

26356. Misbranding and alleged adulteration of olive oil. U. S. v. 3 Gallons and 15 Gallons of Alleged Olive Oil. Default decree of condemnation and destruction. (F. & D. no. 37887. Sample nos. 66601-B, 66602-B.)

This case involved two lots of alleged olive oil, one of which consisted almost, if not entirely, of cottonseed oil artificially flavored and the other of which consisted entirely of rapeseed oil. The latter lot was also short in volume.

On July 14, 1936, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 gallons of alleged olive oil at Westerley, R. I., alleging that the article had been shipped in interstate commerce on or about January 2, 1936, by the Bettola Grocery from West New York, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. One lot was labeled in part: "First Pressing Cream Olive Oil." The remaining lot was labeled in part: "Italian Produce Sublime Olive Oil Imported by Acomo Fo Lucca Net Contents One Gallon."

The article was alleged to be adulterated in that cottonseed oil and artificial flavor in the case of one lot and rapeseed oil in the case of the remaining lot had been mixed and packed therewith so as to reduce or lower its quality or strength and had been substituted wholly or in part for olive oil, which the article purported to be.

The article was alleged to be misbranded in that the following statements were false and misleading and tended to deceive and mislead the purchaser when applied to a product of the composition indicated and a part of which was short in volume: (One lot) "First Pressing Cream Olive Oil This Olive Oil is guaranteed to be absolutely pure and is made from the finest selected olives grown on the Italian Riviera. This virgin oil is highly recommended for medicinal and table use. Vergine Questo olio d'oliva, prodotto della riviera ligure, e garantito purissimo. E insuperabile sia per uso medicinale che per tavola"; (remaining lot) "Italian Produce Sublime Olive Oil * * * Lucca Net Contents One Gallon The Olive Oil contained in this can is pressed from fresh picked high grown fruit, packed by the grower under the best sanitary condition, and guaranteed to be absolutely pure under any chemical analysis. * * * L'Olio d'oliva contenuto in questa latta e ottenuto dal miglior frutto appena colto confezionato dal produttore nelle migliori condizioni igieniche e garantito puro a qualsiasi analisi chimica."

The portion of the article that was short in volume was alleged to be misbranded further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On August 4, 1936, no claimant having appeared and the court having found the article misbranded, judgment of condemnation was entered ordering that the product be destroyed.

M. L. WILSON, Acting Secretary of Agriculture.

26357. Misbranding of chocolate-flavored malted milk. U. S. v. 22 Cases of Chocolate-Flavored Malted Milk. Default decree of condemnation and destruction. (F. & D. no. 37888. Sample no. 75558-B.)

This case involved a product that contained much less malted milk than should be contained in chocolate-flavored malted milk, which it was represented to be.

On July 13, 1936, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cases of chocolate-flavored malted milk at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about April 18, 1936, by Circle Foods, Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Bo-Peep Chocolate Flavored Malted Milk * * * Circle Foods, Inc. New York, N. Y. Distributors."

The article was alleged to be misbranded in that the statements, "Chocolate Flavored Malted Milk * * * Absolutely Pure * * * Develops Sturdy Bodies * * * Rich in Vitamins", borne on the labels, were false and misleading and tended to deceive and mislead the purchaser, in that they represented that the article was a chocolate-flavored malted milk, was absolutely pure, developed sturdy bodies and was rich in vitamins; whereas the article was not chocolate-flavored malted milk, was not absolutely pure, did not de-

velop sturdy bodies, and was not rich in vitamins; and in that the statement borne on the label, "Guaranteed to comply with the Pure Food Laws", was misleading since it created the impression that the article had been examined and approved by the Government of the United States and that the Government guaranteed that it complied with the laws and that it did so comply; whereas it had not been approved by the Government, the Government did not guarantee that it complied with the law, and it did not so comply.

On September 8, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

26358. Misbranding of salad oil. U. S. v. 48 Gallon Cans, 114 ½-Gallon Cans, and 114 Quart Cans of Salad Oil. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 87891. Sample nos. 71168-B, 71169-B, 71170-B.)

This case involved salad oil that was short in volume.

On July 22, 1936, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 276 cans of salad oil at Reno, Nev., alleging that the article had been shipped in interstate commerce on or about April 29 and June 9, 1936, by Durkee Famous Foods from Berkeley, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Durkee's Salad Oil One Gallon [or "One Half Gallon" or "One Quart"] Durkee Famous Foods Inc. Berkeley, Calif."

The article was alleged to be misbranded in that the statements on the labels, "One Gallon", "One Half Gallon", and "One Quart", were false and misleading and tended to deceive and mislead the purchaser when applied to a product that was short in volume.

On September 28, 1936, the Glidden Co., doing business as Durkee Famous Foods, 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 to be relabeled.

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

26359. Adulteration and misbranding of butter. U. S. v. 10 Tubs of Butter. Consent decree of condemnation. Product released under bond. (F. & D. no. 87894. Sample no. 56221-B.)

This case involved butter that was deficient in milk fat.

On July 7, 1936, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 tubs of butter at Cleveland, Ohio, alleging that the article had been shipped in interstate commerce on or about May 5, 1936, by Wilson & Co., from Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which contained not less than 80 percent by weight of milk fat.

The article was alleged to be misbranded in that it was sold as and purported to be butter, when it should have contained not less than 80 percent by weight of milk fat as prescribed by the act of March 4, 1923, which the article purported to be.

On July 27, 1936, Wilson & Co., 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 be brought up to the legal standard.

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

26360. Adulteration of butter. U. S. v. 22 Cubes and 15 Cubes of Butter. Decree of condemnation. Product ordered released under bond. (F. & D. no. 87896. Sample no. 69841-B.)

This case involved butter that was deficient in milk fat.

On June 30, 1936, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 37 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about June 15, 1936, by the Omaha Cold Storage Co., from