

It was alleged in the libel that the article was adulterated in that it consisted in part of a filthy, decomposed, or putrid vegetable substance.

On February 20, 1933, no claimant having appeared for the property and a jury having found that the allegations of the libel were true and correct, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20773. Adulteration and misbranding of butter. U. S. v. Frye & Co. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 29473. I. S. nos. 23305, 23315. Sample nos. 1333-A, 1704-A.)

This case was based on several shipments of butter that was short weight; and one shipment contained less than 80 percent by weight of milk fat, the standard for butter established by Congress.

On March 10, 1933, the United States attorney filed in the District Court of the United States for the Western District of Washington, an information against Frye & Co., a corporation, trading at Seattle, Wash., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about April 1, April 8, April 15, and April 22, 1932, from the State of Washington into the Territory of Alaska, of quantities of butter that was misbranded, and a portion of which was also adulterated. The article was labeled: "Fancy Favorite Butter Quality One Pound Net Weight"; or "Wild Rose Fancy Creamery Butter The Best One Pound Net Weight."

The information charged adulteration of one lot of the article, in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of March 4, 1923, which the article purported to be.

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 it contained less than 80 percent by weight of milk fat. Misbranding of the remaining lots was alleged for the reason that the statement "One Pound Net Weight", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the packages contained less than 1 pound. Misbranding of the lots that bore an incorrect statement of the net weight 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 March 31, 1933, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20774. Misbranding of sirup. U. S. v. 100 Cases and 148 Cases of Sirup. Decrees of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. nos. 28983, 28984. Sample nos. 2144-A, 2148-A.)

Examination showed that this product had no flavor of cane sirup and that the cans contained less than 5 pounds, the declared amount. Moreover, the statement of the quantity of the contents was not made on the label in terms of fluid measure.

On October 7, 1932, 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 libels praying seizure and condemnation of 248 cases of sirup, in part at Alamosa, Colo., and in part at Walsenburg, Colo., consigned by the Bliss Syrup & Preserving Co., alleging that the article had been shipped on or about May 26, 1932, from Kansas City, Mo., into the State of Colorado, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Bliss Pancake Brand Cane Flavor Syrup Bliss Syrup & Preserving Company, Kansas City, Mo., Net Weight 5 Lbs."

It was alleged in the libels that the article was misbranded in that the statements "Cane Flavor * * * Net Weight 5 Lbs.", were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside since the statement was incorrect and was not in terms of fluid measure.