and misbranding of powdered egg yolk. U. S. v. 6 Cases of Powdered Egg Yolk. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 26026. I. S. No. 12241. S. No. 4313.)

Examination of the powdered egg yolk from the shipment herein described having shown that the article contained added undeclared color, the Secretary of Agriculture reported the matter to the United States attorney for the District of Colorado.

On March 14, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 6 cases of powdered egg yolk, remaining in the original unbroken packages at Denver, Colo., consigned by the Bashaw-Arey Co., of San Francisco, Calif., from Kansas City, Mo., alleging that the article had been shipped on or about February 16, 1931, in interstate commerce from Kansas City, Mo., into the State of Colorado, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "COB San Francisco Option Baltimore Boston New York Philada' From China Net 200 lbs. Contains 6½% added invert sugar."

It was alleged in the libel that the article was adulterated in that it was colored in a manner whereby inferiority was concealed.

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

On May 25, 1931, the Pacific Orient Co., 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