

was labeled in part: (Can) "Blanchard Brand Alaska Pink Salmon Packed By Beauclaire Packing Co. Port Beauclerc, Alaska. One Pound Net."

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

On August 19, 1924, the Beauclaire Packing Co., claimant, having admitted the allegations of the libel and 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 \$1,000, in conformity with section 10 of the act, conditioned in part that the product be sorted under the supervision of this department, the good portion released and the remainder disposed of in accordance with law.

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

12843. Misbranding of butter. U. S. v. 350 Packages of Willowdale Creamery Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18870. I. S. No. 18320-v. S. No. C-4441.)

On July 16, 1924, the United States attorney for the Eastern District of Tennessee, 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 350 packages of Willowdale creamery butter, at Chattanooga, Tenn., alleging that the article had been shipped by the Dalton Creamery Co., Dalton, Ga., July 10, 1924, and transported from the State of Georgia into the State of Tennessee, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Willowdale Creamery Butter, Dalton Creamery Company, Dalton, Georgia, One Pound Net Weight."

Misbranding of the article was alleged in substance in the libel for the reason that it was labeled "One Pound Net," which statement was false and misleading, in that the said packages did not contain 1 pound of butter but did contain a less amount.

On July 23, 1924, the Dalton Creamery Co., Dalton, Ga., having appeared as claimant for the property 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 \$500, in conformity with section 10 of the act, conditioned in part that the said packages be brought up to the correct weight.

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

12844 (Supplement to Notice of Judgment 11784). Misbranding of Crab Orchard concentrated mineral water. Idie C. Goodwin and L. H. Goodwin & Co. v. United States of America. Judgment of the lower court in favor of the Government affirmed. (F. & D. No. 15395. I. S. No. 903-t. S. No. C-3245.)

On November 3, 1924, the case involving the shipment of 22 bottles of Crab Orchard concentrated mineral water by L. H. Goodwin & Co., from Crab Orchard, Ky., to Cincinnati, Ohio, in which case verdict and judgment were entered for the Government in the District Court for the Southern District of Ohio on November 28, 1922, came before the Circuit Court of Appeals for the Sixth Circuit on appeal by the claimant, Idie C. Goodwin, for and on behalf of L. H. Goodwin & Co., and the judgment of the District Court was affirmed, as will appear from the attached opinion of the court (Donahue, C. J.):

"The food and drugs act of 1906 and the amendments of 1912 do not confer and do not purport to confer admiralty jurisdiction upon the United States District Courts, in proceedings to condemn property seized under the provisions of that act and amendments thereto. The provision that a libel shall be filed and the proceedings shall conform as near as may be to the proceedings in admiralty, relate only to procedure and not to jurisdiction. (443 Cans of Frozen Egg Product v. U. S., 226 U. S. 172, and cases there cited.)

"This prosecution was based solely on the amendment of 1912 to section 8. The libel quoted from the label a long list of ailments for which the water was said to be beneficial with 'healing powers' and a 'reliable remedy.' It then denied that the water 'is capable of producing the therapeutic effects claimed in the statements upon and in said cartons as hereinbefore set forth.'