

than would have been present had proper methods of inspection been followed. It must, therefore, be held to be adulterated within the meaning of the Food and Drugs Act.

"I accordingly reach the following conclusions of law:

"The tomato paste involved in this proceeding consists of a filthy vegetable substance and is, therefore, an adulterated article of food within the meaning of the Food and Drugs Act.

"It is, therefore, liable to be confiscated and condemned under the provisions of section 10 of that act, 21 U. S. C. A. § 14.

"A decree for the confiscation and condemnation of the tomato paste seized in this case may be entered."

On March 15, 1938, judgments of forfeiture were entered with respect to all lots and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28974. Adulteration of butter. U. S. v. 11 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 41876. Sample No. 8393-D.)

This product contained less than 80 percent of milk fat.

On February 9, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about February 1, 1938, from Vinita, Okla., by Craig County Milk Producers Association, charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be 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.

On February 23, 1938, D. J. Coyne & Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

M. L. WILSON, *Acting Secretary of Agriculture.*

28975. Adulteration and misbranding of butter. U. S. v. Archie B. Gibbs (Laramie Valley Creamery). Plea of guilty. Fine, \$100. (F. & D. No. 40801. Sample Nos. 39831-C, 48007-C.)

This product was short of the declared weight, and one lot of it contained less than 80 percent of milk fat.

On April 15, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Archie B. Gibbs, trading as Laramie Valley Creamery at Laramie, Wyo., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about August 24 and September 15, 1937, from the State of Wyoming into the State of Colorado, of quantities of butter which was misbranded and one lot of which was also adulterated. The article was labeled in part: "Valley Gold * * * Butter * * * Manufactured by Laramie Valley Creamery, Laramie, Wyo."

One lot of the article was alleged to be adulterated in that a product which contained 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 prescribed by the act of March 4, 1923, which the article purported to be.

Both lots of the article were alleged to be misbranded in that the statement "One Pound Net Weight," borne on the carton, was false and misleading and was borne on the carton so as to deceive and mislead the purchaser since the said carton contained less than 1 pound. One lot was alleged to be misbranded further in that the statement "Butter" was false and misleading and was borne on the label so as to deceive and mislead the purchaser since it represented that the article was butter, a product which should contain 80 percent of milk fat; whereas it contained less than 80 percent of milk fat. Misbranding was alleged further in that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On April 22, 1938, a plea of guilty having been entered by the defendant, he was sentenced to pay a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*