

3364. Adulteration and misbranding of sirup of tamarinds. U. S. v. 5 Cases, More or Less, of Sirup of Tamarinds. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5451. I. S. No. 4895-h. S. No. 2024.)

On November 29, 1913, the United States attorney for the Southern District of Ohio, 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 5 cases, each containing 12 bottles of sirup of tamarinds, remaining unsold in the original unbroken packages at Steubenville, Ohio, alleging that the product had been transported from the State of New York into the State of Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The shipping cases were labeled: "Guaranteed by W. P. Bernagozzi under Food and Drugs Act June 30, 1906—Serial No. 4438—New York—12 Bottles Tamarindo Bernag Brand—12 Bottles 5's—Fragile—P. Monti—Steubenville, Ohio." The bottles were labeled: "Syrup of Tamarinds—A compound—Guaranteed under Food and Drugs Act June 30, 1906—Serial No. 4438—Trade Mark;" "A Compound—Artificially colored Made in New York—Guaranteed by W. P. Bernagozzi under the Pure Food and Drugs Act, June 30th, 1906,—Serial No. 4438—Liquid Contents twenty-six ounces."

It was alleged in the libel that the article of food was adulterated in the following particulars, to wit: First, that a certain substance, consisting of a sugar solution acidified with tartaric acid and artificially colored with burnt sugar or caramel, had been mixed and packed with said article of food so as to reduce and lower and injuriously affect its quality and strength. Second, that a certain substance, to wit, a sugar solution acidified with tartaric acid and artificially colored with burnt sugar or caramel, had been substituted for said article of food so purporting by its label to be sirup of tamarinds. Third, that said article of food was colored with burnt sugar or caramel in a manner whereby its inferiority was concealed. It was further alleged in the libel that the article of food was misbranded in the following particulars: First, that the label of said article of food bore a statement regarding the article and the ingredients and substances contained therein, which said statement, to wit, "Syrup of Tamarinds," was false, misleading, and deceptive in that it represented said article of food to be sirup of tamarinds, when, in truth and in fact, said article of food was not sirup of tamarinds, but an imitation thereof. Second, that said article of food was not sirup of tamarinds; that it was an imitation of sirup of tamarinds; and that it was offered for sale under the distinctive name of an article of food known and designated as sirup of tamarinds, when, in truth and in fact, it was another and different article. Third, that said article of food was labeled and branded as aforesaid so as to deceive and mislead the purchaser thereof in that by its said label it was purported and represented to be sirup of tamarinds, whereas, in truth and in fact, it was not sirup of tamarinds, and was wholly an imitation thereof.

On March 17, 1914, 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.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., September 24, 1914.

3365. Adulteration of tomato pulp. U. S. v. 200 Cases, More or Less, of Tomato Pulp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5452. I. S. No. 6064-h. S. No. 2026.)

On December 1, 1913, the United States attorney for the Southern District of Texas, 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 200 cases, more or less, of tomato pulp, remaining unsold in the

original unbroken packages at Galveston, Tex., alleging that the product had been shipped on November 11, 1913, and transported from the State of Maryland into the State of Texas, and charging adulteration in violation of the Food and Drugs Act. The cases were labeled: "4 Doz. No. 1—Miller Bros. and Co.—Jumbo Brand—Tomato Pulp—Baltimore, Md." The retail packages were labeled: "Jumbo Brand Tomato Pulp—Used for making soups, sauces, gravies, and for seasoning purposes—Tomato Pulp—Packed by Miller Bros. and Co., Baltimore, Md., U. S. A.—Jumbo Brand—Trade mark registered."

It was alleged in the libel that said article was adulterated by being decomposed and [or] putrid, and that so being decomposed and [or] putrid made the same deleterious and might render the same injurious to health, and that the decomposition and consequent adulteration of the tomato pulp aforesaid was in violation of the sixth paragraph of section 7, under "Food," of the Pure Food and Drugs Act of June 30, 1906.

On January 13, 1914, 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, and that the United States recover its costs from Miller Bros. & Co., consignors, Baltimore, Md.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

3366. Misbranding of blackberry cordial. U. S. v. The Ullman Co. Plea of nolo contendere. Fine, \$25 and costs. (F. & D. No. 5471. I. S. No. 6016-e.)

On March 24, 1914, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Ullman Co., a corporation, Cincinnati, Ohio, alleging shipment by said company in violation of the Food and Drugs Act, on or about October 17, 1912, from the State of Ohio into the State of Florida, of a quantity of blackberry cordial which was misbranded. The product was labeled: "Blackberry Cordial 32 oz. Alcoholic Strength 12-1/2%—Guaranteed by The Ullman Co., under the National and Florida Pure Food Laws. The Ullman Co., Cincinnati, O."

Examination of samples of the product by the Bureau of Chemistry of this department showed the following results:

	Net volume.	Shortage.
	<i>Ounces.</i>	<i>Per cent.</i>
1.....	28.06	12.30
2.....	29.43	8.07
3.....	30.77	3.84
Average.....	29.42	8.06

Misbranding of the product was alleged in the information for the reason that the statement, "32 oz.," borne on the label of the bottles containing the article, was false and misleading because it conveyed the impression that the bottles contained 32 liquid ounces of said article, whereas in truth and in fact said bottles did not contain 32 liquid ounces of said article, but contained a less amount. Misbranding was alleged for the further reason that the article was labeled and branded so as to deceive and mislead the purchaser, being labeled and branded on the bottles containing said article, "32 oz.," thereby purporting