

**26356. Misbranding and alleged adulteration of olive oil. U. S. v. 3 Gallons and 15 Gallons of Alleged Olive Oil. Default decree of condemnation and destruction. (F. & D. no. 37887. Sample nos. 66601-B, 66602-B.)**

This case involved two lots of alleged olive oil, one of which consisted almost, if not entirely, of cottonseed oil artificially flavored and the other of which consisted entirely of rapeseed oil. The latter lot was also short in volume.

On July 14, 1936, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 gallons of alleged olive oil at Westerley, R. I., alleging that the article had been shipped in interstate commerce on or about January 2, 1936, by the Bettola Grocery from West New York, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. One lot was labeled in part: "First Pressing Cream Olive Oil." The remaining lot was labeled in part: "Italian Produce Sublime Olive Oil Imported by Acomo Fo Lucca Net Contents One Gallon."

The article was alleged to be adulterated in that cottonseed oil and artificial flavor in the case of one lot and rapeseed oil in the case of the remaining lot had been mixed and packed therewith so as to reduce or lower its quality or strength and had been substituted wholly or in part for olive oil, which the article purported to be.

The article was alleged to be misbranded in that the following statements were false and misleading and tended to deceive and mislead the purchaser when applied to a product of the composition indicated and a part of which was short in volume: (One lot) "First Pressing Cream Olive Oil This Olive Oil is guaranteed to be absolutely pure and is made from the finest selected olives grown on the Italian Riviera. This virgin oil is highly recommended for medicinal and table use. Vergine Questo olio d'oliva, prodotto della riviera figure, e garantito purissimo. E insuperabile sia per uso medicinale che per tavola"; (remaining lot) "Italian Produce Sublime Olive Oil \* \* \* Lucca Net Contents One Gallon The Olive Oil contained in this can is pressed from fresh picked high grown fruit, packed by the grower under the best sanitary condition, and guaranteed to be absolutely pure under any chemical analysis. \* \* \* L'Olio d'oliva contenuto in questa latta e ottenuto dal miglior frutto appena colto confezionato dal produttore nelle migliori condizioni igieniche e garantito puro a qualsiasi analisi chimica."

The portion of the article that was short in volume was alleged to be misbranded further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On August 4, 1936, no claimant having appeared and the court having found the article misbranded, judgment of condemnation was entered ordering that the product be destroyed.

*M. L. WILSON, Acting Secretary of Agriculture.*

**26357. Misbranding of chocolate-flavored malted milk. U. S. v. 22 Cases of Chocolate-Flavored Malted Milk. Default decree of condemnation and destruction. (F. & D. no. 37888. Sample no. 75558-B.)**

This case involved a product that contained much less malted milk than should be contained in chocolate-flavored malted milk, which it was represented to be.

On July 13, 1936, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cases of chocolate-flavored malted milk at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about April 18, 1936, by Circle Foods, Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Bo-Peep Chocolate Flavored Malted Milk \* \* \* Circle Foods, Inc. New York, N. Y. Distributors."

The article was alleged to be misbranded in that the statements, "Chocolate Flavored Malted Milk \* \* \* Absolutely Pure \* \* \* Develops Sturdy Bodies \* \* \* Rich in Vitamins", borne on the labels, were false and misleading and tended to deceive and mislead the purchaser, in that they represented that the article was a chocolate-flavored malted milk, was absolutely pure, developed sturdy bodies and was rich in vitamins; whereas the article was not chocolate-flavored malted milk, was not absolutely pure, did not de-