

so labeled, or that the words and the picture in evidence are not false or misleading, and that the contents of the cans was of select pink Alaska salmon and of a select grade, then you would be authorized to find the words and the representations were not misleading and calculated to deceive as charged, in which event then your verdict would be for the claimant.

"The misbranding in case No. 1055 consists of a statement appearing on the labels of the cans of that shipment as follows: "15½ Oz. Net Fresh Salmon Cooked In Can After Sealing," charged in the libel to be false, in that it represented the contents as fresh salmon, the fact being that it was not fresh in the sense as used in the canning trade, wherefore the representation was misleading and calculated to deceive prospective purchasers. The label was submitted to you in evidence; if you believe that the greater weight of the evidence is that the cans were so labeled, bearing the statement set out, and that the representation was to the effect that the salmon canned was fresh salmon, when in fact it was not fresh in the sense the term was used in the canning trade, and that the statement was false or misleading and calculated to deceive prospective purchasers, then you would be warranted in finding for the Government, libelant. But if, on the other hand, you are not so satisfied and do not find from the evidence that the cans were so labeled or that the statement in evidence was not a representation that the salmon was canned while fresh and the contents was fresh in the sense used in the canning trade, and was not false or misleading in the particulars set forth, then your verdict will be for the claimant.

"As stated in the beginning, you are to return six separate verdicts representing your finding in each one of the several suits submitted."

The following authorities were consulted and support the instructions given:

United States *vs.* 200 Cases Tomato Catsup (D. C.), 211 Fed. 780.

U. S. *vs.* Boeckel Co. et al. (C. C. A.), 221 Fed. 885.

U. S. *vs.* 496 Boxes Oranges (D. C.), 249 Fed. 505.

A. O. Anderson & Co. *vs.* U. S. (C. C. A.), 284 Fed. 542.

U. S. *vs.* 200 Cases Salmon (D. C.), 289 Fed. 157.

Wood Mfg. Co. *vs.* U. S. (C. C. A.), 292 Fed. 133.

Department of Agriculture records:

Notice of Judgment No. 5527, District Judge Landis, Illinois, charge to jury in U. S. *vs.* 5,060 Cans Tomato Pulp, January 16, 1917.

Notice of Judgment No. 12056, District Judge Faris, Missouri, charge to jury in U. S. *vs.* 496 Cases Salmon, January 16, 1924.

The jury then retired and after due deliberation returned on January 29, 1925, verdicts for the Government.

On or about January 29, 1925, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimants upon application within 90 days from the entry of the decrees and upon the execution of good and sufficient bonds, in conformity with section 10 of the act, conditioned in part that the product be salvaged and reprocessed, and it was further ordered by the court that the Government recover its costs.

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

13606. Adulteration and misbranding of assorted preserves. U. S. v. 557 Cases of Assorted Preserves. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 20063, I. S. Nos. 14726 to 14731-v, incl. S. No. C-4723.)

On May 6, 1925, the United States attorney for the Southern District of Ohio, 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 557 cases of assorted preserves, at Cincinnati, Ohio, consigned February 13, 1925, by Eigelberner Food Products Co., Chicago, Ill., alleging that the articles had been shipped from Chicago, Ill., and transported from the State of Illinois into the State of Ohio, and charging adulteration and misbranding in violation of the food and drugs act. The articles were labeled in part: (Jar) "Jack Frost * * * Strawberry" (or "Raspberry" or "Blackberry" or "Cherry" or "Peach" or "Loganberry") "Pure Preserves."

Adulteration of the articles was alleged in substance in the libel for the reason that a substance deficient in fruit and containing excessive sugar and added tartaric acid and also containing in the case of the raspberry and blackberry preserves added loganberries had been mixed and packed therewith so

as to reduce, lower, or injuriously affect its quality and strength and had been substituted wholly or in part for the respective articles.

Misbranding was alleged for the reason that the statements "Pure Preserves," "Strawberry," "Raspberry," "Blackberry," "Cherry," "Peach," or "Loganberry," as the case might be, borne on the labels, were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the articles were offered for sale under the distinctive names of other articles.

