

21157. Adulteration and misbranding of preserves and jelly. U. S. v. 10 Cases of Assorted Preserves, et al. Decrees of condemnation and destruction. (F. & D. nos. 30123, 30351, 30471. Sample nos. 38087-A to 38092-A, incl., 38094-A, 38095-A, 38179-A to 38182-A, incl., 38188-A to 38194-A, incl.)

These cases involved shipments of various preserves and one lot of cranberry jelly. With the exception of the blackberry and pineapple and portions of the cherry and raspberry, the preserves contained insufficient fruit to be designated as preserves. Some of the products that were deficient in fruit contained added pectin and water. Shortages in weight were found in the cranberry jelly, the blackberry and pineapple preserves, and many of the other products. One lot of strawberry preserves was packed in jars containing slightly over 30 ounces and was labeled, "Net Weight 12 Ozs."

On April 22, April 25, and May 15, 1933, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 34½ cases of various preserves and 14 cases of cranberry jelly, at Atlantic City, N. J., alleging that the article had been shipped in interstate commerce, between November 1, 1932 and April 15, 1933, by P. Herold & Sons, Inc., from Philadelphia, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: (Jar) "Kulp's Pure Jelly Cranberry Contents 18 Ounces"; "Kulp's Pure Preserves * * * Blackberry [or Strawberry], "Red Raspberry", "Cherry", "Peach", or "Pineapple"] Net Weight 16 Ozs. [or "Net Weight 32 Ozs."] Kulp Preserving Co., Philadelphia, Pa."

It was alleged in the libels that portions of the cherry, strawberry, and peach preserves were adulterated in that excess sugar had been mixed and packed with the articles so as to lower and injuriously affect their quality and strength. Adulteration of the strawberry, peach, and portions of the raspberry and cherry, was alleged for the reason that mixtures of fruit and sugar, with added pectin and water in certain of the lots, and containing less fruit than contained in preserves, had been substituted for the articles, and for the further reason that the said articles had been mixed in a manner whereby inferiority was concealed.

Misbranding of the strawberry and peach, and portions of the cherry and raspberry was alleged for the reason that the statements on the labels, "Pure Strawberry" [or "Red Raspberry", "Cherry", or "Peach"] Preserves", were false and misleading and deceived and misled the purchaser, and for the further reason that the articles were offered for sale under the distinctive names of other articles. Misbranding of the cranberry jelly, the blackberry, pineapple, and peach preserves, and portions of the cherry, raspberry, and strawberry preserves was alleged for the further reason that the statements on the labels, "Contents 18 Ounces", "Net Weight 16 Ozs.", or "Net Weight 32 Ozs.", were false and misleading and deceived and misled the purchaser, since the jars contained less than declared; and for the further reason that the articles were in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the statements made were incorrect. Misbranding of the portion of the strawberry preserves in jars containing approximately 30 ounces and labeled, "Net Weight 12 ozs.", was alleged for the 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 statements made were not correct.

On June 15, 1933, default was entered in the case instituted against 14 cases of cranberry jelly and 5 cases of preserves and the court ordered the products condemned and destroyed. On June 24, 1933, P. Herold & Sons, Philadelphia, Pa., having withdrawn claims which had been entered in the two other cases, and having consented to the entry of decrees, judgments were entered condemning the remaining products and ordering that they be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

21158. Misbranding of orange juice. U. S. v. 28 Cases of Orange Juice. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. nos. 30356, 30357. Sample nos. 42004-A, 42005-A.)

This case involved shipments of orange juice, sample cans of which were found to contain less than the declared volume.

On April 29, 1933, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cases of orange juice at Denver,

Colo., a portion of which had been consigned by A. H. Baker, Anaheim, Calif., and the remainder of which had been consigned by the Dyson Shipping Co., San Francisco, Calif. It was alleged in the libel that the article had been shipped in interstate commerce; that the shipment from Anaheim had been made on or about December 3, 1932, that the shipment from San Francisco had been made on or about December 29, 1932, and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Hanson's Valencia Orange Juice Net Contents 1 Gallon [or "Net Contents 6½ Pints", "Net Contents 100 Oz.", or "Net Contents ½ Gallon"]."

It was alleged in the libel that the article was misbranded in that the statements on the labels, "1 Gallon", "6½ Pints", "100 oz.", or "½ Gallon", were false and misleading and deceived and misled the purchaser. 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.

On June 5, 1933, the J. B. Morris Brokerage Co., having appeared as claimant for the property and having admitted the allegations of the libel, 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 \$300, conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

21159. Misbranding of onions. U. S. v. 510 Sacks of Onions. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 30433. Sample no. 35606-A.)

This case involved a shipment of onions, sample sacks of which were found to contain less than 50 pounds, the declared weight.

On May 8, 1933, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 510 sacks of onions at Washington, D. C., alleging that the article had been shipped on or about May 1, 1933, by the C. E. Coleman Produce Co., from Corpus Christi, Tex., into the District of Columbia, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Netpac Bag 50 Lbs. Net Texas Bermuda Onions."

It was alleged in the libel that the article was misbranded in that the statement on the label, "50 Lbs. Net", was false and misleading and deceived and misled the purchaser. 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 quantity stated was not correct.

On May 10, 1933, the C. E. Coleman Produce Co., Inc., 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 the payment of costs and the execution of a bond in the sum of \$500, conditioned that it should not be disposed of contrary to the Federal Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

21160. Misbranding of potatoes. U. S. v. 1 Carload of Potatoes. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 30415. Sample no. 33695-A.)

This case involved a shipment of potatoes, sample sacks of which were found to contain less than 50 pounds, the weight declared on the label.

On or about May 6, 1933, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one carload of potatoes at Chicago, Ill., alleging that the article had been shipped in interstate commerce on April 26, 1933, by C. B. Mitchell, from Rio Hondo, Tex., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "50 Lbs. Net Weight When Packed Texas Labonita Blue Goose Brand New Triumph Potatoes. Packed and Shipped by American Fruit Growers, Inc."

It was alleged in the libel that the article was misbranded in that the statement on the label, "50 Lbs. Net Weight When Packed", was false and