

case containing jars of various sizes, of peanut butter at Augusta, Ga., and 105 cases, each case containing jars of various sizes, of peanut butter at Rawlins, Wyo., alleging that the article had been shipped in interstate commerce within the period from on or about October 30, 1942, to January 8, 1943, by the Jaxon Foods, Inc., from Jacksonville, Fla.; and charging that it was adulterated and misbranded.

On April 21, 1943, the United States attorney for the District of Colorado filed a libel against 82 cases, each case containing jars of various sizes, of peanut butter at Denver, Colo., which had been shipped by the Jaxon Foods, Inc., of Jacksonville, Fla., alleging that the article had been shipped on or about June 27, 1942, from Jacksonville, Fla.; and charging that it was adulterated. The article was labeled in part: "Besmaid Peanut Butter \* \* \*," "Meadow Lark Peanut Butter \* \* \*," or "Little Moore Brand 'Its Good' Peanut Butter." It was alleged to be adulterated in that it consisted in whole or in part of a filthy substance. The lot located at Augusta, Ga., was alleged to be adulterated further in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth. The 12-ounce jars were alleged to be misbranded in that the statement appearing on the labeling, "Net Wt. 12 Ozs.," was false and misleading since it was short of the declared weight, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

Between May 6 and August 5, 1943, no claimant having appeared, judgments of condemnation were entered and the lots located at Augusta, Ga., were ordered delivered to a Federal institution for use as hog feed, and the remaining lots were ordered destroyed.

**5084. Misbranding of peanut butter. U. S. v. The Geo. E. Pellens Company. Plea of nolo contendere. Fine, \$150.** (F. D. C. No. 8806. Sample Nos. 4367-F, 4368-F, 4559-F, 4560-F.)

On March 29, 1943, the United States attorney for the Southern District of Ohio filed an information against the Geo. E. Pellens Co., a corporation, at Cincinnati, Ohio, alleging shipment within the period from on or about September 15 to 25, 1942, from the State of Ohio into the States of Kentucky and Indiana of a quantity of peanut butter that was misbranded. The article was labeled in part: (Jars) "Rayo Peanut Butter \* \* \* Net Wt. 8 Oz. [or "Contents 12 Oz." or "Contents 24 Oz."]."

The article was alleged to be misbranded in that the statements, "Net Wt. 8 Oz [or "Contents 12 Oz." or "Contents 24 Oz."], borne on the labels were false and misleading since the jars did not contain the amount declared, but did contain a smaller amount. It was alleged to be misbranded further in that it was a food in package form and its label did not bear an accurate statement of the quantity of the contents.

On July 27, 1943, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$150.

**5085. Misbranding of peanut butter. U. S. v. 50 Cases of Peanut Butter. Consent decree of condemnation. Product ordered released under bond for repackaging.** (F. D. C. No. 9365. Sample No. 18960-F.)

This product was short of the declared weight.

On February 12, 1943, the United States attorney for the District of New Jersey filed a libel against 50 cases of peanut butter at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about December 19, 1942, by the H & M Packing Co., Inc., from Brooklyn, N. Y.; and charging that it was misbranded. The article was labeled in part: (Jars) "Champion Brand Peanut Butter Made from No. 1 Peanuts Net Wt. 12 oz."

The article was alleged to be misbranded in that the statement, "Net. Wt. 12 oz.," was false and misleading as applied to an article that was short weight, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On July 21, 1943, the H & M Packing Co., Inc., having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for repackaging under the supervision of the Food and Drug Administration, so that each jar would contain 12 ounces, in compliance with the law.

**5086. Misbranding of peanut butter. U. S. v. 67 Cases of Peanut Butter. Default decree of condemnation and destruction.** (F. D. C. No. 9434. Sample No. 9731-F.)

This product was short weight.

