

Misbranding was alleged for the reason that the statements, "Fruit Pectin and Apple [or "Currant", "Plum", or "Strawberry"] Jelly", borne on the labels were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, in that the said statements represented that the articles consisted wholly of fruit pectin and apple, plum, currant, or strawberry jellies, whereas they did not so consist, but did consist in large part of water, sugar, and tartaric acid, jellied by the addition of pectin and contained little or no fruit. Misbranding was alleged for the further reason that the articles were imitations of and were offered for sale and sold under the distinctive names of other articles.

On May 25, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

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

21146. Adulteration and misbranding of preserves, and misbranding of jams. U. S. v. 16 Cases of Strawberry Preserves, et al. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 30049. Sample nos. 33515-A, 33516-A, 34946-A, 34947-A.)

This case involved strawberry and raspberry preserves that were deficient in fruit; also quantities of imitation jams. The strawberry preserves contained added water, and a part also contained added pectin and acid. The raspberry preserves contained added water, and a part also contained added pectin. The jams were not plainly and conspicuously labeled "Imitation." Sample jars taken from one of the lots of jams were found to contain less than 2 pounds, the labeled weight.

On April 5, 1933, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 63½ cases of strawberry and raspberry preserves and 8 cases of assorted jams at Trenton, N. J., alleging that the articles had been shipped in interstate commerce, between August 13, 1932 and February 11, 1933, by the Atlantic Food Products Co., from Philadelphia, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The preserves were labeled in part: "Nature's Best * * * Pure Strawberry [or "Raspberry"] Preserves Atlantic Food Products Co., Philadelphia." The jams were labeled in part: "Nature's Best 12 Ozs. Net [or "2 Lbs. Net Wt." or "40 Oz."] Imitation Apricot [or "Peach", "Pineapple", "Strawberry", or "Raspberry"] Jam * * * Packed by Atlantic Presv'g Co., Philadelphia."

It was alleged in the libel that the preserves were adulterated in that sugar and water, in the case of certain lots; sugar, water, and pectin, in the case of certain lots; and sugar, water, pectin, and acid, in the case of certain other lots; had been mixed and packed with the articles so as to reduce, lower, and injuriously affect their quality. Adulteration was alleged for the further reason that a mixture of fruit, sugar, and water in certain lots; a mixture of fruit, sugar, water, and pectin in a certain lot; and a mixture of fruit, sugar, water, pectin, and acid in certain lots, and containing less fruit than contained in preserves, had been substituted for pure strawberry or raspberry preserves. Adulteration of the said preserves was alleged for the further reason that they had been mixed in a manner whereby inferiority was concealed.

Misbranding of the said preserves was alleged for the reason that the statements on the labels, "Pure Strawberry" [Or "Raspberry"] Preserves", were false and misleading and deceived and misled the purchaser when applied to articles of the compositions disclosed. Misbranding of the preserves was alleged for the further reason that the articles were offered for sale under the distinctive names of other articles.

Misbranding of the jams was alleged for the reason that they were labeled in such manner as to be false and misleading and so as to deceive and mislead the purchaser, since they were not plainly and conspicuously labeled as imitations because of the relative inconspicuousness of the word "imitation", in relation to the size of type in the name of the fruit on the label. Misbranding was alleged with respect to a portion of the jams for the further reason that the statement on the label, "2 lbs. Net Wt.", was false and misleading and deceived and misled the purchaser, and for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On May 12, 1933, 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.

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

21147. Adulteration of sweet pickles. U. S. v. 87 Cases of Sweet Pickle Chunks and 187 Cases of Sweet Pickle Slices. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 30000. Sample nos. 28568-A, 28569-A.)

This case involved quantities of sweet pickles that were found to be undergoing active fermentation and to be in part decomposed.

On March 25, 1933, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 274 cases of sweet pickles at Chicago, Ill., alleging that the article had been shipped on or about October 11 and October 17, 1932, by the Hickory Hills Orchards, of Trevlac, Ind., from Helmsburg, Ind., 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 decomposed, filthy, and putrid vegetable substance.

On May 11, 1933, 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.

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

21148. Adulteration and misbranding of candy (Orange Frolics). U. S. v. Joseph G. Dubin & Sons, Inc. Plea of guilty to counts 1 and 2 of information. Remaining counts dismissed. Fine, \$100. (F. & D. no. 30161. I. S. no. 48644.)

This action was based on an interstate shipment of hard candies called "Orange, Lime, Wild Cherry, or Lemon Frolics", which contained added undeclared tartaric acid, and no true fruit juices. The orange, lime, and wild cherry "Frolics" were also artificially colored.

On May 9, 1933, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joseph G. Dubin & Sons, Inc., Brooklyn, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about December 19, 1931, from the State of New York into the State of Connecticut, of a quantity of candies that were adulterated and misbranded. Each package of the shipment contained a number of variously named candies labeled in part: "Orange [or "Lemon", "Lime", or "Wild Cherry"] Frolics, Jos. G. Dubin & Sons, Inc., Brooklyn, N. Y.", together with designs of oranges, lemons, limes, or wild cherries.

It was alleged in count 1 of the information that the pieces, labeled "Orange", were adulterated in that a substance, hard candy containing no orange juice but containing undeclared artificial color and tartaric acid, had been substituted for hard candy containing orange juice, which the article purported to be. Adulteration was alleged for the further reason that the article had been mixed and colored with undeclared tartaric acid and artificial color in a manner whereby its inferiority to candy containing orange juice was concealed.

Misbranding of the product labeled "Orange" was alleged in count 2 for the reason that the statement "Orange", together with the design of oranges borne on the wrappers, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statement and design represented that the article contained orange juice in its composition, whereas it did not. Misbranding was alleged for the further reason that an article containing undeclared artificial color and tartaric acid and having no orange juice in its composition had been offered for sale under the distinctive name of another article, namely, orange. Adulteration and misbranding of the remaining products was charged in counts 3 to 8, inclusive, of the information.

On June 20, 1933, a plea of guilty to counts 1 and 2 of the information was entered on behalf of the defendant company, and the court imposed a fine of \$100. The remaining counts were dismissed.

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