

11726. Adulteration and misbranding of evaporated apples. U. S. v. 50 Cases of Evaporated Apples. Decree of condemnation entered. Product released under bond. (F. & D. No. 17455. I. S. No. 1836-v. S. No. E-4355.)

On April 12, 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 a libel praying the seizure and condemnation of 50 cases of evaporated apples, remaining in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by E. B. Holton, Webster, N. Y., on or about February 9, 1923, and transported from the State of New York into the State of Massachusetts, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Net Weight 15 Ounces Holton Brand Fancy Evaporated Apples * * * Packed By E. B. Holton * * * Webster, N. Y."

Adulteration of the article was alleged in the libel for the reason that a substance, to wit, incompletely evaporated apples, had been substituted in whole or in part for evaporated apples, which the article purported to be.

Misbranding was alleged for the reason that the packages containing the article were labeled, "Net Weight 15 Ounces * * * Fancy Evaporated Apples," which statements were false and misleading and deceived and misled the purchaser, in that they represented that the said packages contained 15 ounces each of the article, and that the article was fancy evaporated apples, whereas, in truth and in fact, the said packages contained less than 15 ounces each, and the said article was not fancy evaporated apples but was a product consisting of incompletely evaporated apples. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, to wit, evaporated apples, and for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count, since the quantity stated thereon was not correct.

On May 9, 1923, E. B. Holton, Webster, N. Y., having entered an appearance as claimant for the property and having filed a satisfactory bond in conformity with section 10 of the act, judgment of condemnation was entered, and it was ordered by the court that the product might be released to said claimant upon payment of the costs of the proceedings.

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

11727. Adulteration and misbranding of canned clams. U. S. v. 27 Cases of Canned Clams. Decree of condemnation entered. Product released under bond. (F. & D. No. 17562. I. S. No. 1767-v. S. No. E-4411.)

On June 21, 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 a libel of information against 27 cases of canned clams, remaining in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by Hinkley, Stevens & Co., from Jonesport, Me., on or about April 21, 1923, and transported from the State of Maine into the State of Massachusetts, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Cruso Brand * * * Maine Clams Contents 5 Oz."

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

Misbranding was alleged for the reason that the article was labeled, "Clams Contents 5 Oz.," together with a design showing clams in shell, which statements and design were false and misleading and deceived and misled the purchaser, in that they represented that the said article was clams and that each can contained 5 ounces thereof, whereas, in truth and in fact, the said article was not clams but was a product containing excessive brine, and each of said cans did not contain 5 ounces of the said article but contained a less quantity. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.