

on the side panels, were false and misleading and by reason of the said statements and designs the article was labeled so as to deceive and mislead the purchaser in that they represented that the article consisted wholly of olive oil produced in and imported from Italy; whereas it was not such a product but was a domestic product consisting of oil other than olive oil, artificially flavored and a part of which was artificially colored. The article was alleged to be misbranded further in that the statement "net contents 1 gallon," borne on the label, was false and misleading and by reason of the said statement the article was labeled so as to deceive and mislead the purchaser since the contents of each of the cans examined was less than 1 gallon. Misbranding was alleged further in that the article was an imitation of and was offered for sale under the distinctive name of another article, namely, olive oil; 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 cans, since the amount actually contained in the can was not stated on the outside thereof.

On December 6, 1938, pleas of guilty were entered on behalf of the defendants. On December 14, 1938, the court imposed a fine of \$1,200 against the corporation. John Esposito also was fined \$600, sentenced to a term of imprisonment for 60 days, and placed on probation for a period of 3 years.

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

29928. Adulteration and misbranding of olive oil. U. S. v. Pietro Esposito (Itolo Olive Oil Co.) Plea of guilty. Fine, \$500. (F. & D. No. 36085. Sample Nos. 36245-B to 36249-B, inclusive.)

This product was represented to be imported olive oil, but consisted of oil or oils other than olive oil that was artificially flavored and in some lots was artificially colored. It was also short of the declared volume.

On June 10, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Pietro Esposito, trading as the Itolo Olive Oil Co., New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 13, 1935, from the State of New York into the State of Rhode Island, of quantities of so-called olive oil which was adulterated and misbranded, as the article was labeled in part, variously: "Lora Brand," "Italia Brand," "Acomo Fo Brand," or "Adriatic Star Brand."

The information alleged that the article was adulterated in that a substance, namely, oil other than olive oil, artificially flavored and a part of which was also artificially colored had been substituted for olive oil, which it purported to be.

Misbranding was alleged in that the following statements and designs borne on the labels were false and misleading and by reason thereof the article was labeled and branded so as to deceive and mislead the purchaser in that they represented that it consisted solely of olive oil produced in and imported from a foreign country, namely, Italy; whereas it was not such a product but was a domestic product consisting of oil other than olive oil, artificially flavored and a portion of which was also artificially colored: (Lora brand) "Super Fine Olive Oil Extra Quality Lora Brand Imported From Italy First Pressing Cream Olive Oil Highly Recommended For Table And Medicinal Use Il Contenuto Di Questa E. Garentito Olio D'Oliva Assolutamente Puro Sotto Analisi Chimica Ottimo Per Uso Da Tavola Che Per Uso Medicinale [design of olive branches bearing the ripened fruit and design representing an olive orchard]"; (portion of Italia brand) "Super Fine Olive Oil Imported Italia Brand Premiato In Tutte Le Esposizioni Europee First Pressing Cream Olive Oil Recommended Highly For Table And Medicinal Use [design of olive branches bearing ripened fruit and design purporting to be an Italian flag]"; (remainder of Italia brand) "Italia Brand Olio Puro D'Oliva Vergine Confezionato In Italia Impaccato Espressamente Per San Remo Olive Oil Co. Questo Olio D'Oliva E Carentito Assolutamente Puro Sotto Analisi Chimica Ottimo Per Uso Da Tavola Che Per Uso Medicinale [design of olive branches bearing ripened fruit and design purporting to be Italian flag]"; (Acomo Fo brand) "Imported Products Sublime Olive Oil Acomo Fo Brand The Olive Oil contained in this can is pressed from fresh picked high grown fruit, packed by the grower under the best sanitary condition, and guaranteed to be absolutely pure under any chemical analysis. The producer begs to recommend to the consumer to destroy this

can as soon as empty in order to prevent unscrupulous dealers from refilling it with adulterated Oil or Oil of an inferior quality. The producer warns all such dealers that he will proceed against them to the full extent of the law [design of olive branches bearing ripened fruit]"; (Adriatic Star brand) "Imported Virgin Olive Oil Adriatic Star Brand Adriatic Star Pure Olive Oil This Imported Olive Oil Is Guaranteed Both As To Full Measure, Absolute Purity, Superior Quality And Specially Adapted For Table And Medicinal Use Olio Di Oliva Garantito Assolutamente Puro Da Qualsiasi Analisi Chimica Cette Huile D'Olive Est Garantie Pure Et De Superieure Quality [design of olive branches bearing ripened fruit]"; (impressed on all cans) "Imported from Italy."

The article was alleged to be misbranded further in that the statement "net contents 1 gallon," borne on the can label, was false and misleading and by reason thereof it was labeled so as to deceive and mislead the purchaser since the contents of each of the cans examined, with one exception, was less than 1 gallon. The article was alleged to be misbranded further in that it consisted of oil other than olive oil, artificially flavored and a portion also artificially colored, was an imitation of another article, and was offered for sale under the distinctive name of another article, namely, olive oil. It was alleged to be misbranded further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the cans in that, with one exception, the amount actually contained in the cans was not stated on the outside thereof.

On December 5, 1938, the defendant entered a plea of guilty and on December 12, 1938, the court imposed a fine of \$500.

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

29929. Adulteration of candy. U. S. v. 34 Cartons of Candy. Default decree of condemnation and destruction. (F. & D. No. 43175. Sample No. 24546-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On August 2, 1938, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 cartons of candy at Fort Smith, Ark., consigned by Joan Candy Co., Inc.; alleging that the article had been shipped on or about July 11, 1938, from New Orleans, La.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On December 22, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

29930. Adulteration of ocean perch fillets or sea perch fillets. U. S. v. 1,300 Cartons of Sea Perch Fillets (and 2 similar seizure actions). Consent decrees of condemnation and destruction. (F. & D. Nos. 44159, 44160, 44161. Sample No. 37861-D.)

This product was infested with parasites.

On October 12 and 13, 1938, the United States attorneys for the Western and Northern Districts of Texas, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of the following lots of sea perch fillets: 1,300 cartons at Dallas, Tex., 200 cartons at Fort Worth, Tex., and 300 cartons at San Antonio, Tex.; alleging that the article had been shipped in interstate commerce on or about September 22, 1938, by Mid Central Fish Co. of Maine, from Portland, Maine; and charging adulteration in violation of the Food and Drugs Act.

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

On October 13, November 22, and December 10, 1938, the Mid Central Fish Co. having entered an appearance admitting the allegations of the libel filed at Dallas, Tex., and consenting to the entry of a decree and no claim having been entered in the remaining cases, judgments of condemnation were entered and the product was ordered destroyed.

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