

29094. Misbranding of butter. U. S. v. 10 Cases of Butter. Consent decree of condemnation. Product released under bond to be repacked. (F. & D. No. 42487. Sample No. 4207-D.)

This product was short weight.

On May 16, 1938, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 30-pound cases of butter at Cincinnati, Ohio; alleging that the article had been shipped in interstate commerce on or about May 13, 1938, by the Rising Sun Creamery Co., from Rising Sun, Ind.; and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the following statements were false and misleading and tended to deceive and mislead the purchaser, (carton) "One Pound Net" and (wrapper) "Four Ounces Net"; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct, in each instance the package being short weight.

On May 23, 1938, the Rising Sun Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be repacked to the declared weight.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29095. Adulteration of butter. U. S. v. 16 Tubs and 16 Tubs of Butter. Consent decrees of condemnation. Product released under bond to be re-worked. (F. & D. Nos. 42426, 42897. Sample Nos. 21737-D, 21767-D.)

This product contained less than 80 percent of milk fat.

On April 27 and May 18, 1938, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 32 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce in part on or about April 14, 1938, in the name of the American Creamery & Dairy Co., and in part on or about May 11, 1938, in the name of the American Dairy Co., from Evansville, Ind.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided for by the act of March 4, 1923.

On May 9 and 26, 1938, C. H. Weaver & Co., Chicago, claimant, having admitted the allegations of the libels, and having consented to the entry of decrees, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be reworked to the legal standard.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29096. Adulteration and misbranding of shelled peanuts. U. S. v. 54 Bags of Peanuts. Default decree of condemnation and destruction. (F. & D. No. 42143. Sample No. 9890-D.)

This product contained excessive damaged or dirty kernels.

On April 7, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 54 bags of shelled peanuts at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about March 15, 1938, by the J. B. Worth Peanut Co., from Petersburg, Va.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

It was alleged to be misbranded in that the statement, "No. 2 Spanish Shelled Peanuts," borne on the bags, was false and misleading when applied to Spanish shelled peanuts which contained damaged (dirty) kernels in excess of the 1½-percent tolerance for U. S. No. 2 grade.

On May 16, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*