On March 6, 1943, the United States attorney for the Southern District of Mississippi filed a libel against 67 cases of peanut butter, each containing 24 jars,

at Gulfport, Miss., alleging that the article had been shipped in interstate commerce on or about August 21, 1942, by the Dillon Candy Co., Inc., from Jacksonville, Fla.; and charging that it was misbranded. The article was labeled in part: (Jars) "Dubon Brand Net Wt. 6 Ozs. Peanut Butter \* \* \* Distributed By Dubon Company New Orleans La."

The article was alleged to be misbranded in that the statement "Net Wt. 6 Ozs." was false and misleading as applied to an article which was shortweight, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On June 22, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### OILS AND FATS

**5087. Adulteration and misbranding of oils. U. S. v. Frank Arminante (Rinascente Oil Co.).** Plea of not guilty. Trial by jury. Verdict of guilty. Sentenced to 3 weeks in jail on each of 6 counts, the sentences to run concurrently. (F. D. C. No. 7288. Sample Nos. 56658-E, 56676-E, 56677-E.)

On March 31, 1943, the United States attorney for the Southern District of New York filed an information against Frank Arminante, trading as Rinascente Oil Co., at New York City, N. Y., alleging shipment and delivery for shipment within the period from on or about March 19 to May 20, 1941, from the State of New York into the State of Connecticut of quantities of oil that was adulterated and misbranded. Two of the shipments were labeled, respectively: "Italian Product Imported Virgin Olive Oil Super-Fine Brand Lucca Italy," and "Extra Fine Oil Superfine Brand." One shipment was labeled: "1 Gal."

The lot labeled "Olive Oil" was alleged to be adulterated in that an artificially flavored and artificially colored mixture of cottonseed oil and an oil similar to corn oil, containing little, if any, olive oil, had been substituted wholly or in part for olive oil, which it was represented to be. All lots of the oil were alleged to be adulterated (1) in that they were imitations of olive oil, consisting essentially of artificially flavored and artificially colored mixtures of cottonseed oil or oils similar to corn oil or soy oil, and were inferior to olive oil, such inferiority having been concealed by the addition of artificial flavoring and artificial coloring; (2) in that artificial flavoring and artificial coloring had been added thereto or mixed or packed therewith so as to make it appear better and of greater value than it was; and (3) in that it contained a coal-tar color, Quinizarine Green, other than one from a batch that had been certified to in accordance with the regulations as provided by law.

All lots were alleged to be misbranded (1) in that they consisted of mixtures of oils containing little, if any, olive oil and were colored and flavored in imitation of olive oil, and their labels did not bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated; (2) in that they were in package form and did not bear labels containing the name and place of business of the manufacturer, packer, or distributor; and (3) in that they were fabricated from two or more ingredients and their labels did not bear the common or usual name of each such ingredient.

The portions labeled "Olive Oil" and "Fine Oil" were alleged to be misbranded further in that they contained artificial flavoring and artificial coloring and did not bear labeling stating those facts; and in that the words, statements, or other information required by or under authority of law to appear on the label or labeling were not placed thereon in such terms as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the tin label bore representations in the Italian language and, by reason of such representations, the article purported to be prepared for the Italian purchaser, and therefore the words, statements, and other information required by the act to appear on the label or labeling should appear thereon in the Italian language in order to be read and understood by the Italian purchaser, whereas such statements and other information did not appear on the labeling in that language.

The lot labeled in part "Olive Oil" was alleged to be misbranded further (1) in that the statements, "Italian Product Imported Virgin Olive Oil \* \* \* Lucca Italy. This Olive Oil is guaranteed to be absolutely pure under any chemical analysis. Recommended for table use and medical purposes. Imported Pure Olive Oil," (and similar statements in Italian) together with the design of olive branches, leaves, and olives, appearing on the tins, were false and misleading as applied to a mixture of cottonseed oil and an oil similar to corn oil, containing little, if any, olive oil; and (2) in that the product consisted of a mixture of cottonseed oil and an oil similar to corn oil and contained little, if any, olive oil, and it was offered for sale under the name of another food, olive oil.