

26940. Adulteration of butter. U. S. v. Rose Arctic Ice Cream & Bottling Co. Plea of guilty. Fine, \$50. (F. & D. no. 38069. Sample no. 3027-C.)

This butter contained less than 80 percent of milk fat.

On December 10, 1936, 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 the Rose Arctic Ice Cream & Bottling Co., Grand Junction, Colo., alleging shipment by said company on or about June 5, 1936, from the State of Colorado into the State of California of a quantity of butter that was adulterated 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 should contain not less than 80 percent by weight of milk fat, as prescribed by the act of Congress of March 4, 1923, which it purported to be.

On January 19, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

26941. Adulteration and misbranding of butter. U. S. v. 32, 34, and 23 Cases of Butter. Default decree of condemnation and destruction. (F. & D. no. 38113. Sample nos. 2952-C, 2953-C, 2954-C.)

Samples of this product were found to be filthy or decomposed. A portion was found to contain less than 80 percent of milk fat, the standard for butter established by act of Congress.

On August 13, 1936, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 89 cases of butter at Butte, Mont., alleging that it had been shipped in interstate commerce between the dates of July 6 and July 11, 1936, by the Melrose Creamery from Rigby, Idaho; and charging adulteration of the product, and misbranding of a portion, in violation of the Food and Drugs Act. The article was labeled in part: "Melrose Creamery Butter * * * Manufactured and Packed by Melrose Creamery, Idaho Falls, Idaho, Rigby, Idaho."

It was alleged to be adulterated in that a substance, foreign matter, had been mixed and packed with it so as to reduce and lower its quality; and in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

A portion of the article was alleged to be misbranded in that the statement on the label, "Butter", was false and misleading and was applied to it so as to deceive and mislead the purchaser, since said statement represented that the article was butter, a product containing not less than 80 percent by weight of milk fat; whereas it was not butter since it contained less than 80 percent by weight of milk fat. Misbranding was alleged with respect to said portion for the further reason that it was offered for sale under the distinctive name of another article.

On February 18, 1937, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

26942. Misbranding of canned cherries. U. S. v. 40 Cases and 40 Cases of Cherries. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 38211. Sample no. 3275-C.)

The cases and certain of the jar labels of this product represented the quantity of the contents of the jars to be 4 ounces and 5 ounces, respectively. Examination showed that the jars contained less than the amount represented. On some of the jar labels the declaration of the quantity of the contents was absent and on some was inconspicuous.

On August 25, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 80 cases of canned cherries at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about August 16, 1936, by the Excelsior Packing Co., of New York, N. Y., from Los Angeles, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cases) "4 Doz. 4 Oz. [or "5 Oz.]" ; (jars) "Excelsior Cherries Contents 4 Oz. [or "Contents 5 Oz." or "Contents Oz.]" * * * Packed by Excelsior Pack-

ing Co. New York-Chicago." On some of the 5-ounce jars the quantity of contents statement was not on the main jar label but appeared on the neck band as follows: "Contents 5 Ounces."

The article was alleged to be misbranded in that the statements, (cases) "4 Oz." or "5 Oz.", and (jars) "Contents 4 Oz.", or "Contents 5 Oz.", were false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short in weight. Misbranding of the portion of the product labeled "Contents Oz." was alleged further in that the quantity of the contents was not plainly and conspicuously marked on the outside of the package. Misbranding of the 5-ounce jars that carried the weight statement on the neck band only was alleged in that the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement "Contents 5 Ounces" did not appear on the main panel.

On January 12, 1937, B. M. Reeves Co. Inc., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

26943. Adulteration of canned salmon. U. S. v. 60 Cases of Canned Salmon. Consent decree of condemnation. Product released under bond. (F. & D. no. 38271. Sample nos. 11078-C, 11089-C.)

This salmon was in part decomposed.

On September 16, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 60 cases of canned salmon at Seattle, Wash., alleging that it had been shipped in interstate commerce on or about August 10, 1936, by the Douglas Fisheries Co., from Douglas, Alaska, and charging adulteration in violation of the Food and Drugs Act.

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

On January 23, 1937, the Douglas Fisheries Co., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it should not be sold or otherwise disposed of contrary to the Federal Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

26944. Adulteration of canned salmon. U. S. v. 10,062, 67, 79, and 650 Cases of Canned Salmon. Decrees of condemnation. Product released under bond. (F. & D. nos. 38311, 38370, 38372. Sample nos. 3634-C to 3639-C, incl., 3641-C, 3642-C, 3464-C, 4429-C, 4432-C.)

These cases involved canned salmon that was in part decomposed.

On September 16, 28, and 29, 1936, the United States attorney for the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 10,858 cases of canned salmon at San Francisco, Calif., alleging that it had been shipped in interstate commerce on or about August 20, 1936, by the Alaska Salmon Co., in part from Nushagak, Alaska, and in part from Bristol Bay, Alaska, and charging adulteration in violation of the Food and Drugs Act.

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

On February 17, 1937, the Alaska Salmon Co., having appeared as claimant, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be brought into conformity with the Federal Food and Drugs Act.

W. R. GREGG, *Acting Secretary of Agriculture.*

26945. Misbranding of canned salmon. U. S. v. 800 Cases of Canned Salmon (and other libel proceedings). Consent decrees of condemnation. Product released under bond for relabeling. (F. & D. nos. 38344, 38345. Sample nos. 13444-C, 13445-C.)

This product was represented to be first quality, Select pink salmon. Examination showed that it consisted of pale pink salmon of inferior quality.