

United States Department of Agriculture

FOOD, DRUG, AND INSECTICIDE ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the food and drugs act]

16176-16200

[Approved by the Acting Secretary of Agriculture, Washington, D. C., July 26, 1929]

16176. Adulteration and misbranding of olive oil. U. S. v. P. Cicchetti & Co. (Inc.). Plea of guilty. Fine, \$400. (F. & D. No. 22595. I. S. Nos. 21207-x, 21208-x, 21209-x.)

At the December, 1928, 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 P. Cicchetti & Co. (Inc.), New York, N. Y., alleging shipment by said company, in violation of the food and drugs act as amended, on or about February 9, 1927, from the State of New York into the State of Pennsylvania, of quantities of olive oil which was adulterated and misbranded. The article was labeled in part: "Pure Olive Oil Virgin Duomo B B Brand Di Lucca Italy Net Contents One Gallon (or "Half Gallon" or "One Quart") I Guarantee This Olive Oil To Be Absolutely Pure Under Chemical Analysis And Of Finest Quality."

It was alleged in the information that the article was adulterated in that a substance, to wit, cottonseed oil manufactured and produced in the United States and containing but a slight trace, that is, a faint odor and flavor of olive oil, had been substituted for imported pure virgin olive oil, which the said article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Pure Olive Oil Virgin * * * Di Lucca Italy * * * I Guarantee this Olive Oil To Be Absolutely Pure Under Chemical Analysis and of Finest Quality," together with equivalent statements in Italian, and a pictorial representation of foreign scene and olive sprays bearing olives, borne on the cans containing the said article, and the statements, to wit, "Net Contents One Gallon," "Net Contents Half Gallon," and "Net Contents One Quart," borne on the respective sized cans, were false and misleading in that the said statements and representations represented that the article was imported pure virgin olive oil manufactured and produced in Italy, that it carried a foreign guaranty to be absolutely pure olive oil under chemical analysis and of finest quality and that the net contents of the article contained in the said cans was 1 gallon net, one-half gallon net, or 1 quart net, as the case might be; and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was imported pure virgin olive oil manufactured and produced in Italy, that it carried a foreign guaranty to be absolutely pure olive oil under chemical analysis and of finest quality and that the net contents of the article contained in said cans were 1 gallon net, one-half gallon net, or 1 quart net, as the case might be, whereas the article was not imported pure virgin olive oil, was not manufactured and produced in Italy or other foreign country, was not absolutely pure olive oil, was not of finest quality, and did not carry a foreign guaranty to that effect, but said article was cottonseed oil manufactured and

produced in the United States and contained but a slight trace of olive oil, and the net contents of the article contained in said cans were less than declared on the label. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, to wit, pure virgin olive oil. Misbranding was alleged for the 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 in that the actual contents of the said cans were less than the stated quantity.

On January 14, 1929, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$400.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

16177. Adulteration and misbranding of alfalfa meal. U. S. v. 1000 Sacks, et al., of Alfalfa Meal. Consent decrees of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 23185, 23198. I. S. Nos. 0159, 03568, 03569. S. Nos. 1286, 1299.)

On November 9, 1928, and November 19, 1928, respectively, the United States attorney for the Eastern District of New York, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying seizure and condemnation of two lots, consisting of 140 sacks and 1,000 sacks, respectively, of alfalfa meal, remaining unsold in the original packages at Brooklyn, N. Y., alleging that the article had been shipped by the California Hawaiian Milling Co., from San Francisco, Calif., on or about October 15, 1928, and transported from the State of California into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Fine Ground Alfalfa Meal * * * Crude Protein, not less than 16.00 * * * Crude Fibre, not more than 28.00 * * * Manufactured by California Hawaiian Milling Co. * * * San Francisco, Cal."

It was alleged in the libels that the article was adulterated in that a substance deficient in protein and containing an excessive amount of fiber had been substituted in part for the said article, and had been mixed and packed with it so as to reduce and lower its quality and strength.

Misbranding was alleged for the reason that the statements, "Fine Ground Alfalfa Meal Crude Protein, not less than 16.00," with respect to a portion of the product, and "Fine Ground Alfalfa Meal Crude Protein, not less than 16.00, Crude Fibre, not more than 28.00," with respect to the remainder thereof, borne on the labels, were false and misleading and deceived and misled the purchaser when applied, with respect to the former portion, to a product containing less protein than declared, and, with respect to the latter portion, to a product which was essentially alfalfa stem, and which contained less protein and more fiber than declared. Misbranding was alleged with respect to a portion of the product for the further reason that it was offered for sale under the distinctive name of another article.

On December 12, 1928, the California Hawaiian Milling Co. (Inc.), San Francisco, Calif., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant upon payment of costs and the execution of bonds totaling \$4,000, conditioned in part that it be relabeled.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

16178. Adulteration and misbranding of chocolate candies. U. S. v. 15 Boxes of Chocolate Candy Cigars, et al. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 23280. I. S. Nos. 05714, 05715. S. No. 1376.)

On December 28, 1928, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 15 boxes of chocolate candy cigars and 26 boxes of 16 to 1 penny bars, remaining in the original and unbroken packages at Cambridge, Mass., consigned about November 17, 1928, alleging that the articles had been shipped by the Sterling Chocolate Co. (Inc.), New York, N. Y., and transported from the State of New York into the State of Massachusetts, and charging adulteration and misbranding in violation of the food and drugs act. The articles were labeled in part, respectively: "Chocolate Candy Cigars Manufactured by Sterling Choc. Co., Inc. Brooklyn, New York," and "16 to 1 Penny Bars 120 Pieces Manufactured by Sterling Chocolate Co., Inc. Brooklyn, N. Y."