

Adulteration was alleged with respect to a portion of the article for the reason that a substance deficient in butterfat had been substituted wholly or in part for the article, and had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength.

Misbranding of the said portion was alleged for the reason that the statement "Butter," borne on the label, was false and misleading and deceived and misled the purchaser, and for the further reason that the said portion was offered for sale under the distinctive name of another article. Misbranding was alleged with respect to the remainder of the article for the reason that the statement "1 Lb. Net Weight," borne on the label, was false and misleading and deceived and misled the purchaser. Misbranding was alleged with respect to both lots for the 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, since the statement was incorrect in one instance and absent in the other.

On April 7, 1932, the Mayfield Butter Co., and the Maryland Butter Co., both of Baltimore, Md., having appeared as claimants for respective portions of the article, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimants upon the payment of costs and the execution of good & sufficient bonds, conditioned in part that it should not be sold or disposed of contrary to the provisions of the Federal food and drugs act, and all other laws.

HENRY A. WALLACE, *Secretary of Agriculture.*

19838. Adulteration and misbranding of butter. U. S. v. Swift & Co. Plea of guilty. Fine, \$200. (F. & D. No. 27432. I. S. Nos. 15175, 35051.)

This action was based on the interstate shipment of two lots of butter. Sample cartons from one lot were found to contain less than the declared weight; samples taken from the other lot were found to be deficient in milk fat, since they contained less than 80 per cent of milk fat, the standard provided by act of Congress.

On December 8, 1931, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Swift & Co., a corporation, trading at Oklahoma City, Okla., alleging shipment by said company, in part on or about May 30, 1931, and in part on or about June 6, 1931, in violation of the food and drugs act as amended, from the State of Oklahoma into the State of Louisiana, of quantities of butter a portion of which was adulterated and misbranded and the remainder of which was misbranded. One lot was labeled in part: (Tubs) "Brookfield Creamery Butter Swift & Company;" and the other lot was labeled in part, (cartons) "Swift's Premium Quality Brookfield * * * Butter 1 Lb. Net Weight."

Adulteration was alleged in the information with respect to the lot shipped May 30, 1931, for the reason that a product containing 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 defined and required by the act of March 4, 1923.

Misbranding of the said lot was alleged for the reason that the statement "Butter" borne on the label, was false and misleading, and for the further reason that it was labeled butter so as to deceive and mislead the purchaser, since the said statement represented that the article contained not less than 80 per cent of milk fat as required by law, whereas it contained less than 80 per cent by weight of milk fat. Misbranding of the portion of the article shipped June 6, 1931, was alleged for the reason that the statement, "1 Lb. Net Weight," borne on the packages containing the article, was false and misleading; for the further reason that it was labeled as aforesaid so as to deceive and mislead 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, since the packages contained less than 1 pound, the declared weight.

On May 6, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$200.

HENRY A. WALLACE, *Secretary of Agriculture.*

19839. Adulteration of canned frozen mixed eggs. U. S. v. Swift & Co. Plea of guilty. Fine, \$50. (F. & D. No. 27429. I. S. No. 24478.)

This action was based on the interstate shipment of a quantity of canned frozen mixed eggs, samples of which were found to be musty and sour.

On December 16, 1931, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Swift & Co., a corporation, trading at Nashville, Tenn., alleging shipment by said company, in violation of the food and drugs act, on or about February 27, 1931, from the State of Tennessee into the State of Illinois of a quantity of canned frozen mixed eggs that were adulterated. The article was labeled in part: "Reg. Mixed Frozen Eggs."

It was alleged in the information that the article was adulterated in that it consisted in part of a decomposed animal substance.

On May 16, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

HENRY A. WALLACE, *Secretary of Agriculture.*

19840. Adulteration and misbranding of canned cherries. U. S. v. 223 Cases, et al., of Canned Cherries. Decree of condemnation and forfeiture. Product released under bond for relabeling. (F. & D. Nos. 28215, 28216, 28217 28218, 28219. I. S. No. 37644. S. No. 6081.)

These actions involved the interstate shipment of a quantity of canned cherries, samples of which were found to contain excessive pits.

On April 21, 1932, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 723 cases of canned cherries, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about March 26, 1932, by the Webster Canning & Preserving Co., Webster, N. Y., to Baltimore, Md., and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Cases and cans) "Pitted Red Cherries Packed for A. J. Harris & Co., Baltimore, Md."

It was alleged in the libels that the article was adulterated in that cherries containing excessive pits had been substituted for the article.

Misbranding was alleged for the reason that the statement "Pitted Red Cherries" was false and misleading and deceived and misled the purchaser.

On May 19, 1932, the Webster Canning & Preserving Co., Webster, N. Y., having appeared as claimant for the property, and the cases having been consolidated into one cause of action, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant to be relabeled, upon payment of costs and the execution of a bond in the sum of \$1,500, conditioned in part that it should not be sold or disposed of contrary to the provisions of the Federal food and drugs act and all other laws.

HENRY A. WALLACE, *Secretary of Agriculture.*

19841. Adulteration of butter. U. S. v. 41 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (10362-A. F. & D. No. 28293.)

This action involved the interstate shipment of a quantity of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard provided by Congress.

On April 26, 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 41 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the Farmers Creamery Co. of Ryan, Iowa, through the Linn County Farmers Mutual Creamery Association of Coggon, Iowa, on or about April 14, 1932, and had been transported from the State of Iowa into the State of New York, 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 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 provided by law.

The Great Atlantic & Pacific Tea Co., New York, N. Y., interposed a claim for the product as agent for the Farmers Creamery Co., Ryan, Iowa, and admitted the allegations in the libel, consented to the entry of a decree, and agreed