

Adulteration of the article was alleged in the information for the reason that it consisted in part of a filthy and decomposed animal substance.

On December 1, 1924, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$25.

W. M. JARDINE, *Secretary of Agriculture.*

12977. Adulteration of butter. U. S. v. 300 Boxes of Butter. Product released under bond. (F. & D. No. 19031. I. S. No. 11631-v. S. No. W-1579.)

On or about September 5, 1924, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 300 boxes of butter, remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped by the Union Creamery Co., La Grande, Oreg., on or about June 10, 1924, and transported from the State of Oregon into the State of California, and charging adulteration in violation of the food and drugs act.

Adulteration of the article was alleged in the libel for the reason that a product deficient in milk fat had been substituted wholly or in part for butter, and for the further reason that a valuable constituent, namely, milk fat, had been partially abstracted therefrom.

On December 17, 1924, the product having been theretofore released under bond to the claimant, the Stanley Brokerage Co., Los Angeles, Calif., for the purpose of being reworked and re churned, a final decree was entered, ordering that the libel be dismissed, that the Government recover costs of the proceedings, and that the bond be exonerated.

W. M. JARDINE, *Secretary of Agriculture.*

12978. Adulteration and misbranding of butter. U. S. v. 112 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be denatured. (F. & D. No. 19398. I. S. No. 13339-v. S. No. E-5040.)

On December 4, 1924, 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 said district a libel praying the seizure and condemnation of 112 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the Glen Ullin Creamery Co., Glen Ullin, N. Dak., on or about July 21, 1924, and transported from the State of North Dakota into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act.

Adulteration of the article was alleged in the libel for the reason that a substance deficient in butterfat and containing excessive moisture had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength and had been substituted in whole or in part for the said article. Adulteration was alleged for the further reason that a valuable constituent of the article, butterfat, had been in whole or in part abstracted.

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

On December 31, 1924, the Glen Ullin Creamery Co., Glen Ullin, N. Dak., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, 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 the costs of the proceedings and the execution of a bond in the sum of \$1,680, in conformity with section 10 of the act, conditioned in part that it be denatured and sold for grease for use in the manufacture of soap.

W. M. JARDINE, *Secretary of Agriculture.*

12979. Adulteration and misbranding of Concord grape soda water flavor. U. S. v. Sethness Co. Plea of guilty. Fine, \$100. (F. & D. No. 18576. I. S. Nos. 1490-v, 4579-v.)

On July 2, 1924, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Sethness Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the food and drugs act, on or about March 19, 1923, from the State of Illinois into the District of Columbia, and on or about July 27,

1923, from the State of Illinois into the State of Tennessee, of quantities of Concord grape soda water flavor which was adulterated and misbranded. The article was labeled in part: "Cosco Guaranteed By Sethness Company, Chicago, U. S. A. * * * Concord Grape Soda Water Flavor Artificially Colored."

Analysis of a sample from each of the consignments by the Bureau of Chemistry of this department showed that it was an imitation grape flavor, most of the flavor of which was due to methyl anthranilate, and containing little, if any, grape juice, and artificially colored with archil.

Adulteration of the article was alleged in the information for the reason that an artificially-flavored and artificially-colored imitation product had been substituted for Concord grape soda water flavor, which the said article purported to be, and for the further reason that it was a product inferior to Concord grape soda water flavor, to wit, an artificially-flavored imitation product, and had been artificially colored with certain vegetable dye so as to simulate the appearance of Concord grape soda water flavor, and in a manner whereby its inferiority was concealed.

Misbranding was alleged for the reason that the statement, to wit, "Concord Grape Soda Water Flavor," borne in prominent type on the labels attached to the bottles containing the article, not corrected by the statement in inconspicuous type "Artificially Colored," regarding the said article, was false and misleading, in that the said statement represented that the article was Concord grape soda water flavor, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was Concord grape soda water flavor, whereas, in truth and in fact, it was not but was an artificially-flavored imitation product, artificially colored.

On January 10, 1925, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

W. M. JARDINE, *Secretary of Agriculture.*

12980. Adulteration of canned salmon. U. S. v. 1,000 Cases of Salmon. Tried to the court and a jury. Directed verdict for claimant. Writ of error to Circuit Court of Appeals. Judgment of district court reversed and case remanded for new trial. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 16248. I. S. No. 18665-t. S. No. C-3587.)

On May 1, 1922, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 1,000 cases of salmon, remaining in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped by the C. F. Buelow Co., from Seattle, Wash., March 4, 1922, and transported from the State of Washington into the State of Illinois, and charging adulteration in violation of the food and drugs act.

Adulteration of the article was alleged in the libel for the reason that it consisted wholly or in part of a filthy, decomposed, and putrid animal substance.

On June 29, 1923, John H. Leslie & Co., a copartnership, and Surkin & Portnoy, a copartnership, both of Chicago, Ill., having appeared as claimants for the property, the case came on for trial before the court and a jury. After the submission of evidence, a verdict for the claimant was returned by the jury by direction of the court. The ruling of the court was as follows (Carpenter, J.):

"It must be perfectly apparent that the testimony of the Government chemists on cans of salmon that is not in court and that the jury has not seen, that the court knows nothing about, cannot compare with testimony in open court. The offer to the Government witnesses for inspection and for cross-examination they have declined. On this kind of testimony, I can't even insult the jury by requiring them to go into the room to decide this case because I know what they would do, no doubt about it. Let one of you gentlemen sign this as foreman."

The Government having perfected its appeal, the case came before the Circuit Court of Appeals for the Seventh Circuit on a writ of error on January 22, 1924, and the judgment of the district court was reversed and the case remanded for a new trial.

On December 9, 1924, the said claimants, John H. Leslie & Co. and Surkin & Portnoy, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimants,