

11312. Misbranding of olive oil. U. S. v. 16 Cans of Olive Oil. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 15545. I. S. No. 11174-t. S. No. W-1025.)

On November 15, 1921, the United States attorney for the District of Colorado, 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 16 cans of olive oil, remaining unsold in the original unbroken packages at Trinidad, Colo., consigned by A. Russo & Co., Chicago, Ill., alleging that the article had been shipped from Chicago, Ill., on or about May 13, 1921, and transported from the State of Illinois into the State of Colorado, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "One Quart Net Marca Diana Brand Superfine Olive Oil of Guaranteed Purity For Medicinal And Table Use."

It was alleged in substance in the libel that the article was misbranded in that the statement, to wit, "One Quart Net," appearing on each of the cans containing the said article, was false and misleading and deceived and misled the purchaser for the reason that the net contents of each of said cans was less than 1 quart net. 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 packages.

On January 26, 1923, 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 relabeled so as to show the correct quantity of contents of the said cans, and sold by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

11313. Adulteration and misbranding of macaroni and noodles. U. S. v. Ascenzio Fuschino (A. Fuschino Mercantile & Importing Co.). Plea of guilty. Fine, \$50 and costs. (F. & D. No. 15844. I. S. Nos. 10764-t, 10765-t, 10766-t.)

On March 24, 1922, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Ascenzio Fuschino, trading as A. Fuschino Mercantile & Importing Co., Pueblo, Colo., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about November 18, 1920, from the State of Colorado into the State of Utah, of quantities of macaroni and noodles which were adulterated and misbranded. The articles were labeled in part, respectively: "Perfezionata Fabrica di Paste * * * Manufactured By A. Fuschino, Pueblo, Colo. Guaranteed under the Food & Drugs Act June 30th 1906 Serial No. 17618 Macaroni Egg Style;" "King's Taste Noodles Extra Fine Quality Manufactured by The Pueblo Macaroni Mfg. Co. * * * Pueblo, Colo. * * * Guaranteed by us under the Pure Food and Drugs Act;" "A. F. Brand Twisted Noodles Extra Fine Quality * * * Manufactured By Pueblo Macaroni Factory A. Fuschino Pueblo, Colo."

Analyses of samples of the articles by the Bureau of Chemistry of this department showed that they were alimentary pastes, artificially colored, containing little or no egg.

Adulteration of the articles was alleged in the information for the reason that an alimentary paste which contained little or no egg had been substituted for macaroni, egg style, or noodles, as the case might be, which the said articles purported to be. Adulteration was alleged for the further reason that the said articles were products inferior to macaroni, egg style, or noodles, as the case might be, to wit, alimentary pastes which contained little or no egg, and said products were colored so as to simulate the appearance of macaroni, egg style, or noodles, as the case might be, and in a manner whereby their inferiority to said products was concealed.

Misbranding was alleged in substance for the reason that the statements, to wit, "Qualita Insuperabile," "Guaranteed under the Food & Drugs Act June 30th 1906," and "Macaroni Egg Style," borne on the labeling of the macaroni, the statements, to wit, "Noodles Extra Fine" and "Guaranteed by us under the Pure Food and Drugs Act, June 30, 1906," borne on the labeling of a portion of the noodles, and the statement, "Noodles Extra Fine Quality," borne on the labeling of the remainder of the said noodles, regarding the said articles and the ingredients and substances contained therein, were false and misleading in that the said statements represented that the articles were high grade macaroni, egg style, or extra fine noodles, or noodles of extra fine quality,

as the case might be, and that the macaroni and a portion of the noodles conformed to the Food and Drugs Act of June 30, 1906, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said articles were high grade macaroni, egg style, or extra fine noodles, or noodles of extra fine quality, as the case might be, and that the said macaroni and a portion of the said noodles conformed to the Food and Drugs Act of June 30, 1906, whereas, in truth and in fact, said articles were not high grade macaroni, egg style, or extra fine noodles, or noodles of extra fine quality, as the case might be, but were artificially colored alimentary pastes which contained little or no egg, and the said macaroni and the said portion of the noodles did not conform to the Food and Drugs Act of June 30, 1906. Misbranding was alleged with respect to the noodles for the further reason that it was an artificially colored alimentary paste which contained little or no egg, prepared in imitation of and offered for sale and sold under the distinctive name of another article, to wit, noodles. Misbranding was alleged with respect to the macaroni and a portion of the noodles 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.

On July 26, 1922, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50 and costs.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

11314. Misbranding of olive oil. U. S. v. 30 Half-Gallon Cans of Olive Oil. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 16085. I. S. No. 13913-t. S. No. W-1066.)

On April 10, 1922, the United States attorney for the District of Colorado, 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 30 half-gallon cans of olive oil, remaining unsold in the original unbroken packages at Pueblo, Colo., consigned by Lekas & Drivas, New York, N. Y., alleging that the article had been shipped from New York, N. Y., on or about October 19, 1921, and transported from the State of New York into the State of Colorado, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Net Contents $\frac{1}{2}$ Gall. * * * Pure Olive Oil * * * Lekas & Drivas New York U. S. A."

Misbranding of the article was alleged in the libel for the reason that the statement, to wit, "Net Contents $\frac{1}{2}$ Gall.," appearing on the said cans, was false and misleading and deceived and misled the purchaser for the reason that the net contents of each of the said cans was less than one-half gallon. 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 January 26, 1923, 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 relabeled so as to show the correct quantity of contents of the said cans, and sold by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

11315. Misbranding of horse and mule feed. U. S. v. Alfocorn Milling Co., a Corporation. Pleas of guilty. Fine, \$150 and costs. (F. & D. Nos. 15265, 16401. I. S. Nos. 11171-r, 13314-t, 18402-t, 18405-t.)

On December 3, 1921, and July 22, 1922, respectively, the United States attorney for the Eastern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district informations against the Alfocorn Milling Co., a corporation, trading at East St. Louis, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, from the State of Illinois, in various consignments, namely, on or about March 27, 1920, into the State of Tennessee, on or about August 6, 1921, into the State of Mississippi, and on or about January 5 and 6, 1922, respectively, into the State of Arkansas, of quantities of horse and mule feed which was misbranded. The article was labeled in part: "100 Pounds Happy Mule Horse & Mule Feed" (or "High Jump Mule Feed" or "* * * High Kick Horse & Mule Feed") "Manufactured by Alfocorn Milling Company East St. Louis, Ill. Guaranteed average analysis Protein 9.00% Fat 1.50% Carbohydrates 50.00% Fibre 15.00%."

Analyses by the Bureau of Chemistry of this department of a sample from each of the four consignments showed that the said article contained less