

seed oil: (Cans of various sizes) "Pure Imported Olive Oil * * * Pure Olio D'Oliva Importato [design of olive trees and people picking olives] * * * Olive Oil is guaranteed to be one of the finest olive oils. The olive oil contained in this can is pressed from fresh picked ripe and selected olives * * * L'Olio continuo in questa latta e estratto de olive fresche, mature, ed accuratamente scelte. Esso e garantito di essere uno migliori olii d'oliva, e un prodotto assolutamente puro, ed e altamente raccomandato per uside tavola, e scopi medicinali"; (bottles of various sizes) "Pure Olive Oil Imported"; (top of bottles of smallest size) "Pure Olive Oil"; and design of an olive branch. The article in the shipment of 835 cases was alleged to be misbranded further in that the statements, "One Gallon", "Half Gallon", and "One Pint", appearing on the labels of the cans of various sizes, respectively, were false and misleading and deceived and tended to deceive and mislead the purchaser when applied to a product the cans of which were short in volume. The article in both shipments was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article, namely, olive oil.

On April 30, 1936, Garafola Bros. Co., claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be repacked and relabeled.

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

25649. Adulteration and misbranding of olive oil. U. S. v. 376 Cans of Olive Oil, and two other actions. Default decrees of condemnation and destruction. (F. & D. nos. 37307, 37310, 37617. Sample nos. 44160-B, 44161-B, 44162-B, 56199-B, 67402-B, 67403-B, 67404-B, 67405-B.)

These cases involved interstate shipments of so-called olive oil which contained tea-seed oil, and the containers of which were short in volume.

On March 6, 1936, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 376 cans of so-called olive oil at Harrisburg, Pa.; on March 9, 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 46 cans of so-called olive oil at Providence, R. I.; and on April 20, 1936, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cans of so-called olive oil at Cleveland, Ohio. The libels alleged that the articles, respectively, had been shipped in interstate commerce on or about June 26 and August 21, 1935, and January 3 and 31, 1936, by the De Luca Olive Oil Co., Inc., from New York, N. Y., and that they were adulterated and misbranded in violation of the Food and Drugs Act. The articles contained in cans of various sizes were labeled in part: "Pure Olive Oil De Luca Brand The Best Imported from Italy * * * Guaranteed by De Luca Olive Oil Co., Inc., New York City."

The article in each of the three cases was alleged to be adulterated in that tea-seed oil had been mixed and packed with the article so as to reduce or lower its quality or strength, and in that tea-seed oil had been substituted in whole or in part for olive oil, which the article purported to be. The article in each of the three cases was alleged to be misbranded in that the following statements and designs appearing upon the labels were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing the tea-seed oil: "Pure Olive Oil De Luca * * * The Best Quality Imported from Italy This Olive Oil is guaranteed to be absolutely pure under chemical analysis because it is pressed only from select ripe olives * * * Puro Olio D'Oliva DeLuca * * * Qualita Sublime Importato dall Italia Questo Olio Di Oliva e garantito puro sotto qualsiasi analisi chimica perche ricavato soltanto da olive mature scelte e confezionato nelle miglion condizioni igieniche. [Design of olive branches]." The article in each of the three cases was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article.

The article in the first case above referred to, contained in 1-gallon, half-gallon, and half-pint cases, the article in the second case, contained in 1-gallon cans and half-gallon cans, and the article in the third case, contained in 1-gallon cans, was alleged to be misbranded in that the statements, "One Full Gallon * * * Un Gallone Intero [or "Half Full Gallon * * * Mezzo Gallone Intero" or "One Full Half Pint * * * $\frac{1}{2}$ Gallone Intero"]", appearing on

the labels in the first case, the statements, "One Full Gallon * * * Un Gallone Intero [or "Half Full Gallon * * * Mezzo Gallone Intero]", appearing on the labels in the second case, and the statement "One Full Gallon", appearing on the label in the third case, were false and misleading and tended to deceive and mislead the purchaser when applied to a product the cans of which were short in volume. The article in the first case, contained in 1-gallon cans, half-gallon cans, half-pint cans, the article in the second case, contained in 1-gallon cans and half-gallon cans, and the article in the third case, contained in 1-gallon cans, was alleged to be misbranded further in 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, since the quantity stated was not correct.

On March 30, May 12, and June 2, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

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

25650. Adulteration of tomato puree. U. S. v. 378 Cases of Tomato Puree. Consent decree of condemnation, forfeiture, and destruction. (F. & D. no. 35285. Sample no. 29304-B.)

This article contained excessive mold.

On March 26, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 378 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about September 29, 1934, by Ladoga Canning Co., from Ladoga, Ind., to Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Savoy Quality Certified Tomato Puree Contents six lbs. eight oz. Distributors Steele-Wedeles Co., Chicago, Ill."

Adulteration of the article was charged under the allegation that it consisted wholly or in part of a decomposed vegetable substance.

The Steele-Wedeles Co., a corporation, appeared specially as claimant for the product in support of a motion to quash the writ of attachment. Among the assigned grounds of the motion was the one that the issuance of the writ of attachment and the seizure thereunder were violative of the Fourth Amendment of the Constitution, in that the warrant for the seizure issued, and in that the seizure was made, without a showing of probable cause, supported by oath or affirmation particularly describing the place to be searched and the things to be seized. On September 16, 1935, the court overruled the motion without opinion.

On March 6, 1936, the claimant consenting, a decree of condemnation, forfeiture, and destruction was entered.

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