

in conformity with section 10 of the act, conditioned in part that it be brought into compliance with the law under the supervision of this department.

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

12903. Misbranding of butter. U. S. v. the Mesa Creamery Co., a Corporation. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 18098. I. S. No. 8516-v.)

On June 20, 1924, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Mesa Creamery Co., a corporation, Mesa, Colo., alleging shipment by said company, in violation of the food and drugs act as amended, on or about September 21, 1923, from the State of Colorado into the State of Utah, of a quantity of butter which was misbranded. The article was labeled in part: "1 Lb. Net Weight."

Examination by the Bureau of Chemistry of this department of 90 packages from the consignment showed that the average net weight of the contents of the said packages was 15.48 ounces.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "1 Lb. Net Weight," borne on the packages containing the article, was false and misleading, in that the said statement represented that each of said packages contained 1 pound net weight of butter, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said packages contained 1 pound net weight of butter, whereas each of said packages did not contain 1 pound net weight of butter but did contain a less amount. 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 package.

On September 11, 1924, 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.

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

12904. Adulteration and misbranding of caviar. U. S. v. 10 Dozen Tins of Caviar. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 19041. I. S. No. 16222-v. S. No. E-4963.)

On October 3, 1924, the United States attorney for the Eastern District of Pennsylvania, 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 10 dozen tins of caviar, remaining in the original unbroken packages at Philadelphia, Pa., consigned by the Austin Nichols Co., New York, N. Y., alleging that the article had been shipped from New York, N. Y., on or about May 26, 1924, and transported from the State of New York into the State of Pennsylvania, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Casino Brand Caviar Chelsea Packing Co. New York * * * 3 Ozs. Net * * * Colored—Sweetened With Caramel."

Adulteration of the article was alleged in the libel for the reason that a substance, roe other than sturgeon, had been mixed therewith so as to reduce, lower, and injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "Caviar * * * Colored—Sweetened with Caramel," borne on the label, was false and misleading and deceived and misled the purchaser, and for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article.

On December 17, 1924, 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.

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

12905. Adulteration and misbranding of oats. U. S. v. 420 Sacks of Oats. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18599. I. S. No. 18036-v. S. No. E-3916.)

On April 19, 1924, the United States attorney for the Western District of North Carolina, 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 420 sacks of oats, at Runyan, N. C., alleging that the article named had been shipped by Callahan & Sons, Louisville, Ky., April

11, 1924, and transported from the State of Kentucky into the State of North Carolina, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Sack) "Callahan's Electric White Oats" and was invoiced as "Electric White Oats."

Adulteration of the article was alleged in the libel for the reason that rye and other grains had been substituted wholly or in part for the said article.

Misbranding was alleged in substance for the reason that the statement "Oats," appearing in the labeling, was false and misleading and deceived and misled the purchaser, in that the said statement purported that the article was oats, whereas it was not oats but was an admixture of oats, rye, and other grains. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, oats.

On May 7, 1924, Callahan & Sons, Louisville, Ky., having appeared as claimant for the property, judgment of condemnation 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 \$900, in conformity with section 10 of the act, conditioned in part that it be relabeled "Oats and Other Grains."

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

12906. Adulteration and misbranding of butter. U. S. v. Fred P. Austin (Spring Valley Creamery). Plea of guilty. Fine, \$100 and costs. (F. & D. No. 18359. I. S. No. 17522-v.)

On June 10, 1924, 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 said district an information against Fred P. Austin, trading as the Spring Valley Creamery, Morrison, Ill., alleging shipment by said defendant, on or about September 7, 1923, from the State of Illinois into the State of Iowa, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Spring Valley Creamery Butter Manufactured by Spring Valley Creamery, Morrison, Illinois, Net Weight One Pound."

Analyses of samples of the article by the Bureau of Chemistry of this department showed that the average moisture content of 3 samples was 19.38 per cent, and the average fat content was 76.43 per cent. Examination by said bureau of 10 packages of the product showed that the average net weight of the packages examined was 15.35 ounces.

Adulteration of the article was alleged in the libel for the reason that a product deficient in milk fat and containing an excessive amount of moisture had been substituted for butter, which the article purported to be. Adulteration was alleged for the further reason 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.

Misbranding was alleged for the reason that the statements, to wit, "Butter" and "Net Weight One Pound," borne on the packages containing the article, were false and misleading, in that they represented that the article consisted wholly of butter, and that each of the packages contained 1 pound net weight thereof, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of butter, and that each of the packages contained 1 pound net weight thereof, whereas it did not consist wholly of butter but did consist of a product deficient in milk fat and containing an excessive amount of moisture, and each of said packages did not contain 1 pound net weight of butter but did contain a less amount. Misbranding was alleged for the further reason that the statement, to wit, "Butter," borne on the said packages, was false and misleading, in that it represented that the article was butter, to wit, 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, whereas it did not contain 80 per cent by weight of milk fat but did contain a less amount. 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 package.

On October 20, 1924, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$100 and costs.

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