

Misbranding was alleged for the reason that the statement "1 Pound Net" on the packages was false and misleading in that it represented the packages to contain 1 pound net of the article, and for the further reason that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package. Misbranding was also alleged with respect to a portion of the article in that the statement "Butter" on the packages was false and misleading, since it represented the article to be butter, to wit, a product which should contain not less than 80 per cent by weight of milk fat as prescribed by law; whereas the article did not contain 80 per cent by weight of milk fat but did contain a less amount. Misbranding was alleged for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser.

On November 3, 1931, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18885. Adulteration of canned frozen whole eggs. U. S. v. 250 Cans of Frozen Whole Eggs. Decree of condemnation entered. Product released under bond. (F. & D. No. 27026. I. S. No. 36850. S. No. 5236.)

Samples of canned frozen whole eggs 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 Southern District of Alabama.

On October 1, 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 250 cans of frozen whole eggs, remaining unsold in the original packages at Mobile, Ala., alleging that the article had been shipped by the Atlantic Ice & Coal Co., from Knoxville, Tenn., on or about July 15, 1931, and had been transported from the State of Tennessee into the State of Alabama, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Can) "Keith's Eggs * * * Kaoka Whole Eggs * * * Process and Product Patented H. J. Keith Company, Boston, New York, Chicago."

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

On October 9, 1931, the H. J. Keith Co. (Inc.), Boston, Mass., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation 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 \$2,000, said bond being conditioned to the effect that the product should not be used, sold, or disposed of without having been inspected by a representative of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18886. Adulteration of tullibeas. U. S. v. 150 Pounds of Tullibeas. Default decree of destruction entered. (F. & D. No. 26777. I. S. No. 35352. S. No. 4897.)

Samples of tullibeas (fish) from the shipment herein described having been found to be infested with worms, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of Missouri.

On July 3, 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 150 pounds of tullibeas at Kansas City, Mo., alleging that the article had been shipped by D. J. McCarthy from Ranier, Minn., on or about June 1, 1931, and had been transported from the State of Minnesota into the State of Missouri, 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 consisted wholly or partly of a filthy, decomposed, or putrid animal substance.

On November 6, 1931, no claimant having appeared for the property, judgment was entered finding the product adulterated and ordering that it be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18887. Misbranding of canned tomatoes. U. S. v. 98 Cases, et al., of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 27096. I. S. Nos. 37866, 37867. S. No. 5333.)

Examination of samples of canned tomatoes from the shipment herein described having shown that the article fell below the standard promulgated by

this department for canned tomatoes, in that it contained an excessive amount of peel, and that the label failed to bear a statement that the article fell below such standard, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Pennsylvania.

On October 20, 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 193 cases of canned tomatoes, remaining in the original unbroken packages at Philadelphia, Pa., alleging that the article had been shipped by the Frederica Packing Co., from Milford, Del., on or about September 29, 1931, and had been transported from the State of Delaware into the State of Pennsylvania, and charging misbranding in violation of the food and drugs act as amended. A portion of the article was labeled in part: "Red Seal Brand Tomatoes * * * Thomas Roberts & Co., Philadelphia, Pa., * * * Distributors." The remainder of the said article was labeled in part: "Redstone Brand Tomatoes Packed for & Guaranteed Strictly First Quality by Comly, Flanigen Company, Philadelphia."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality or condition promulgated by the Secretary of Agriculture for such canned food, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that the article fell below such standard.

On October 28, 1931, the Frederica Packing Co. (Inc.), Frederica, Del., having appeared as claimant for the property, 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 \$225, conditioned in part that it be relabeled under the supervision of this department, and that it should not be sold or otherwise disposed of contrary to the laws of the United States, or any State, Territory, district, or insular possession.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18888. Adulteration and misbranding of Italian Dinner. U. S. v. 88 Cases of Italian Dinner. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 26895. I. S. No. 22312. S. No. 5076.)

Examination of a product, known as Italian Dinner, having shown that one of the components of the article consisted of cheese containing added lactose and the constituents of skimmed milk, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of Washington.

On August 18, 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 88 cases of the said Italian Dinner, remaining in the original unbroken packages at Seattle, Wash., alleging that the article had been shipped by the Delray Corporation, San Francisco, Calif., on or about August 4, 1931, and had been transported from the State of California into the State of Washington, and charging adulteration and misbranding in violation of the food and drugs act.

The article was labeled in part: (Case) "Del Ray Italian Dinner Spaghetti or Macaroni with Mushroom Sauce and Grated Cheese;" (package) "Del Ray Italian Dinner Macaroni [or "Spaghetti"] With Mushroom Sauce and Cheese Seasoning * * * Contents * * * Cheese Seasoning 1 oz.;" (envelope) "Del Ray Fine Foods 'I Serve' Italian Blend Grated Cheese for Spaghetti and Macaroni and for Savory Dishes Au Gratin made of part skim milk and enriched with milk sugar, milk albumen and other vitamin containing milk solids. Delray Corporation San Francisco;" (can label) "Del-Ray Fine Foods 'I Serve' Italian Mushroom Sauce."

Adulteration was alleged in substance in the libel for the reason that, with respect to the cheese component, other substances containing lactose had been substituted in part for the article.

Misbranding was alleged for the reason that the statements on the labeling, "Grated Cheese" and "Cheese Seasoning," were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On October 5, 1931, the Delray Corporation, San Francisco, Calif., claimant, having admitted the allegations of the libel and having consented to the entry