

13040. Adulteration and misbranding of grape concentrate. U. S. v. 5 Jugs of Grape Concentrate. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 18979. I. S. No. 18891-v. S. No. C-4480.)

On September 19, 1924, 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 a libel praying the seizure and condemnation of 5 jugs of grape concentrate, remaining in the original unbroken packages at Milwaukee, Wis., alleging that the article had been shipped by the National Fruit Flavor Co., Inc., from New Orleans, La., February 23, 1924, and transported from the State of Louisiana into the State of Wisconsin, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "National Fruit Flavor Co. New Orleans, La. * * * Grape Concentrate."

Adulteration of the article was alleged in the libel for the reason that an artificially-flavored and artificially-colored imitation product had been mixed and packed therewith so as to reduce or lower or injuriously affect its quality and strength and had been substituted for grape concentrate, and in that the article had been colored in a manner whereby its inferiority was concealed.

Misbranding was alleged for the reason that the statement on the label "Grape Concentrate" was false and misleading and deceived or misled the purchaser when applied to an imitation product, and in that it was an imitation of and offered for sale under the distinctive name of another article.

On December 15, 1924, 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.

W. M. JARDINE, *Secretary of Agriculture.*

13041. Misbranding of preserves and fruit in sugar. U. S. v. McNeil & Co. Plea of guilty. Fine, \$150 and costs. (F. & D. No. 18363. I. S. Nos. 4157-v, 4158-v, 4159-v, 7043-v, 7044-v, 7045-v, 7046-v, 17502-v, 17503-v, 17504-v.)

On May 28, 1924, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against McNeil & Co., Carpentersville, Ill., alleging shipment by said company, in violation of the food and drugs act as amended, in various consignments, namely, on or about November 28, 1922, and May 31, 1923, from the State of Illinois into the State of Wisconsin, and on or about May 31, 1923, from the State of Illinois into the State of Iowa, of quantities of preserves, and on or about September 27, 1923, from the State of Illinois into the State of Michigan, of a quantity of fruit in sugar which were misbranded. A portion of the preserves was labeled in part: "Net weight 1 Lb. 4 Oz. Superior Preserves." A second portion of the preserves was labeled in part: "Jack Sprat Brand 20 oz. Net wt. Pure Fruit Preserves." The fruit in sugar was labeled in part: "Butter Cup Net Weight One Pound Pure Fruit In Sugar McNeil & Company, Carpentersville, Ill. Plum."

Examination by the Bureau of Chemistry of this department of 12 of the alleged 1-pound 4-ounce jars of preserves showed an average net weight of 1 pound 3.4 ounces. Examination of 14 of the alleged 20-ounce jars of preserves showed an average net weight of 19.2 ounces. Examination of 16 of the alleged 1-pound jars of fruit in sugar showed an average net weight of 15.5 ounces.

Misbranding of the articles was alleged in the information for the reason that the statements, to wit, "Net Weight 1 Lb. 4 Oz." and "20 Oz. Net Wt.," borne on the labels attached to the jars containing respective portions of the preserves, and the statement "Net Weight One Pound," borne on the labels attached to the jars containing the fruit in sugar, were false and misleading, in that the said statements represented that the jars contained 1 pound 4 ounces, 20 ounces, or 1 pound of the products, as the case might be, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said jars contained 1 pound 4 ounces, 20 ounces, or 1 pound of the products, as the case might be, whereas the said jars did not contain the amounts of the respective products borne on the labels but did contain less amounts. 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 packages.