

**5476. Adulteration of cheese. U. S. v. 3,572 Pounds and 17,000 Pounds of Romano Type Cheese. Decree of condemnation. Product ordered released under bond for reconditioning. (F. D. C. No. 10369. Sample Nos. 14378-F, 14379-F.)**

On August 6, 1943, the United States attorney for the Southern District of California filed a libel against 20,572 pounds of Romano type cheese at Santa Monica, Calif., alleging that the article had been shipped in interstate commerce on or about June 10 and 20, 1943, by the Rocky Mountain Cheese Mfg. Co. from Trinidad, Colo.; and charging that it was adulterated in that it consisted in whole or in part of a filthy and decomposed substance by reason of the presence therein of slimy, moldy cheese and mites, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On August 12, 1943, Sam Konugres, claimant, doing business as Rocky Mountain Cheese Manufacturing Co., having admitted that the product contained some filthy or decomposed substance by reason of the presence of slimy or moldy cheese, judgment of condemnation was entered and the product was ordered released under bond for reconditioning under the supervision of the Food and Drug Administration. Reconditioning was effected by trimming and cutting off all unfit material and denaturing the trimmings.

**5477. Adulteration of cheese. U. S. v. 3,000 Pounds of Cheese. Default decree of condemnation and destruction. (F. D. C. No. 10185. Sample No. 14377-F.)**

On July 2, 1943, the United States attorney for the Southern District of California filed a libel against 3,000 pounds of cheese in unlabeled crates, boxes, and barrels at Los Angeles, Calif., alleging that the article had been shipped on or about March 17 and April 4, 1943, by L. L. Stonebraker from Trinidad, Colo.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, cheese skippers, dead and live larvae, mites, and rodent hairs; and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On September 3, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**5478. Adulteration of Cheddar cheese. U. S. v. 108 Boxes of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond for disposition in compliance with the law. (F. D. C. No. 7987. Sample No. 2015-F.)**

Examination of this product disclosed the presence of rodent hairs, insect fragments, and nondescript dirt. Inspection showed that it was prepared under insanitary conditions and that filthy milk was used.

On August 5, 1942, the United States attorney for the Northern District of Illinois filed a libel against 108 boxes, each containing approximately 75 pounds, of Cheddar cheese at Freeport, Ill., alleging that the article had been shipped in interstate commerce on July 26, 1942, by the Tipton Cheese Co. from Tipton, Iowa; and charging that it was adulterated. The article was labeled in part: "Tipton."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

On October 19, 1942, an order was issued transferring the case to the Southern District of Iowa. On November 30, 1942, Fred Jegerlehmer, sole owner of the Tipton Cheese Co., claimant, having filed with the court for such District a motion for a more definite and specific statement, the following order of the court which overruled such motion was entered:

*DEWEY, District Judge.* "The above entitled action came on for hearing in open court at Des Moines, Iowa, on the 21st day of November, 1942, on the intervening claimant's motion for more specific statement.

"The question of whether such an order should be entered is governed by the rules of Civil Procedure of this court and not by the Iowa law. While the court has some discretion as to whether such an order should be made, it is quite generally held by the courts that such information is only to be furnished under such an order where the party cannot obtain the information by discovery as provided in the Rules of Civil Procedure. Such information can be so obtained and the attorney for the Government advises that upon written application by letter or otherwise to him he will be glad to furnish a detailed statement of the analysis furnished to his office by the Government, but he does not care to be

bound by that analysis as conclusive in the event he is able to show other filthy substance in the article sought to be condemned.

"As the claimant can obtain the information requested, insofar as the same is in the possession of the attorneys for the Government, by the procedure authorized under Rule 33 of the Rules of Civil Procedure, and other rules of discovery, the motion for more specific statement should be overruled. The Clerk will therefore enter the following order:

"The above entitled action having come on for hearing in open court at Des Moines, Iowa, on the 21st day of November, 1942, upon a motion by the intervening claimant for more specific statement, and the court being advised, said motion is overruled and the intervening claimant, Fred Jegerlehmer, excepts."

On April 6, 1943, the claimant having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond with provision that it should not be sold or otherwise disposed of for human food, but that it could be used for animal food in compliance with the law.

**5479. Adulteration of Ricotta cheese. U. S. v. 571 Pounds of Cheese. Default decree of condemnation and destruction. (F. D. C. No. 10099. Sample No. 1579-F.)**

On June 19, 1943, the United States attorney for the Northern District of Illinois filed a libel against 571 pounds of cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 18, 1943, by the Rocky Mountain Cheese Co., from Trinidad, Colo.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, rodent hairs, hairs resembling rodent hairs, feather barbules, and plant fibres, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. It was labeled in part: "Fresh Ricotta," or "Head Cheese."

On October 11, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**5480. Misbranding of Cheddar cheese. U. S. v. 3 Cheddars. Default decree of condemnation. Product ordered delivered to welfare organizations. (F. D. C. No. 9829. Sample No. 6171-F.)**

On or about April 30, 1943, the United States attorney for the Western District of Missouri filed a libel against 3 cheddar cheeses, each weighing 70 pounds, at Springfield, Mo., alleging that the article had been shipped in interstate commerce on or about January 28, 1943, by the Community Creamery Co. from Greenwood, Ark.; and charging that it was misbranded.

The article was alleged to be misbranded in that it purported to be and was represented as Cheddar cheese, a food for which a definition and standard of identity has been prescribed by regulations promulgated pursuant to law, but failed to conform to such definition and standard since it contained, in its solids, less than the 50 percent milk fat required by the regulation.

On September 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to various welfare organizations.

**MISCELLANEOUS**

**5481. Misbranding of oleomargarine. U. S. v. Vegetable Oil Products Company, Inc. Plea of not guilty. Tried to the court and a jury. Verdict of guilty on 1 count. Fine, \$250. (F. D. C. No. 7761. Sample Nos. 53697-E, 93259-E, 12809-F.)**

On December 14, 1942, the United States attorney for the Southern District of California filed an information against Vegetable Oil Products Company, Inc., a corporation, Wilmington, Calif., alleging shipment on or about February 23, 1942, from the State of California into the State of Utah, and on or about May 29 and July 3, 1942, from the State of California into the State of Oregon of a number of cases, each containing a number of 1-pound prints of oleomargarine that was misbranded. The article was labeled in part: (Case) "Sunnybank Vegetable Vitamin A Added Oleomargarine"; (case and print wrappers) "Vegetable Fats 81%."

The article was alleged to be misbranded in that the statement "Vegetable Fats 81%," borne on the case and wrappers, was false and misleading since the article contained less than 81 percent of vegetable fat, and in that it purported to be and was represented as oleomargarine, a food for which a definition and standard of identity had been prescribed by regulations as provided by law,