

**28880. Adulteration of butter. U. S. v. 57 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 42244. Sample Nos. 8116-D, 8118-D.)**

This product contained less than 80 percent of milk fat.

On April 14, 1938, 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 a libel praying seizure and condemnation of 57 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 31, 1938, from San Antonio, Tex., by Mission Provision Co., Inc., and charging adulteration in violation of the Food and Drugs Act.

The article was 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 contains not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On April 26, 1938, Mission Provision Co., Inc., San Antonio, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28881. Misbranding of canned peas. U. S. v. 10,080 Cans of Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41868. Sample No. 9639-D.)**

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On March 4, 1938, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10,080 cans of peas at New Cumberland, Pa., alleging that the article had been shipped in interstate commerce on or about January 10, 11, and 12, 1938, from Baltimore, Md., by the H. L. Piel Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Severn Brand \* \* \* Early June Peas \* \* \* The H. L. Piel Co. Distributors Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 11, 1938, the H. L. Piel Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28882. Adulteration of chocolate-coated eclairs. U. S. v. Dutch Baker Boy, Inc., and John W. Kauffman. Pleas of guilty. Fine, \$200 each; payment of which was suspended. (F. & D. No. 40781. Sample Nos. 57839-C, 57840-C, 57841-C.)**

This product contained hemolytic *Staphylococcus aureus* organisms capable of causing food poisoning, fecal *Bacillus coli*, and a large number of other bacteria.

On March 10, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Dutch Baker Boy, Inc., Washington, D. C., and John W. Kauffman, an agent of the corporation, alleging that on or about September 22, 1937, the defendants manufactured in the District of Columbia a quantity of chocolate eclairs; and that on or about September 23, 1937, they shipped from the District of Columbia into the State of Maryland a quantity of chocolate-coated eclairs; and charging that said product so manufactured and shipped was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous and deleterious ingredient which might have rendered it injurious to health, namely, *Staphylococcus aureus*; in that it consisted in part of filthy substances, namely, fecal *Bacillus coli* and numerous spore-bearing bacilli; and in that it consisted wholly of a filthy substance, namely, a mixture of various materials which was polluted throughout by fecal *B. coli* and numerous spore-bearing bacilli.