

Misbranding of the remaining products was alleged for the reason that the statements, "Contents 1 Lb." and "1 lb. 2 oz.", borne on the labels, were false and misleading and deceived and misled the purchaser, since the cans contained less than so labeled. Misbranding was alleged for the further reason that the articles were foods in package form and the quantities of the contents were not plainly and conspicuously marked on the outside of the packages, since the quantities stated were incorrect.

On October 28, 1932, no claim having been interposed for the canned sauerkraut, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

The Marshall Canning Co., Marshalltown, Iowa, filed answers in the remaining cases, admitting the material allegations of the libels, and praying release of the products for the purpose of relabeling or salvaging them. On December 17, 1932, January 10, 1933, and February 6, 1933, judgments of condemnation were entered and it was ordered by the court that the said products be released to the claimant upon payment of costs and the execution of good and sufficient bonds, conditioned in part that they should not be sold or otherwise disposed of in violation of the Federal Food and Drugs Act and all other laws. It was further ordered that any relabeling or salvaging required to bring the articles into compliance with the law be done under the supervision of this Department.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20179. Misbranding of canned asparagus. U.S. v. 9 Cases, et al., of Fancy Green Asparagus. Default decree of forfeiture and sale. (F. & D. no. 28862. Sample nos. 2174-A, 2175-A.)**

This case involved the shipment of quantities of canned asparagus, sample cans of which were found to contain less than 1 pound, the weight declared on the label.

On or about September 14, 1932, the United States attorney for the District of Montana, 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 13 cases of canned asparagus at Billings, Mont., alleging that the article had been shipped in interstate commerce, in part on or about December 17, 1930, and in part on or about June 16, 1931, by the Marshall Canning Co., from Marshalltown, Iowa, to Billings, Mont., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Cuts Uncle William Fancy Green Asparagus [or "Marshall Cut Fancy Green Asparagus"] Contents 1 Lb. Marshall Canning Co., Marshalltown, Iowa."

It was alleged in the libel that the article was misbranded in that the label bore a statement representing that the cans contained 1 pound, which statement was false and misleading and deceived and misled the purchaser, since the cans contained less than 1 pound. Misbranding was alleged for the further reason that the article 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 January 11, 1933, no claimant having appeared for the property, judgment of forfeiture was entered and it was ordered by the court that the United States marshal remove the statement of net contents from the label and sell the goods to the highest bidder.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20180. Adulteration of crab meat. U.S. v. 80 Cans, et al., of Crab Meat. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 28870, 28872. Sample nos. 22307-A, 22313-A.)**

These actions involved the interstate shipment of quantities of crab meat which was found to contain filth.

On September 6, 1932, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 95 cans of crab meat, remaining in the original and unbroken packages at New York City, N.Y., alleging that the article had been shipped in interstate commerce in part on or about August 30, 1932, and in part on or about September 1, 1932, by E. L. Watkins, from Hampton, Va., to New York, N.Y., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libels that the article was adulterated in that it consisted in whole or in part of a filthy animal substance.

On September 23, 1932, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20181. Adulteration of butter. U.S. v. 57 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (F. & D. no. 28888. Sample no. 12270-A.)**

This case involved the shipment of a quantity of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On August 19, 1932, the United States attorney for the Southern District of New York, 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 57 tubs of butter, remaining in the original unbroken packages at New York, N.Y., alleging that the article had been shipped in interstate commerce on or about August 12, 1932, by Pettibone Creamery Co., Pettibone, N.Dak., from Duluth, Minn., to New York, N.Y., 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 product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

Joseph J. Herold, New York, N.Y., interposed a claim for the property as agent for the Pettibone Creamery Co., Pettibone, N.Dak., and admitted the allegations of the libel, consented to the entry of a decree, and agreed that the product be reconditioned so that it contain at least 80 percent of butterfat. On September 12, 1932, 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 reworked so that it comply with the Federal Food and Drugs Act and all other laws.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20182. Adulteration of butter. U.S. v. 60 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (F. & D. no. 28906. Sample nos. 12361-A, 12362-A, 12363-A.)**

This action was based on the interstate shipment of a quantity of butter, samples of which were found to contain less than 80 percent of milk fat, the standard prescribed by Congress.

On August 29, 1932, the United States attorney for the Southern District of New York, 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 60 tubs of butter, remaining in the original unbroken packages at New York, N.Y., alleging that the article had been shipped in interstate commerce on or about August 19, 1932, by David Cole Creamery Co., from Omaha, Nebr., to New York City, N.Y., 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 product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by act of March 4, 1923.

Courtney L. Poole, New York, N.Y., interposed a claim for the property as agent for the David Cole Creamery Co., Omaha, Nebr., admitted the allegations of the libel, consented to the entry of a decree, and agreed that the product be reconditioned so that it contain at least 80 percent of butterfat. On September 1, 1932, 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 \$1,200, conditioned in part that it be reworked so that it comply with the Federal Food and Drugs Act and all other laws.

R. G. TUGWELL, *Acting Secretary of Agriculture.*