

12225. Misbranding of tomatoes. U. S. v. Garcia & Maggini Co., a Corporation. Plea of guilty. Fine, \$100. (F. & D. No. 17698. I. S. Nos. 8670-v, 11270-v, 11271-v, 11272-v.)

On January 14, 1924, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Garcia & Maggini Co., a corporation, San Francisco, Calif., alleging that on or about June 5 and 12, 1923, respectively, the said company did deliver at San Francisco, Calif., for shipment from the State of California into the Territory of Hawaii, various consignments of tomatoes which were misbranded in violation of the food and drugs act, as amended. Two consignments of the article were labeled in part: (Crate) "Shipped By Garcia & Maggini Co. * * * Green Net 20 Lbs." A third consignment, 1 crate, of the article was labeled in part: (Crate) "Fancy Green * * * 21 Lbs. Net." The remainder of the consignment was labeled: (Crate) "Shipped By Garcia & Maggini Co. S. F." The fourth consignment bore no statement as to the quantity of the contents of the article.

Examination by the Bureau of Chemistry of this department of the product involved in the three consignments labeled "20 Lbs. Net" showed that the net weight of the product in the said crates was less than 20 pounds.

Misbranding was alleged with respect to a portion of the article for the reason that the statements, to wit, "Net 20 Lbs.," and "20 Lbs. Net," as the case might be, borne on the crates containing the said article, were false and misleading, in that the said statements represented that the said crates contained 20 pounds net of the said article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said crates contained 20 pounds net of the article, whereas, in truth and in fact, each of said crates did not contain 20 pounds net of the article but did contain a less amount. Misbranding was alleged with respect to the product involved in all of the consignments for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On February 28, 1924, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12226. Adulteration of Brazil nuts. U. S. v. 123 Bags of Brazil Nuts. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17981. I. S. No. 15804-v. S. No. E-4567.)

On November 7, 1923, 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 praying the seizure and condemnation of 123 bags of Brazil nuts, remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by Wilson Holgate & Co., from Mansos, Brazil, on or about March 27, 1923, and transported from a foreign country into the State of New York, and charging adulteration in violation of the food and drugs act.

Adulteration of the articles was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On March 13, 1924, the Hills Bros. Co., New York, N. Y., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,500, in conformity with section 10 of the act, conditioned in part that it be sorted in a manner satisfactory to this department and the bad portion destroyed, and conditioned further that if such sorting be not accomplished to the satisfaction of this department the entire lot be denatured or destroyed.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12227. Adulteration and misbranding of butter. U. S. v. Central Illinois Creamery Co., a Corporation. Plea of nolo contendere. Fine, \$100 and costs. (F. & D. No. 17140. I. S. No. 1703-v.)

On June 27, 1923, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Central Illinois Creamery Co., a corporation, Nokomis, Ill., alleging ship-

ment by said company, in violation of the food and drugs act, on or about August 30, 1922, from the State of Illinois into the State of Massachusetts, of a quantity of butter which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it contained excessive moisture and was deficient in butterfat.

Adulteration of the article was alleged in the information for the reason that a product deficient in milk fat and containing an excessive amount of water had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in part for butter, which the article purported to be. Adulteration was alleged for the further reason that a valuable constituent of the article, to wit, milk fat, had been in part abstracted.

Misbranding was alleged for the reason that the article was a product deficient in milk fat and contained an excessive amount of water, prepared in imitation of and offered for sale and sold under the distinctive name of another article, to wit, butter.

On February 5, 1924, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100 and costs.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12228. Adulteration and misbranding of olive oil. U. S. v. Christos A. Touris. Plea of guilty. Fine, \$120. (F. & D. No. 16557. I. S. No. 17003-t.)

On December 27, 1922, 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 Christos A. Touris, New York, N. Y., alleging shipment by said defendant, in violation of the food and drugs act, as amended, on or about September 16, 1921, from the State of New York into the District of Columbia, of a quantity of olive oil which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it was a mixture of olive oil and peanut oil. Examination by said bureau showed that the cans contained less than 1 gallon net of the article.

Adulteration of the article was alleged in the information for the reason that certain substances, to wit, peanut oil or oil other than olive oil, had been substituted in whole or in part for Italian olive oil, which the said article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Finest Quality Olive Oil Extra Pure * * * of Termini Imerese Italy Sicilia-Italia 1 Gallon Net," borne on the cans containing the article, regarding the said article and the ingredients and substances contained therein, were false and misleading in that they represented that the article was pure olive oil, that it consisted wholly of a foreign product, to wit, an olive oil produced in Sicily in the Kingdom of Italy, and that each of the said cans contained 1 gallon net of the said article, 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 pure olive oil, that it consisted wholly of a foreign product, and that each of the said cans contained 1 gallon net of the article, whereas, in truth and in fact, it was not pure olive oil, but was a mixture composed in part of peanut oil and oil other than olive oil; it was not a foreign product, to wit, an olive oil produced wholly in Sicily, in the Kingdom of Italy, but was in whole or in part a domestic product, to wit, peanut oil and oil other than olive oil produced in the Kingdom of Italy, and each of said cans did not contain 1 gallon net of the article but did contain a less amount. Misbranding was alleged for the further reason that the article was offered for sale and was sold under the distinctive names of other articles, to wit, olive oil and olive oil of Termini Imerese, Italy—that is to say, Italian olive oil. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 7, 1924, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$120.

HOWARD M. GORE, *Acting Secretary of Agriculture.*