

**19598. Adulteration and misbranding of jellies and ketchup, and misbranding of pickles. U. S. v. Alvin A. Baumer (Baumer's Food Products Co.). Plea of guilty. Fine, \$100. (F. & D. No. 26623. I. S. Nos. 17676, 17677, 17678, 17679, 19665, 19695, 19696, 26742.)**

This case was based on the interstate shipment of quantities of apple pectin jellies, apple, strawberry, pineapple, and peach flavors; tomato ketchup; and sweet and sour gherkin pickles. Examination showed that the jellies contained but negligible amounts, if any, of the juices of the respective fruits, also that the pineapple jelly was artificially colored and the strawberry and peach jellies were artificially colored and flavored. All of the said jellies were found to contain undeclared benzoate of soda. Examination of the tomato ketchup showed that it was artificially colored, also that the label bore the plain and conspicuous statement "8 Ozs.," while the bottles contained less than 8 ounces, which mislabeling was not corrected by the faint, inconspicuous, penciled statement "6 Ozs.," appearing on the label. The gherkin pickles also were found to be short of the declared weight, 6 ounces.

On March 14, 1932, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Alvin A. Baumer, trading as Baumer's Food Products Co., New Orleans, La., charging violation of the food and drugs act as amended. It was alleged in the information that on or about November 8, 1930, the defendant had shipped from the State of Louisiana into the State of Texas, quantities of jellies and a quantity of tomato ketchup, all of which were adulterated and misbranded; that the said defendant had shipped on or about October 10, 1932, from Louisiana into Texas, and on or about June 12, 1931, from Louisiana into Mississippi, quantities of sweet and sour gherkin pickles that were misbranded. The jellies were labeled in part: "Baumer's Crystal Brand Quality Jelly Apple Pectin Jelly Apple [or "Strawberry" or "Pineapple" or "Peach"] Manufactured and Packed by Baumer's Food Products Co., New Orleans, La." The ketchup was labeled in part: "Crystal 8 Ozs. Tomato Ketchup ["6 Ozs." inconspicuously marked in pencil on label] \* \* \* Baumer's Food Products Co., New Orleans, La." The pickles were labeled in part: "6 Ozs. Crystal Brand Sweet [or "Sour"] Gherkin Pickles Baumer's Food Products Co., New Orleans, La."

Adulteration of the apple jelly was alleged in the information for the reason that apple pectin containing no apple flavor and but a slight and inappreciable amount, if any, of apple juice, but containing undeclared sodium benzoate, had been substituted for a product composed of apple pectin and a substantial amount of apple juice, which the article purported to be. Adulteration of the strawberry, pineapple, and peach jellies was alleged for the reason that apple pectin containing no natural flavor derived from the fruit and no appreciable amount, if any, of strawberry, pineapple, or peach juices, or fruit, but containing undeclared artificial color and undeclared sodium benzoate—the strawberry and peach jellies also containing artificial flavor—had been substituted for products composed of apple pectin and substantial amounts of fruit or fruit juices, which the articles purported to be. Adulteration of the said strawberry and peach jellies was alleged for the further reason that they were mixed with and contained artificial color and flavor in a manner whereby damage or inferiority was concealed. Adulteration of the pineapple jelly was alleged for the further reason that it was artificially colored in a manner whereby its damage or inferiority was concealed. Adulteration of the tomato ketchup was alleged for the reason that a substance, artificially colored tomato ketchup, had been substituted for plain and naturally colored tomato ketchup, which the article purported to be.

Misbranding of the jellies was alleged for the reason that the statements, "Apple Pectin Jelly Apple," "Apple Pectin Jelly Strawberry," "Apple Pectin Jelly Pineapple," and "Apple Pectin Jelly Peach," borne on the jar labels, were false and misleading, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser; since the said statements represented that the articles contained substantial amounts of fruit or fruit juices, and were naturally flavored and colored; whereas the articles contained but little if any fruit or fruit juices, they contained undeclared sodium benzoate, and the strawberry, pineapple, and peach jellies were artificially colored and flavored. Misbranding of the jellies was alleged for the further reason that they were imitations of other articles. Misbranding of the tomato ketchup was alleged for the reason that the statements, "Tomato Ketchup" and "8 Ozs.," borne on the bottle label, were false and misleading,

and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since the said statements represented that the article was plain and naturally colored tomato ketchup and that the bottles each contained 8 ounces thereof; whereas the article was artificially colored tomato ketchup, and the bottles contained less than 8 ounces thereof. Misbranding of the said tomato ketchup 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, in that the statement "6 Ozs.," faintly marked in pencil, was not a plain and conspicuous statement of the quantity of the contents, since the figure "6" was almost illegible, and the statement "8 Ozs.," also marked on the package, was a plain and conspicuous, incorrect statement. Misbranding of the gherkin pickles was alleged for the reason that the statement "6 Ozs.," borne on the bottle label, was false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since the said bottles contained less than 6 ounces of the article. Misbranding of the gherkin pickles 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, since the bottles contained less than so declared.

On March 24, 1932, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$100.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**19599. Adulteration of walnut meats. U. S. v. 14 Boxes of Walnut Meats. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 27730. I. S. No. 52012. S. No. 5817.)**

Samples of walnut meats from the interstate shipment involved in this action having been found to be decomposed and wormy, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Wisconsin.

On February 8, 1932, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 14 boxes of walnut meats, remaining in the original unbroken packages at Milwaukee, Wis., alleging that the article had been shipped in interstate commerce, on or about July 29, 1931, from Boston, Mass., to Milwaukee, Wis., by the Northeastern Importing Co., of Boston, Mass., and charging adulteration in violation of the food and drugs act.

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

On March 15, 1932, 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.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**19600. Adulteration and misbranding of butter. U. S. v. Mutual Creamery Co. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 27457. I. S. Nos. 22152, 22199.)**

This action was based on the interstate shipment of quantities of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress, and a portion of which was also found to be short weight.

On February 9, 1932, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Mutual Creamery Co., a corporation trading at Seattle, Wash. It was alleged in the information that on or about May 1 and May 11, 1931, the defendant company had delivered for shipment from Seattle, Wash., to Alaska, quantities of butter that was adulterated and misbranded in violation of the food and drugs act as amended. A portion of the article was labeled: "Maid o'Clover Four-In-One Butter \* \* \* One Pound Net Pasteurized Creamery Butter Manufactured and Distributed by Mutual Creamery Company, U. S. A." The remainder was labeled: "Maid O'Clover Butter \* \* \* Guaranteed by Mutual Creamery Co., Seattle, U. S. A."

Adulteration of the article was alleged in the information for the reason that a product which contained less than 80 per cent by weight of milk fat had