

3759. Misbranding of macaroni. U. S. v. 125 Cases of Macaroni. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 6018. I. S. No. 1214-k. S. No. E-141.)

On October 20, 1914, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 125 cases of macaroni, remaining unsold in the original unbroken packages at New York, N. Y., alleging that the product had been shipped on or about September 14, 1914, by the Youngstown Macaroni Co., Youngstown, Ohio, and transported from the State of Ohio into the State of New York, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Grande Pastificio Elettrico Stella D'Oro Produzione Mille Casse Al Giorno Spaghettoni Extra Fine U. S. Serial No. 5179. Guaranteed under the Food and Drug Act, June 30, 1906. Stabilito Nel 1886." In addition, the labels bore pictorial representations of moon, stars, and medals of award, and were branded "Spaghettoni."

It was alleged in the libel that the product was labeled or branded so as to deceive and mislead a purchaser, and purported to be a foreign product, when it was not such, in violation of section 8, paragraph 2, under the title "Food" of said act, the deception and misleading being induced by the label hereinbefore referred to.

On January 13, 1915, the said Youngstown Macaroni Co., claimant, having filed a claim and stipulation for costs and consented to the decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product, after having been relabeled, should be delivered to said claimant upon payment of costs of the proceedings and the execution of bond in the sum of \$300, in conformity with section 10 of the act.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *April 24, 1915.*

3760. Adulteration and misbranding of gelatin. U. S. v. 2 Barrels of Gelatin. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 6019. I. S. Nos. 11234-k, 11235-k. S. No. C-102.)

On October 20, 1914, 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 for the seizure and condemnation of 2 barrels of gelatin, remaining unsold in the original unbroken packages at Cincinnati, Ohio, alleging that the product had been shipped and transported from the State of Indiana into the State of Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. One of the barrels was labeled: (Stencil on one head of shipping barrel) "33-532" "27512" "X Purity Gelatine" (Shipping tag on head) "Hirsh, Stein & Co. Cincinnati, Ohio. Trap car C. & O. of Ind. P. paid From Hirsh, Stein & Co., Glue, Gelatine & Fertilizer, Hammond, Indiana." (Stencil on side of barrel) "27512" "X Purity Gelatine." The other barrel was labeled: (Stencil on one head of shipping barrel) "32-518" "27513" "X Purity Gelatine." (Shipping tag on head) "Hirsh, Stein & Co. Cincinnati, Ohio. Trap car C. & O. of Ind. P. paid From Hirsh, Stein & Co., Glue, Gelatine & Fertilizer, Hammond, Indiana." (Stencil on side of barrel) "27513" "X Purity Gelatine."

Adulteration of the product was alleged in the libel for the reason that a certain substance, to wit, glue, had been substituted for the article of food, and, further, in that said article of food contained excessive amounts of arsenic, copper, and zinc, added deleterious ingredients, which might render said article of food injurious to health. Misbranding was alleged for the reason that the barrels and packages of the article of food and the labels, marks, and brands upon said barrels and packages bore a certain statement, to wit, "X Purity Gelatine," regarding the article of food and the ingredients and substances contained therein, which said statement was false and misleading in that it represented said article to be a pure gelatin, whereas, in truth and in fact, it was glue; further, in that said article of food was offered for sale, sold, and transported as aforesaid under the distinctive name of gelatin, when, in truth and in fact, it was not gelatin, but was another article, to wit, glue; and, further, in that said article of food was labeled, marked, and branded as aforesaid so as to deceive and mislead the purchaser thereof in that the aforesaid labels, marks, and brands on the article of food represented the same to be a pure gelatin, whereas, in truth and in fact, it was not a gelatin but was a glue.

On November 3, 1914, Morris M. Hirsh and Wm. D. Stein, partners, trading and doing business under the name of Hirsh, Stein & Co., claimants, having filed their answer admitting the facts set forth in the libel and consenting to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be released to said claimants upon payment of all the costs of the proceedings and the execution of bond in the sum of \$100, in conformity with section 10 of the act, one of the conditions of said bond being that the gelatin should be, by said claimants, in the presence of a United States food and drug inspector, so denatured that it might not again be sold or offered for sale as a food product.

D. F. HOUSTON, *Secretary of Agriculture.*

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