

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

27926-28000

[Approved by the Acting Secretary of Agriculture, Washington, D. C., May 6, 1938]

27926. Adulteration and misbranding of olive oil. U. S. v. 52 Cases, 6 Cases, 2 Cases of Olive Oil (and four other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 37450, 37530, 37555, 37694, 37759. Sample Nos. 56195-B to 56198-B, incl., 56201-B, 56203-B, 56204-B, 67701-B.)

This product was represented to be imported olive oil, whereas it consisted in part of tea-seed oil. The half-gallon cans were short of the declared volume.

On March 30, April 6 and 8, May 1 and 25, 1936, the United States attorney for the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 400 gallon cans, 141 half-gallon cans, 230 quart cans, and 67 pint cans of olive oil in various lots at Youngstown, Cleveland, and Akron, Ohio, alleging that the article had been shipped in interstate commerce between the dates of November 6, 1934, and February 13, 1936, by Moscahlades Bros., from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Elephant Brand Imported Virgin Olive Oil Embro Import Co. * * * New York * * * Sole Distributors."

The article was alleged to be adulterated in that tea-seed oil had been mixed and packed with it so as to reduce or lower its quality or strength and had been substituted in whole or in part for olive oil, which it purported to be.

It 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 an article containing tea-seed oil: "Imported Virgin Olive Oil * * * [design of an olive branch with olives] * * * The Olive Oil contained in this can is pressed from fresh picked selected olives. It is guaranteed to be absolutely pure under chemical analysis and is highly recommended for table use and medicinal purposes * * * Puro Olio d'Olive Vergine * * * L'olio di oliva che questa latta contiene, a prodotto da olive accuratamente scelte e garantito di essere assolutamente puro sotto qualunque analisi chimica. Esso e altamente raccomandata tanto per uso da tavola come per uso medicinale," (top of can) "Imported from Italy" or "Imported Olive Oil"; and in that it was offered for sale under the distinctive name of another article, olive oil. The product in the half-gallon cans was alleged to be misbranded further in that the statement on the cans, "Half Gallon," was false and misleading and tended to deceive and mislead the purchaser; and 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 October 25, 1937, the cases having been called and the claimant having failed to appear, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*