

**18702. Adulteration and alleged misbranding of butter. U. S. v. 6 Cases, et al., of Butter. Consent decrees of condemnation and forfeiture. Product released under bond. (F. & D. No. 28763. I. S. Nos. 22159, 22160, 22161, 22162. S. No. 4757.)**

Samples taken from various lots of butter which had been delivered to the pier at Seattle, Wash., for shipment to Alaska having been found to be deficient in milk fat and short of the declared weight, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of Washington.

On May 23, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 12 cases and 19 pounds of butter, alleging that the Centralia Dairy Co. delivered the article on May 21, 1931, for shipment in interstate commerce from Centralia, Wash., to Alaska, in part consigned to Ketchikan, Alaska, and in part consigned to Juneau, Alaska, and charging adulteration and misbranding in violation of the food and drugs act as amended. The article was labeled in part variously: (Cartons) "Sunset Gold Creamery Butter \* \* \* One Pound Net;" "Medo-Maid Butter One Pound Net Weight. Medo-Maid Butter is made and guaranteed by Centralia Dairy Co., Centralia, Wash." Portions of the Medo-Maid butter consisted of prints labeled "Net Weight Four Ounces."

It was alleged in the libels that the article was adulterated in that a product containing less than 80 per cent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 per cent of milk fat as provided by act of Congress of March 4, 1923.

Misbranding was alleged for the reason that the article was labeled butter, which was false and misleading, since it contained less than 80 per cent of milk fat, it was labeled "One Pound Net," "One Pound Net Weight," or "Net Weight Four Ounces," as the case might be, which statements were false and misleading, since the packages contained less than the declared quantity. 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 packages, since the quantity stated on the packages was not correct.

On June 22, 1931, the Centralia Dairy Co., Centralia, Wash., claimant, having admitted the allegations of the libels and having consented to the entry of a decree, judgment was entered finding the product adulterated and ordering that it be condemned and forfeited, and it was further ordered by the court that the product be released to the said claimant upon payment of costs and the filing of cash bonds totaling \$200, conditioned in part that it be brought into conformity with the Federal food and drugs act under the supervision of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**18703. Alleged adulteration of spaghetti and macaroni. U. S. v. 9 Cases of Spaghetti, et al. Cases dismissed at cost of the Government. (F. & D. Nos. 26153, 26154. I. S. Nos. 6797, 6798, 6799. S. Nos. 4464, 4465.)**

Examination of samples of spaghetti and macaroni from the shipments herein described having shown that the articles contained undeclared artificial color, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Alabama.

On April 1, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 9 cases of spaghetti and 34 cases of macaroni at Mobile, Ala., alleging that the articles had been shipped by J. Cusimano & Co., from New Orleans, La., in part on or about October 1, 1930, and in part on or about January 14, 1931, and had been transported from the State of Louisiana into the State of Alabama, and charging adulteration in violation of the food and drugs act. The articles were labeled in part: "Patriot Brand Spaghetti [or "Macaroni"] Mfd. by J. Cusimano, New Orleans, La., Yellow Spaghetti [or "Macaroni"]."

It was alleged in the libels that the articles were adulterated in that they were colored in a manner whereby inferiority was concealed.

On July 16, 1931, the cases having come on to be heard on motion of Taylor Lowenstein & Co., Mobile, Ala., claimant, and the court having found that the articles were intended for and were plainly marked for export, that the coloring matter had been added in accordance with the instructions of the foreign purchaser, that none of the goods were sold or offered for sale for domestic con-

sumption, and that there was no law of the country to which the goods were to be exported prohibiting the addition of coloring matter, it was ordered by the court that the cases be dismissed at the costs of the United States.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**18704. Adulteration and misbranding of butter. U. S. v. 35 Boxes, et al., of Butter. Decrees of condemnation and forfeiture. Product released under bond.** (F. & D. Nos. 26748 to 26752, incl. I. S. Nos. 29911, 29912, 30755, 30759, 30768, 30769. S. Nos. 4766, 4767, 4785, 4791, 4813.)

Samples of tub, print, and country-roll butter from the several shipments herein described were found to contain less than 80 per cent by weight of milk fat, the standard provided by Congress. Portions of the print butter were also found to be short of the declared weight.

On May 28, June 2, June 6, and June 11, 1931, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 139½ cartons or boxes, each containing 30 pounds of print butter, 2 boxes, each containing 32 pounds of country-roll butter, and 61 tubs of butter, remaining in the original unbroken packages at Philadelphia, Pa., consigned by the Sugar Creek Creamery Co., alleging that the article had been shipped in part from Pana, Ill., and in part from Danville, Ill., in various consignments, on or about May 23, May 25, May 29, and June 4, 1931, and had been transported from the State of Illinois into the State of Pennsylvania, and charging that the article was adulterated and that a portion of the print butter was also misbranded, in violation of the food and drugs act as amended. The cartons containing a portion of the print butter were labeled in part: "Golden Grain Creamery Butter, One Pound, \* \* \* Made by Golden Grain Butter Co., Cape Girardeau, Mo." The cartons containing the remainder of the print butter were labeled in part: "Sugar Creek Butter. Full Weight One Pound. \* \* \* Sugar Creek Creamery Co. \* \* \* Danville, Ill." The country-roll butter was labeled in part: "Sugar Creek Creamery Co., Danville, Illinois."

It was alleged in the libels that the article was adulterated in that a product containing less than 80 per cent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 per cent of milk fat.

Misbranding was alleged with respect to a portion of the Golden Grain print butter and the Sugar Creek print butter for the reason that the packages containing the article bore the following statements, regarding the said article and the ingredients and substances contained therein, which were false and misleading: "Golden Grain Creamery Butter One Pound Pasteurized Pure and Wholesome," and "Sugar Creek Butter, Full Weight One Pound, Real Cream Butter, Churned from Wholesome Pure Pasteurized Cream Sugar Creek Creamery Co., Danville, Ill." Misbranding was alleged with respect to the said portion of the Golden Grain print butter and the Sugar Creek print butter for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On June 19, 1931, the Sugar Creek Creamery Co., Danville, Ill., having appeared as claimant for the property, judgments of condemnation and forfeiture were 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 \$4,000, conditioned that it should not be sold or disposed of contrary to law and that it be reconditioned under the supervision of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**18705. Adulteration of canned cherries. U. S. v. 143 Cases of Canned Cherries. Default decree of condemnation, forfeiture, and destruction.** (F. & D. No. 26200. I. S. No. 16148. S. No. 4534.)

Samples of canned cherries from the shipment herein described having been found to be partially decomposed, the Secretary of Agriculture reported the matter to the United States attorney for the District of Maryland.

On April 8, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 143 cases of canned cherries, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped by the Paulus Bros. Packing Co., from Salem, Oreg., on or about January 5, 1931, and