

substituted for butter, a product which must contain not less than 80 per cent by weight of milk fat as prescribed by the act of March 4, 1923, which the said article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "Creamery Butter," borne on the label, was false and misleading in that the said statement represented that the article was butter, to wit, a product containing not less than 80 per cent by weight of milk fat as prescribed by law, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was butter, to wit, a product containing not less than 80 per cent by weight of milk fat as prescribed by law, whereas it was not butter as prescribed by law but was a product containing less than 80 per cent by weight of milk fat.

On September 1, 1927, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

15389. Misbranding of canned tomatoes. U. S. v. 278 Cases, et al., of Canned Tomatoes. Decrees of condemnation and forfeiture entered. Product released under bond. (F. & D. Nos. 21427, 21428. I. S. Nos. 13584-x, 13585-x, 13593-x, 13594-x. S. No. E-5678.)

On or about December 6, and December 7, 1926, respectively, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying seizure and condemnation of 702 cases of canned tomatoes, remaining unsold, in part at Jacksonville, Fla., and in part at Tampa, Fla., alleging that the article had been shipped by W. E. Robinson & Co., in part from Tipton, Va., and in part from Bel Air and Baltimore, Md., in various consignments, on or about August 27, September 3, September 28, and October 9, 1926, respectively, and had been transported from the States of Virginia and Maryland, respectively, into the State of Florida, and charging misbranding in violation of the food and drugs act. The article was labeled in part: "Osceola Brand Tomatoes Net Weight of Contents 1 Pound 3 Ounces (or "Net Weight of Contents 2 Pounds")."

Misbranding of the article was alleged in the libels for the reason that the statements "Net Weight of Contents 1 Pound 3 Ounces," and "Net Weight of Contents 2 Pounds," borne on the labels of the respective sized cans, were false and misleading and deceived and misled the purchaser, 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.

On March 17, and June 13, 1927, respectively, W. E. Robinson & Co. having appeared as claimant for the property and having admitted the allegations of the libels, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant upon the execution of bonds totaling \$1,100, conditioned in part that it be relabeled or overhauled so as to comply with the law, and it was further ordered by the court that the claimant pay the costs of the proceedings.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

15390. Adulteration of canned cherries. U. S. v. 54 Cases of Pie Makers' Special Sour Cherries. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 22059. I. S. No. 20057-x. S. No. 99.)

On September 15, 1927, 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 seizure and condemnation of 54 cases of pie makers' special red sour cherries, remaining in the original unbroken packages at Philadelphia, Pa., alleging that the article had been shipped by G. S. Salter, Victor, N. Y., on or about July 23, 1927, and transported from the State of New York into the State of Pennsylvania, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Pie Makers Special Red Sour Cherries * * * Packed by G. C. Salter, Manchester, N. Y."

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 October 5, 1927, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. W. DUNLAP, *Acting Secretary of Agriculture.*