

7044. Adulteration and misbranding of olive oil. U. S. * * * v. 13 Cases of Olive Oil. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 9581. I. S. No. 15371-r. S. No. E-1207.)

On January 17, 1919, the United States attorney for the District of Maryland, 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 13 cases, each containing twelve 1-gallon cans, and seven 1-gallon cans of olive oil, consigned on December 28, 1918, remaining unsold in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped by Herman Kienzler Co., New York, N. Y., and transported from the State of New York into the State of Maryland, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "One Gallon La Reine de Nice Olive Oil Trade Mark H. K. This Olive Oil is pressed from Queen Olives at Nice, France, famous for ranking first in quality. It is warranted strictly pure and testified to under oath by the official City Chemist of Nice. La Reine de Nice Olive Oil is absolutely the Best. Herman Kienzler Co., New York. The undersigned, Chemist Expert of the Town Hall of Nice, declares that the Olive Oil, Reine de Nice, after undergoing a severe analysis, has been found a strictly pure Olive Oil. H. Caff, 80 Boulevard Gambetta, Nice (Chemiste Expert du Museum de Paris)." (On side of can) "First Pressing Virgin Olive Oil Guaranteed Pure."

Adulteration of the article was alleged in the libel for the reason that cottonseed and peanut oils had been mixed and packed with, and substituted wholly or in part for, olive oil, which the article purported to be.

Misbranding of the article was alleged for the reason that the above-quoted labeling was false and misleading, and such as to deceive and mislead the purchaser, and for the further reason that it was an imitation of, and was offered for sale under the distinctive name of, another article, to wit, olive oil.

On March 15, 1919, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be relabeled and sold at public auction by the United States marshal.

E. D. BALL,

Acting Secretary of Agriculture.

7045. Adulteration of condensed skimmed milk. U. S. * * * v. 372 Cases * * * Condensed Skimmed Milk. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 9582. I. S. No. 14356-r. S. No. E-1209.)

On January 16, 1919, 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 372 cases, each containing 48 cans of condensed skimmed milk, remaining unsold in the original unbroken packages at New York, N. Y., alleging that the article had been shipped on or about December 30, 1918, and transported from the State of Connecticut into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Value Brand Sweetened Condensed Skimmed Milk * * * Packed by Merton Dairy Products Co., Merton, Wis."

Adulteration of the article was alleged in the libel for the reason that it consisted particularly of a decomposed animal product.

On March 14, 1919, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court

that the product should be destroyed by the United States marshal, or if said property could be disposed of for fertilizer or other similar or manufacturing purposes, other than for human or animal consumption, that such disposition of it might be made.

E. D. BALL,
Acting Secretary of Agriculture.

7016. Adulteration and misbranding of olive oil. U. S. * * * v. Nicholas S. Monahos. Tried to the court and a jury. Verdict of guilty. Fine, \$200 and costs. (F. & D. No. 9583. I. S. No. 13718-r.)

On April 29, 1919, 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 an information against Nicholas S. Monahos, New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on April 23, 1918, from the State of New York into the State of Connecticut, of a quantity of an article, labeled "Olio Sopraffino Qualita Superiore Olio Finissimo Olive Oil Tripolitania Brand," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed it to be cottonseed oil.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, cottonseed oil, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength, and had been substituted in part for olive oil, which the article purported to be.

Misbranding of the article was alleged for the reason that the statements, to wit, "Olio Sopraffino Qualita Superiore," and "Olio Finissimo Olive Oil," together with the designs and devices of the Italian coat of arms, Italian flags, and crowns, borne on the cans containing the article, regarding it and the ingredients and substances contained therein, were false and misleading in that they represented that the article was olive oil, that it was a foreign product, to wit, an olive oil produced in the kingdom of Italy, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was olive oil, and that it was a foreign product, to wit, an olive oil produced in the kingdom of Italy, whereas, in truth and in fact, it was not olive oil, but was a mixture composed in part of cottonseed oil, and was not a foreign product, to wit, an olive oil produced in the kingdom of Italy, but was a domestic product, to wit, a product produced in the United States of America, and for the further reason that it was a mixture composed in part of cottonseed oil prepared in imitation of olive oil, and was sold under the distinctive name of another article, to wit, olive oil, and for the further reason that by the statements on the label it purported to be a foreign product, when not so.

On July 24, 1919, the case having come on to be tried by the court and a jury, after the submission of evidence and arguments by counsel, the following charge was delivered to the jury by the court (Smith, *D. J.*) :

Gentlemen of the jury: There are two counts and certain charges in the indictment against the defendant, one of which is being tried. The first count charges him with shipping or causing to be shipped, a number of cans of a food article which is alleged to have been adulterated, and the second count charges him with shipping or causing to be shipped from one State to another, an article of food in cans that were misbranded.

The first count charges that on the 23rd day of April, 1918, he shipped and caused to be shipped from the city of New York, in the State of New York, to the city of New Haven, in the State of Connecticut, a number of cans containing an article of food, to Domenico Sylvestro, and the charge in this count sets out the words and figures with which these cans were branded or marked, and which is in evidence before you.