

20967. Adulteration and misbranding of prepared mustard. U. S. v. 8 Cases and 1 Case of Prepared Mustard. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29783. Sample no. 34352-A.)

This action involved quantities of prepared mustard, a part in 1-pound and a part in 5½-ounce jars. Examination showed that the article contained mustard bran and that the 1-pound jars were short weight.

On January 30, 1933, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States a libel praying seizure and condemnation of nine cases of prepared mustard at Providence, R.I., alleging that the article had been shipped in interstate commerce on or about December 17, 1932, by the Mid-West Food Packers, Inc., from Fowlerton, Ind., to Providence, R.I., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Blue Mountain Prepared Mustard Contents 1 lb. [or "5½ oz."]."

It was alleged in the libel that the article was adulterated in that mustard bran had been substituted in part for the said article.

Misbranding was alleged for the reason that the statement, "Prepared Mustard", was false and misleading and deceived and misled the purchaser, and for the further reason that the article was offered for sale under the distinctive name of another article. Misbranding of a portion was alleged for the further reason that the statement, "Contents 1 Lb.", was false and misleading and deceived and misled the purchaser, and in 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 statement made was incorrect.

On February 21, 1933, 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.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20968. Misbranding of orange juice. U. S. v. 9 Cases, 5 Cases, and 21 Cases of Orange Juice. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 29646. Sample nos. 30081-A, 30082-A.)

This action involved an interstate shipment of two lots of orange juice, samples of which were found to contain less than the amount declared. One of the lots fell below the standard for fill of container established by this Department and were not labeled to indicate that they were slack-filled.

On December 16, 1932, 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 a libel praying seizure and condemnation of 35 cases of orange juice at Detroit, Mich., alleging that the article had been shipped in interstate commerce, on or about October 24, 1932, by the Hanson & Choate Products Co., from Los Angeles, Calif., to Detroit, Mich., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Hanson's * * * Orange Juice, Net Contents 1 Pt. 4 Fl. Oz. [or "Net Contents ½ Gallon"]."

It was alleged in the libel that the article was misbranded in that the following statements appearing on the labels were false and misleading and deceived and misled the purchaser: "Net Contents 1 Pt. 4 Fl. Oz."; "Net Contents ½ Gallon." Misbranding was alleged for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statements made were incorrect. Misbranding of the product in the 1-pint-4-ounce cans was alleged for the further reason that it fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, because of excessive headspace of the cans, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such a standard.

On January 19, 1933, Harry Bartley Raymond, Los Angeles, Calif., claimant, having admitted the allegations of the libel and having 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 claimant upon payment of costs and the execution of a bond in the sum of \$1,000, conditioned that it be relabeled so that it comply fully with the Federal Food and Drugs act as amended.

R. G. TUGWELL, *Acting Secretary of Agriculture.*