13695. Adulteration and misbranding of butter. U. S. v. 29 Cases of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 20271. I. S. No. 6403-x. S. No. E-5376.)

On July 9, 1925, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 29 cases of butter, remaining in the original unbroken packages at Atlanta, Ga., alleging that the article had been shipped by the Kosciusko Creamery, from Kosciusko, Miss., on or about June 25, 1925, and transported from the State of Mississippi into the State of Georgia, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Butter Net Weight One Pound."

Adulteration of the article was alleged in the libel for the reason that a product other than butter and deficient in milk fat had been substituted in part for butter, and for the further reason that it contained less than 80 per cent by weight of milk fat.

Misbranding was alleged in substance for the reason that the statement "Butter," borne on the labels, was false and misleading and deceived and misled the purchaser into the belief that each of the packages contained 1 pound of butter, whereas the said article was deficient in milk fat and the said packages being so deficient in milk fat did not contain one pound of butter.

On July 11, 1925, F. M. Warfel, 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 said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of $400, in conformity with section 10 of the act, conditioned in part that it be reworked so as to contain not less than 80 per cent of milk fat.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13696. Alleged adulteration and misbranding of butter. U. S. v. Mississippi Creameries Co., Inc. Tried to the court without a jury. Judgment of not guilty. (F. & D. No. 17780. I. S. No. 3012-v.)

On April 7, 1924, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Mississippi Creameries Co., Inc., a corporation, Tupelo, Miss., alleging shipment by said company, in violation of the food and drugs act as amended, on or about August 6, 1922, from the State of Mississippi into the State of Georgia, of a quantity of butter which was alleged to have been adulterated and misbranded. The article was labeled in part: "Creamery Butter One Pound Net Weight."

Analysis by the Bureau of Chemistry of this department of 11 samples of the article showed an average of 78.05 per cent of butterfat and 18.34 per cent of moisture; 180 cartons showed an average net weight of 15.66 ounces.

Adulteration of the article was alleged in the information for the reason that a product deficient in milk fat and containing excessive moisture had been substituted for butter, which the said article purported to be.

Misbranding was alleged for the reason that the statements "Creamery Butter" "One Pound Net Weight," borne on the packages containing the article, were false and misleading, in that the said statements represented that the article consisted wholly of creamery butter and that each of the said packages contained 1 pound net weight thereof, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of butter and that each of the packages contained 1 pound thereof, whereas it did not consist wholly of butter but did consist in part of a product deficient in milk fat and containing excessive moisture, and each of said packages did not contain 1 pound net weight of butter but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not clearly and conspicuously marked on the outside of the package.

On October 8, 1924, the defendant company having waived a jury trial and having entered a plea of not guilty and having denied the facts alleged in the information, the case came on for final disposition before the court.