

that a portion also was misbranded in violation of the food and drugs act as amended. The article was labeled in part: "Otzen's Choice Strictly California Black Figs, Packed by Otzen Packing Co., San Francisco, Cal." Fifteen of the cases also were labeled with the statement: "25 Lbs. Net."

It was alleged in the libels that the article was adulterated in that it consisted of a filthy, decomposed, and putrid animal and vegetable substance.

Misbranding was alleged with respect to 10 cases of the product for the reason that the packages were not plainly and conspicuously marked on the outside in terms of weight, measure, or numerical count.

On August 22, 1932, Theo. H. Davies & Co. (Ltd.), San Francisco, Calif., having entered an appearance as claimant and owner of the property and having admitted the material allegations of the libels, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed.

HENRY A. WALLACE, *Secretary of Agriculture.*

19996. Misbranding of pearl tapioca. U. S. v. 109 Cases of Tapioca. Default decree of condemnation, forfeiture, and destruction. (No. 3079-A. F. & D. No. 28263.)

Sample packages taken from the shipment of tapioca involved in this action were found to contain less than 1 pound, the weight declared on the label.

On May 3, 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 109 cases of pearl tapioca at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 19, 1932, by Edwin Smithson Co. (Inc.), from New York, N. Y., to Chicago, Ill., and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Package) "One Pound King Cole Brand Pearl Tapioca Edwin Smithson Company, Inc., Packers and Distributors, New York, N. Y."

It was alleged in the libel that the article was misbranded in that the statement on the package label, "One Pound," was false and misleading and deceived and misled the purchaser. 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, since the statement made was not correct.

On August 17, 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.*

19997. Adulteration of butter. U. S. v. 10 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (No. 11876-A. F. & D. No. 28488.)

This case involved the 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 for butter prescribed by Congress.

On July 8, 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 10 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped in interstate commerce on June 27, 1932, by the Gackle Creamery Co., from Gackle, N. Dak., to New York, N. Y., and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that it contained less than 80 per cent of milk fat, the standard provided by the act of March 4, 1923.

John M. Reilly, New York, N. Y., interposed a claim for the product as agent for the Gackle Creamery Co., Gackle, N. Dak., admitted the allegations of the libel, consented to the entry of a decree, and agreed that the product be reconditioned so that it contain at least 80 per cent of butterfat. On July 11, 1932, 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 costs and the execution of a bond in the sum of \$300, conditioned in part that it be reworked so that it comply with the Federal food and drugs act and all other laws.

HENRY A. WALLACE, *Secretary of Agriculture.*