

mine the one to be used and which, when used, will bring the reconditioned puree into compliance with the statute seems to be the only question for decision, i. e., does the claimant who does the reprocessing or the Food and Drug Administration under whose supervision the work is to be done have the right to determine the method which would bring the reprocessed product into compliance with the law?

"The Food and Drug Administration has determined that distillation is the only process which would recondition this puree for human consumption and which it would approve. I see no abuse of discretion in making this determination nor can the court interfere with that determination. To interfere would be substituting the judgment of the court for that of the Food and Drug Administration upon a matter which it is better able to decide and upon an issue which I think is not properly joined in this case.

"The fact that the claimant will suffer financial loss is not of great materiality. Its product was found to be unfit for human consumption and the reconditioning is not a matter of right but of permission by the Court.

"The motion of the claimant will be denied.

"The motion of the Government insofar as it seeks to alter the decree will likewise be denied.

"An entry may be presented in accordance with this ruling."

10157. Adulteration and misbranding of vinegar. U. S. v. 65 Cases of Vinegar. Default decree of condemnation and destruction. (F. D. C. No. 17293. Sample Nos. 7789-H to 7791-H, incl.)

LABEL FILED: August 23, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about May 29, 1945, by the Randall Wine Vinegar Co., from New York, N. Y.

PRODUCT: 26 cases, each containing 24 1-pint bottles, 17 cases, each containing 12 1-quart bottles, and 22 cases, each containing 4 1-gallon bottles, of vinegar at Hoboken, N. J.

LABEL, IN PART: "Eldeen Brand Pure Wine Vinegar * * * We guarantee this product to be made from pure wine."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of wine vinegar and distilled vinegar or acetic acid had been substituted in whole or in part for pure wine vinegar, which the article was represented to be; and, Section 402 (b) (4), distilled vinegar or acetic acid had been added to the article and mixed and packed with it so as to reduce its quality or strength.

Misbranding, Section 403 (a), the label statements, "Pure Wine Vinegar * * * We guarantee this product to be made from pure wine," were false and misleading.

DISPOSITION: December 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

10158. Adulteration of wine vinegar. U. S. v. 50 Cases of Wine Vinegar (and 2 other seizure actions against wine vinegar). Default decrees of condemnation and destruction. (F. D. C. Nos. 17573, 17574, 17888. Sample Nos. 4620-H, 7714-H, 7915-H, 7916-H.)

LABELS FILED: September 18 and on or about September 19 and October 9, 1945, Districts of New Jersey and Connecticut and Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 20, 21, and 27, by the Randall Wine Vinegar Co., from New York, N. Y.

PRODUCT: 11 cases, each containing 24 1-pint bottles, and 34 cases, each containing 12 1-quart bottles, of wine vinegar at Newark, N. J.; and 50 cases, each containing 6 ½-gallon jugs, and 8 cases, each containing 12 1-quart bottles, of wine vinegar at New Haven, Conn., and Hazleton, Pa., respectively.

LABEL, IN PART: "Eldeen Brand Packed by Eldeen Spice Co. New York Pure Wine Vinegar."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of wine vinegar and distilled vinegar or acetic acid had been substituted in whole or in part for pure wine vinegar, which the article was represented to be; and, Section 402 (b) (4), distilled vinegar or acetic acid had been added to the article or mixed and packed with it so as to reduce its quality or strength.