

12267. Adulteration and misbranding of canned oysters. U. S. v. 60 Cases of Oysters. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 17723. I. S. No. 5348-v. S. No. C-4103.)

On September 6, 1923, the United States attorney for the District of Kansas, 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 60 cases of oysters remaining in the original unbroken packages at Wichita, Kans., alleging that the article had been shipped by the Pelican Lake Oyster & Packing Co., from Houma, La., on or about February 28, 1923, and transported from the State of Louisiana into the State of Kansas, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Pelican Lake" Brand * * * Contents 5 Oz. Selected Oysters * * * Packed By Pelican Lake Oyster & Packing Co., Ltd. Houma, La."

Adulteration of the article was alleged in substance in the libel for the reason that it contained excessive brine, which had been packed and mixed therewith so as to injure, lower, and affect its quality, purity, and strength.

Misbranding was alleged for the reason that the statement, "Contents 5 Oz. * * * Oysters," appearing on the cans, was false and misleading. 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 March 31, 1924, 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.

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

12268. Adulteration and misbranding of Eskimo coating. U. S. v. 175 Pounds of Eskimo Coating. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18513. I. S. No. 2997-v. S. No. E-4791.)

On March 27, 1924, the United States Attorney for the Eastern District of Pennsylvania, 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 175 pounds of Eskimo coating remaining in the original unbroken packages at Philadelphia, Pa., consigned by F. Bischoff (Inc.), Brooklyn, N. Y., alleging that the article had been shipped from Brooklyn, N. Y., on or about February 21, 1924, and transported from the State of New York into the State of Pennsylvania, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "F. Bischoff Inc. * * * Brooklyn N Y * * * Special Eskimo Coating."

Adulteration of the article was alleged in the libel for the reason that a substance, to wit, foreign fat, had been mixed and packed wholly or in part for the said article.

Misbranding was alleged for the reason that the retail package inclosing the said article contained a label which bore the following statements: "F. Bischoff Inc Manufacturers Of Pure High Grade Cocoa & Chocolate Brooklyn N Y. Keep In A Cool And Dry Place * * * 100 Pounds F. Bischoff's A-1 Special Eskimo Coating," which were false and misleading in that the said statements indicated that the package contained the substances declared in the said label when, in fact and in truth, it did not. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On April 28, 1924, F. Bischoff (Inc.), Brooklyn, N. Y., having appeared as claimant for the property, 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 \$100, in conformity with section 10 of the act, conditioned in part that it be relabeled under the supervision of this department.

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

12269. Adulteration and misbranding of olive oil. U. S. v. Giuseppe Battaglia (the Southern Importing Co.). Plea of guilty. Fine, \$170. (F. & D. No. 16848. I. S. Nos. 6697-t, 6698-t, 6699-t, 6700-t, 7002-t, 7003-t.)

On May 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 an information against

Giuseppe Battaglia, trading as the Southern Importing Co., New York, N. Y., alleging shipment by said defendant, in violation of the food and drugs act as amended, in various consignments, namely, on or about May 4, 5, 14, and 19, 1921, respectively, of quantities of olive oil, a portion of which was adulterated and misbranded and the remainder of which was misbranded. A portion of the article was labeled in part: (Can) "Finest Quality Table Oil Tipo Termini Imerese (inconspicuous type) Cottonseed Oil Slightly Flavored With Olive Oil 1 Gallon Net" (or " $\frac{1}{2}$ Gallon Net"). A second portion of the article was labeled in part: (Can) "Il Famoso Olio per Insalata * * * Medaglie Universali Cotton Salad Oil 1 Gallon Net." A third portion of the article was labeled in part: (Can) "1 Quart Net" (or "1 Gallon Net") Sico Brand Extra Fine Olive Oil Guaranteed Absolutely Pure Packed by Southern Importing Co."

Analyses of samples of the Il Famoso oil and the Table Oil Tipo Termini Imerese by the Bureau of Chemistry of this department showed that they consisted of cottonseed oil with little or no olive oil present. Examination of the various-sized cans containing the respective consignments of the article by said bureau showed that the said cans contained less of the said article than was declared on the labels.

Adulteration of the Table Oil Tipo Termini Imerese and of the Il Famoso oil was alleged in the information for the reason that cottonseed oil had been mixed and packed therewith so as to lower and reduce and injuriously affect their quality and strength and had been substituted in part for olive oil, which the article purported to be.

