

25647. Adulteration and misbranding of canned salmon. U. S. v. 197 Cartons and 149 Cartons of Canned Salmon. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 37186. Sample nos. 56345-B, 56346-B.)

These cases involved interstate shipments of canned salmon which consisted in part of decomposed salmon and which was represented on the label to be of a natural red color and to contain oil; whereas it was coho salmon of a yellow color and contained little or no oil.

On February 13, 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 two libels, one praying seizure and condemnation of 197 cartons, and the other, 149 cartons of canned salmon, at Akron, Ohio, alleging that the article had been shipped in interstate commerce, on or about October 3 and 25, 1935, by Whitney & Co., from Seattle, Wash., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Farbest Cohoe Contents One Pound Select Salmon Natural Red Color and Oil * * * Packed in U. S. A. for Farwest Fisheries Inc. Seattle."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

The article was alleged to be misbranded in that the statement, "Natural Red Color and Oil", and a representation of a red-fleshed cut of salmon, borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to coho salmon of a yellow color and with little or no oil.

On March 13, 1936, Whitney & Co., Seattle, Wash., claimants, 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 the decomposed portion be segregated and destroyed under the supervision of the Department of Agriculture.

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

25648. Adulteration and misbranding of olive oil. U. S. v. 835 Cases and 965 Cans of Olive Oil. Consent decree of condemnation. Product released under bond for repacking and relabeling. (F. & D. nos. 37305, 37449, Sample nos. 55262-B, 55546-B, 55547-B, 55548-B, 55549-B, 55550-B, 57201-B, 57202-B, 57203-B.)

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

On March 11 and 26, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court two libels, one praying seizure and condemnation of 835 cases; and the other, 965 cans of olive oil at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 18, 1935, and January 18, 1936, by A. J. Capone, Inc., from New York, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article, contained in cans in one shipment and in cans and bottles of various sizes in the other shipment, was labeled in part: "Tivoli Brand Pure Imported Olive Oil * * * Distributed by Garofalo Bros. Co., Chicago, Ill."

The article in both shipments 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 the shipment of 965 cans was alleged to be misbranded in that the following statements, designs, and devices appearing upon the cans, were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil: (Main panels) "Tivoli * * * Pure Imported Olive Oil Tivoli * * * Pure Olio d'oliva Importato [design of olive trees and women harvesting green olives]"; (side panel) "Tivoli Brand 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. It is an absolutely pure product, highly recommended * * * L'Olio continuo in questa latta e estratto do olive fresche, mature, ed accuratamente scelte. Esso e garantito di essere uno dei migliori olil d'oliva, e un prodotto assolutamente puro, ed e altamente raccomandato per usi da tavola, e scopi medicinali"; (top) "Pure Imported Olive Oil." The article in the shipment of 835 cases was alleged to be misbranded in that the following statements, designs, and devices, appearing upon the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-

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 contenuto 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 anilisi 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