

had been shipped on or about January 29, 1932, in interstate commerce by the Guilford Packing Co., from Seattle, Wash., to San Francisco, Calif., and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Can) "Sea Breeze Clam Nectar Packed by Guilford Packing Co., Port Townsend, Washington, Net Contents 110 Fl. Oz."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Contents one ten (110) Fl. Oz.," was false and misleading and deceived and misled the purchaser. 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. Misbranding was alleged for the further reason that the article was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, since the entire contents did not occupy 90 per cent of the volume of the closed container, and the label did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard.

On February 27, 1932, 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.*

19555. Misbranding of yams. U. S. v. 487 Small and Large Crates of Yams. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 27702. I. S. No. 39398. S. No. 5787.)

This action involved the interstate shipment of a quantity of yams in crates of two different sizes, all of which were labeled as containing 50 pounds. Sample crates taken from both sizes were found to contain less than the declared weight, the smaller crates examined having shown an average shortage of over 10 pounds.

On January 30, 1932, the United States attorney for the Western 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 487 small and large crates of yams, remaining in the original unbroken packages at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce by Jac. Bokenfohr, Prairieville, La., on January 16, 1932, to Buffalo, N. Y., and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Joe Brand * * * 50 Pounds Net."

It was alleged in the libel that the article was misbranded in that the statement appearing on both sizes of crates, "50 Pounds Net," was false and misleading and deceived and misled the purchaser, since the crates contained less than 50 pounds. Misbranding 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 packages, since the crates contained less than represented.

On February 6, 1932, 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 sold in bulk by the United States marshal and that the containers be destroyed.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19556. Adulteration and misbranding of butter. U. S. v. Joseph R. Patton and Roy C. Kaufman (Perry Creamery Co.). Plea of guilty. Fine, \$50. (F. & D. No. 27478. I. S. Nos. 24061, 27473.)

This action was based on the interstate shipment of quantities of butter, samples from which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress.

On January 29, 1932, the United States attorney for the Western District of Oklahoma, 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 Joseph R. Patton and Roy C. Kaufman, copartners, trading as Perry Creamery Co., Perry, Okla., alleging shipment by said defendants, on or about February 19, 1931 and May 6, 1931, from the State of Oklahoma into the State of Kansas, of quantities of butter that was adulterated and misbranded. The article was labeled in part: (Package) "Extra Fancy Valleybrook Creamery Butter."

It was alleged in the information that the article was adulterated in that a product which 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 prescribed by the act of March 4, 1923, which the said article purported to be.

Misbranding was alleged for the reason that the statement "Butter," borne on the packages containing the article, 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 the said statement represented that the article was butter, a product which should contain not less than 80 per cent by weight of milk fat; whereas it was not butter, in that it contained less than 80 per cent by weight of milk fat.

On February 12, 1932, the defendants entered pleas of guilty to all counts of the information, and the court imposed a penalty of \$50 and costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19557. Adulteration of dried black figs. U. S. v. 25 Boxes of Dried Black Figs. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 27362. I. S. No. 22527. S. No. 5552.)

Samples of dried black figs from the shipment herein described having been found to be insect-infested, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of Washington.

On December 14, 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 25 boxes of dried black figs, remaining in the original unbroken packages at Seattle, Wash., alleging that the article had been shipped in interstate commerce by the Joe Mangini Draying Co. (Inc.), for A. Ghianda, the grower, from San Francisco, Calif., on or about November 21, 1931, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Box) "Shasta Brand Fancy Black Mission Figs Grown & Packed by A. Ghianda, Thermalito, California."

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

On February 11, 1932, 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.*

19558. Adulteration of canned salmon. U. S. v. 598 Cases of Canned Salmon. Consent decree of condemnation. Product released under bond. (F. & D. No. 27365. I. S. No. 47159. S. No. 5565.)

Samples of canned salmon taken from the interstate shipment involved in this action having been found to be tainted or stale, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of Kentucky.

On December 12, 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 598 cases of the said canned salmon, remaining in the original packages at Campbellsville, Ky., alleging that the article had been shipped in interstate commerce by McGovern & McGovern, from Seattle, Wash., on or about November 1, 1931, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Sea Flyer Brand Alaska Pink Salmon * * * Distributed by McGovern & McGovern Seattle."

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

On February 1, 1932, the Wrangel Packing Corporation, Seattle, Wash., having appeared as claimant for the property and having consented to the entry of a decree, 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 \$3,500, conditioned in part that it should not be sold or otherwise disposed of contrary to the provisions of the Federal food and drugs act, and all other laws relating thereto. Subsequently an order was entered by the court permitting shipment of the goods under proper supervision to San Francisco, Calif., to be reconditioned in accordance with the terms of the decree.

ARTHUR M. HYDE, *Secretary of Agriculture.*