

On May 25 and June 12, 1936, the consignee having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

27408. Adulteration and misbranding of olive oil. U. S. v. Arte Products, Inc., and Max Schaer, Pleas of guilty. Fine of \$100 on count one imposed against each defendant; fine of \$5,800 against each defendant on remaining counts remitted. (F. & D. no. 37986. Sample nos. 60923-B, 60925-B, 61229-B, 61230-B, 61233-B, 61234-B, 61546-B, 61552-B, 61557-B, 61567-B, 61777-B, 61778-B, 61779-B, 61781-B, 61785-B, 61788-B.)

This product was adulterated with tea-seed oil.

On January 27, 1937, 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 Arte Products, Inc., New York, N. Y., and Max Schaer, an officer of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act on or about May 31, October 24, and November 8, 1935, from the State of New York into the State of Connecticut; and on or about October 28 and November 11, 1935, and January 6, 13, and 15, February 5, 13, 20, and 24, and March 2 and 4, 1936, from the State of New York into the State of New Jersey of quantities of olive oil that was adulterated and misbranded. The article was labeled in part variously: "Arte Brand"; "O Sole Mio"; "Toscano Brand * * * Ital. Amer. Whle. Groc. Impr. & Exprs. Ital. Prod. * * * West New York, N. J."; "Tosca Brand Packed Expressly For P. D'Imperio * * * West New York, N. J."; "Caruso Brand"; "La Rosa Brand * * * Imported [or "Packed"] Exclusively for Triestino Importing Co."; "Davide Brand * * * B. Kornfeld Newark, N. J."; "Elena Brand * * * D. Kline, Newark, N. J."; "Sparviero Brand."

The article was alleged to be adulterated in that tea-seed oil had been substituted in part for olive oil, which it purported to be and in that tea-seed oil had been mixed and packed with it so as to reduce or lower its quality or strength.

It was alleged to be misbranded in that it was offered for sale under the distinctive name of another article, olive oil, which it purported to be but was not. It was alleged to be misbranded further in that the following statements and designs, borne on the cans containing it, were false and misleading and were borne on said cans so as to deceive and mislead the purchaser since it was not composed wholly of olive oil as represented by said statements and designs but was a mixture composed of tea-seed oil and olive oil: (Arte brand) "Superfine pure olive oil imported product * * * puro olio D'Oliva Sopraffino Prodotto Importato [designs of olive branches and picture of a dish of green olives] * * * Imported Product Prodotto Importato [designs of Italian coat of arms and Italian flag] * * * Imported Olive Oil"; (O Sole Mio brand) "O Sole Mio Virgin Extra Sublime Olive Oil Imported from Lucca-Italy * * * O Sole Mio Olio D'Oliva Vergine Extra Sublime Importato Da Lucca-Italy [design of olive branches] O Sole Mio Italian Olive Oil is produced with selected ripe olives from the finest regions available. That is why the quality is uniformly 'Of the Best' at all times. Absolutely pure in all respects and so guaranteed under chemical analysis O Sole Mio Olio Di Oliva Italiano e prodotto con olive scelte della migliore provenienza. Ed e per questo che la qualita e sempre indiscutibilmente superiore. Assolutamente puro sotto Ogni rispetto a garantito come tale verso analisi chimica. Non dovete esitare and usare questo olio di oliva liberamente per la cucina e per insalata. E pure ottimo per uso medicinale", (gallon cans) "Pure Imported Olive Oil" and (on half-gallon cans) "Imported from Italy"; (Toscano brand) "Italian Product Pure Olive Oil Toscano * * * Choicest Quality * * * Prodotto Italiano Puro Olio d'Oliva Toscano [design of olive branches and Italian coat of arms] This Olive Oil is guaranteed to be absolutely pure and is highly recommended * * * Questo Olio D'Oliva e garantito assolutamente puro ed e raccomandato per uso tavola e medicinale. [design of olive branches] * * * Imported Olive Oil"; (Tosca brand) "Pure Italian Olive Oil * * * Italy * * * Olive Oil Pure Olive Oil * * * This Olive Oil is guaranteed to be absolutely pure under chemical analysis. Dieses Oliven Oel ist garantie absolut rein unter chemischer analyse. Cette Huile d'Olives est garantie absolument pure sous analyse chimique. Questo Olio di Oliva e garantito assolutamente puro sotto analisi chimica"; (top of can) "Imported

