

10857. Misbranding of olive oil. U. S. v. 9, et al, Cans of Olive Oil. Default decrees of condemnation and forfeiture. Product ordered sold. (F. & D. Nos. 15514, 15515, 15746, 15748, 15950. I. S. Nos. 12802-t, 12803-t, 12804-t, 12805-t, 12806-t, 12807-t, 12808-t, 12809-t, 12814-t, 12815-t. S. Nos. W-1018, W-1018-a, W-1037, W-1043.)

On November 19, 1921, and January 3 and 28, 1922, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 10 cans, each containing 1 gallon, 65 2-quart cans, and 115 1-quart cans of olive oil, at Salt Lake City and Helper, Utah, alleging that the article had been shipped between the dates of March 8, 1921, and September 23, 1921, by Deligiannis Bros., Chicago, Ill., and transported from the State of Illinois into the State of Utah, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Net Contents One Gallon," or "Net Contents Two Quarts," or "Net Contents One Quart" "Pure Olive Oil Universal Brand Deligiannis Bros. Chicago U. S. A."

Misbranding of the article was alleged in the libels for the reason that the statements on the labels, "Net Contents One Gallon," "Net Contents Two Quarts," and "Net Contents One Quart," were false and misleading in that the net contents were not 1 gallon, 2 quarts, and 1 quart, and for the further reason that the article was in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 23 and March 28, 1922, 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 so labeled and branded as to correctly designate the contents thereof, and that the same be sold by the United States marshal at public auction.

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

10858. Adulteration and misbranding of tea. U. S. v. 75 Cans of Tea. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 15969. I. S. No. 3109-t. S. No. C-3418.)

On February 4, 1922, the United States attorney for the Western District of Kentucky, 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 75 cans of tea, remaining in the original unbroken packages at Louisville, Ky., consigned by the Bohea Importing Co., Baltimore, Md., alleging that the article had been shipped on or about December 3, 1921, and transported from the State of Maryland into the State of Kentucky, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "King George * * * Flowery Orange Pekoe Ceylon-India Tea Bohea Importing Co. Baltimore, U. S. A. King George Ceylon-India Tea is an expert blending of very choice growths from the High Altitude Districts. It will be enjoyed for matchless qualities of drink * * * $\frac{1}{2}$ Pound Net Weight When Packed."

Adulteration of the article was alleged in the libel for the reason that a grade or grades of tea other than Flowery Orange Pekoe had been mixed and packed with and substituted wholly or in part therefor.

Misbranding was alleged for the reason that the statements, "Flowery Orange Pekoe * * * $\frac{1}{2}$ Pound Net Weight When Packed," were false and misleading, and deceived and misled the purchaser, and for the further reason that said 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 May 29, 1922, 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.

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

10859. Adulteration and misbranding of butter. U. S. v. 48 Tubs of Butter. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 16694. I. S. No. 2505-v. S. No. E-4096.)

On July 31, 1922, 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, and on August 3, 1922, an amended libel, praying the seizure and condemnation of 48 tubs of

butter, remaining in the original unbroken packages at Philadelphia, Pa., consigned by Montrose Cooperative Creamery, Montrose, Minn., alleging that the article had been shipped from Montrose, Minn., on or about July 21, 1922, and transported from the State of Minnesota into the State of Pennsylvania, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended.

Adulteration of the article was alleged in the libel for the reason that excessive water had been mixed and packed with and substituted wholly or in part for the article, and for the further reason that a valuable constituent of the said article, to wit, butter fat, had been wholly or in part abstracted.

Misbranding was alleged in substance for the reason that the tubs containing the article bore the statement, to wit, "Butter Made from Sweet Cream," regarding the article and the ingredients and substances contained therein, which was false and misleading in that the said tubs did not contain butter made from sweet cream. 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 August 3, 1922, Clinton G. Heyd, Philadelphia, Pa., having entered an appearance 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 \$2,000, in conformity with section 10 of the act, conditioned in part that it be reworked under the supervision of this department.

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

10860. Misbranding of tuna fish. U. S. v. White Star Canning Co., a Corporation. Plea of guilty. Fine, \$100. (F. & D. No. 12808. I. S. Nos. 12456-r, 17335-r, 17336-r, 17337-r.)

On June 13, 1921, the United States attorney for the Southern District of California, 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 White Star Canning Co., a corporation, San Pedro, Calif., alleging shipment by said company, on or about September 15, 1919, from the State of California into the State of Ohio, and on or about September 8, 1919, from the State of California into the District of Columbia, of quantities of tuna fish, which in each instance was misbranded. The Ohio shipment was labeled in part: "Radio Brand Blue Fin Tuna * * * Net Weight 13 oz." The District of Columbia shipments were labeled in part: "White Star Brand Chicken of the Sea Tuna Fish Net Contents 13 Ounces;" "Silver Foam Brand Calif. Tuna Net Contents 13 Oz.;" and "Radio Brand Blue Fin Tuna * * * Net Weight 13 Oz."

Examination of the article by the Bureau of Chemistry of this department showed an average net weight of 11.82 ounces on 9 cans from the shipment to Ohio; an average net weight of 12.35 ounces on 96 cans of the White Star brand shipped into the District of Columbia; an average net weight of 12.45 ounces on 96 cans of the Silver Foam brand shipped into the District of Columbia; and an average net weight of 12.29 ounces on 448 cans of the Radio brand shipped into the District of Columbia.

Misbranding of the article in each shipment was alleged in the information for the reason that the statement, to wit, "Net Weight 13 Oz," or "Net Contents 13 Ounces," or "Net Contents 13 Oz," borne on the labels attached to the cans containing the article regarding it, was false and misleading in that it represented that the contents of each can weighed 13 ounces net, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the contents of each can weighed 13 ounces net, whereas, in fact and in truth, the contents of each can did not weigh 13 ounces net, but did weigh a less amount, and for the further reason that the said 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 June 26, 1922, a plea of guilty to the information was entered on behalf of the defendant corporation, and the court imposed a fine of \$100.

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