

article was labeled in part: (Bottle) "Newmark Brand Special Extra Maraschino Style Cherries M. A. Newmark & Co., Distributors, Los Angeles, Contents 3 Oz. Net [or "5 Oz. Net", "8 Oz. Net", "1 Lb. Net", or "1 Lb. 12 Oz. Net"]."

It was alleged in the libel that the article was adulterated in that artificially colored and flavored cherries containing sulphur dioxide had been substituted for natural cherries.

It was further alleged that the article was misbranded in that it was labeled so as to deceive and mislead the purchaser, owing to failure to declare added artificial color, flavor, and sulphur dioxide. Misbranding was alleged with respect to portions of the article for the further reason that the statements, "Contents 3 Oz. Net", "Contents 1 Lb. net", and "Contents 1 Lb. 12 Oz. net", were false and misleading and tended to deceive and mislead the purchaser, and for the further reason that the said portions were 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 incorrect.

On August 2, 1934, the Falcon Packing Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered by the court that the product be released to the claimant for relabeling, upon the execution of a bond in the sum of \$1,000, conditioned that it would not be disposed of in violation of the Food and Drugs Act.

M. L. WILSON, *Acting Secretary of Agriculture.*

22849. Adulteration of butter. U. S. v. 21 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (F. & D. no. 33182. Sample no. 6921-B.)

This case involved a shipment of butter, samples of which were found to contain less than 80 percent of milk fat.

On July 26, 1934, 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 a libel praying seizure and condemnation of 21 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 14, 1934, by the Parkersburg Butter & Egg Shippers Association, from Parkersburg, Iowa, for the Kesley Cooperative Creamery Co., Kesley, Iowa, in pool car consigned 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 a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent of milk fat as provided by the act of Congress of March 4, 1923.

On July 31, 1934, the claimant having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. WILSON, *Acting Secretary of Agriculture.*

22850. Misbranding of butter. U. S. v. 7 Cases of Butter. Decree of condemnation and destruction. (F. & D. no. 33186. Sample no. 73952-A.)

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

On June 29, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of butter at Hoquiam, Wash., consigned by Swift & Co., June 23, 1934, alleging that the article had been shipped in interstate commerce from Portland, Oreg., into the State of Washington, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Swift's Premium Quality Brookfield Butter Net Weight 1 lb."

It was alleged in the libel that the article was misbranded in that the statement "1 Lb. Net Weight" was false and misleading, and 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.