

15195. Misbranding and alleged adulteration of vinegar. U. S. v. 25 Barrels of Vinegar. Decree of condemnation and forfeiture entered. Product released under bond. (F. & D. No. 15738. I. S. No. 3578. S. No. C-3372.)

On December 17, 1921, the United States attorney for the Western 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 seizure and condemnation of 25 barrels of vinegar, remaining in the original unbroken packages at Superior, Wis., alleging that the article had been shipped by the Douglas Packing Co., from Canastota, N. Y., on or about November 9, 1921, and transported from the State of New York into the State of Wisconsin, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Apple Cider Vinegar Made from Selected Apples * * * Rochester, N. Y."

It was alleged in substance in the libel that the article had been adulterated in violation of said act, in that an evaporated and dried apple product had been mixed and packed with and substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement, to wit, "Apple Cider Vinegar Made from Selected Apples," was false and misleading and calculated to deceive and mislead purchasers thereof, in that the said statement represented that the article was made from selected apples and was apple cider vinegar, whereas it was not. Misbranding was alleged for the further reason that the article was offered for sale and sold under the name of another article.

On December 15, 1924, the Douglas Packing Co., Rochester, N. Y., having appeared as claimant for the property, judgment of the court was entered, finding the product misbranded and ordering its condemnation and forfeiture, and it was further ordered by the court that the said product be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, conditioned in part that it not be sold or otherwise disposed of contrary to law.

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

15196. Adulteration and misbranding of powdered mace. U. S. v. 100 Pounds of Powdered Mace. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 21464. I. S. No. 12548-x. S. No. W-2058.)

On December 15, 1926, 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 seizure and condemnation of 100 pounds of powdered mace, remaining in the original unbroken packages at Denver, Colo., consigned by the Biston Coffee Co., St. Louis, Mo., alleging that the article had been shipped from St. Louis, Mo., on or about November 27, 1926, and transported from the State of Missouri into the State of Colorado, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "From Biston Coffee Co., St. Louis Mo. * * *, Mace."

It was alleged in the libel that the article was adulterated, in that certain substances, to wit, cornstarch, turmeric, a capsicum (apparently paprika), a small amount of nutmeg, and a trace of finely ground rice, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the designation "Mace" was false and misleading and deceived and misled the purchaser thereof. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On June 11, 1927, 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 relabeled and sold by the United States marshal.

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

15197. Adulteration of marjoram. U. S. v. 49 Pounds of Marjoram. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 21504. I. S. No. 16505-x. S. No. E-5922.)

On or about December 29, 1926, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 49 pounds of marjoram, at Passaic, N. J., alleging that the article had been shipped by Armour & Co., Chicago, Ill., on or about October 18, 1926, and transported from the State of Illinois into the State of New Jersey, and charging adulteration in violation of the food and drugs act.

was alleged in the libel that the article was adulterated, in that dirt and had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted wholly or in part for the said article.

On May 28, 1927, 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.*

198. Adulteration and misbranding of butter. U. S. v. 7 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 21873. I. S. No. 14920-x. S. No. E-6095.)

On April 15, 1927, 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 of the United States for said district a libel praying seizure and condemnation of 7 tubs of butter, remaining in the original unbroken packages in New York, N. Y., alleging that the article had been shipped by the Universal Loading & Distributing Co., Chicago, Ill., April 12, 1927, and transported from the State of Illinois into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act as amended.

Adulteration of the article was alleged in the libel for the reason that a substance deficient in butterfat had been mixed and packed therewith so as to reduce or lower or injuriously affect its quality or strength, and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the article was sold under the distinctive name of another article, and in that it 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 26, 1927, the Fairbank Farmers Creamery Co., Fairbank, Iowa, 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 said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$250, conditioned in part that it be reworked and reprocessed to contain at least 80 per cent of butterfat, and marked to show the quantity of contents of the package.

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

199. Alleged adulteration of oranges. U. S. v. 315 Boxes of Oranges. Tried to the court. Libel dismissed. (F. & D. No. 21808. I. S. No. 16410-x. S. No. E-6072.)

On or about March 29, 1927, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 315 boxes of oranges, remaining in the original unbroken packages at Boston, Mass., consigned March 26, 1927, alleging that the article had been shipped by Chase & Co., Dunedin, Fla., and transported from the State of Florida into the State of Massachusetts, and charging adulteration in violation of the food and drugs act.

Examination of the article by this department showed that it consisted in whole or in part of frost-damaged fruit.

It was alleged in the libel that the article was adulterated, in that it consisted in whole or in part of a decomposed vegetable substance.

On April 6, 1927, the case came on for trial before the court. After the submission of evidence and arguments by counsel, the court handed down the following opinion dismissing the information (Morton, J.):

"I think I will, after all, dispose of the case now, while everybody is here. As to the question of fact which is involved, it is this: What was the condition of the actual condition, of this car-load of some 300 odd boxes of oranges? The sampling which is relied upon in the forfeiture proceedings consists of 100 oranges taken from each of 50 boxes—that is 100 oranges—out of the 300 boxes, I think it is a sampling which would hardly be regarded as a sufficient sampling to deal with the shipment as between buyer and seller, and I think it is rather insufficient sampling to deal with the matter on a forfeiture proceeding."