

New York, and charging adulteration and misbranding in violation of the food and drugs act.

Adulteration of the article was alleged in the libel for the reason that a substance deficient in butterfat and containing excessive moisture had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength and had been substituted in whole or in part for the said article. Adulteration was alleged for the further reason that a valuable constituent of the article, butterfat, had been in whole or in part abstracted.

Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article.

On October 28, 1924, the Farmers Cooperative Creamery Assoc., Big Rapids, Mich., claimant, having admitted the allegations of the libel and having 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 \$420, or the deposit of collateral in like amount, in conformity with section 10 of the act, conditioned in part that the product be reworked and reprocessed under the supervision of this department.

W. M. JARDINE, *Secretary of Agriculture.*

12841. Misbranding of olive oil and salad oil. U. S. v. 4 Cases of Olive Oil and 1 Case of Salad Oil. Product found misbranded. Released under bond to be relabeled. (F. & D. Nos. 18401, 18402. I. S. Nos. 20649-v, 20650-v. S. No. W-1477.)

On March 5, 1924, 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 a libel praying the seizure and condemnation of 4 cases, each containing gallon cans, half-gallon cans, and quart cans, of olive oil, and 1 case containing 12 cans of salad oil, remaining in the original unbroken packages at Magna, Utah, alleging that the article had been shipped by B. G. Makris, from New York, N. Y., on or about October 5, 1923, and transported from the State of New York into the State of Utah, and charging misbranding in violation of the food and drugs act as amended. The olive oil was labeled in part: (Can) "Makris Brand Imported Lucca Olive Oil * * * Net Contents One Gallon" (or "Net Contents Half Gallon" or "Net Contents One Quart") "B. G. Makris * * * N. Y. U. S. A." The salad oil was labeled in part: (Can) "Il Papa Degli Olii Uncle Sam Oil Our Brand Winter-pressed Vegetable Salad Oil * * * Net Contents One Gallon Packed by B. G. Makris, New York."

Misbranding of the article was alleged in the libel for the reason that the statements "Net Contents One Gallon," "Net Contents Half Gallon," and "Net Contents One Quart," borne on the respective-sized cans containing the articles, were false and misleading, in that the net contents of the said cans were not 1 gallon, half gallon, or quart, as the case might be. 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 July 5, 1924, B. G. Makris, New York, N. Y., having appeared as claimant for the property and having paid the costs of the proceedings and executed a bond in the sum of \$600, in conformity with section 10 of the act, judgment of the court was entered, finding the product to be misbranded and ordering that it be released to the said claimant to be relabeled under the supervision of this department.

W. M. JARDINE, *Secretary of Agriculture.*

12842. Adulteration of canned salmon. U. S. v. 1,000 Cases of Canned Salmon. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18676. I. S. Nos. 20091-v, 20092-v. S. No. W-1509.)

On May 16, 1924, the United States attorney for the Eastern District of Washington, 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 salmon, at Spokane, Wash., consigned by the Canadian Bank of Commerce, Seattle, Wash., alleging that the article had been shipped from Alaska during the month of September, 1923, and transported from the Territory of Alaska into the State of Washington, and charging adulteration in violation of the food and drugs act. The article

was labeled in part: (Can) "Blanchard Brand Alaska Pink Salmon Packed By Beauclaire Packing Co. Port Beauclerc, Alaska. One Pound Net."

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

On August 19, 1924, the Beauclaire Packing Co., 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 the product be sorted under the supervision of this department, the good portion released and the remainder disposed of in accordance with law.

W. M. JARDINE, *Secretary of Agriculture.*

12843. Misbranding of butter. U. S. v. 350 Packages of Willowdale Creamery Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18870. I. S. No. 18320-v. S. No. C-4441.)

On July 16, 1924, the United States attorney for the Eastern District of Tennessee, 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 350 packages of Willowdale creamery butter, at Chattanooga, Tenn., alleging that the article had been shipped by the Dalton Creamery Co., Dalton, Ga., July 10, 1924, and transported from the State of Georgia into the State of Tennessee, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Willowdale Creamery Butter, Dalton Creamery Company, Dalton, Georgia, One Pound Net Weight."

Misbranding of the article was alleged in substance in the libel for the reason that it was labeled "One Pound Net," which statement was false and misleading, in that the said packages did not contain 1 pound of butter but did contain a less amount.

On July 23, 1924, the Dalton Creamery Co., Dalton, Ga., having appeared as claimant for the property and having 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 \$500, in conformity with section 10 of the act, conditioned in part that the said packages be brought up to the correct weight.

W. M. JARDINE, *Secretary of Agriculture.*

12844 (Supplement to Notice of Judgment 11784). Misbranding of Crab Orchard concentrated mineral water. Idie C. Goodwin and L. H. Goodwin & Co. v. United States of America. Judgment of the lower court in favor of the Government affirmed. (F. & D. No. 15395. I. S. No. 903-t. S. No. C-3245.)

On November 3, 1924, the case involving the shipment of 22 bottles of Crab Orchard concentrated mineral water by L. H. Goodwin & Co., from Crab Orchard, Ky., to Cincinnati, Ohio, in which case verdict and judgment were entered for the Government in the District Court for the Southern District of Ohio on November 28, 1922, came before the Circuit Court of Appeals for the Sixth Circuit on appeal by the claimant, Idie C. Goodwin, for and on behalf of L. H. Goodwin & Co., and the judgment of the District Court was affirmed, as will appear from the attached opinion of the court (Donahue, C. J.):

"The food and drugs act of 1906 and the amendments of 1912 do not confer and do not purport to confer admiralty jurisdiction upon the United States District Courts, in proceedings to condemn property seized under the provisions of that act and amendments thereto. The provision that a libel shall be filed and the proceedings shall conform as near as may be to the proceedings in admiralty, relate only to procedure and not to jurisdiction. (443 Cans of Frozen Egg Product v. U. S., 226 U. S. 172, and cases there cited.)

"This prosecution was based solely on the amendment of 1912 to section 8. The libel quoted from the label a long list of ailments for which the water was said to be beneficial with 'healing powers' and a 'reliable remedy.' It then denied that the water 'is capable of producing the therapeutic effects claimed in the statements upon and in said cartons as hereinbefore set forth.'