

On March 26, 1930, no claimant having appeared for the property, judgments were entered ordering that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17130. Adulteration of scallops. U. S. v. 1 Barrel of Scallops. Default decree of condemnation and forfeiture. Product delivered to charitable institution. (F. & D. No. 24635. I. S. No. 027604. S. No. 2896.)

On February 19, 1930, 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 of the United States for said district a libel praying seizure and condemnation of 1 barrel of scallops, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by Tawes & Co., Oyster, Va., on or about February 18, 1930, and transported from the State of Virginia into the State of New York, 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 substance, water, had been mixed and packed with and substituted in part for scallops.

On March 6, 1930, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the portion of the product fit for human consumption be delivered to a charitable institution, and the unfit portion, if any, destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17131. Adulteration and misbranding of canned cherries. U. S. v. 280 Cases of Canned Cherries. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 23927. I. S. No. 09859. S. No. 2183.)

On August 17, 1929, the United States attorney for the Eastern District of Washington, 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 280 cases of canned cherries, remaining in the original unbroken packages at Spokane, Wash., consigned by the Callahan Canning Co., Coeur d'Alene, Idaho, alleging that the article had been shipped from Coeur d'Alene, Idaho, on or about July 8, 1929, and transported from the State of Idaho into the State of Washington, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Nugget Brand Red Sour Pitted Cherries Packed for Powell-Sanders Co., Spokane, Wash."

It was alleged in the libel that the article was adulterated in that a substance, to wit, excessive pits, had been mixed and packed with and substituted in part for the said article.

Misbranding was alleged for the reason that the statement, to wit, "Pitted Cherries," borne on the label, was false and misleading and deceived and misled the purchaser.

On September 9, 1929, the Callahan Canning Co., Coeur d'Alene, Idaho, having appeared as claimant for the property 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 \$1,344, conditioned in part that it be relabeled in a manner satisfactory to this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17132. Adulteration and misbranding of butter. U. S. v. George Sommer. Plea of guilty. Fine, \$100. (F. & D. No. 23762. I. S. No. 08775.)

On February 14, 1930, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against George Sommer, Doylestown, Pa., alleging shipment by said defendant in violation of the food and drugs act as amended, on or about July 8, 1929, from the State of Pennsylvania into the State of Georgia, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "One Pound Net Weight Sommer Maid, Doylestown, Pa. Fancy Creamery Butter George Sommer, Doylestown, Pa."

It was alleged in the information that the article was adulterated in that a product purporting to be butter, but which was not butter in that it contained

less than 80 per cent by weight of milk fat, had been substituted for butter, a product which must contain not less than 80 per cent by weight of milk fat as required by the act of Congress of March 4, 1923.

Misbranding was alleged for the reason that the statements "Fancy Creamery Butter" and "One Pound Net Weight," borne on the packages containing the article, were false and misleading in that the said statements represented the article to be butter, to wit, an article containing not less than 80 per cent by weight of milk fat as required by law, and that each of the packages contained 1 pound 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 was butter, to wit, an article containing not less than 80 per cent by weight of milk fat as required by law, and that each of said packages contained 1 pound thereof; whereas it was a product deficient in milk fat in that it contained less than 80 per cent by weight of milk fat, and said packages did not each contain 1 pound of the article, 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 plainly and conspicuously marked on the outside of the package in that the statement made was not correct.

On March 12, 1930, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$100.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17133. Adulteration and misbranding of butter. U. S. v. 108 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 24680. I. S. Nos. 027513, 027520. S. No. 2888.)

On February 20, 1930, 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 of the United States for said district a libel praying seizure and condemnation of 108 tubs of butter, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the Callaway Cooperative Creamery Co., Callaway, Nebr., for the Broken Bow Creamery Co., Broken Bow, Nebr., in two consignments on or about June 11, 1929, and June 19, 1929, respectively, and transported from the State of Nebraska into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that a substance deficient in butterfat had been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength, and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article.

On March 20, 1930, the Broken Bow Co-operative Creamery Co., Broken Bow, Nebr., 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 \$3,300, conditioned in part that it be reworked and reprocessed so that it contain at least 80 per cent of butterfat.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17134. Misbranding of cottonseed meal. U. S. v. 400 Sacks of Cottonseed Meal. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 24540. I. S. No. 030754. S. No. 2851.)

On February 17, 1930, the United States attorney for the Northern District of Iowa, 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 400 sacks of cottonseed meal at Delhi, Iowa, alleging that the article had been shipped by the Graco Milling Co., Cairo, Ill., on or about February 6, 1930, and transported from the State of Illinois into the State of Iowa, and charging misbranding in violation of the food and drugs act. The article was labeled in part: "Graco 43 Per Cent Brand. Guaranteed Analysis Protein not less than 43 Per Cent. Manufactured by Graco Milling Company, Sherman, Texas."

It was alleged in the libel that the article was misbranded in that the statements, "43 per cent" and "Protein not less than 43 per cent," were false and misleading and deceived and misled the purchaser.

On March 18, 1930, the Graco Milling Co., Sherman, Tex., claimant, having admitted the allegations of the libel and having consented to the entry of a