Misbranding of the Table Oil Tipo Termini Imerese was alleged for the reason that the respective statements, to wit, "1 Gallon Net" and " $\frac{1}{2}$ Gallon Net," and the statement in prominent type, "Finest Quality Table Oil Tipo Termini Imerese," not corrected by the statement in inconspicuous type, "Cottonseed Oil Slightly Flavored With Olive Oil," together with the design and device of an olive tree with natives picking olives, borne on the cans containing the article, regarding the article and the ingredients and substances contained therein, were false and misleading in that they represented that the article was olive oil and that each of the said cans contained 1 gallon net, or one-half gallon net, as the case might be, 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 the article was olive oil and that each of the said cans contained 1 gallon net, or one-half gallon net, as the case might be, of the said article, whereas, in truth and in fact, it was not olive oil but was a mixture composed in part of cottonseed oil, and each of the said cans did not contain the amount declared on the respective labels but did contain a less amount. Misbranding was alleged for the further reason that the statements, designs, and devices borne on the said cans purported the said article to be a foreign product when not so. Misbranding was alleged with respect to the said table oil for the further reason that the statement, to wit, "Cottonseed Oil Slightly Flavored with Olive Oil," borne on the said cans was false and misleading in that it represented that the article was slightly flavored with olive oil, 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 slightly flavored with olive oil, whereas, in truth and in fact, it was not slightly flavored with olive oil, in that it contained no olive oil.

Misbranding of the Il Famoso oil was alleged for the reason that the statements, to wit, "Il Famoso Olio per Insalata," "Medaglie Universali," together with the designs and devices of olive branches and Italian Medals and "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 olive oil, that it was a foreign product, to wit, an olive oil produced in the Kingdom of Italy, and that each of said cans contained 1 gallon net of the 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 olive oil, that it was a foreign product, to wit, an olive oil produced in the Kingdom of Italy, and that each of said cans contained 1 gallon net of the article, whereas, in truth and in fact, said article was not olive oil but was a product composed in whole or in part of cottonseed oil, it was not a foreign product, to wit, an olive oil produced in the Kingdom of Italy but was a domestic product, to wit, an article produced in the United States of America, 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 fur-

ther reason that the statements, designs, and devices borne on the said cans purported the said article to be a foreign product when not so.

Misbranding was alleged with respect to the Sico Brand Olive Oil for the reason that the statements, to wit, "1 Quart Net" and "1 Gallon Net," borne on the respective-sized cans containing the article, regarding the said article, were false and misleading in that they represented that each of the said cans contained 1 quart net or 1 gallon net, as the case might be, of the article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said cans contained 1 quart net or 1 gallon net, as the case might be, of the said article, whereas, in truth and in fact, each of said cans did not contain the amount declared on the labels but did contain a less amount.

Misbranding was alleged with respect to the product involved in all 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 package.

On March 25, 1924, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$170.

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

12270. Adulteration of tomato stock. U. S. v. 295 Cases, et al., of Tomato Stock. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 18199, 18200, 18238, 18239, 18250, 18251. I. S. Nos. 932-v, 933-v, 934-v, 935-v, 936-v. S. Nos. E-4670, E-4671, E-4675, E-4677, E-4684.)

On January 2, 1924, the United States attorney for the Eastern District of South Carolina, acting upon reports by the Secretary of Agriculture, filed in the district court of the United States for said district libels praying the seizure and condemnation of 1,628 cases of tomato stock remaining in the original unbroken packages in part at Charleston, S. C., and in part at Georgetown, S. C., alleging that the article had been shipped by Greenbaum [Greenabaum] Bros. (Inc.), from Seaford, Del., in part September [October] 8, 1923, and in part September 26, 1923, and transported from the State of Delaware into the State of South Carolina and charging adulteration in violation of the food and drugs act. The article was labeled variously: (Can) "Camp Brand" (or "Roxbury Brand" or "Aurora Brand" or "Roland Brand" or "Johnson Brand") "Tomato Stock * * * Packed By Greenbaum Bros.; Inc. Seaford, Sussex County, Del."

Adulteration of the article was alleged in the libels for the reason that it consisted wholly or in part of a filthy, decomposed, and putrid vegetable substance and showed the presence of excessive mold.

On April 26, 1924, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

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

12271. Adulteration and misbranding of canned oysters. U. S. v. 8 Cases and 10 Cases of Oysters. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 18244, 18249. I. S. Nos. 18116-v, 18117-v. S. Nos. C-4242, C-4243.)

On December 27 and 28, 1923, respectively, the United States attorney for the Eastern District of Tennessee, acting upon reports by the Secretary of Agriculture, filed in the district court of the United States for said district libels praying the seizure and condemnation of 18 cases of oysters, remaining in the original unbroken packages at Knoxville, Tenn., alleging that the article had been shipped by the Meridian Canning Co., Meridian, Ga., on or about November 15, 1923, and transported from the State of Georgia into the State of Tennessee, and charging adulteration and misbranding in violation of the food and drugs act, as amended. The article was labeled in part: "Meridian Brand * * * Oysters Net Contents 5 Ounces Oysters * * * Packed By Meridian Canning Co. Meridian, Ga."

Adulteration of the article was alleged in the libels for the reason that excessive brine had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement, "Meridian Brand * * * Net Contents 5 Ounces Oysters," appearing in the labelling, was false and misleading and was intended to deceive and mislead the purchaser.