

25858. Adulteration and misbranding of candy. U. S. v. Al Stein (Midwest Candy Co.). Plea of guilty. Fine, \$10. (F. & D. no. 34019. Sample no. 41269-A.)

This case involved an interstate shipment of candy that contained alcoholic liquor.

On June 6, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Al Stein, a member of a firm trading under the name of the Midwest Candy Co., Chicago, Ill., alleging that on or about February 24, 1934, the defendant had shipped from Chicago, Ill., into the State of Minnesota a number of boxes in cases billed as candy, and that the article was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Genuine Old Time Favorite Cordials Not a Confection, Sale to Minors Prohibited 24 Pieces Tax Paid Cordials."

The article was alleged to be adulterated, in the case of confectionery, in that it contained spirituous liquor.

The article was alleged to be misbranded in that the statement "Not a Confection", borne on said boxes, was false and misleading in that it represented that said article was not a confection; whereas, in truth and in fact, it was a confection; and in that said statement was borne on said boxes so as to deceive and mislead the purchaser; 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 packages, since the statement of numerical count, "24 Pieces", did not give accurate information as to the quantity, i. e., the weight.

On February 10, 1936, a plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$10.

W. R. GREGG, *Acting Secretary of Agriculture.*

25859. Adulteration and misbranding of potatoes. U. S. v. Diercks, Huxtable & Baldwin, Inc., and Felix A. Lukasavitz. Pleas of guilty. Fines, \$30. (F. & D. no. 34059. Sample no. 64402-A.)

This case involved an interstate shipment of potatoes that fell below the standard established by the Secretary of Agriculture and were not labeled to indicate that they were substandard.

On August 5, 1935, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Diercks, Huxtable & Baldwin, Inc., and Felix A. Lukasavitz, Custer, Wis., alleging that on or about April 4, 1934, the defendants, in the name of Diercks & Sons, shipped and delivered for shipment a quantity of potatoes, from Custer, Wis., to Diercks, Huxtable & Baldwin, Inc., Chicago, Ill.; that the article had been reconsigned from Chicago, Ill., to Lafayette, Ind.; and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Wisconsin Potatoes U. S. Grade No. 1, 100 Lbs. Net Weight When Packed, Diercks & Sons, Antigo, Wis."

The article was alleged to be adulterated in that potatoes of a lower grade than U. S. No. 1 had been substituted in whole or in part for U. S. grade No. 1 potatoes, which the article purported to be.

Misbranding was alleged for the reason that the statement "Potatoes U. S. Grade No. 1", borne on the sack, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the potatoes were not U. S. grade No. 1 but were of a lower grade.

On January 7, 1936, and March 9, 1936, pleas of guilty were entered on behalf of the defendants, and the court imposed a fine of \$25 against the corporation and \$5 against Felix A. Lukasavitz.

W. R. GREGG, *Acting Secretary of Agriculture.*

25860. Adulteration and misbranding of canned corn. U. S. v. 838 Cases and 18 Cans of Canned Corn. Default decree of condemnation. Product released under bond. (F. & D. no. 34342. Sample no. 14286-B.)

This case involved a shipment of canned corn that contained worms of the corn borer type.

On November 23, 1934, the United States attorney for the District of Vermont, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 838 cases and 18 cans of canned corn at Essex Junction, Vt., alleging that the article had been shipped by H. C. Baxter & Bro., from Essex Junction, Vt., on or about August 8, 1934,

to Boston, Mass., that it had been returned to the shipper from Boston, Mass., or or about November 5, 1934, and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Baxter's Finest Golden Bantam Corn * * * packed in the U. S. A. by H. C. Baxter & Bro. Offices Brunswick, Maine."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

Misbranding was alleged for the reason that the statement on the label, "Baxter's Finest Fancy Golden Bantam Corn", was false and misleading and deceived and misled the purchaser.

On July 20, 1935, H. C. Baxter & Bro., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the portion containing worms be segregated and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25861. Adulteration of canned tuna. U. S. v. 8 and 17 Cases of Canned Tuna. Default decrees of condemnation and destruction. (F. & D. nos. 35471, 35484. Sample nos. 15878-B, 15881-B.)

These cases involved shipments of canned tuna which was in part decomposed.

On May 8 and May 10, 1935, the United States attorney for the District of Arizona, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 8 and 17 cases, more or less, of canned tuna respectively at Phoenix, Ariz., alleging that the article had been shipped in interstate commerce between the dates of October 1, 1934, and April 20, 1935, by Haas Baruch & Co., from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously: "Black and White California Fancy Tuna. Net Contents Three and One Fourth Oz. Haas Baruch and Company, Los Angeles, California, Distributors"; "Quail Brand Tuna Net Contents Three and One Half Ozs. Haas Baruch and Company, Los Angeles, California, Distributors."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On September 17, 1935, no claimants having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25862. Alleged adulteration of apple chops. U. S. v. 482 Sacks of Apple Chops. Case tried to the court. Decree dismissing libel and amended libel and releasing article. (F. & D. no. 34551. Sample no. 26334-B.)

This case involved apple chops that were alleged to contain lead and arsenic trioxide, which might have rendered the product injurious to health.

On December 11, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 482 sacks of apple chops at San Francisco, Calif., alleging that the article had been shipped in interstate commerce from Seattle, Wash., to San Francisco, Calif., en route to France, by the Washington Dehydrated Fruit Co. [Washington Dehydrated Food Co.], on or about December 1, 1934, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Importe Des Etas Unis d'Amérique GF 1828 Havre."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On December 26, 1934, the Washington Dehydrated Food Co., a corporation, claimant herein, filed an answer to the above libel denying adulteration; and subsequently, an amended libel was filed charging substantially the same facts as the original libel, except that it alleged shipment for exportation to France via Oakland, Calif., and prayed seizure and condemnation of the article at Oakland. On February 26, 1935, the claimant filed an answer to the amended libel again denying that said article was adulterated, and on March 1, 1935, the case came on for trial before the court, a jury having been waived. On March 1, 1935, the court found the article not adulterated and ordered its release to claimant. On March 7, 1935, an order staying execution of the decree was entered, and on or about April 25, 1935, the article was released to the claimant.

W. R. GREGG, *Acting Secretary of Agriculture.*