

**3505. Adulteration and misbranding of alleged olive oil. U. S. v. Vito Viviano et al. (V. Viviano & Bros.) Plea of guilty. Fine, \$50 and costs. (F. & D. No. 4856. I. S. No. 19330-d.)**

On December 11, 1913, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Vito Viviano, Pietro Viviano, Gaetano Viviano, and Salvatore Viviano, doing business under and by the name and style of V. Viviano & Bros., St. Louis, Mo., alleging shipment by said defendant firm, in violation of the Food and Drugs Act, on or about February 29, 1912, from the State of Missouri into the State of Iowa, of a quantity of alleged olive oil which was adulterated and misbranded. The product was labeled: "Olio Sopraffino Per in Salata. Mark Berico. Pure Salad Oil (Mark Berico, Trade Mark) Prepared and guaranteed by Viviano & Bros., St. Louis, Mo. under the Food & Drugs Act, June 30, 1906."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

|                                   |         |
|-----------------------------------|---------|
| Specific gravity at 15.6° C.....  | 0. 9205 |
| Index of refraction at 25° C..... | 1. 4741 |
| Iodin number.....                 | 111     |
| Halphen test: Strongly positive.  |         |

Adulteration of the product was alleged in the information for the reason that the can was labeled as aforesaid, in imitation of a well-known brand of Italian olive oil produced by Philip Berico & Co., at Lucca, in Italy, and a substance, to wit, cottonseed oil, had been substituted wholly or in large part for Italian olive oil which said article purported to be. Misbranding was alleged for the reason that the statement, "Olio Sopraffino Per in Salata. Mark Berico. Pure Salad Oil," when taken in connection with the trade-mark and medals borne on the label, was false and misleading because it created the impression that the product was pure olive oil of Italian origin, when, in truth and in fact, said product was cottonseed oil; and said product was further misbranded in that it was labeled and branded so as to mislead and deceive the purchaser, being labeled, "Olio Sopraffino Per in Salata. Mark Berico. Pure Salad Oil," with pictures of medals, thereby creating the impression that said product was pure olive oil of Italian origin, when, in truth and in fact, it was domestic cottonseed oil; and said product was further misbranded in that it was labeled and branded so as to mislead and deceive the purchaser for the reason that the general style and appearance of the labels on said can, taken in connection with the words "Mark Berico," the trade-mark and picture of medals, were such as to convey the impression that said product was a well-known Italian oil produced by Philip Berico & Co., at Lucca, in Italy, whereas, in truth and in fact, said product was domestic cottonseed oil, labeled and branded in imitation of such olive oil.

On July 8, 1914, a plea of guilty was entered on behalf of the defendant firm, and the court imposed a fine of \$50 and costs.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *December 31, 1914.*