

the Secretary of Agriculture reported the matter to the United States attorney for the District of Massachusetts.

On July 21, 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 50 boxes of butter remaining in the original unbroken packages at Springfield, Mass., consigned July 11, 1931, alleging that the article had been shipped by the Dairy and Poultry Cooperative (Inc.), from Denver, Colo., and had been transported from the State of Colorado into the State of Massachusetts, 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 product containing less than 80 per cent by weight of milk fat had been substituted for butter, which the said article purported to be, the act of Congress approved March 4, 1923, providing that butter contain not less than 80 per cent by weight of milk fat.

On August 31, 1931, the Farmers Equity Cooperative Creamery, Denver, Colo., claimant, having admitted the allegations of the libel, 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 deposit of cash security in the sum of \$500, conditioned in part that it should not be sold or otherwise disposed of contrary to the Federal food and drugs act and other existing laws; and it was further ordered by the court that the product be re-worked under the supervision of this department so that it contain at least 80 per cent of butterfat.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18771. Adulteration and misbranding of apricot cordial and peach cordial. U. S. v. 5½ Cases of Apricot Cordial, et al. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 26311, 26312; L. S. Nos. 19779, 19780. S. No. 4571.)

Examination of samples of apricot and peach cordials from the shipment herein described showed that the articles contained little or no fruit juice, that the contents of the bottles were less than the declared volume, and that the peach cordial contained more benzoate of soda than declared on the label.

On or about May 1, 1931, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of five and one-half cases of apricot cordial and two and one-half cases of peach cordial at San Antonio, Tex., alleging that the articles had been shipped by E. A. Zatarain, from New Orleans, La., on or about October 28, 1930, and had been transported from the State of Louisiana into the State of Texas, and charging adulteration and misbranding in violation of the food and drugs act as amended. The articles were labeled in part, (main bottle label) "Pa-Poose Brand Net Contents 30 Fluid Ounces Certified Color Artificial Flavor Non-Alcoholic Cordial Contains 10 of 1 per cent Benzoate of Soda, Manufactured by E. A. Zatarain & Sons Incorporated New Orleans, Louisiana," and (neck of bottles) "Apricot" or "Peach," as the case might be.

It was alleged in the libels that the articles were adulterated in that a mixture of sugar and water, containing but a slight and negligible amount, if any, of fruit juice, and artificially colored and flavored in imitation of apricot or peach, had been substituted for the said articles.

Misbranding was alleged for the reason that the statements on the labeling, "Peach" or "Apricot," as the case might be, were false and misleading and deceived and misled the purchaser, since the articles contained little, if any, fruit juice or fruit flavor. Misbranding was alleged with respect to the peach cordial for the further reason that the statement, "Contains 10 of 1% Benzoate of Soda," was false and misleading and deceived and misled the purchaser, since the article contained 0.19 per cent of benzoate of soda. Misbranding was alleged with respect to both products for the further reason that they were offered for sale under the distinctive names of other articles, and for the further reason that they were food in package form and failed to bear a plain and conspicuous statement of the quantity of the contents, since the quantity stated on the label was incorrect.

On June 23, 1931, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*