

On May 23, 1923, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**11591. Adulteration and misbranding of vinegar. U. S. v. 80 Barrels of Vinegar. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17036. I. S. No. 11036-v. S. No. C-2945.)**

On December 15, 1922, 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 praying the seizure and condemnation of 80 barrels of vinegar at Springfield, Ohio, consigned by the Powell Corp., Canandaigua, N. Y., on or about October 3, 1922, alleging that the article had been shipped from Canandaigua, N. Y., and 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 article was labeled in part: (Barrel) "Pure Cider Vinegar Made From Apples Reduced To 4% Net Contents 52 Gals. Man'fd By The Powell Corp. Canandaigua, N. Y."

Adulteration of the article was alleged in the libel for the reason that distilled vinegar and evaporated apple products vinegar had been mixed and packed with and substituted wholly or in part for pure cider vinegar made from apples, which the said article purported to be.

Misbranding of the article was alleged for the reason that it was an imitation of and offered for sale under the distinctive name of another article.

On May 11, 1923, the Powell Corp., Canandaigua, N. Y., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be relabeled in a manner satisfactory to this department.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**11592. Adulteration and misbranding of chocolate. U. S. v. 216 Pounds, et al., of Chocolate. Consent decree of condemnation and forfeiture. Product delivered to charitable institution. (F. & D. No. 17044. I. S. Nos. 1020-v, 1021-v, 1022-v. S. No. E-4245.)**

On December 19, 1922, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 320 pounds of chocolate, consigned November 9, 1922, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped by William H. Baker, Inc., from New York, N. Y., and transported from the State of New York into the State of Maryland, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Justice Brand Premium No. 1 Chocolate Net Weight 1/5 Lb." (or "1/2 Lb." or "1/4 Lb.") "\* \* \* William H. Baker \* \* \* Incorporated \* \* \* N. Y. City."

Adulteration of the article was alleged in the libel for the reason that a substance containing excessive shells had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been substituted in whole or in part for the said article.

Misbranding was alleged for the reason that the statement on the label of the packages containing the article, "Premium No. 1 Chocolate," was false and misleading and deceived and misled the purchaser.

On March 14, 1923, William H. Baker, Inc., New York, N. Y., claimant, having denied the allegations of the libel but having assented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be delivered to a charitable institution.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**11593. Adulteration and misbranding of cream of chocolate. U. S. v. Cream of Chocolate Co., a Corporation. Plea of nolo contendere. Fine, \$10. (F. & D. No. 17063. I. S. Nos. 5055-t, 5605-t.)**

On March 22, 1923, the United States attorney for the District of Massachusetts, 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 Cream of Chocolate Co., a Corporation, Malden, Mass., alleging shipment by said company, in violation of the Food and Drugs Act, in two consignments, namely, on or about March 4 and 25, 1921, respectively, from the State of Massachusetts into the States of Maine and Rhode Island, respectively, of quantities of cream of chocolate which was adulterated and misbranded. The article was labeled in part: "Cream of Chocolate Pure \* \* \* Cream of Chocolate Co. Danvers, Mass."

Analyses of samples of the article by the Bureau of Chemistry of this department showed that it was a mixture of milk powder, sugar, and cocoa.

Adulteration of the article was alleged in the information for the reason that a mixture made in part from milk powder had been substituted for a product made in part from cream, which the article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Cream of Chocolate Pure \* \* \* Needs No Cream \* \* \* Made of Cocoa, Cream and Sugar Cream of Chocolate Co. \* \* \* This preparation is made in strict compliance with all pure food laws \* \* \* Guaranteed Pure," borne on the labels attached to the cans containing the article, regarding the said article and the ingredients and substances contained therein, were false and misleading in that the said statements represented that the said article was pure cream of chocolate made in part from cream, that it conformed with, to wit, the Food and Drugs Act of June 30, 1906, and that it was an article produced by a company engaged solely in the manufacture of an article made in part from cream, to wit, cream of chocolate, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was pure cream of chocolate made in part from cream, that it conformed with, to wit, the Food and Drugs Act, and that it was an article produced by a company engaged solely in the manufacture of an article made in part from cream, to wit, cream of chocolate, whereas, in truth and in fact, it was not pure cream of chocolate made in part from cream but was a product made in part from powdered milk, which contained no cream, it did not conform with, to wit, the Food and Drugs Act, and it was not produced by a company engaged solely in the manufacture of an article made in part from cream, to wit, cream of chocolate.

On April 6, 1923, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$10.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**11594. Adulteration and misbranding of canned clams. U. S. v. Henry S. Kane. Plea of nolo contendere. Fine, \$50. (F. & D. No. 17064. I. S. No. 6782-t.)**

On June 5, 1923, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Henry S. Kane, trading at Brooklin, Me., alleging shipment by said defendant, on or about April 23, 1922, in violation of the Food and Drugs Act, as amended, from the State of Maine into the State of New Hampshire, of a quantity of canned clams which were adulterated and misbranded. The article was labeled in part: "Pleasant River Brand \* \* \* Maine Clams Packed By H. S. Kane Brooklin and Addison, Maine. Contains 5 Ozs. Of Clams."

Examination of a sample of the article by the Bureau of Chemistry of this department showed that the product contained excessive brine and that the cans contained less of the said article than declared on the labels.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, excessive brine, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength and had been substituted in part for clams which the article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "Clams \* \* \* Contains 5 Ozs. Of Clams," borne on the labels attached to the cans containing the article, regarding the said article, was false and misleading in that the said statement represented that the article consisted wholly of clams and that each of the said cans contained 5 ounces of the article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of clams and that each of the said cans contained 5 ounces of the article, whereas, in truth and in fact, it did not consist wholly of clams but did consist in part of excessive brine, and each of said cans did not contain 5 ounces of the article but