

Paragraph Fourth, in the case of food, wild blackberry, black currant, gooseberry, and black raspberry, in that sugar has been mixed with the article in a manner whereby inferiority is concealed; red raspberry, youngberry, loganberry, and strawberry, in that sugar, pectin, and water have been mixed with the article in a manner whereby inferiority is concealed; peach, in that sugar, acid, and water have been mixed with the article in a manner whereby inferiority is concealed; grape, in that sugar, acid, pectin, and water have been mixed with the article in a manner whereby inferiority is concealed.

10. That the jars of said assorted jams, described as aforesaid, are in the possession of Conant Bros., Inc., Reno, Washoe County, Nevada, and within the jurisdiction of this Court.

11. In Case No. 2704, and with reference to count one thereof, the court finds that the contents of each of said two hundred and forty seven jars, more or less, of assorted jellies, made by J. D. Armstrong, Los Angeles, California, including among others, grape, blackberry, plum, and red raspberry, labeled as hereinabove alleged, is misbranded in violation of the Food and Drugs Act, Section 8, as follows:

General Paragraph, Paragraph Second, and Paragraph Fourth, in the case of food, in that the statements "Pure Grape [or "Blackberry" or "Plum" or "Red Raspberry"] Jelly" are false and misleading and tend to deceive and mislead the purchaser as applied to a product resembling a jelly, but which is not jelly;

Paragraph First, in the case of food, in that they are imitations of and offered for sale under the distinctive names of other articles, namely, jelly.

12. In Case No. 2704, and with reference to the second count thereof, the court finds that the contents of each of said two hundred and forty-seven jars, more or less, of said assorted jellies, in count one of said libel hereinabove described, are adulterated in violation of the Food and Drugs Act, Section 7, as follows:

Paragraph First, in the case of food, red raspberry, grape, and blackberry, in that sugar, acid, water, and pectin have been mixed and packed with the article so as to reduce or lower its quality; plum, in that sugar, water, and pectin have been mixed and packed with the article so as to reduce or lower its quality;

Paragraph Second, in the case of food, red raspberry, grape, and blackberry, in that a mixture of fruits, sugar, acid, water, and pectin, containing less fruit and more sugar than jelly, has been substituted for jelly, which the article purports to be; plum, in that a mixture of fruit, sugar, water, and pectin containing less fruit and more sugar than jelly has been substituted for jelly, which the article purports to be;

Paragraph Fourth, in the case of food, red raspberry, grape, and blackberry, in that sugar, acid, water, and pectin have been mixed with the article in a manner whereby inferiority is concealed; plum, in that sugar, water, and pectin have been mixed with the article in a manner whereby inferiority is concealed.

13. That the jars of said assorted jellies, described as aforesaid, are in the possession of Conant Bros., Inc., Reno, Washoe County, Nevada, and within the jurisdiction of this Court.

14. That it does not appear that either said jams or said jellies herein libeled, are dangerous or deleterious to health, or that the same are decomposed or filthy, or otherwise unsuitable for consumption.

CONCLUSIONS OF LAW

The Court concludes as matters of law,

1. That said jams and jellies should be condemned, declared forfeited to the United States, and destroyed, or otherwise disposed of as the decree herein directs.

On April 23, 1937, judgment was entered condemning the products and ordering that they be delivered to a public or charitable institution or agency.

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

27410. Adulteration and misbranding of grapefruit juice. U. S. v. 880 Cases of Grapefruit Juice. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 38291. Sample no. 16773-C.)

This case involved grapefruit juice that contained added water.

On September 14, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 880 cases of grape-

fruit juice at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 21, 1936, by Eckerson Fruit Cannery, Inc., from Sanford, Fla., and charging adulteration and misbranding in violation of the Food and Drugs Act. It was labeled in part: (Cans) "Superb Royal Scarlet Grapefruit Juice sugar added * * * R. C. Williams & Co., Inc. Distributors New York."

The article was alleged to be adulterated in that water had been mixed and packed with it so as to reduce or lower its quality or strength; and in that water had been substituted wholly or in part for grapefruit juice, which the article purported to be.

It was alleged to be misbranded in that the statement "Grapefruit Juice sugar added" was false and misleading and tended to deceive the purchaser when applied to an article containing added water.

On May 28, 1937, R. C. Williams & Co. Inc., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond to be relabeled under the supervision of this Department.

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

27411. Adulteration of pears. U. S. v. 368 Bushels of Pears. Default decree of condemnation and destruction. (F. & D. no. 38434. Sample no. 19486-C.)

This product was contaminated with arsenic and lead.

On October 6, 1936, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 368 bushels of pears at Minneapolis, Minn., alleging that they had been shipped in interstate commerce on or about September 27, 1936, by A. R. Knight from Benton Harbor, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or other deleterious ingredients, namely, lead and arsenic.

On October 24, 1936, the product having become decomposed and the consignee having consented to its destruction, judgment was entered ordering that it be destroyed.

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

27412. Misbranding of malted milk. U. S. v. 117, 221, and 57 Cartons of Malted Milk. Consolidated consent decree of condemnation. Product released under bond to be relabeled. (F. & D. nos. 38477, 38564, 38782. Sample nos. 25203-C, 25671-C, 26116-C.)

This product was represented to be chocolate-flavored malted milk. Samples, however, were found to contain but small amounts of, if any, malted milk.

On November 5, November 23, and December 15, 1936, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 395 cases of malted milk at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 24 and October 6, 9, 10, 13, and 14, 1936, by General Desserts Corporation from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Lovely Sweet Malted Milk Chocolate Flavor * * * This product is a pure food that meets all pure food law requirements. * * * General Desserts Corp. N. Y. C."

The article was alleged to be misbranded in that the statement appearing on the label, "meets all pure food law requirements", was misleading since it created the impression that the article had been examined and approved by the Government of the United States, that the Government guaranteed that it complied with the law, and that it did so comply; whereas it had not been approved by the Government, the Government did not guarantee that it complied with the law, and it did not so comply. It was alleged to be misbranded further in that the statements on the label, "Malted Milk * * * malted milk", were false and misleading and tended to deceive and mislead the purchaser, since they represented that the article was malted milk; whereas it was not malted milk.

On May 21, 1937, the General Desserts Corporation, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, a consolidated judgment was entered condemning the product and ordering that it be released under bond conditioned that it be relabeled under the supervision of this Department.

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