11438. Adulteration of sauerkraut. U. S. v. 115 Cases of Sauerkraut. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17303. I. S. No. 3287-v. S. No. E-4313.)

On or about March 1, 1923, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 115 cases of sauerkraut, remaining unsold in the original unbroken packages at Augusta, Ga., alleging that the article had been shipped by W. H. Killian, Baltimore, Md., on or about November 24, 1922, and transported from the State of Maryland into the State of Georgia, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Killian's Kuality Sauer Kraut Contents 1 Lb. 13 Oz. * * * Packed By W. H. Killian Co. Baltimore, U. S. A."

Adulteration of the article was alleged in the libel for the reason that a substance, to wit, excessive brine, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted in whole or in part for sauerkraut, which the article purported to be.

On April 7, 1923, the W. H. Killian Co., Baltimore, Md., claimant, having admitted the allegations of the libel and consented to the entry of a decree of condemnation and forfeiture, 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, in conformity with section 10 of the act, conditioned in part that it be relabeled as follows: "Slack filled. A package of this size should contain 1 pound 7 ounces drained kraut. Actual cut-out weight of this can between 1 pound and 1 pound 4 ounces."

C. F. MARVIN, *Acting Secretary of Agriculture.*

11439. Adulteration and misbranding of horse and mule feed. U. S. v. 500 Sacks of Horse and Mule Feed. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17447. I. S. No. 10285-v. S. No. E-4351.)

On April 4, 1923, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 500 sacks of horse and mule feed, remaining in the original unbroken packages at Atlanta, Ga., alleging that the article had been shipped by the Mississippi Elevator Co., Memphis, Tenn., on or about March 7, 1923, and transported from the State of Tennessee into the State of Georgia, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "100 Lbs. Net When Packed Horse & Mule Feed (Sweet) Manufactured By Mississippi Elevator Company Memphis, Tenn. Guaranteed Analysis Protein Minimum 9.00% Fat Minimum 2.00% * * * Fibre Maximum 15.00%."

Adulteration of the article was alleged in the libel for the reason that a substance low in protein and fat and containing excessive fiber had been mixed and packed with and substituted wholly or in part for the said article so as to reduce, lower, and injuriously affect its quality and strength.

Misbranding was alleged in substance for the reason that the statements, "Guaranteed Analysis Protein Minimum 9.00% Fat Minimum 2.00% * * * Fibre Maximum 15.00%," borne on the label, were false and misleading and deceived and misled the purchaser into the belief that the said article contained a minimum of 9 per cent of protein, a minimum of 2 per cent of fat, and a maximum of 15 per cent of fiber, whereas, in truth and in fact, the article did not contain a minimum of 9 per cent of protein or a minimum of 2 per cent of fat and did contain more than 15 per cent of fiber.

On April 5, 1923, the Mississippi Elevator Co., Memphis, Tenn., claimant, having admitted the allegations of the libel and 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 $500, in conformity with section 10 of the act.

C. F. MARVIN, *Acting Secretary of Agriculture.*