

25953. Adulteration and misbranding of whisky. U. S. v. 1,020 Cases of Whisky. Consent decree of condemnation and forfeiture. Product delivered to the Collector of Customs, New York, N. Y. (F. & D. no. 34380. Sample nos. 23954-B, 30230-B, 30231-B.)

This case was based upon the importation into the United States from a foreign country of a quantity of an article represented to be straight whisky, which was alcohol artificially colored with caramel.

On February 25, 1935, the United States attorney for the Southern District of New York filed a libel in the district court praying seizure and condemnation of 1,020 cases of so-called whisky at New York, N. Y., alleging that the article had been introduced and imported into the United States from the Islands of St. Pierre and Miquelon, possessions of France, on or about January 19 and February 16, 1934, and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article, contained in bottles, was labeled: "Straight Whiskey. The Whiskey without a Headache. Kentucky Bourbon. Trade-mark D. B. Co., Old Crow Bottled by Davis Brothers Co., Lexington, Ky. Contents One Quart. Davis Brothers & Co., Wholesale Dealers."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States National Formulary and differed from the standard of strength, quality, and purity as determined by the test laid down in said National Formulary. The article was alleged to be further adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since the article was represented to be straight whisky; whereas in fact it was alcohol and caramel coloring.

The article was alleged to be misbranded in that the statement, "Straight Whiskey", borne on the label, was false and misleading, since it represented that the article was straight whisky, whereas in fact it was an imitation of straight whisky.

On December 24, 1935, Thomas Dixon, claimant, having admitted the allegations of the libel and having consented to a decree, a judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled. On June 17, 1936, provisions of said decree having not been complied with, it was ordered that the product be delivered to the collector of customs, New York, N. Y.

M. L. WILSON, *Acting Secretary of Agriculture.*

25954. Adulteration of canned turnip greens and canned mustard greens. U. S. v. 99 Cases of Turnip Greens and 24 Cases of Mustard Greens. Default decree of condemnation and destruction. (F. & D. nos. 35812, 35813. Sample nos. 10203-B, 10204-B.)

These cases involved canned turnip greens and canned mustard greens that contained worms and other extraneous filthy material.

On July 29, 1935, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court two libels, one praying seizure and condemnation of 99 cases of turnip greens, and the other, 24 cases of mustard greens at Tyler, Tex., alleging that the articles had been shipped in interstate commerce on or about June 6, 1935, by the Greathouse Canning Co., from Fayetteville, Ark., and that they were adulterated in violation of the Food and Drugs Act. The articles were labeled, "Valley Brand Turnip Greens Contents 1 Lb. 2 Ozs. Packed by Greathouse Canning Co. Fayetteville, Ark.", and "Mayfair Mustard Greens Contents 1 Lb. 2 Ozs. Packed for Central Cannery Inc. Fayetteville, Ark", respectively.

The articles were alleged to be adulterated in that they consisted in whole or in part of filthy vegetable substances.

On December 26, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

25955. Misbranding of tomatoes. U. S. v. San Pat Vegetable Co. Trial to court. Judgment of guilty. Fine, \$100. (F. & D. no. 35972. Sample no. 33151-B.)

This case involved an interstate shipment of tomatoes in lugs (crates), the quantity of the contents of which were less than that represented thereon.

On October 3, 1935, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the San Pat Vegetable Co., a corporation, Sinton, Tex., charging shipment by said corporation in violation of the Food and Drugs Act as amended, on or about May 27, 1935, from the State of Texas

into the State of Missouri, of a quantity of fresh tomatoes which were misbranded. The article, contained in lugs (crates), was labeled: "Net Weight, Not Less Than 30 Lbs. When packed [design showing St. Patrick holding a church building in left hand and with staff in right hand chasing snakes into the sea] San Pat Brand Tomatoes [design showing one red, ripe tomato and one-half of a red, ripe tomato] Packed and shipped by San Pat Vegetable Co. Sinton (San Patricio County) Texas."

The article was alleged to be misbranded in that the statement, "Net Weight Not Less Than 30 Lbs.", borne on the lugs, was false and misleading and in that by reason of said statement, the article was labeled so as to deceive and mislead the purchaser, since the statement represented that the lugs each contained 30 pounds net of the article; whereas, in fact, the lugs each contained less than 30 pounds net of the article. The article was alleged to be misbranded further 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 package, since the quantity of the contents was less than 30 pounds, the quantity stated on the package.

On April 28, 1936, a jury having been waived, the case came on for trial before the court, and upon a judgment of guilty, the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

25956. Adulteration of confectionery. U. S. v. Morris Fineblum (M. Fineblum Candy & Tobacco Co., The Cedar Chest & Cabinet Cigar Co.). Pleas of guilty. Fine, \$10. (F. & D. no. 35976. Sample nos. 54469-A, 54470-A.)

This case involved sale in the District of Columbia of a quantity of confectionery that contained spirituous liquor.

On October 24, 1935, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the police court of the District an information against Morris Fineblum, trading as the M. Fineblum Candy & Tobacco Co. and the Cedar Chest & Cabinet Cigar Co., Washington, D. C., charging sale by said defendant in the District of Columbia in violation of the Food and Drugs Act, on or about December 2 and 15, 1933, of a quantity of confectionery that was adulterated. The article was contained in boxes, labeled "Mademoiselle Modiste Confiseur Rue St. Honore Poids Net 500 Grammes", and each of a number of pieces of the article contained in each box was labeled, "Mlle. Modiste Rhum [or "Cognac", "Apricot", or "Benedictine"]."

The article was alleged to be adulterated in that it contained spirituous liquor.

On October 24, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$10.

M. L. WILSON, *Acting Secretary of Agriculture.*

25957. Misbranding of preserves, jam, jelly, and marmalade. U. S. v. Griggs, Cooper & Co. (Sanitary Food Manufacturing Co.). Plea of nolo contendere. Fine, \$60. (F. & D. no. 36080. Sample nos. 35913-B, 35914-B, 35916-B to 35925-B, incl., 38451-B.)

This case involved interstate shipment of quantities of preserves, jam, jelly, and orange marmalade that were misbranded because the quantities of contents of the containers were less than the quantities represented on the labels.

On January 27, 1936, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Griggs, Cooper & Co., a corporation, trading as the Sanitary Food Manufacturing Co., St. Paul, Minn., charging shipment by said corporation in violation of the Food and Drugs Act as amended, on or about June 28, July 16, and July 27, 1935, from the State of Minnesota into the State of Colorado, of quantities of preserves, jam, jelly, and orange marmalade which were misbranded. The articles in the shipment of June 28, contained in tumblers and jars, were labeled in part, respectively: "Brown's J. S. B. * * * 14 Oz. Net Pure Blackberry [or "Peach" or "Red Raspberry"] Preserves [or "Concord Grape Jam"]"; and "Brown's J. S. B. * * * 1 Lb. Net Pure Seedless Red Raspberry Preserves." The articles in the shipment of July 16, contained in tumblers or jars, were labeled in part, respectively: "Brown's J. S. B. * * * 14 Oz. Net Pure Strawberry [or "Youngberry", "Red Cherry", "Blackberry", "Pineapple", "Red Raspberry", "Peach", "Loganberry", "Pine-Cot", or "Apricot"] Preserves [or "Concord Grape Jam"]";