

It was alleged in the libel that the article was adulterated in that other oil with little or no olive oil had been mixed and packed with and substituted in whole or in part for the article.

Misbranding was alleged for the reason that the statements on the label, "Net Contents One Gallon," "Olive Oil," and "Olio d'Oliwa," were false and misleading and deceived and misled the purchaser, when applied to an article short of the declared volume and containing little or no olive oil. Misbranding was alleged for the further reason that it was offered for sale under the distinctive name of another article. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so; 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 quantity stated was not correct.

On June 13, 1932, 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.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19976. Misbranding of canned red beans, canned kidney beans, canned pumpkin, canned hominy, canned lima beans, canned corn, and canned spaghetti; and adulteration and misbranding of canned sauerkraut. U. S. v. 74 Cases of Canned Red Beans, et al. Decrees of condemnation and forfeiture. Products released under bond.** (Nos. 2015-A, 2020-A to 2025-A, incl., 2076-A, 2077-A, 2101-A, 2102-A, 2122-A to 2124-A, incl., 2151-A, 2352-A. F. & D. Nos. 28454, 28497, 28514, 28533 to 28539, incl., 28587 to 28590, incl.)

Sample cans taken from each of the shipments of canned goods involved in these actions were found to contain less than the declared weight. Samples taken from one of the two shipments of canned sauerkraut also were found to be unsterile and decomposed.

On July 13, July 27, August 1, and August 8, 1932, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 74 cases of canned red beans, 108 cases of canned kidney beans, 205 cases of canned pumpkin, 73 cases of canned sauerkraut, 275 cases of canned hominy, 76 cases of canned lima beans, 6 cases of canned corn, and 6 cases of canned spaghetti, which products had been shipped in interstate commerce into the State of Colorado by the Otoe Food Products Co., Nebraska City, Nebr. It was alleged in the libels that the articles had been shipped in part from Nebraska City, Nebr., and in part from Hamburg, Iowa, between the dates of November 9, 1929 and May 14, 1932, that they remained in the original unbroken packages in various lots at Trinidad, Pueblo, Minnequa, Colorado Springs, and Denver, Colo., respectively, and that they were misbranded in violation of the food and drugs act as amended. On October 29, 1932, the libel filed against the 73 cases of sauerkraut was amended to add the charge that 61 cases of the article also were adulterated. The articles were labeled in part, variously: (Cans) "Jonquil Brand Red Beans, Contents 1 Pound;" "Pallas Brand Red Kidney Beans, Contents 1 Pound;" "Nature's Best Otoe Brand Pumpkin, Net Weight 1 lb. 1½ oz.;" "Nature's Best Brand Sauerkraut Net Weight 1 Lb. 1½ Oz. \* \* \* Packed by Otoe Food Products Co. Nebraska City, Nebraska;" "Silver Brand Sauerkraut Net Weight 16 ozs.;" "Shepard Red Kidney Beans, Net Weight 1 Pound;" "Aboveall Brand Red Kidney Beans, Contents 1 pound;" "Shepard Lye Hominy Net Weight 1 Pound;" "Nature's Best Otoe Brand Hominy Net Weight 1 Lb. 2 oz." [or "Net Weight 1 pound"]; "Aboveall Brand Lima Beans, Contents 1 Pound;" "Y B Your Best Brand Red Kidney Beans Net Weight 16 ozs.;" "Y B Your Best Brand Baby Lima Beans, Net Weight 1 lb. 2 ozs.;" "Y B Your Best Brand Fancy Narrow Grain Sugar Corn Net Weight 1 lb. 2 ozs.;" "Lone Brook Brand Spaghetti Contents 1 Lb. Packed by Hamburg Canning Co. Hamburg, Iowa."

It was alleged in the libels that the articles were misbranded in that the statements, "Contents 1 Pound," "Net Weight 1 Pound," and "Net Weight 16 ozs.," appearing on the labels of respective portions of the canned red kidney beans; the statement "Net Weight 1 lb. 1½ ozs.," on the label of the canned pumpkin; the statements "1 Lb. 1½ Ozs." and "16 ozs.," on the labels of respective portions of the canned sauerkraut; the statement "Net Weight 1 lb. 2 ozs.," on the labels of the canned lima beans and the canned corn; the statement "Contents 1 lb.," on the labels of the canned spaghetti;

the statements "Net Weight 1 Lb. 2 oz." and "Net Weight 1 Pound," on the labels of respective portions of the canned hominy, and the statement "Contents 1 Pound," on the label of the canned red beans, were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the articles were foods in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the quantity stated on the labels was incorrect.

Adulteration was alleged with respect to 61 cases of Nature's Best sauerkraut for the reason that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On August 12, August 23, September 17, October 6, and October 29, 1932, the Brown Bros. Brokerage Co., a Colorado corporation, having appeared as claimant for the property, and having admitted the allegations of the libels, judgments of condemnation and forfeiture were entered. It was ordered by the court that the products be released to the said claimant upon payment of costs and the execution of bonds totaling \$3,375, conditioned that they be relabeled under the supervision of this department and that they should not be sold or otherwise disposed of in violation of the laws of the United States or the State of Colorado. It was further ordered that all cans of the said Nature's Best sauerkraut that were found to be decomposed, be destroyed.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19977. Adulteration and misbranding of butter. U. S. v. 43 Cubes of Butter. Product released under bond for reworking. (No. 1099-A. F. & D. No. 28457.)**

This action was based on the interstate shipment of a quantity of butter, samples of which were found to contain less than 80 per cent of milk fat, the standard prescribed by Congress.

On June 22, 1932, the United States attorney for the Southern District of California, 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 43 cubes of butter, remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about June 18, 1932, by the Valley Creamery (Ltd.), from Milford, Utah, to Los Angeles, Calif., and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Cases) "Butter Keep Cool \* \* \* Valley Creamery, Ltd., Milford, Utah."

It was alleged in the libel that the article was adulterated in that a product containing less than 80 per cent of milk fat had been substituted wholly or in part for butter.

Misbranding of the article was alleged for the reason that it was labeled butter, which was false and misleading, since it contained less than 80 per cent of milk fat.

On July 13, 1932, the Lucerne Cream & Butter Co., Los Angeles, Calif., claimant, having admitted the allegations of the libel and having filed a release bond in the sum of \$500, a decree was entered ordering that the product be delivered to the claimant for reworking under the supervision of this department. On July 28, 1932, the product having been reworked, a final decree was entered ordering that the release be made permanent, that the bond be exonerated, and that claimant pay costs of the proceedings.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19978. Adulteration and misbranding of butter. U. S. v. 18 Cases of Butter. Consent decree of condemnation and forfeiture. Product released under bond for reworking. (No. 4169-A. F. & D. No. 28420.)**

This action was based on 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 prescribed by Congress.

On June 2, 1932, 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 the district aforesaid a libel praying seizure and condemnation of 18 cases of butter, remaining in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about May 13, 1932, by the Stanford Creamery Co., from Stanford, Ky., to Chicago, Ill., and charging adulteration and misbranding in violation of the food and drugs act.