

**24577. Adulteration and misbranding of butter. U. S. v. Roscoe R. Seiling (Peerless Ice Cream & Butter Co.). Plea of guilty. Fine, \$20 and costs. (F. & D. no. 33952. Sample nos. 71445-A, 07-B.)**

This case was based on interstate shipments of butter that contained less than 80 percent of milk fat.

On March 23, 1935, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Roscoe R. Seiling, trading as the Peerless Ice Cream & Butter Co., Lamar, Colo., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about May 16 and July 5, 1934, from the State of Colorado into the State of Kansas of quantities of butter that was adulterated and misbranded. The article was labeled in part: "Peerless The Butter That Equals its Name \* \* \* One Pound Net \* \* \* Peerless Ice Cream and Butter Co. Lamar, Colo."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement "Butter", borne on the carton label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article was butter, namely, a product containing not less than 80 percent by weight of milk fat as required by law; whereas it contained less than 80 percent by weight of milk fat.

On May 3, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$20 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24578. Adulteration of butter. U. S. v. Theodore L. Hoef (Monroe City Creamery). Plea of guilty. Fine, \$100. (F. & D. no. 33979. Sample no. 7971-A.)**

This case was based on an interstate shipment of butter that contained less than 80 percent by weight of milk fat.

On April 8, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Theodore L. Hoef, trading as the Monroe City Creamery, Monroe City, Mo., alleging shipment by said defendant, in violation of the Food and Drugs Act on or about June 6, 1934, from the State of Missouri into the State of New York, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On April 30, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24579. Misbranding of salad oil. U. S. v. 101 Cases and 26 Cans of Salad Oil. Decrees of condemnation. Portion of product released under bond to be relabeled. Remainder destroyed. (F. & D. nos. 34232, 34233. Sample nos. 10537-B, 17850-B.)**

These cases involved two lots of oil, one lot consisting of cottonseed oil with some olive oil present, and the other consisting of cottonseed oil and peanut oil with some olive oil present, both lots of which were labeled to convey the impression that they were olive oil.

On November 1, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 101 cases and 26 cans of salad oil at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce in various shipments on or about October 11, 1933, and August 28 and 29, 1934, by the Italian Olive Oil Corporation, from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. A portion of the article was labeled: "Superfine Olio Rita Brand." The remainder was labeled: "Olio Unico Brand."

The article was alleged to be misbranded in that the statements, "Superfine Olio Rita", "Rita Brand Oil is guaranteed absolutely pure under any chemical analysis", and "L'Olio Marca Rita E'Garentito assolutamente Puro Sotto Qualsiasi Analisi Chimica", with respect to the Rita brand, and the statements, "Olio Unico", "Garentito Puro Sotto Qualsiasi Analisi Chimica", the prominent name "The Italian Olive Oil Corp.", and the green color of the can, suggestive of olives, with respect to the Unico brand, borne on the respective labels, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was olive oil; whereas one lot was essentially cottonseed oil with some olive oil present and the other was essentially cottonseed oil with some peanut oil and some olive oil present, and this misleading impression was not corrected by the statement on both labels, "Composed of Twenty Per Cent Pure Olive Oil and Other Vegetable Oil Eighty Per Cent", since the latter statement was in much smaller type and far removed from the word "Olio." Misbranding of the Unico brand was alleged for the further reason that the statement on the label, "Olio Unico Brand A really Superior Salad Oil", was misleading and tended to deceive and mislead the purchaser, since the term "Salad Oil" includes olive oil.

On November 17, 1934, four 1-gallon cans having been seized under one libel and no claimant having appeared therefor, judgment of condemnation was entered and it was ordered that the said four cans be destroyed. On April 11, 1935, G. Foti, Inc., Philadelphia, Pa., having appeared as claimant for the product seized under the remaining libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24580. Adulteration of canned shrimp. U. S. v. 123 Cases of Canned Shrimp. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 34298. Sample no. 16354-B.)**

This case involved canned shrimp which was in part decomposed.

On November 5, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 123 cases of canned shrimp at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about October 22, 1934, by the Dunbar-Dukate Co., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Dunbar Brand Salad Shrimp \* \* \* Distributed by Dunbar Dukate Co., Inc., New Orleans, La."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 1, 1935, the Dunbar-Dukate Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it would not be disposed of in violation of the Federal Food and Drugs Act. On April 19, 1935, the adulterated portion of the product having been destroyed, final decree was entered exonerating the bond and releasing the good portion.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24581. Adulteration of canned shrimp. U. S. v. 250 Cases and 114 Cases of Canned Shrimp. Decrees of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. nos. 34301, 34672. Sample nos. 17917-B, 24235-B, 24244-B.)**

These cases involved interstate shipments of canned shrimp which was in part decomposed.

On November 7, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 cases of canned shrimp at Shenandoah, Pa. On December 26, 1934, a libel was filed against 114 cases of canned shrimp at Harrisburg, Pa. The libels charged that the article had been shipped in interstate commerce on or about August 12 and October 2, 1934, from Fernandina, Fla., in part in the name of James A. Smith & Co., and in part in the name of James A. Smith, and that it was adulterated in violation of the Food and Drugs Act. The