

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "One Pound Net," borne on the packages containing the article, regarding the said article, was false and misleading in that the said statement represented that the said packages each contained 1 pound net of the said article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said packages each contained 1 pound net of the article, whereas, in truth and in fact, each of said packages did not contain 1 pound net of the article but did contain a less amount. 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 June 7, 1923, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$75 and costs.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11832. Misbranding of butter. U. S. v. Nashville Pure Milk Co., a Corporation. Plea of guilty to first count. Fine, \$25 and costs. Judgment reserved on second count. (F. & D. No. 17407. I. S. No. 9535-t.)

On May 22, 1923, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Nashville Pure Milk Co., a corporation, Nashville, Tenn., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about May 23, 1922, from the State of Tennessee into the State of Georgia, of a quantity of butter which was misbranded. The article was labeled in part: "Tru-li-Pure Butter Pasteurized * * * Made Only By Nashville Pure Milk Co. * * * Nashville, Tennessee * * * One Pound Net When Packed."

Examination by the Bureau of Chemistry of this department of 100 cartons of the article showed an average net weight of 15.52 ounces.

Misbranding of the article was alleged in the first count of the information for the reason that the statement, to wit, "One Pound Net," borne on the packages containing the article, regarding the said article, was false and misleading in that it represented that each of the said packages contained 1 pound net of the article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said packages contained 1 pound net of the article, whereas, in truth and in fact, each of said packages did not contain 1 pound net of the said article but did contain a less amount. Misbranding was alleged in the second count of the information 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 June 7, 1923, a plea of guilty to the first count of the information was entered on behalf of the defendant company, and the court imposed a fine of \$25 and costs. Judgment was reserved on the second count involving the charge of failure to declare the quantity of the contents of the packages.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11833. Misbranding of olive oil. U. S. v. 37 Cans and 13 Cans of Olive Oil. Decree ordering product released under bond to be relabeled. (F. & D. No. 17445. I. S. Nos. 1828-v, 1829-v. S. No. E-4349.)

On April 2, 1923, the United States attorney for the District of New Hampshire, 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 37 alleged quart cans and 13 alleged half-gallon cans of olive oil at Manchester, N. H., alleging that the article had been shipped by the Aeolian Importing Co., from Boston, Mass., on or about February 2, 1923, and transported from the State of Massachusetts into the State of New Hampshire, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Can) "Net Contents One Quart" (or "Net Contents Half Gallon") "Aeolian Brand * * * Imported Pure Olive Oil Superfine Quality."

Misbranding of the article was alleged in the libel for the reason that the statements appearing on the labels of the said cans, to wit, "Net Contents One Quart" and "Net Contents Half Gallon," as the case might be, were false and misleading and deceived and misled the purchaser. 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, since the quantity stated was not correct.

On July 24, 1923, the Aeolian Importing Corp. having appeared as claimant for the property and having filed a bond in the sum of \$75, it was ordered by the court that the said product be released to the claimant upon payment of the costs of the proceedings, conditioned that it be properly branded to show its weight.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11834. Adulteration and misbranding of evaporated apples. U. S. v. 12 Cases and 11 Cases of Evaporated Apples. Decree ordering product released under bond to be relabeled. (F. & D. No. 17460. I. S. Nos. 1844-v, 1845-v. S. No. E-4360.)

On April 21, 1923, the United States attorney for the District of New Hampshire, 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 23 cases of evaporated apples at Concord, N. H., alleging that the article had been shipped by E. B. Holton, from Webster, N. Y., in two consignments, namely, on or about February 10 and 24, 1923, respectively, and transported from the State of New York into the State of New Hampshire, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Net Weight 15 Ounces Holton Brand Fancy Evaporated Apples * * * Packed By E. B. Holton, Manufacturer And Packer Of Evaporated Fruits, Webster, N. Y."

Adulteration of the article was alleged in the libel for the reason that a substance, to wit, incompletely evaporated apples, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted in whole or in part for evaporated apples, which the article purported to be.

Misbranding was alleged in substance for the reason that the statements, "Net Weight 15 Ounces * * * Fancy Evaporated Apples * * * Manufacturer And Packer Of Evaporated Fruits * * * Manufacturer Of Pure Food Products Evaporated By The Sulphur Process," borne on the labels of the packages containing the article, were false and misleading and deceived and misled purchasers in that they represented that the said packages contained 15 ounces of the said article and that it consisted of fancy, completely evaporated apples, whereas, in truth and fact, the said packages did not contain 15 ounces of the article but did contain a less amount, and the said article was not fancy, completely evaporated apples but was a product consisting of incompletely evaporated apples. Misbranding was alleged for the reason that the article was an imitation of and was offered for sale under the distinctive name of another article, and for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count, since the quantity stated was not correct.

On May 9, 1923, E. B. Holton, Webster, N. Y., claimant, having admitted the allegations of the libel and filed a bond in the sum of \$500, in conformity with section 10 of the act, judgment of the court was entered ordering that the product be released to the said claimant upon payment of the costs of the proceedings, upon condition that if it should be again offered for sale it be labeled in compliance with law.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11835. Adulteration and misbranding of butter. U. S. v. 225 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17599. I. S. No. 444-v. S. No. E-4428.)

On July 5, 1923, the United States attorney for the District of New Jersey, 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 225 tubs of butter at Jersey City, N. J., alleging that the article had been shipped by the Newton County Creamery, Newton, Miss., on or about June 6, 1923, and transported from the State of Mississippi into the State of New Jersey, 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, to wit, a product deficient in butterfat and containing excessive moisture, had been mixed and packed therewith so as to reduce and lower