

18587. Adulteration and misbranding of butter. U. S. v. 20 Tubs of Butter. Product released under bond to be reworked. (F. & D. No. 24993. I. S. No. 036861. S. No. 3230.)

Examination of butter from the shipment herein described having shown that the samples contained less than 80 per cent of milk fat, the standard provided by Congress, and that the quantity of the contents was not declared on the label, the Secretary of Agriculture reported the matter to the United States attorney for the District of Minnesota.

On June 19, 1930, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 20 tubs of butter, remaining in the original unbroken packages at Minneapolis, Minn., alleging that the article had been shipped by the Mayville Creamery Co., from Mayville, N. Dak., June 6, 1930, and had been transported from the State of North Dakota into the State of Minnesota, and charging adulteration and misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Tubs) "Nein Creamery Co., Minneapolis, Minn. From Mayville Creamery, Mayville, N. Dak."

It was alleged in the libel that the article was adulterated in that a substance deficient in butterfat had been mixed and packed therewith 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, and 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.

On July 3, 1930, the Nein Creamery Co., Minneapolis, Minn., having appeared as claimant for the property and having consented to the entry of a decree of condemnation and forfeiture, judgment was entered finding the allegations of the libel to be true and ordering that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$700, conditioned in part that it be reworked under the supervision of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18588. Adulteration and misbranding of canned apple butter. U. S. v. 11 Cases of Canned Apple Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 26093. I. S. No. 21768. S. No. 4410.)

Samples of canned apple butter from the shipment herein described having been found to contain lead and arsenic and to be short weight, the Secretary of Agriculture reported the matter to the United States attorney for the District of New Mexico.

On March 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 11 cases of canned apple butter at Las Vegas, N. Mex., alleging that the article had been shipped by the Currie Canning Co., from Grand Junction, Colo., on or about January 2, 1931, and had been transported from the State of Colorado into the State of New Mexico, and charging adulteration and misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Can) "Colorado Columbine Brand Apple Butter Weight of Contents One Pound Seven Ounces. An abundance of sunshine, pure radium charged air and cool nights give this apple butter its splendid color and flavor."

It was alleged in the libel that the article was adulterated in that it contained added poisonous and deleterious ingredients, namely, lead and arsenic, which might have rendered it injurious to health.

Misbranding was alleged for the reason that the following statements appearing on the label, regarding the said article and the ingredients therein, "Pure radium charged air * * * give this apple butter its splendid color and flavor * * * Weight of Contents One Pound Seven Ounces," were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was food in package form and failed to bear a plain and conspicuous statement of the quantity of the contents, since the quantity stated was not correct.

On June 11, 1931, 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.*