

**12498. Misbranding of Foley kidney pills. U. S. v. 1 Dozen Large-Size Bottles, et al., of Foley Kidney Pills. Default decrees of condemnation, forfeiture, and destruction.** (F. & D. Nos. 18058, 18059. I. S. Nos. 17577-v, 17580-v. S. Nos. C-4169, C-4170.)

On November 16, 1923, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 2 dozen large-size bottles and 10 dozen small-size bottles of Foley kidney pills remaining in the original unbroken packages at Milwaukee, Wis., alleging that the article had been shipped by Foley & Co. from Chicago, Ill., in part on or about September 10 and in part on or about October 26, 1923, and transported from the State of Illinois into the State of Wisconsin, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Bottle label, carton, and circular) "Kidney Pills for Irritation," (circular, "Irritations") "of Kidneys and Bladder, for Backache and Rheumatism due to Kidney Disorders," (circular) "kidneys \* \* \* weakened by disease \* \* \* inflamed and congested \* \* \* In addition to taking Foley Kidney Pills, we offer a few simple, but practical suggestions, for the benefit of those having kidney and bladder troubles. 1st—Water should be drunk freely \* \* \* 2nd—The Bowels must be kept active \* \* \* 3rd—The diet is of great importance \* \* \* Satisfaction Guaranteed."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that the pills contained potassium nitrate, methylene blue, hexamethylenetetramine, and plant material, including resin and juniper oil.

Misbranding of the article was alleged in the libels for the reason that the above-quoted statements appearing in the labeling were false and fraudulent, since the said article contained no ingredient or combination of ingredients capable of producing the effects claimed.

On May 1, 1924, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Secretary of Agriculture.*

**12499. Adulteration of canned raspberries. U. S. v. 485 Cases and 140 Cases of Raspberries. Consent decree of condemnation and forfeiture. Product released under bond.** (F. & D. Nos. 16784, 16820. I. S. Nos. 3771-v, 4076-v. S. Nos. C-3787, C-3805.)

On August 29 and September 18, 1922, respectively, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 625 cases of canned raspberries remaining in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped by the Friday Bros. Canning Co. from Coloma, Mich., in part July 25, and in part July 31, 1922, and transported from the State of Michigan into the State of Illinois, and charging adulteration in violation of the food and drugs act. A portion of the article was labeled in part: (Can) "Coloma Brand \* \* \* Michigan Black Raspberries \* \* \* Friday Bros. Canning Co. Coloma, Michigan." The remainder of the said article was labeled in part: (Can) "Friday Brand \* \* \* Michigan Black Raspberries Packed by Friday Bros. Canning Co. Coloma—Michigan."

Adulteration of the article was alleged in the libels for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance.

On July 14, 1924, the cases having been consolidated into one action, and the Friday Bros. Canning Co., Coloma, Mich., claimant, having admitted the allegations of the libels 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 \$1,000, in conformity with section 10 of the act, conditioned in part that the good portion be separated from the bad portion, the former released, and the latter destroyed.

HOWARD M. GORE, *Secretary of Agriculture.*

**12500. Adulteration and misbranding of Fam-Ly-Ade. U. S. v. 300 Cartons of Fam-Ly-Ade. Default decree ordering destruction of product.** (F. & D. No. 10762. I. S. No. 2187-r. S. No. W-439.)

On July 18, 1919, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the

District Court of the United States for said district a libel and on April 16, 1923, an amendment to the said libel, praying the seizure and condemnation of 300 cartons, each containing 12 individual cartons of Fam-Ly-Ade, remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped by the Fruit Valley Corp. from Rochester, N. Y., on or about May 22, 1919, and transported from the State of New York into the State of California, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Large carton) "One tube of Fam-Ly-Ade makes one quart of orange syrup," (individual carton) "Fam-Ly-Ade;" (leaflet in individual carton) "Not a single drop is wasted of all this luscious orange-ade \* \* \* all day long you mix this delicious orange drink \* \* \* Fruit Valley Corporation \* \* \* Fam-Ly-Ade." Both the large carton and the individual carton contained pictures of oranges. The large cartons were contained in certain shipping cases, each of which cases contained certain pennant-shaped posters bearing a design of oranges.

It was alleged in substance in the libel as amended that the article, which consisted of two separate compounds, was adulterated in that one of the said compounds was a product mixed with a 50 per cent solution of tartaric acid and artificially colored, and the other compound was a mixture of orange [oil] and vegetable gum and artificially colored in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statement, design, and device, "Fam-Ly-Ade," together with pictures of oranges appearing on the individual cartons and the statement, "One tube of Fam-Ly-Ade makes one quart of orange syrup," together with pictures of oranges, appearing on the large cartons, were false and misleading and deceived and misled the purchaser into the belief that the article was made from orange juice.

On July 24, 1924, a claim for the property theretofore entered having been withdrawn, judgment of the court was entered, ordering the destruction of the product by the United States marshal.

HOWARD M. GOBE, *Secretary of Agriculture.*