

22135. Adulteration and misbranding of candy. U. S. v. 9 Boxes, et al., of Candy. Default decree of destruction. (F. & D. nos. 31920, 31921. Sample nos. 41229-A, to 41232-A, incl., 56516-A, 56517-A, 56518-A.)

This case involved various shipments of confectionery which was found to contain alcohol. Portions of the article were labeled, "Not a Confection", in an attempted disclaimer of responsibility for the shipment of confectionery containing alcohol.

On February 1, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 468 boxes of candy at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce, in part by the Berkshire Co., from Chicago, Ill., between the dates of December 21, 1933, and January 15, 1934, and in part by the Schulze Candy Co., from Oak Park, Ill., on or about January 16, 1934, and charging that the article was adulterated and that portions were also misbranded in violation of the Food and Drugs Act. Portions of the article were labeled: "Napoleon Cordials * * * Cordial * * * Not a Confection"; "Chokicks Cordial (Not a Confection)"; "Renaissance Confiserie * * * Liqueur Chocolat * * * Cordials Cordial (Not a Confection)."

It was alleged in the libel that the article was adulterated under the provisions of the law relating to confectionery in that it contained spirituous liquor.

Misbranding was alleged with respect to portions of the article for the reason that the statements, "Cordial * * * Not a Confection" or "Cordial (Not a Confection)", were false and misleading and deceived and misled the purchaser.

On or about March 16, 1934, no claimant having appeared for the property, judgment was entered ordering that the product be destroyed by the United States marshal.

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

22136. Misbranding of salad oil. U. S. v. 105 Cans of Salad Oil. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31926. Sample nos. 51969-A, 51970-A.)

This case involved two lots of oil labeled to convey the impression that it consisted of olive oil of foreign origin. Examination of the article showed that it consisted principally of cottonseed oil with color, taste, and odor suggesting artificial olive flavor, also that the cans contained less than the declared volume.

On January 31, 1934, 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 105 cans of salad oil at Newark, N.J., alleging that the article had been shipped in interstate commerce on or about January 15, 1934, by Umbert Turco, from New York, N.Y., and charging misbranding in violation of the Food and Drugs Act as amended.

It was alleged in the libel that the article was misbranded in that the following statements and designs appearing on the labels were false and misleading and deceived and misled the purchaser, since the product consisted in large part of domestic cottonseed oil, and since the cans contained less than 1 gallon: (Labeling of portion) "Italian Produce Sublime Olive Oil Imported by Acomo Fo Net Contents One Gallon * * * The Olive Oil contained in this can is pressed from fresh picked high grown fruit * * * and guaranteed to be absolutely pure under any chemical analysis Imported from Italy [design of shield bearing a crown]"; (labeling of remainder) "Italian Product Virgin Olive Oil Imported Net Contents One Gallon This imported olive oil is guaranteed to be absolutely pure under chemical analysis Imported from Italy [also design of olive branches]." Misbranding was alleged for the further reason that the article purported to be a foreign product when not so; for the further reason that it was offered for sale under the distinctive name of another article, namely, olive oil; and for the further 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 package, since the statement made was incorrect.

On March 1, 1934, 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.*