

It was alleged in the libel that the article was adulterated in that it consisted in part of a wormy, moldy, rancid, and decomposed vegetable substance, namely, decomposed nuts.

On December 16, 1929, Pandaleon Bros. of New York (Inc.), 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 costs and the execution of a bond in the sum of \$1,500, conditioned in part that the product be sorted and the bad portion denatured or destroyed.

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

16922. Adulteration and misbranding of canned oysters. U. S. v. D. E. Foote & Co. (Inc.). Plea of nolo contendere. Fine, \$30 and costs. (F. & D. No. 23734. I. S. Nos. 01874, 01875, 02628.)

On October 14, 1929, the United States attorney for the district of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against D. E. Foote & Co. (Inc.), a corporation, trading at Baltimore, Md., alleging shipment by said company, in violation of the food and drugs act as amended, on or about November 20, 1928, from the State of Maryland, in part into the State of Wisconsin, and in part into the State of Pennsylvania, of quantities of canned oysters which were adulterated and misbranded. The article was labeled in part: (Can) "Foote's Best Brand Delicious Fresh Oysters Packed by D. E. Foote & Co., Inc., Baltimore, Md. Contents, 1 Pint."

Adulteration was alleged in the information with respect to a portion of the article for the reason that a substance, to wit, excessive water, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality, and in that a substance, to wit, excessive water, had been substituted in part for oysters which the article purported to be.

Misbranding was alleged for the reason that the statement "Contents, 1 Pint," with respect to all of the product, and the statement "Oysters," with respect to a portion thereof, were false and misleading in that the said statements represented that the cans each contained 1 pint of oysters, and that the said portion consisted wholly of oysters; and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the cans each contained 1 pint of oysters, and that a portion thereof consisted wholly of oysters, whereas the said cans did not contain 1 pint of the article, but did contain a less amount, and the said portion did not consist wholly of oysters, but did consist in part of excessive water. Misbranding 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 October 14, 1929, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$30 and costs.

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

16923. Adulteration and misbranding of cocoa. U. S. v. 3 Barrels of Cocoa. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 23791. I. S. No. 07333. S. No. 2001.)

On June 4, 1929, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 3 barrels of cocoa at Miles City, Mont., alleging that the article had been shipped by the Universal Cocoa Products Co., from Chicago, Ill., on or about December 13, 1928, and transported from the State of Illinois into the State of Montana, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "York Cocoa from Universal Cocoa Products Company."

It was alleged in the libel that the article was adulterated in that cocoa shell had been mixed and packed with and substituted in part for cocoa powder.

Misbranding was alleged for the reason that the above-described label was false and misleading and was intended to and did deceive and mislead the purchasers thereof.

On September 6, 1929, no claimant having appeared for the property, 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. W. DUNLAP, *Acting Secretary of Agriculture.*