

**3477. Misbranding of cottonseed salad oil. U. S. v. 16 Cases of Cottonseed Salad Oil. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 5720. I. S. No. 5753-h. S. No. C-31.)**

On May 12, 1914, the United States attorney for the Eastern District of Missouri, 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 cases, each containing 12 cans of cottonseed salad oil, remaining unsold in the original unbroken packages, and in possession of A. Lume & Co., St. Louis, Mo., alleging that the product had been shipped on or about April 2, 1914, and transported in interstate commerce from the State of New York into the State of Missouri, and charging misbranding in violation of the Food and Drugs Act. The cases were labeled "12 cans Luna Cres. Salad Oil. A. Lume & Co., St. Louis, Mo."; the cans in the cases were labeled, "Marca (design crescent and star) Registrata Net Contents 1 Gall. Olio sopraffino Di Cotone Marca Luna Crescente Brand Finissimo Extra Quality Genuine Cottonseed Salad Oil." Sticker label on top of can: "105 Oz. Net."

Misbranding of the product was alleged in the libel for the reason that the cans did not contain one gallon of oil as stated on the labels thereon, but, on the contrary thereof, 4 of said cans contained an average shortage of 11.83 per cent on the basis of one gallon net content; and, further, said cans did not contain 105 ounces net of oil as stated on the labels, but, on the contrary thereof, 4 of said cans contained an average shortage of 1.19 per cent on the basis of 105 ounces net weight, and each of said cans so examined lacked an inch or more of being full of oil, and 23 of said cans upon being weighed showed an average shortage <sup>1</sup> of 12.17 per cent on the basis of one gallon net content, and an average shortage <sup>1</sup> of 1.57 per cent on the basis of 105 ounces net weight.

On May 18, 1914, the said A. Lume & Co., claimant concern, having admitted the allegations of the libel and consented to a decree, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be released to said claimant concern upon payment of the costs of the proceedings and the execution of bond in the sum of \$500, in conformity with section 10 of the act, one of the conditions thereof being that the claimant should remove and erase from the cans the following, to wit, "1 gall." and "105 oz. net," where the same appeared on the labels and should label said cases as follows, to wit "7/8 gall."

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., October 26, 1914.

**3478. Misbranding of evaporated milk. U. S. v. 100 Cases of Evaporated Milk. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 5742. I. S. No. 21611-h. S. No. C-39.)**

On June 2, 1914, the United States attorney for the Eastern District of Missouri, 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 100 cases, each containing 6 1-gallon size cans of evaporated milk, remaining unsold in the original unbroken packages and in possession of the United Bakers' Supply Co., St. Louis, Mo., alleging that the product had been shipped on or about May 13, 1914, and transported from the State of Illinois into the State of Missouri, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: (on cases) "Six Cans One Gallon Size Average Net Weight 8 Pounds." (on cans) "Wesco Brand Evaporated Milk Manufactured Especially (for) Ice Cream Makers and Confectioners."

Misbranding of the product was alleged in the libel for the reason that an examination of samples from said cases showed the net contents of the retail packages examined to measure 0.898 gallon, and 17 cans of said evaporated milk were weighed and the

<sup>1</sup> The contents of the 23 cans were not actually weighed, but the weight of the contents was estimated from the actual gross weight and average tare weight.