

14663. Misbranding of candy. U. S. v. Brown & Haley. Plea of guilty. Fine, \$90 and costs. (F. & D. No. 19767. I. S. Nos. 659-x to 667-x, incl.)

On June 19, 1926, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Brown & Haley, a corporation, Tacoma, Wash., alleging shipment by said company, in violation of the food and drugs act as amended, in various consignments, on or about November 3, 19, and 25, and December 15 and 19, 1925, respectively, from the State of Washington into the State of California, of quantities of candy which was misbranded. The article was labeled, variously: "Oriole Chocolate Peppermint Creams 8 Ounces Net Brown & Haley;" "Oriole * * * Betty Lou Chocolates Brown & Haley Tacoma, Wash. One Pound Net;" "Oriole Medley of Sweets Brown & Haley Tacoma 16 Ozs. Net;" "Oriole Opera Creams 10 Ounces Net Oriole Brown & Haley;" "B and H Criterion Chocolates Brown & Haley Tacoma One Pound Net;" "Oriole Belmont Chocolates * * * Brown & Haley * * * One Pound Net;" "B H Brown & Haley Assorted Chocolates One Pound Choice Pack;" "Oriole Fruit And Nut Creams Caramels And Others Mary Ann Chocolates One Pound Net Brown & Haley;" "Oriole Variety Chocolates * * * Brown & Haley * * * One Pound Net."

Misbranding of the article was alleged in the information for the reason that the statements regarding the quantity of the contents of the packages containing the said article, namely, "8 Ounces Net," "One Pound Net," "16 Ozs. Net," "10 Ounces Net," "One Pound," as the case might be, borne on the labels, were false and misleading, in that the said statements represented that the packages contained the amount of the product declared thereon, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the packages contained the amount declared thereon, whereas each of said packages did not contain the amount represented by the label but did contain a less amount. 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.

On September 25, 1926, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$90 and costs.

W. M. JARDINE, *Secretary of Agriculture.*

14664. Alleged adulteration of canned salmon. U. S. v. Gorman & Co. Tried to the court and a jury. Verdict of not guilty. (F. & D. No. 19583. I. S. Nos. 20231-v, 20292-v.)

On March 14, 1925, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Gorman & Co., a corporation, Seattle, Wash., alleging shipment by said company, in violation of the food and drugs act, in two consignments, on or about August 15 and September 2, 1924, respectively, from the Territory of Alaska into the State of Washington, of quantities of canned salmon which was alleged to have been adulterated.

Examination by the Bureau of Chemistry of this department of 72 cans from the shipment of August 15 and 96 cans from the shipment of September 2 showed that 37 cans and 15 cans, respectively, contained stale, putrid and tainted fish.

It was alleged in the information that the article was adulterated, in that it consisted in part of a filthy and decomposed and putrid animal substance.

On September 29, 1925, the case came on for trial before the court and a jury. After the submission of evidence and arguments by counsel the court delivered the following instructions to the jury (Neterer, D. J.):

"Members of the jury, the information in this case charges that the defendants did ship in interstate commerce articles of food containing filthy, decomposed and putrid animal substance on the 2nd day of September, 1924, and also on the 15th day of August, 1924. On the 15th day of August, 1924, a number of cases were sent, and a number of cans out of these cases contained, it is charged, filthy, decomposed and putrid animal substance. The other shipment was on September 2, 1924, and was made subsequently. The words used in the information simply mean what is ordinarily implied—putrid, tainted, decomposed, or decayed—the process of putrefaction—decay of albuminous or other matter.