

11433. Adulteration of canned cherries. U. S. v. 1,000 Cases of Canned Cherries. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 16803. I. S. No. 3765-v. S. No. C-3799.)

On September 6, 1922, the United States attorney for the Northern District of Illinois, 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 1,000 cases of canned cherries, remaining unsold in the original unbroken packages at Chicago, alleging that the article had been shipped by Mikesett [Mikesell] & Co., from Traverse City, Mich., August 14, 1922, and transported from the State of Michigan into the State of Illinois, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Barco Brand * * * Red Pitted Cherries."

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance.

On April 4, 1923, Mikesell & Co., Traverse City, Mich., claimant, having admitted the allegations of the libel and consented to the entry of a decree, 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 \$1,000, in conformity with section 10 of the act, conditioned in part that it be sorted, the bad portion destroyed and the good portion released to the said claimant.

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

11434. Adulteration and misbranding of olive oil. U. S. v. John Zeppos, Nicholas Antonio, and Anthony Antonio (Alpha Importing Co.). Pleas of guilty. Fine, \$300. (F. & D. No. 16857. I. S. Nos. 5092-t, 5093-t, 5094-t, 5486-t, 5626-t, 5627-t, 5628-t, 12151-t.)

At the February, 1923, term of the United States District Court, within and for the Southern District of New York, the United States attorney for said district, acting upon a report by the Secretary of Agriculture, filed in the district court aforesaid an information against John Zeppos, Nicholas Antonio, and Anthony Antonio, copartners, trading as the Alpha Importing Co., New York, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, as amended, in various consignments, namely, on or about May 3, 11, and 21, 1921, respectively, from the State of New York into the State of Massachusetts, and on or about May 7, 1921, from the State of New York into the State of New Hampshire, 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: "Marconi Brand Finest Pure Olive Oil Guglielmo Marconi * * * Extra Fine." The remainder of the article was contained in a barrel and was labeled in part, (tag) "From Alpha Importing Co. 351 East 32nd St., New York," and was invoiced as olive oil.

Analysis by the Bureau of Chemistry of this department of a sample of the article contained in the said barrel showed that it contained approximately 25 per cent of cottonseed oil. Examination of the Marconi brand by said bureau showed that the said cans contained less of the said article than declared on the respective labels, and in one shipment the product contained a large quantity of added oil other than olive oil.

Adulteration of the article contained in the said barrel was alleged in the information for the reason that cottonseed oil had been substituted in whole or in part for olive oil, which the said article purported to be. Adulteration was alleged with respect to one shipment of the Marconi brand oil for the reason that a substance, to wit, an oil other than olive oil, had been substituted in whole or in part for olive oil, which the said article purported to be.

Misbranding of the article contained in the said barrel was alleged for the reason that it was a mixture composed in whole or in part of cottonseed oil, prepared in imitation of olive oil, and was offered for sale and sold under the distinctive name of another article, to wit, olive oil. Misbranding was alleged with respect to one shipment of the Marconi brand for the reason that it was a mixture composed in whole or in part of an oil other than olive oil, prepared in imitation of olive oil, and was offered for sale and sold under the distinctive name of another article, to wit, olive oil.

Misbranding was alleged with respect to the Marconi brand oil for the reason that the statements, to wit, "One Full Gallon," "Half Full Gallon," "Quarter Full Gallon," and "Eighth Full Gallon," borne on the respective-sized cans containing the article, and the statement, to wit, "Finest Pure Olive