

7483. Adulteration and misbranding of olive oil (so called). U. S. * * * v. 11 1-Gallon Cans and 31 ¼-Gallon Cans of Olive Oil (So Called). Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 10821. I. S. Nos. 14210-r, 14211-r. S. No. E-1608.)

On July 3, 1919, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 11 1-gallon cans and 30 ¼-gallon cans of olive oil (so called), remaining unsold in the original unbroken packages at Waterbury, Conn., alleging that the article had been shipped on or about May 27, 1919, by the Southern Importing Co., New York, N. Y., and transported from the State of New York into the State of Connecticut, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Gallon cans) "Finest Quality Table Oil Tipo Termini Imerese cottonseed oil slightly flavored with Olive Oil Oicilia Italia One Gallon Net * * * (picture of natives gathering and packing olives);" (¼-gallon cans) "Finest Quality Table Oil cottonseed salad oil flavored slightly with Olive Oil (picture of natives gathering and packing olives) One-fourth Gallon Net."

Adulteration of the article was alleged in the libel for the reason that there had been mixed and packed with the product contained in the gallon cans another oil, to wit, cottonseed oil, and in that there had been mixed and packed with the product contained in the ¼-gallon cans other oils, to wit, cottonseed oil and soya bean oil, so as to reduce, lower, and injuriously affect its quality and strength, and that said oils had been substituted wholly or in part for olive oil, which the article purported to be.

Misbranding of the article was alleged for the reason that the labels on the cans bore certain statements, words, and devices, regarding the article, which were false and misleading, and which statements, words, and devices were intended to be of such a character as to induce the purchaser to believe that the product was olive oil, when, in truth and in fact, it was not, said false and misleading impression not being corrected by the words which appeared in inconspicuous type, to wit, "cottonseed salad oil flavored slightly with Olive Oil," for the further reason that it purported to be a foreign product, when, in truth and in fact, it was a product of domestic manufacture packed in the United States, and for the further reason that it was an imitation of, and was offered for sale under the distinctive name of, another article, to wit, olive oil. Misbranding was also alleged for the further reason that the labels borne on the cans, to wit, "One Gallon Net" and "One-Fourth Gallon Net," represented that said cans contained 1 gallon and ¼ gallon, respectively, whereas there was an average shortage in each purported gallon of 9.81 per cent and in each purported ¼ gallon of 6 per cent. Misbranding of the article was alleged 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.

On November 5, 1919, Giuseppe Battaglia, New York, N. Y., claimant, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to said claimant upon the payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act.

E. D. BALL, *Acting Secretary of Agriculture.*