

3296. Adulteration and misbranding of compound fruit jam. U. S. v. 25 Packages of Compound Fruit Jam. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 4193. S. No. 1433.)

On June 21, 1912, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 25 packages of so-called compound fruit jam, remaining unsold in the original unbroken packages and in possession of Schiller & Koffman, Detroit, Mich., alleging that the product had been shipped on May 20, 1912, by the American Fruit Products Co., Rochester, N. Y., and transported from the State of New York into the State of Michigan, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Rosedale Brand Compound Fruit Jam—Strawberry. Packed expressly for Schiller & Koffman, Detroit. 60 per cent glucose, 25 per cent apple, $7\frac{1}{2}$ per cent fruit, $7\frac{1}{2}$ per cent cane sugar. Contents 30 lbs."

It was alleged in the libel that the product was liable to condemnation in that it was misbranded in violation of paragraphs 1, 2, and 4 of section 8 of the Food and Drugs Act. under the title "Foods," and was adulterated under the provisions of the first and second paragraphs of section 7, also under the title of "Foods," of said act, and was liable to condemnation and confiscable, for the reason that said packages of so-called compound fruit jam, and each of them, by said labels appearing thereon and the containers thereof, were labeled and branded so as to deceive and mislead the purchaser thereof; and were adulterated in that another substance, to wit, glucose, had been substituted in part for the article and was mixed and packed with it so as to reduce and lower and injuriously affect its quality and strength, an analysis of said product disclosing the fact that it consisted chiefly of glucose with only sufficient strawberry to impart a flavor, and the label of said product being so constructed that the reader would be led to believe that said product was a compound fruit jam of which strawberry was the leading ingredient, the qualifying phrase explaining that the product consisted of 60 per cent glucose, 25 per cent apple, $7\frac{1}{2}$ per cent fruit, and $7\frac{1}{2}$ per cent cane sugar, being printed on the label in the smallest type and in such inconspicuous fashion as to be not discernible without close scrutiny, which announcement did not cure the false impression that the article consisted chiefly of fruit and not of glucose, said misbranding, labeling, and adulteration aforesaid constituting a violation within the meaning of said act of June 30, 1906.

On October 6, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *June 8, 1914.*

3297. Adulteration and misbranding of vinegar. U. S. v. 20 Barrels of Cane Vinegar. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 4257. S. No. 1447.)

On July 5, 1912, the United States attorney for South Dakota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 20 barrels of cane vinegar, more or less, remaining unsold in the original unbroken packages and in possession of the Andrew Kuehn Co., Sioux Falls, S. D., alleging that the product had been shipped on or about January 4, 1912, by the Haarmann Vinegar & Pickle Co., Sioux City, Ia., and transported from the

State of Iowa into the State of South Dakota, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Dacotah Brand Pure Cane Vinegar—4½ acetic—Mfd. for Andrew Kuehn Co., Sioux Falls, S. D."

Adulteration of the product was alleged in the libel for the reason that it contained distilled vinegar which had been mixed and packed with and substituted for cane vinegar, thus reducing and lowering the quality and strength of the vinegar. Misbranding was alleged for the reason that the 20 barrels of cane vinegar did not contain "Pure Cane Vinegar," as they purported to contain, but each of them contained vinegar which was a mixture of cane and distilled vinegars.

On October 31, 1913, the said Haarmann Vinegar & Pickle Co., claimant, having filed its answer consenting to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be redelivered and surrendered to said claimant upon the payment of the costs of the proceedings and the execution of bond in the sum of \$300, in conformity with section 10 of the act.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., June 8, 1914.

3298. Adulteration of oysters. U. S. v. George H. Mott. Plea of nolo contendere. Sentence suspended. (F. & D. No. 4433. I. S. No. 20319-d.)

On October 29, 1912, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against George H. Mott, the name George being fictitious, the real Christian name being unknown, doing business at Inwood and Far Rockaway, New York, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about April 17, 1912, from the State of New York into the State of Pennsylvania, of a quantity of oysters which were adulterated.

Bacteriological examination of a sample of the product by the Bureau of Chemistry of this department showed the following results: 5 out of 5 oysters showed the presence of gas-producing organisms in bile fermentation tubes after 4 days' incubation at 37° C. in 1 cc quantities; 4 out of 5 in 0.1 cc quantities; 2 out of 5 in 0.01 cc quantities; 0 in 0.001 cc quantities; 10 *B. coli* group per cc isolated from 2 oysters; 100 *B. coli* group per cc isolated from 2 oysters; 1 streptococcus per cc isolated from 3 oysters; 10 streptococci per cc isolated from 2 oysters. Score, 140 points.

Adulteration of the product was alleged in the information for the reason that it consisted in part of filthy, decomposed, and putrid animal and vegetable substance.

On January 19, 1914, the defendant entered a plea of nolo contendere to the information, and the court suspended sentence.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., June 8, 1914.