

19737. Adulteration of oysters. U. S. v. 10 Gallons of Oysters. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 27780. I. S. No. 50831. S. No. 5881.)

This action was based on the interstate shipment of oysters, samples of which were found to contain excessive water.

On February 25, 1932, the United States attorney for the Southern District of Ohio, 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 10 gallons of oysters, remaining in the original unbroken packages at Dayton, Ohio, alleging that the article had been shipped by O. E. Wentworth & Co., from Baltimore, Md., on or about February 17, 1932, and had been transported from the State of Maryland into the State of Ohio, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Wentworth's Triangle Brand Oysters * * * Packed by O. E. Wentworth & Co., Baltimore, Md."

It was alleged in the libel that the article was adulterated in that excessive water had been mixed and packed with and substituted in part for the said product.

On April 13, 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.

HENRY A. WALLACE, *Secretary of Agriculture.*

19738. Adulteration and misbranding of chocolate-covered cherry bars. U. S. v. Schäll's (Inc.). Plea of guilty. Fine, \$50 and costs. (F. & D. No. 27486. I. S. No. 25978.)

This action was based on the interstate shipment of a quantity of chocolate-covered bars containing a cherry filling. Examination showed the presence of artificial color and flavor, benzoate of soda, and sulphur dioxide in the filling.

On January 14, 1932, the United States attorney for the Southern District of Iowa, 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 Schäll's (Inc.), a corporation, Clinton, Iowa, alleging shipment by said company, in violation of the food and drugs act, on or about January 19, 1931, from the State of Iowa into the State of Illinois of a quantity of chocolate-covered cherry bars that were adulterated and misbranded. The article was labeled in part: "Schäll's Chocolate-Covered Cherries 'In Juice' Schäll's Inc. Clinton, Iowa."

It was alleged in the information that the article was adulterated in that a chocolate-covered product containing as part of the cherry filling undeclared substances, to wit, artificial color and flavor, benzoate of soda, and sulphur dioxide, had been substituted for chocolate-covered cherries in juice, which the article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "Chocolate Covered Cherries in Juice," was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article consisted solely of cherries in juice (cherry juice) and chocolate, whereas it was composed in part of additional and undeclared substances, to wit, artificial color and flavor, benzoate of soda, and sulphur dioxide.

On April 5, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50 and costs.

HENRY A. WALLACE, *Secretary of Agriculture.*

19739. Adulteration of tomato puree and misbranding of canned tomatoes. U. S. v. 34 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. No. 27648. I. S. No. 41338. S. No. 5688.)

This action was based on the interstate shipment of a quantity of tomato puree, samples of which were found to contain excessive mold, and a quantity of canned tomatoes labeled puree.

On January 12, 1932, the United States attorney for the District of Kansas, 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 34 cases of tomato puree at Arkansas City, Kans., alleging that the article had been shipped by the Ray A. Ricketts Co., from Canon City, Colo., on or about June 25, 1931, and had been transported from the State of

Colorado into the State of Kansas, and charging adulteration of a portion and misbranding of the remainder, in violation of the food and drugs act. The article was labeled in part: (Can) "Santa Fe Brand Tomato Puree."

It was alleged in the libel that the portion of the article consisting of puree was adulterated in that it contained a decomposed vegetable substance.

Misbranding was alleged with respect to the portion consisting of canned tomatoes for the reason that the statement "Tomato Puree," on the label, was false and misleading and deceived and misled the purchaser, since some of the cans did not contain tomato puree but did contain whole tomatoes.

On April 5, 1932, no claimant having appeared for the property, judgment of condemnation 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.*

19740. Adulteration and misbranding of chocolate-covered nuts and nut bars. U. S. v. Dionigi Perrone (Perrone Candy Co.). Plea of guilty. Fine, \$300. (F. & D. No. 27489. I. S. Nos. 30191, 30310, 30311.)

This action was based on the interstate shipment of two lots of alleged milk chocolate-coated Brazil nuts, and one shipment of alleged milk chocolate-coated filbert bars. Examination showed that the chocolate coating in parts of the article were deficient in milk solids, and in the remainder contained no milk solids. Examination showed further that the labels of the articles failed to bear a statement of the quantity of the contents.

On April 13, 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 an information against Dionigi Perrone, trading as Perrone Candy Co., New York, N. Y., alleging shipment by said defendant, in violation of the food and drugs act, in part on or about March 17, 1931, and in part on or about April 27, 1931, from the State of New York into the State of New Jersey, of quantities of chocolate-covered nuts and filbert bars that were adulterated and misbranded. The Brazil nuts were labeled in part: (Box) "Sky-High in Quality Perrone's Candies Brazil Nuts Covered with Pure Milk Chocolate;" (retail package) "Brazil Perrone's Nuts." The filbert bars were labeled in part: (Box) "Milk Chocolate Filbert Bars Perrone Candy Co., New York, Sky-High in Quality;" (retail package) "Filbert Perrone's Bar."

Adulteration of the articles was alleged in the information for the reason that a substance other than milk chocolate, in that it was deficient in milk solids, or contained no milk solids, had been substituted in part for the said articles.

Misbranding was alleged for the reason that the statements, "Sky-High in Quality * * * Covered with Pure Milk Chocolate," with respect to the Brazil nuts, and the statements, "Sky-High In Quality * * * Milk Chocolate," with the respect to the said filbert bars, appearing in the labeling, were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since the said statements represented that the articles consisted in part of pure milk chocolate of the highest quality, whereas it was not, since the coating was an inferior article a portion being deficient in milk solids, and the remainder containing no milk solids. Misbranding was alleged for the further reason that the articles were foods in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On May 2, 1932, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$300.

HENRY A. WALLACE, *Secretary of Agriculture.*

19741. Adulteration and misbranding of canned egg yolk. U. S. v. 150 Cans of Egg Yolk. Consent decree of condemnation and forfeiture. Product released under bond for relabeling. (F. & D. No. 27900. I. S. No. 52254. S. No. 5932.)

Samples of egg yolk from the shipment herein described having been found to contain added undeclared sugar, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Michigan.

On March 10, 1932, 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 cans of canned egg yolk at Detroit, Mich., alleging that the article had been shipped by Rothenberg and Schneider Bros., from Chicago,