

conspicuously marked on the outside of the package since the quantity stated was not correct.

On April 25, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be sold and the proceeds paid into the Treasury of the United States.

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

**25944. Misbranding and alleged adulteration of peach preserves. U. S. v. One Hundred and Forty-eight 1-pound Jars and Twelve 4-pound Jars of Alleged Peach Preserves. Default decree of condemnation and destruction. (F. & D. no. 37272. Sample nos. 65457-B, 65458-B.)**

This case involved alleged peach preserves which were deficient in fruit and contained added acid.

On February 29, 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 160 jars of alleged peach preserves at Pawtucket, R. I., alleging that the article had been shipped in interstate commerce on or about September 25, 1935, from Brooklyn, N. Y., by the Sambo Dairy Products, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Blue Bell Peach Preserves \* \* \* Sambo Dairy Products, Inc. Brooklyn, N. Y."

The article was alleged to be adulterated in that a mixture of sugar, acid, and water had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality, in that an insufficiently concentrated mixture of fruit, sugar, and acid containing less fruit than preserves contain, had been substituted for preserves; and in that a mixture of sugar, acid, and water had been mixed with the article in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statement "Peach Preserves", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product resembling preserves but which contained less fruit than preserves contain—the deficiency in fruit being concealed by the addition of acid and excess sugar—and which contained moisture which should have been removed. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article.

On March 18, 1936, no claimant having appeared, judgment was entered finding the product misbranded and ordering that it be condemned and destroyed.

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

**25945. Misbranding and alleged adulteration of strawberry preserves. U. S. v. 9 Cases of Strawberry Preserves. Default decree of condemnation and destruction. (F. & D. no. 37282. Sample no. 65467-B.)**

This case involved alleged strawberry preserves which were found to consist of an insufficiently concentrated mixture of fruit and sugar containing added acid and pectin.

On March 4, 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 nine cases of strawberry preserves at Rumford (East Providence), R. I., alleging that the article had been shipped in interstate commerce on or about January 8, 1936, by the Mayflower Products Inc., from South Boston, Mass., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Singer Brand \* \* \* Pure Strawberry Preserves Packed for Singer Tea Co. Providence, R. I."

The article was alleged to be adulterated in that acid and pectin had been mixed and packed with the article so as to reduce or lower its quality; in that an insufficiently concentrated mixture of fruit, sugar, acid, and pectin had been substituted for preserves; and in that acid and pectin had been mixed with the article in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the designation "Pure Strawberry Preserves" was false and misleading, and deceived and misled the purchaser when applied to a product that resembled preserves but which was insufficiently concentrated and contained added acid and pectin. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article.

On March 18, 1936, no claimant having appeared, judgment was entered finding the product misbranded and ordering that it be condemned and destroyed.

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

**25946. Adulteration and misbranding of olive oil. U. S. v. Five 1-Gallon Cans, Four ½-Gallon Cans, Forty-five ½-Pint Cans, and 21 other libel proceedings against alleged olive oil. Decrees of condemnation. Portion of product released under bond to be relabeled; remainder destroyed, sold, or delivered to charitable institutions.** (F. & D. nos. 37288, 37291, 37293, 37294, 37298 to 37301, incl., 37303, 37306, 37320, 37323, 37331, 37332, 37334, 37342, 37362, 37377, 37397, 37398, 37471, 37472. Sample nos. 29918-B, 43886-B, 49276-B, 52160-B, 56423-B, 60849-B, 61024-B, 61025-B, 61205-B, 63117-B, 63125-B, 63126-B, 63127-B, 65607-B, 65609-B to 65613-B, incl., 65625-B, 65626-B, 65627-B, 65710-B to 65716-B, incl., 65718-B, 65719-B, 65721-B, 65722-B, 65878-B, 65879-B, 65880-B, 66017-B, 66039-B to 66042-B, incl.)

These cases involved shipments of alleged olive oil that contained tea-seed oil, of which a portion was short in volume.

On or about March 4, 1936, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five 1-gallon cans, four ½-gallon cans, forty-five ½-pint cans, and 130 cases of alleged olive oil at Stamford, Conn. Between the dates of March 4, 1936, and April 13, 1936, libels were filed against 155 cartons, 4,456 bottles, and 80 cases of alleged olive oil at Boston, Mass.; 381 bottles of the product at Brockton, Mass.; 597 bottles at Plainville, Mass., 51½ cartons at Worcester, Mass.; 99 bottles at Denver, Colo.; 19⅝ dozen bottles at Portland, Maine; 17 cases, 33 cartons, 43½ dozen bottles, and 12 jugs at St. Paul, Minn.; 477 bottles at Manchester, N. H.; 333 bottles at Charleroi, Pa.; 450 bottles at Tulsa, Okla.; 47½ bottles at Columbus, Ohio; and 12 cartons at Birmingham, Ala. It was alleged in the libels that the article had been shipped in interstate commerce between the dates of January 7, 1935, and March 21, 1936, in part by the De Luca Olive Oil Co., in part by A. J. Capone Co., Inc., from New York, N. Y., and in part by Gus Sciafani from the premises of the De Luca Olive Oil Co., New York, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that tea-seed oil had been mixed and packed therewith 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 was alleged to be misbranded in that the following statements appearing on the labels were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil: (Labeled variously on bottles and jugs) "Olio d'Oliva \* \* \* DeLuca", "Pure Imported Olive Oil deLuca", "Pure imported Olive Oil", "Pure Olive Oil \* \* \* DeLuca", "Olive Oil", (on portion of cans) "Puro Olio D'Oliva \* \* \* DeLuca \* \* \* Qualita Sublime Importato dal Italia Questo Olio di Oliva e garantito puro sotto qualsiasi analisi chimica perche ricavato soltanto da olive mature scelte e confezionato nelle migliori condizioni igieniche", "Pure Olive Oil \* \* \* DeLuca \* \* \* The Best Quality Imported from Italy This Olive Oil is guaranteed to be absolutely pure under chemical analysis because it is pressed only from selected ripe olives \* \* \* [design of olive branches]"; (on remainder of cans) "Pure Imported Olive Oil None Better \* \* \* Importato Puro Olio D'Oliva This olive oil is guaranteed to be absolutely pure and indisputably better than that of any other origin both for its natural goodness and exceptional purity \* \* \* Questo Oilo e garantito di pura oliva e indiscutibilmente superiore e quello di qualsiasi altra origine sia per la sua naturale bonta che per la sua special raffinatezza, Imported Olive Oil [Design of olive branches with olives]." Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, olive oil. Misbranding was alleged with respect to portions of the article for the further reason that the statements, "Half Gallon", "One Quart", "One Full Gallon \* \* \* Un Gallone Intero", "Half Full Gallon \* \* \* Mezzo Gallone Intero", "One Full Quart \* \* \* Un Quarto Intero", "One Full Half Pint \* \* \* ½ Gallone Intero", "Net Conts. 4 Fl. Ozs.", "Net Conts. 8 Fl. Ozs.", and "6 Fl. Oz.", appearing on the labels were false and misleading and tended to deceive and mislead the purchaser when applied to a product in containers that were short of the declared volume; and for the further reason that the said portions were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was not correct.