

Misbranding was alleged for the reason that the statements on the labels, "Raspberry Extract," "Strawberry Extract," "Grape Extract," and "Cherry Extract," were false and misleading and deceived and misled the purchaser when applied to articles deficient in fruit juice and which had been artificially colored and flavored; for the further reason that the statement on the label, "Contents 4 oz. Net," was false and misleading and deceived and misled the purchaser, since the statement was not in correct form; for the further reason that the articles were imitations of other articles; for the further reason that the articles were offered for sale under the distinctive names of other articles; and for the further reason that the articles were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On March 30, 1931, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18165. Adulteration and misbranding of fruit beverage materials. U. S.

v. Certain Quantities of Fruit Beverage Materials. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 25737. I. S. Nos. 5052, 5053, 5058 to 5067, incl. S. No. 3961.)

The products here involved consisted of sirup for making fruit-flavored beverages and were variously designated as Seven Fruits Syrup; Apricot, Blackberry, or Peach Syrup Supreme; Cherry Bounce, Strawberry, Blackberry, or Raspberry Royale Castle Cordials; Peach Cordial; and Apricot, Blackberry, or Cherry Syrup. All were deficient in fruit juice, and had artificial flavors added. Most of the products contained added acid and all but the Seven Fruits Syrup and the Blackberry Syrup Supreme contained artificial color. In several of the products the statement of the quantity of the contents was not made in terms of liquid measure.

On January 20, 1931, the United States attorney, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the District of Massachusetts a libel praying seizure and condemnation of 13½ dozen bottles of Seven Fruits Syrup, 5½ dozen bottles of Seven Fruits, 3 dozen bottles of blackberry sirup, 33 dozen bottles of apricot sirup, 11½ dozen bottles of peach cordial sirup, 13½ dozen bottles of Royale Castle Cordial Cherry Bounce, 6 dozen bottles of Royale Castle Cordial (2 dozen each of strawberry, blackberry, and raspberry), 16¾ dozen bottles of apricot, 33 bottles of blackberry, and 3 dozen bottles of cherry, remaining in the original unbroken packages at Boston, Mass., alleging that the articles had been shipped by the Original Julius Marcus Laboratories (Inc.), from Brooklyn, N. Y., on or about September 19, 1930, and had been transported from the State of New York into the State of Massachusetts, and charging adulteration and misbranding in violation of the food and drugs act as amended.

The articles were labeled in part variously: "Seven Fruits * * * Seven Fruits Syrup Not artificially colored, Not artificially flavored, Julius Marcus Co., New York, Detroit, Chicago;" "Blackberry Victoria Brand Pure Blackberry Syrup Supreme Julius Marcus Co. * * * Contents 25 ounces;" "Apricot * * * The Original Julius Marcus * * * Apricot Syrup Supreme Artificial Flavor Colored with Burnt Sugar Prepared by Julius Marcus For the Marcus Laboratories * * * Contents 16 ounces;" "Peach Syrup Supreme Quality Purity Original and Finest Peach Cordial * * * Contents 1 Pint 9 Ounces Julius Marcus Co.;" "Royale Castle Cordial artificially colored and flavored Cherry Bounce [or "Strawberry," "Blackberry," or "Raspberry"] Original Julius Marcus Laboratories, Inc., Brooklyn, N. Y., Contents 1 pint 9 fl. oz.;" "Standard of Excellence since 1885. The real true-in-flavor quality, Non-Alcoholic, Net Contents 5 oz. * * * Manufactured by Original Julius Marcus Lab. Inc., Brooklyn, N. Y. Colored with burnt sugar * * * Apricot [or "Artificial flavor and color * * * Blackberry" or "Artificial flavor and color * * * Cherry"]."

It was alleged in the libel that the articles, with the exception of the Seven Fruits Syrup, Seven Fruits, and blackberry sirup, were adulterated, since a substance deficient in fruit juice and artificially flavored and colored had been mixed and packed with the articles so as to reduce and lower their quality and strength, and had been substituted in part for the said articles; that the Seven Fruits Syrup and Seven Fruits were adulterated, since a substance deficient in fruit juice and artificially flavored had been mixed and packed with and substituted in part for the articles, and that the blackberry sirup was adulterated, since a substance deficient in fruit juice had been mixed and packed there-

with so as to reduce and lower its quality and strength and had been substituted in part for the said article. Adulteration was alleged with respect to the articles, with the exception of the Seven Fruits Syrup and Seven Fruits and blackberry sirup, for the further reason that the articles had been colored in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statements "Seven Fruits Syrup," "Seven Fruits," and the design of fruit and the further statements "Not artificially flavored," were false and misleading and deceived and misled the purchaser thereof when applied to articles deficient in fruit juice and which had been artificially flavored; in that the statement "Pure Blackberry Syrup Contents 25 ounces" was false and misleading and deceived and misled the purchaser thereof when applied to an article deficient in fruit juice and whose declaration of contents was not in correct form; in that the statement "Apricot Syrup Supreme Contents 16 ounces" was false and misleading and deceived and misled the purchaser thereof, when applied to an article deficient in fruit juice and which had been artificially colored and flavored and whose declaration of contents was not in correct form; in that the statement "Peach Cordial Syrup" was false and misleading and deceived and misled the purchaser thereof, when applied to an article deficient in fruit juice and which had been artificially colored and flavored; in that the statements "Cherry Bounce," "Strawberry," "Blackberry," and "Raspberry," appearing on the labeling of the so-called Royale Castle Cordial, were false and misleading and deceived and misled the purchaser thereof, when applied to articles deficient in fruit juice and which had been artificially colored and flavored; in that the statements, "Apricot The real true-in-flavor quality Net Contents 5 oz.," were false and misleading and deceived and misled the purchaser thereof, when applied to an article deficient in fruit juice and which had been artificially colored and flavored and whose declaration of contents was not in correct form; in that the statements, "Blackberry The real true-in-flavor quality Net Contents 5 oz.," were false and misleading and deceived and misled the purchaser thereof, when applied to an article deficient in fruit juice and which had been artificially colored and flavored and whose declaration of contents was not in correct form; in that the statements, "Cherry The real true-in-flavor quality Net contents 5 oz.," were false and misleading and deceived and misled the purchaser thereof, when applied to an article deficient in fruit juice and which had been artificially colored and flavored and whose declaration of contents was not in correct form. Misbranding was alleged for the further reason that the articles were imitations of other articles and were offered for sale under the distinctive names of other articles. Misbranding of the articles, labeled "Pure Blackberry Syrup," "Apricot Syrup Supreme," and the fruit beverage materials, "Apricot," "Blackberry," and "Cherry," was alleged for the further reason that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statements made were not in correct form.

On March 30, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18166. Adulteration of rabbits. U. S. v. 72 Rabbits. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 25854. I. S. No. 25363. S. No. 4100.)

The rabbits in the shipment herein described having been found to be partially decomposed, the Secretary of Agriculture reported the matter to the United States attorney for the Northern District of Illinois.

On February 3, 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 72 rabbits at Chicago, Ill., alleging that the article had been shipped by the Hardin Produce Co., from Hardin, Mo., January 26, 1931, and had been transported from the State of Missouri into the State of Illinois, 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 and decomposed animal substance. Adulteration was alleged for the further reason that the article was the product of diseased animals.

On April 14, 1931, 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.*