

material 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 the execution of a bond in the sum of \$3,000, conditioned in part that it should not be sold or otherwise disposed of contrary to the provisions of the food and drugs act or the laws of any State, Territory, district, or insular possession.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19256. Adulteration and misbranding of strawberry cream sandwich. U. S. v. 72 Cartons of Strawberry Cream Sandwich. Consent decree of condemnation, forfeiture, and destruction. (F. & D. No. 24738. I. S. No. 027784. S. No. 3086.)

Examination of a baker's confection, known as strawberry cream sandwich, showed that the article contained little or no strawberry fruit, strawberry juice, or strawberry flavor, and that the artificial color contained in the article was not properly declared.

On April 26, 1930, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 72 cartons of the said strawberry cream sandwich, remaining in the original unbroken packages at Jersey City, N. J., alleging that the article had been shipped by the Loose-Wiles Biscuit Co., from Long Island City, N. Y., on or about January 20, 1930, and had been transported from the State of New York into the State of New Jersey, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part, (retail package) "Sunshine Strawberry Cream Sandwich Delicious shortcake encasing delightfully flavored velvety strawberry cream. Artificially Colored and Flavored * * * Loose-Wiles Biscuit Company. * * * New York, N. Y.," together with a cut showing one of the cakes bearing design of a strawberry.

It was alleged in the libel that the article was adulterated in that a substance artificially colored and containing little or no strawberry or strawberry juice, and containing little or no strawberry flavor, either natural or artificial, had been substituted for strawberry cream sandwich which the article purported to be. Adulteration was alleged for the further reason that the article was colored with artificial color in a manner whereby its inferiority was concealed.

Misbranding was alleged for the reason that the statement, "Strawberry Cream Sandwich," borne on the packages, was false and misleading and deceived and misled the purchaser, since the said statement represented that the article contained a substantial amount of strawberry or strawberry juice, whereas it was artificially colored and contained little or no strawberry or strawberry juice. Misbranding was alleged for the further reason that the statement "Strawberry Cream Sandwich" in large conspicuous type, borne on the said package, was not corrected by the statement "Artificially colored and flavored," appearing on the package, since the latter statement was in small, inconspicuous, and practically unnoticeable type. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, and the word "Imitation" was not stated on the cartons and packages.

On March 30, 1931, by consent of the owners, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19257. Adulteration of cream. U. S. v. Four 10-Gallon Cans, et al., of Cream. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 27276, 27277, 27278, 27287, 27304. I. S. Nos. 46007, 46008, 46009, 46010, 46011, 46012. S. Nos. 5464, 5466, 5486, 5494.)

Examination of the cream in the shipments herein described having shown the product to contain formaldehyde, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Florida.

On November 23, 1931 and December 4, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of sixteen 10-gallon cans of cream, in part at the following points in Florida: Tampa, St. Petersburg, Hialeah, and Orlando, and remaining in the original unbroken packages at said points. It was