

11865. Adulteration and misbranding of canned oysters. U. S. v. 48 Cases of Canned Oysters. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 16908. I. S. No. 7608-v. S. No. W-1228.)

On November 13, 1922, the United States attorney for the District of Colorado, 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 48 cases of canned oysters, remaining unsold in the original unbroken packages at Denver, Colo., consigned by the Dunbar-Dukate Co., from Gulfport, Miss., alleging that the article had been shipped from Gulfport, Miss., on or about May 16, 1922, and transported from the State of Mississippi into the State of Colorado, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Can) "Louisiana Cove Net Contents 10 Ounces Oyster Meat * * * Oysters Dunbar-Dukate Co. * * * New Orleans, La. Biloxi, Miss."

Adulteration of the article was alleged in the libel for the reason that water or brine had been substituted in part for the said article.

Misbranding of the article was alleged for the reason that the statement, "Net Contents 10 Ounces," appearing on the cans containing the said article, was false and deceived and misled the purchaser, in that the net contents of each of the said cans was less than 10 ounces. 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 April 30, 1923, the Nave-McCord Mercantile Co., Denver, Colo., claimant, having admitted the allegations of the libel and 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 said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$300, in conformity with section 10 of the act.

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

11866. Adulteration and misbranding of assorted jellies. U. S. v. 42 Cases and 36 Cases of Assorted Jellies. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17334. I. S. Nos. 8168-v, 8169-v, 8170-v, 8171-v. S. No. W-1340.)

On March 16, 1923, the United States attorney for the District of Colorado, 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 42 cases of 8-ounce jars and 36 cases of 15-ounce jars of assorted jellies, consigned by the Red Wing Co., Fredonia, N. Y., remaining unsold in the original unbroken packages at Denver, Colo., alleging that the articles had been shipped from Fredonia, N. Y., on or about December 1, 1922, and transported from the State of New York into the State of Colorado, and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Willow Brook * * * Pure Fruit Jelly Apple Currant" (or "Apple Strawberry," "Apple Raspberry," or "Apple Grape") "Made From Pure Fruit Juices And Granulated Cane Sugar Manufactured And Guaranteed By The Red Wing Co."

Adulteration of the articles was alleged in the libel for the reason that substances composed of pectin had been mixed and packed with the said articles so as to reduce and lower and injuriously affect their quality and strength, and for the further reason that substances composed of artificially colored pectin jellies had been substituted for fruit jellies, which the products purported to be.

Misbranding was alleged in substance for the reason that the statements, "Pure Fruit Jelly Apple Currant," or "Apple Strawberry," "Apple Raspberry," or "Apple Grape," as the case might be, and "Made From Pure Fruit Juices," appearing on the labels of the respective products, were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the articles were imitations of and were offered for sale under the distinctive names of other articles.

On May 18, 1923, the Red Wing Co., Inc., Fredonia, N. Y., claimant, having admitted the material allegations of the libel and consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$300, in conformity with section 10 of the act.

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