Olive Oil", and the design of an Italian flag, the Italian coat of arms, olive trees, and women gathering olives; (Caruso brand) "Imported Pure Olive Oil Olio d' Oliva Puro Importato [designs of olive branches] Pure Olive Oil This Olive Oil is guaranteed to be absolutely pure under chemical analysis. Quest olio e garantito assolutamente puro sotto analisi chimica * * * [design of Italian coat of arms and of Italian flag] Marca Caruso Medaglia D'Oro Croce D'Onore Diploma Esposizione Industriale Roma 1923 Olio d'Oliva Importato Qualita Sopraffina Caruso Brand Above All Others"; (La Rosa brand) "Superfine Quality * * * Pure Olive Oil Imported [on portion "Pure Olive Oil Imported From Italy"] * * * Qualita Sopraffino * * * Puro Olio d'Oliva Importato. This Olive Oil is guaranteed to be absolutely pure and is highly recommended for table and medicinal purposes * * * Questo Olio D'Oliva e garantito assolutamente puro ed e raccomandato per uso tavola e medicinale * * * Imported Olive Oil", and the designs of olive branches and olives, (Davide brand) "Prodotto Italiano Puro Olio D'Oliva Davide Brand, Choicest Quality * * * Italian Product Pure Olive Oil Davide Brand [design of olive branches] This olive oil is guaranteed to be absolutely pure and is highly recommended for table and medicinal purposes. Questo Olio D'Oliva e per uso tavola e medicinale [design of olive branch] * * * Imported Olive Oil"; (Elena brand) "Superfine Quality Elena * * * Pure Olive Oil Imported from Italy * * * Qualita Sopraffino Elena * * * Puro Olio d'Oliva Importato Dall'Italia [design of olive branch]. This Olive Oil is guaranteed to be absolutely pure and is highly recommended * * * Questo Olio d'Oliva e garantito assolutamente puro ed e raccomandato per uso tavola e medicinale * * * Imported Olive Oil"; (Sparviero brand) "Lucca Italy Toscana Virgin Guaranteed Pure Olive Oil Imported from Italy. This olive oil is guaranteed to be absolutely pure Recommended for medicinal and Table Use * * * Imported Olive Oil", and designs of olive branches with olives.

On March 22, 1937, pleas of guilty were entered on behalf of the defendants and the court imposed a fine of \$200 against each defendant on each of the 30 counts of the information and ordered that fines on all counts but the first be remitted. Subsequently the fine on the first count was reduced to \$100 as to each defendant.

M. L. WILSON, *Acting Secretary of Agriculture.*

27409. Adulteration and misbranding of assorted jellies and assorted jams. U. S. v. 816 Jars of Assorted Jams and 247 Jars of Assorted Jellies. Consolidated and tried to the court. Judgment of condemnation. Products delivered to public or charitable agencies. (F. & D. nos. 38104, 38150. Samples nos. 69210-B, 3608-C.)

These products all contained less fruit and more sugar than standard jams and jellies should contain. In addition, the jellies and 6 of the 10 varieties of jams contained water, which should have been removed in the process of manufacture; and they also contained pectin or acid, or both pectin and acid.

On August 3 and August 18, 1936, the United States attorney for the District of Nevada, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 816 jars of assorted jams and 247 jars of assorted jellies at Reno, Nev., alleging that they had been shipped in interstate commerce on or about March 7, 1936, by the Kopper Kettle Syrup Co. from Sacramento, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Made by J. D. Armstrong, Los Angeles."

The adulteration and misbranding charges in the libels are set out in detail in the findings of fact by the court.

On March 10, 1937, the above-entitled causes came on for trial before the court sitting without a jury, a trial by jury having been waived. J. D. Armstrong and B. D. Topf, copartners, doing business under the name and style of Kopper Kettle Syrup Co., had entered an appearance in each of the two cases as claimants of the libeled jams and jellies, through their attorney, but were not represented in court by counsel at the trial of the cases. Upon motion of counsel for plaintiff, the court entered its order consolidating the causes for trial. Evidence was introduced on behalf of plaintiff, and the court being fully advised in the premises, on said date entered its order that decree be entered in favor of plaintiff, and further ordered that counsel for plaintiff prepare and submit findings. On April 19, 1937, the court signed the following Findings of Fact: