

deceive and mislead the purchaser since the carton contained less than 1 pound net of butter. 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, since the quantity stated was not correct.

On November 21, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29824. Adulteration of canned shad. U. S. v. 72 Cases of Shad. Default decree of condemnation and destruction. (F. & D. No. 43947. Sample Nos. 34601-D, 36297-D.)

This product was in part decomposed.

On or about September 27, 1938, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 72 cases of shad at Charlottesville, Va.; alleging that the article had been shipped in interstate commerce on or about August 13, 1938, by Howard Terminal from Oakland, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Booth's Crescent Brand Spring Pack Shad * * * F. E. Booth Company, Inc. * * * San Francisco."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On October 24, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29825. Adulteration of oysters. U. S. v. 2,600 Pints and 5,220 Pints of Oysters. Consent decree of condemnation. Product released under bond. (F. & D. Nos. 44399, 44400. Sample Nos. 34802-D, 34803-D.)

This product contained an excessive amount of added water.

On November 23, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 7,820 pints of oysters at Altoona, Pa.; alleging that the article had been shipped in interstate commerce on or about November 21, 1938, by Carol Dryden Co. from Crisfield, Md.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pride of the Chesapeake Salt Water Oysters."

The article was alleged to be adulterated in that water had been mixed and packed with it so as to reduce or lower its quality or strength, and in that water had been substituted wholly or in part for it.

On November 23, 1938, Carol Dryden Co., claimant, having admitted the allegations of the libels, the court ordered the product released under bond, conditioned that it be reconditioned or repacked in conformity with the Food and Drugs Act.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29826. Misbranding of candy. U. S. v. Mrs. Stover's Bungalow Candies, Inc. Plea of nolo contendere. Fine, \$100. (F. & D. No. 42515. Sample Nos. 3322-D, 3323-D, 3421-D, 3422-D, 3423-D.)

These boxes of candies were short of the declared weight, and the quantity of contents was placed inconspicuously on the side panel.

On August 3, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Mrs. Stover's Bungalow Candies, Inc., Denver, Colo., alleging shipment by said defendant within the period from on or about January 19, 1938, to on or about January 25, 1938, from the State of Colorado into the States of Nebraska, Wyoming, and Kansas, in violation of the Food and Drugs Act as amended, of quantities of candies that were misbranded. The article was labeled variously in part: "Mrs. Stover's Butter Creams & Fudges [or "Bungalow Chocolates" or "Assorted Chocolates Real Home Made"]."

The article was alleged to be misbranded in that the statements, "Net Weight 9 Ozs.," "Net Weight One Pound," or "Net Wt. 1 Lb.," borne on the boxes, were false and misleading since the net weight of the contents of the boxes was less than represented by an amount in excess of a reasonable variation or permissible tolerance. It was alleged to be misbranded further in that by reason of the

statements aforesaid the article was labeled and branded so as to deceive and mislead the purchaser; and in 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 in terms of weight since the statement was inconspicuously placed on the smallest of the dimensions of the package; and was printed on some of the packages in 3 on 6 point lining gothic, in others in 4 on 6 point, and in others in 5 on 6 point.

On November 18, 1938, a plea of nolo contendere was entered on behalf of the defendant, which plea was accepted by the court and a total fine of \$100 was imposed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29827. Adulteration and misbranding of butter. U. S. v. 16 Tubs of Butter (and 13 other seizure actions against the same product). Consent decrees of condemnation. Product released under bond conditioned that it should not be disposed of in violation of the law. (F. & D. Nos. 43788 to 43791, inclusive, 43819 to 43827, inclusive, 44149. Sample Nos. 21167-D to 21173-D, inclusive, 21176-D, 21177-D, 21178-D, 21183-D to 21189, inclusive.)

This product was deficient in milk fat and portions contained added mineral oil.

On August 10, August 18, and September 7, 1938, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 2,913 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce in the period from on or about July 2, 1938, to on or about August 18, 1938, by the Archer Produce Co. from Vinita, Okla.; and charging adulteration of all lots and misbranding of portions in violation of the Food and Drugs Act.

All lots were alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided for by the act of March 4, 1923. Adulteration was alleged further with respect to portions of the article in that mineral oil had been substituted in part for butterfat.

Certain lots were alleged to be misbranded in that they were labeled "Butter," which was false and misleading since the article contained less than 80 percent of milk fat.

On August 18 and September 22, 1938, the Peter Fox Sons Co., Chicago, Ill., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond in the total amount of \$60,800, conditioned that it be disposed of only in compliance with the law and under the supervision of this Department. The butter which was low in milk fat and not otherwise adulterated (500 tubs) was reworked to the legal standard; that which contained mineral oil (664 tubs) was denatured and rendered inedible; the remaining butter was found to be passable.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29828. Adulteration of grits, flour, and rolled oats. U. S. v. 18 Sacks, 45 Sacks, and 57 Sacks of Grits (and 4 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 43711 to 43715, inclusive, 43745, 44047. Sample Nos. 34612-D, 38068-D, 38069-D, 38070-D, 38366-D, 38367-D, 38368-D.)

These products, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, were found to be insect-infested.

On September 14 and 30, 1938, the United States attorneys for the Eastern District of Louisiana and the District of Maryland, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 120 sacks of hominy grits and 235 sacks of flour at Donaldsonville, La., and 13 sacks of rolled oats at Frederick, Md.; alleging that the products had been shipped within the period from on or about December 31, 1937, to on or about July 11, 1938, by the Quaker Oats Co., in part from St. Joseph, Mo., and in part from Akron, Ohio; and charging adulteration in violation of the Food and Drugs Act. The articles were labeled variously in part: "Aunt Jemima Hominy Grits"; "Buckeye Rolled Oats"; "Monogram Inc.