

18786. Misbranding of flour. U. S. v. 320 Sacks of Flour. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 26794. I. S. Nos. 35464, 35465. S. No. 4931.)

Sample sacks of flour taken from the shipment herein described having been found to contain less than the weight declared on the labels, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of Louisiana.

On July 16, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 320 sacks of flour, remaining in the original unbroken packages at Opelousas, La., alleging that the article had been shipped by the Fant Milling Co., Sherman, Tex., on or about July 6, 1931, and had been transported from the State of Texas into the State of Louisiana, and charging misbranding in violation of the food and drugs act as amended. A portion of the article was labeled in part: (Sack) "Fant's Famous Flour, 24 Pounds Net." The remainder of the said article was labeled in part: (Sack) "Red Elefant Hard Wheat Flour, 98 Pounds Net."

It was alleged in the libel that the article was misbranded in that the statements, "24 Lbs. Net," and "48 [98] Pounds Net," borne on the labels, were false and misleading and deceived and misled the purchaser, since the packages were short weight and contained less than a reasonable variation from the labeled weights. 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, since the statements made thereon were incorrect as to weight.

The Fant Milling Co., Sherman, Tex., filed a claim and answer, admitting the allegations of the libel and praying that the product be released to be resacked upon the execution of a good and sufficient bond. On July 17, 1931, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the claimant be permitted to resack the flour under the supervision of the United States marshal or a representative of this department, so as to bring the contents of the sacks up to the weights declared thereon; that upon proof that the terms of the decree had been complied with, the product be released, and that claimant pay all costs of the proceedings.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18787. Adulteration and misbranding of canned red raspberry juice. U. S. v. Washington Berry Growers Packing Corporation. Plea of nolo contendere. Fine, \$50 and costs. (F. & D. No. 26561. I. S. No. 5072.)

Samples of canned red raspberry juice having been found to contain added water, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of Washington.

On July 1, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid an information against the Washington Berry Growers Packing Corporation, a corporation, Sumner, Wash., alleging shipment by said company, in violation of the food and drugs act, on or about September 15, 1930, from the State of Washington into the State of Massachusetts, of a quantity of the said canned red raspberry juice, which was adulterated and misbranded. The article was labeled in part: (Case) "Red Raspberries Juice Packed by Washington Berry Growers Pkg. Corp., Sumner, Wash.;" (can) "5 Gal. Red Raspberry Juice."

It was alleged in the information that the article was adulterated in that an added substance, to wit, water, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been substituted in part for the said article.

Misbranding was alleged for the reason that the statement "Red Raspberries Juice," borne on the cases containing the cans, and the statement, "Red Raspberry Juice," borne on the cans containing the article, were false and misleading in that the said statements represented that the article consisted solely of raspberry juice; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted solely of raspberry juice; whereas it did not so consist, but did consist in part of undeclared added water. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, to wit, raspberry juice, which it purported solely to be.

On July 30, 1931, a plea of nolo contendere to the information having been entered on behalf of the defendant company, the court imposed a fine of \$50 and costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*