

On June 25, 1920, no claimant having appeared for the property, a default decree of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

E. D. BALL, *Acting Secretary of Agriculture.*

S105. Adulteration and misbranding of evaporated milk. U. S. * * * v. Aviston Condensed Milk Co., a Corporation. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 10257. I. S. Nos. 11923-p, 6151-r.)

On July 22, 1919, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Aviston Condensed Milk Co., Aviston, Ill., alleging shipment by said defendant, on or about June 8, and May 16, 1918, in violation of the Food and Drugs Act, as amended, from the State of Illinois into the States of Missouri and Ohio, of quantities of evaporated milk which was adulterated and misbranded. The article was labeled "'Purity' Brand Evaporated Milk Manufactured Expressly for Confectioners and Ice Cream Makers Distributed by United Bakers' Supply Company Jobbers, Importers, Manufacturers Largest Supply House in the West 109-111-113' South Eleventh St. S. W. Cor. Eleventh and Walnut Sts. Saint Louis." and "Our 'Best' Brand Evaporated Milk Manufactured Especially For Ice Cream Makers and Confectioners Guaranteed to Comply with all Provisions of Federal and State Pure Food Laws. Aviston Condensed Milk Co. Aviston Illinois, U. S. A. Net Weight 8 Lbs."

Analyses of samples of the product by the Bureau of Chemistry of this department showed that the article labeled "Purity Brand" contained 25.64 per cent of solids and 7.34 per cent of fat, and that the article labeled "Best Brand" in the shipment of June 8 contained 25.34 per cent of solids and 7.10 per cent of fat, and in the shipment of May 16 contained 25.35 per cent of solids and 7.35 per cent of fat. The "Best Brand" in the shipment of June 8, labeled "Net Weight 8 Lbs.," showed in 4 cans an average shortage of 2.25 ounces.

Adulteration of the article was alleged in the information with respect to both shipments for the reason that an insufficiently condensed milk product, low in fat and total solids, had been mixed and packed with the article so as to lower and reduce and injuriously affect its quality and strength, and had been substituted in whole or in part for evaporated milk, which the article purported to be.

Misbranding of the article was alleged with respect to both shipments for the reason that the statement "Evaporated Milk," borne on the cans containing the article, was false and misleading and deceived and misled the purchaser, in that it represented that the article was evaporated milk, whereas, in truth and in fact, said article was not evaporated milk, but was an insufficiently condensed milk, low in fat and total solids. Misbranding of "Our Best Brand" in the shipment of June 8, 1918, was alleged for the further reason that the statement "Net Weight 8 Pounds," borne on the cans, was false and misleading and deceived and misled the purchaser, in that each of said cans did not contain 8 pounds of the article. Misbranding of both brands in the shipment of June 8 was alleged for the further reason that they were food in package form, and the quantity of the contents thereof was not plainly and conspicuously marked on the outside of the package.

On September 17, 1919, the defendant company entered a plea of guilty, and the court imposed a fine of \$25 and costs.

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