

20280. Adulteration of butter. U.S. v. 19 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond for reworking. (F. & D. no. 28989. Sample no. 10074-A.)

This action involved the interstate 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 September 14, 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 19 tubs of butter at New York, N.Y., alleging that the article had been shipped in interstate commerce on or about September 3, 1932, by Taylor Falls Creamery, Taylor Falls, Minn., through Amery Cooperative Creamery, Amery, Wis., 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 act of March 4, 1923.

Johnstone & Hollrock, New York, N.Y., agent for the Taylor Falls Creamery Co., Taylor Falls, Minn., owner of the property, interposed a claim 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 27, 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 \$400, or the deposit of cash collateral in like amount, conditioned in part that it be reworked so that it comply with the Federal Food and Drugs Act, and all laws State and Federal.

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

20281. Adulteration and misbranding of butter. U.S. v. 60 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond for reworking. (F. & D. no. 29060. Sample no. 4665-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 by weight of milk fat, the standard prescribed by Congress.

On September 1, 1932, 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 the district aforesaid a libel praying seizure and condemnation of 60 tubs of butter, remaining in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 17, 1932, by Plains Cooperative, Inc., from Plainview, Tex., to Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that a substance deficient in butterfat had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for the said article. Adulteration was alleged for the further reason that the article contained less than 80 percent of butterfat.

Misbranding of the article was alleged for the reason that it had been sold, shipped, and labeled as "butter", which was false and misleading, since it contained less than 80 percent of milk fat.

On September 20, 1932, the Fox Packing Co., Chicago, Ill., 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 for reworking under the supervision of this Department, upon payment of costs and the execution of a bond in the sum of \$1,000, conditioned in part that it should not be sold or disposed of contrary to the provisions of the Food and Drugs Act, or the laws of any State, Territory, District, or insular possession.

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

20282. Adulteration and misbranding of tomato paste. U.S. v. 261 Cases, et al., of Tomato Paste. Decree of condemnation entered. Product released under bond. (F. & D. nos. 28782 to 28790, incl., 28812 to 28817, incl., 28827. Sample nos. 13397-A, 16777-A, 16780-A, 16781-A, 16783-A.)

The article covered by these cases was a tomato product which was sold as tomato paste but which was not sufficiently concentrated to be labeled tomato

paste. Examination further showed that the cans contained less than the declared weight, 5 ounces.

Between the dates of August 25 and August 30, 1932, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid, three libels praying seizure and condemnation of a total of 550 cases of tomato paste, remaining in the original unbroken packages at New Orleans, La., alleging that the article had been shipped in interstate commerce in various shipments on or about October 17, 1931, March 23, 1932, and June 16, 1932, respectively, by the Tomato Products Co., of Paoli, Ind., in part from Paoli, Ind., and in part from Louisville, Ky., to New Orleans, La., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled in part: "Salsina Di Pomodoro 5 Oz. Net Orleans Light Tomato Paste * * * Tomato Products Company, Paoli, Indiana;" the remainder was labeled in part: "National Light Tomato Paste 5 Oz. Net."

It was alleged in the libels that the article was adulterated in that an insufficiently concentrated strained tomato product had been substituted for tomato paste, which the article purported to be.

Misbranding was alleged for the reason that the statements on the labels, "Tomato Paste 5 Oz. Net," "Salsina Di Pomodoro 5 Oz. Net * * * Light Tomato Paste", were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, and for the further reason that it was food 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 October 4, 1932, the Tomato Products Co., Paoli, Ind., having appeared as claimant, an order was entered by the court consolidating two libels covering 305 cases of the product. On October 8, 1932, claimant having admitted the allegations of the said libels, judgment of condemnation was entered and it was ordered by the court that the product be released to the claimant upon payment of costs and execution of a bond in the sum of \$3,800, conditioned that it be relabeled in compliance with the Food and Drugs Act, under the supervision of this Department. On December 9, 1932, the remaining libel covering 245 cases of the product also was consolidated with the two libels covered by decree of October 8, and the terms and conditions of the said decree made applicable thereto.

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

20283. Adulteration of mustard seed. U.S. v. 5 Bags of Mustard Seed. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 28524. Sample no. 8879-A.)

This action involved a quantity of imported mustard seed which was found to contain mouse excreta.

On July 26, 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 five bags of mustard seed, remaining in the original unbroken packages at Cohocton, N.Y., alleging that the article was a part of an import shipment from Holland entered at the Port of New York on or about May 7, 1930, that it had been shipped by the Catz American Co., Inc., from New York, N.Y., to Cohocton, N.Y., on or about September 11, 1931, and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Mustard Seed CAC Holland."

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

On August 30, 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.

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

20284. Adulteration and misbranding of butter. U.S. v. Sugar Creek Creamery Co. Plea of guilty. Fine, \$100. (F. & D. no. 27572. I.S. no. 35513.)

This action was based on the interstate shipment of a quantity of butter, samples of which were found to contain less than 80 percent by weight of