

with its enforcement and by the Federal courts. It was adopted by the conferees, however, so as to make abundantly clear the intent of Congress that butter, oleomargarine, and margarine and all of their raw materials used in the manufacture of such butter, oleomargarine, and margarine should be subject to precisely the same standard of purity and to the same type of inspection.

It was not the intent of the conferees by adopting this new provision to weaken in any way the provisions of existing law as they have been interpreted and construed which provide that any food shall be deemed to be adulterated food (including all components thereof) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.

The amendment merely added a clarifying subsection dealing specifically with 'oleomargarine or margarine or butter.' It did not withdraw them from the general provisions against adulteration theretofore and still in effect in respect of all food.

"Accordingly, a judgment of acquittal upon Count I is being made and given.

"But by Title 21 U. S. C. A., Section 343 (g), supra, it is positively declared that a food is misbranded if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations under Section 341, unless it conforms to such definition and standard. The contents of the tested packages found short of the eighty percent requirement in respect of fat (a) purported to be and were represented to be oleomargarine, for which a definition and standard of identity had been so prescribed, and (b) did not conform to such definition and standard. Therefore, by the plain terms of Section 343 it was misbranded. And its shipment, thus misbranded, unquestionably violated section 331.

"A judgment of guilty must therefore be made and given upon Count II.

"The matter of sentence remains. The defendant being a corporation, only a fine is appropriate. By Title 21 U. S. C. A., Section 333, the maximum allowable fine is \$1,000.00 with the proviso that, for a violation committed after the defendant's conviction under the section and the finality of such conviction, the fine may be as high as \$10,000.00.

"Despite the court's findings, supra, concerning No. Cr. 104-51 in this court, it is not considered that the fine should be made notably heavy. The violation now before the court was not attributable to hostility or indifference to the applicable statutes or regulation or to contempt of the rights of the public. It occurred despite a bona fide effort to comply with both the statutes and the regulation, though probably with the allowance of a margin of safety that was practicably too small or nonexistent.

"In the circumstances the sentence is that the defendant pay a fine of five hundred dollars and the costs of this case."

POULTRY

22443. Dressed poultry. (F. D. C. No. 37374. S. No. 11-861 M.)

QUANTITY: 1,600 lbs. in 21 crates at Newark, N. J.

SHIPPED: 11-9-54, from Frankford, Del., by Allied Poultry Processors Co.

LABEL IN PART: (Crate) "Acme Brand Fresh Killed Ice Packed Poultry Fresh Dressed Extra Fancy New York Dressed Maryland Poultry Acme Poultry Corp., Berlin, Maryland."

LIBELED: On or about 12-1-54, Dist. N. J.

CHARGE: 402 (a) (3)—consisted of birds contaminated with fecal matter, extensively bruised birds, and green struck birds when shipped.

DISPOSITION: 3-29-55. Default—destruction.

22444. Dressed poultry. (F. D. C. No. 37657. S. No. 2-793 M.)

QUANTITY: 1,007 lbs. in 16 crates at Boston, Mass.

SHIPPED: 2-1-55 from Goffstown, N. H., by Karanikas & Sons.