On June 24, 1925, the Colter Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be released to the said claimant to be relabeled under the supervision of this department, upon payment of the costs of the proceedings and the execution of a good and sufficient bond, in conformity with section 10 of the act.

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

13607. Adulteration and misbranding of morphine sulphate tablets, codeine sulphate tablets, nitroglycerin tablets, atropine sulphate tablets, strychnine sulphate tablets, and strychnine nitrate tablets. U. S. v. George H. Gould and Henry H. Gould (George H. Gould & Son). Pleas of guilty. Fine, \$100. (F. & D. No. 18995. I. S. Nos. 4725-v, 4751-v, 5320-v, 5632-v, 5634-v, 6725-v, 6726-v, 6727-v, 7363-v, 7364-v, 7365-v, 7367-v, 17626-v, 17629-v.)

On February 3, 1925, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against George H. Gould and Henry H. Gould, copartners, trading as George H. Gould & Son, Louisville, Ky., alleging shipment by said defendants, in violation of the food and drugs act, in various consignments, namely, on or about October 19 and 20, 1923, respectively, from the State of Kentucky into the State of Missouri, of quantities of codeine sulphate tablets, nitroglycerin tablets, strychnine sulphate tablets, and strychnine nitrate tablets, on or about October 23, 1923, from the State of Kentucky into the State of Minnesota, of quantities of morphine sulphate tablets and nitroglycerin tablets, on or about November 5, 1923, from the State of Kentucky into the State of Ohio, of quantities of morphine sulphate tablets and codeine sulphate tablets, and on or about November 15, 1923, from the State of Kentucky into the States of Illinois and Louisiana, respectively, of quantities of morphine sulphate tablets, nitroglycerin tablets, codeine sulphate tablets, and atropine sulphate tablets, all of which were adulterated and misbranded. The articles were labeled in part, variously: "Hypodermic Tablets Morphine Sulphate One-Half Grain" (or "One-quarter Grain" or "One-eighth Grain") "Geo. H. Gould & Son, Pharmaceuticals, Louisville, Kentucky"; "Hypodermic Tablets Codeine Sulphate 1/2 Grain" (or "1/2 Gr.") "Geo. H. Gould & Son"; "Hypodermic Tablets Nitroglycerine 1/100 Gr."; "Hypodermic Tablets Atropine Sulphate 1/100 Gr. * * * Geo. H. Gould & Son"; "Hypodermic Tablets Strychnine Sulphate 1/40 Gr. * * * Geo. H. Gould & Son"; "Hypodermic Tablets Strychnine Nitrate 1/30 Gr."

Analyses of samples of the articles by the Bureau of Chemistry of this department showed that: The morphine sulphate tablets labeled "One-Half Grain" contained not more than 0.45 grain of morphine sulphate each, the two lots of morphine sulphate tablets labeled "One-quarter Grain" contained not more than 0.22 grain and 0.224 grain, respectively, of morphine sulphate to each tablet and the morphine sulphate tablets labeled "One-eighth Grain" contained approximately 0.111 grain of morphine sulphate each; the two lots of codeine sulphate tablets labeled "1/2 Grain" contained not more than 0.43 grain and 0.443 grain, respectively, of codeine sulphate to each tablet; the codeine sulphate tablets labeled "1/3 Gr." contained not more than 0.0944 grain of codeine sulphate each; the strychnine sulphate tablets, labeled "1/40 Gr.," contained not more than 0.0195 grain of strychnine sulphate each; the strychnine nitrate tablets, labeled "1/30 Gr.," contained approximately 0.0253 grain of strychnine nitrate each; the atropine sulphate tablets, labeled "1/100 Gr.," contained not more than 0.0077 grain of atropine sulphate each; the four lots of nitroglycerin tablets, labeled "1/100 Gr.," contained approximately 0.0051 grain, 0.013 grain, 0.015 grain, and 0.013 grain, respectively, of nitroglycerin to each tablet. The last three lots of nitroglycerin tablets also contained approximately 0.05 grain, 0.06 grain, and 0.06 grain of calcium carbonate to each tablet.