

deceived and misled the purchasers. Misbranding was alleged for the further reason that the product was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On June 28, 1932, the proceedings being uncontested by the sole intervener, the Sea Food Co., Biloxi, Miss., judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19947. Misbranding of canned tomatoes. U. S. v. 700 Cases, et al., of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond.** (F. & D. Nos. 27750, 27751, 27752, 27753. I. S. Nos. 44459, 44460. S. No. 5743.)

These actions were based on the interstate shipments of quantities of canned tomatoes, which were found to fall below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since it contained an excessive amount of green tomatoes, peel, and blemishes, and which were not labeled to show that they were substandard. Portions of the article also were falsely labeled as to the name of the manufacturer.

On February 15, 1932, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 1,124 cases of canned tomatoes at Dallas, Tex. On February 16, 1932, the United States attorney for the Eastern District of Texas filed a libel against 1,072 cases of the product at Crockett, Tex. It was alleged in the libels that the article had been shipped in interstate commerce in part on or about December 26, 1931, and in part on or about December 30, 1931, by the Baron Canning Co., from Fort Smith, Ark., to Dallas, Tex., and that it was misbranded in violation of the food and drugs act as amended. A portion of the article was labeled in part: (Cans) "Baron Brand Hand Packed Tomatoes \* \* \* Packed by Baron Canning Co., Baron, Oklahoma." The remainder of the article was labeled in part: (Cans) "Jackson's Standard Tomatoes, \* \* \* Packed by Jackson Canning Co., Fayetteville, Ark."

Misbranding of the article was alleged in the libels for the reason that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that it contained an excessive amount of green tomatoes, peel, and blemishes, and the labels on the cans did not bear a plain and conspicuous statement indicating that such canned goods fell below such standard.

Misbranding was alleged with respect to portions of the article, for the further reason that the statements, "Jackson's Standard Tomatoes," and "Jackson Standard Packed by Jackson Canning Company, Fayetteville, Ark.," were false and misleading and deceived and misled the purchaser.

On June 8, 1932, B. L. Satterwhite, Crockett, Tex., appeared as claimant for the product seized in the Eastern District of Texas. On June 17, 1932, the Killingsworth Self-Serving Stores (Inc.) and the Webster-Foster Co., both of Dallas, Tex., appeared as claimants for respective portions of the product seized in the Northern District of Texas, and consented to the entry of decrees. Judgments of condemnation and forfeiture were entered in each case, and it was ordered by the court that the product be released to the respective claimants upon payment of costs and the execution of good and sufficient bonds, conditioned in part that it should not be sold or otherwise disposed of contrary to the Federal food and drugs act and all other laws. It was further ordered that the product be relabeled under the supervision of this department.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19948. Adulteration and misbranding of butter. U. S. v. Sugar Creek Creamery Co. Plea of guilty. Fine, \$200 and costs.** (F. & D. No. 28035. I. S. Nos. 30755, 30768, 30769, 29911, 29912.)

This action was based on the interstate shipment of quantities of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress. Certain cartons taken from one of the shipments also were found to be short of the declared weight.

On April 30, 1932, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Sugar Creek Creamery Co., a corporation trading at Pana, Ill.,

alleging shipment by said company, in violation of the food and drugs act as amended, in various consignments on or about May 21, May 23, and June 4, 1931, from the State of Illinois into the State of Pennsylvania, of quantities of butter that was misbranded. A portion of the article was contained in cartons labeled in part: "Golden Grain Creamery Butter made by Golden Grain Butter Co. Cape Girardeau, Mo." A portion was contained in cartons labeled in part: "Sugar Creek Butter \* \* \* Full Weight One Pound \* \* \* Sugar Creek Creamery Co. \* \* \* Danville, Ill." A portion was labeled in part: "Sugar Creek Butter Country Style Roll." The remainder was tub butter.

Adulteration was alleged in the information with respect to all shipments of the article for the reason that a product deficient in milk fat, in that it contained less than 80 per cent by weight of milk fat, had been substituted for butter, a product which should contain not less than 80 per cent by weight of milk fat as defined by the act of March 4, 1923.

Misbranding of the portion of the said Sugar Creek butter contained in cartons was alleged for the reason that the statement "Full Weight One Pound," borne on each of a number of the cartons, was false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since each of a number of the said cartons contained less than 1 pound. Misbranding of the said portion of the Sugar Creek butter 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, in that the stated quantity was incorrect, since some of the packages contained not more than 15.11 ounces net and the average net weight of all the packages was not more than 15.74 ounces.

On June 30, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$200 and costs.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19949. Adulteration of dried cherries. U. S. v. Crawford A. Porter. (F. M. Burnham & Co.), and Otzen Packing Co. Pleas of guilty. Fines, \$50. (F. & D. No. 27555. I. S. No. 22021.)**

This action was based on the interstate shipment of a quantity of dried cherries, samples of which were found to be insect-infested, moldy, and dirty.

On May 3, 1932, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Crawford A. Porter, trading as F. M. Burnham & Co., and the Otzen Packing Co., a corporation, San Francisco, Calif., alleging shipment by said defendants, in violation of the food and drugs act, on or about March 14, 1931, from the State of California into the State of Maryland, of a quantity of dried cherries that were adulterated. The article was labeled in part: (Boxes) "California Dried Cherries."

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

On June 17, 1932, a plea of guilty to the information was entered on behalf of the defendant corporation and the court imposed a fine of \$25. On the same date a plea of guilty was entered by the defendant, Crawford A. Porter, and a similar fine of \$25 was imposed.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19950. Misbranding of olive oil. U. S. v. 15 Cans of Olive Oil. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 27996. I. S. No. 38663. S. No. 6050.)**

This action involved the interstate shipment of a quantity of olive oil, sample cans of which were found to contain less than 1 gallon, the declared volume.

On April 8, 1932, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 15 cans of olive oil, remaining in the original unbroken packages at Scranton, Pa., alleging that the article had been shipped in interstate commerce on or about February 29, 1932, by Moscahlades Bros. (Inc.), from New York, N. Y., to Scranton, Pa., and charging misbranding in violation of the food and drugs act as amended. The article was labeled in