

labeled in part: "Merrit Brand [design of cluster of peas in pod] Sugar Peas Contents 1 Lb. 1 Oz. Packed for A. H. Perfect & Co. The Eavy Co. Ft. Wayne, Richmond, Huntington, Ind. Xenia, Ohio. Sturgis, Mich."

The article was alleged to be misbranded in that the statement "Sugar Peas", borne on the labels, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since the statement represented that the article was sugar peas, that is, sweet peas; whereas it was in fact not such a product but was the Alaska variety of peas of low standard of quality.

On December 3, 1935, a plea of guilty was entered on behalf of defendant corporation and the court imposed a fine of \$10.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25255. Adulteration and misbranding of olive oil. U. S. v. Delizia Olive Oil Co., Inc., and Salvatore Esposito and Raymond Muscarella. Pleas of guilty. Fine of \$1,200 suspended. (F. & D. no. 32206. Sample nos. 43647-A, 43649-A, 51303-A, 51326-A.)

This case was based on interstate shipments of an article which purported to be olive oil, but which consisted chiefly of cottonseed oil, and the packages of which were short in volume.

On October 24, 1935, 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 the Delizia Olive Oil Co., a corporation, New York, N. Y., and Salvatore Esposito and Raymond Muscarella, officers and agents of said corporation, charging shipment by said defendants, in violation of the Food and Drugs Act, on or about July 17, August 2, August 8, and October 9, 1933, from the State of New York into the State of New Jersey, of quantities of an article contained in cans, consisting chiefly of cottonseed oil, which was adulterated and misbranded. The article in the shipments of July 17, August 2, and August 8, 1933, were labeled in part: "One Gallon Net Olio Finissimo Garantito La Deliziosa Brand Premiato All' Esposizione Di Roma 1924 Italia This Delicious Oil is Recommended for Sauce, Frying, Kitchen and Table Use Vegetable Oil ES [designs of olive branches and of medals bearing likeness of King Emanuel III of Italy]." The article in the shipment of October 9, 1933, was labeled in part: "One Gallon Olio Extra Fino Garantito Farfariello Brand Olio Fino [design of olive branches] Packed by Delizia Olive Oil Inc. Premiato All' Esposizione Di Roma 1924 Italia High grade vegetable oil with flavor. Farfariello Brand This Delicious Oil is Recommended for Frying, Kitchen Sauce and Table Use Quest' Olio Delizioso e Raccomandato Speciaimente per Fritture, Tavola, Salse e per Tutti gli Usi di Cucina. D O O Inc."

The article in all four of the shipments was alleged to be adulterated in that a product consisting chiefly of cottonseed oil had been substituted for olive oil which the article purported to be; and in that a substance, cottonseed oil, had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality.

The article in all four of the shipments was alleged to be misbranded in that, consisting almost wholly of cottonseed oil, it was an imitation of another article, olive oil, which it purported to be. It was alleged that the article in three of the four shipments, namely, those of July 17, August 2, and August 8, 1933, was misbranded in that the statements, "Olio Finissimo. Garantito La Deliziosa Brand Premiato All' Esposizione Di Roma 1924 Italia", together with designs of olive branches and designs of medals bearing the likeness of King Emanuel III of Italy, borne on the label, were false and misleading, and by reason of said statements and designs the article was labeled and branded so as to deceive and mislead the purchaser, since the statements and designs represented that the article consisted solely of olive oil produced in and imported from Italy; whereas in fact the article consisted almost wholly of cottonseed oil. It was alleged that the article in one of the four shipments, namely, that of October 9, 1933, was misbranded in that the statements, "Olio Extra Fino Garantito Farfariello * * * Delizia Olive Oil * * * Premiato All' Esposizione Di Roma 1924 Italia", together with designs of olive branches, borne on the label, were false and misleading, and by reason of said statements and designs the article was labeled and branded so as to deceive and mislead the purchaser, since the statements and designs represented that the article consisted solely of olive oil produced and imported

from Italy; whereas in fact the article consisted almost wholly of cottonseed oil.

The article in three of the four shipments, namely, those of July 17, August 2, and October 9, 1933, was alleged to be misbranded in the following respects: (1) In that the statement "One Gallon", borne on the label, was false and misleading, and by reason of said statement the article was labeled and branded so as to deceive and mislead the purchaser, since the statement represented that the cans each contained 1 gallon of the article; whereas in fact each or nearly all of the cans examined contained less than 1 gallon of the article; and (2) in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the contents in each of the cans was less than 1 gallon.

On November 14, 1935, the three defendants entered pleas of guilty and the court imposed a fine of \$400 on each, payment of the fines being suspended on condition that defendants should not again violate the Food and Drugs Act within 5 years.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25256. Adulteration and misbranding of olive oil. U. S. v. H. J. Staiti, Inc., Plea of guilty. Fine, \$90. (F. & D. no. 32216. Sample nos. 51317-A, 51319-A.)

This case was based on interstate shipments of an article which purported to be olive oil, but which consisted almost wholly of cottonseed oil, and the packages of which were short in volume.

On May 13, 1935, 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 H. J. Staiti, Inc., a corporation, New York, N. Y., charging shipment by said corporation in violation of the Food and Drugs Act, on or about August 31 and September 6, 1933, from the State of New York into the State of New Jersey, of quantities of an article contained in cases, purporting to be olive oil, which was adulterated and misbranded. The article was labeled: "La Vergine Brand Finest Quality Oil [design of woman holding jug of oil by olive tree in foreground of a foreign-appearing village] Lucca. Net Contents One Gallon Qualita Extra Fina Insuperabile Per Tavola, Cucina Etc. Extra Fine Quality Oil Insuperabile For Table, Cooking, Etc."

The article was alleged to be adulterated in that a substance, cottonseed oil, had been mixed and packed with it so as to reduce and lower and injuriously affect its quality and strength; and in that a product consisting almost wholly of cottonseed oil had been substituted for olive oil which the article purported to be.

The article was alleged to be misbranded in that the statements, "La Vergine Brand Finest Quality Oil Lucca Qualita Extra Fina Insuperabile Per Tavola, Cucina, Etc.", together with the design of a woman holding a jug of oil by an olive tree in the foreground of a foreign-appearing village, appearing on the label, were false and misleading, and by reason of said statements the article was labeled so as to deceive and mislead the purchaser, since the statements represented that the article was olive oil produced in a foreign country; whereas in fact it consisted almost wholly of domestic cottonseed oil. Misbranding of the article was alleged further in that it was an imitation of another article, namely, olive oil which it purported to be; and in that the statement "Net Contents One Gallon", appearing on the label, was false and misleading, and by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since the statement represented that each of the cans contained 1 gallon of the article, whereas in fact each of the cans contained less than 1 gallon thereof; and in that the article was food in package form and the quantity of the contents was not plainly and conspicuously stated on the package, since the statement made was incorrect.

On October 3, 1935, a plea of guilty was entered on behalf of defendant corporation and a fine of \$90 was imposed.

R. G. TUGWELL, *Acting Secretary of Agriculture.*