

and Drugs Act. It was further ordered that the oil be removed from the original containers and that the cases and cans be destroyed.

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

21338. Misbranding of olive oil. U. S. v. 37 Cans of Olive Oil. Decree of condemnation and destruction. (F. & D. no. 30641. Sample no. 32030-A.)

This case involved a shipment of olive oil, sample cans of which were found to contain less than the volume declared on the label, 1 gallon.

On or about June 19, 1933, 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 37 cans of olive oil at New Haven, Conn., alleging that the article had been shipped in interstate commerce on or about June 8, 1933, by the International Importing Co., Inc., from Providence, R.I., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Contents One Gallon The Prime Rose Pure Virgin Olive Oil * * * The International Importing Co., Inc., Providence, R.I."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Contents One Gallon", was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason 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 statement made was incorrect.

On July 18, 1933, 11 cans of the product having been seized and no claim or answer having been filed, judgment of condemnation was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

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

21339. Misbranding of canned pears. U. S. v. 300 Cases of Canned Pears. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 30601. Sample no. 37223-A.)

This case involved a shipment of canned pears which fell below the standard established by this Department and which were not labeled to indicate that they were substandard. Sample cans taken from the shipment were found to contain less than the declared weight.

On June 15, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 cases of canned pears at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about May 20, 1933, by Ray-Maling (Ray-Maling Co., Inc.), from Portland, Oreg., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Britewest Brand Bartlett Pears Net Weight 1 Lb. 14 Ozs. Select Northwest Fruits Washington Cannery Co-Operative Vancouver Washington."

It was alleged in the libel that the article was misbranded in that the statement on the label, "One Lb. Fourteen Ozs.", was false and misleading and deceived and misled the purchaser and for the further reason that the article was 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 incorrect. Misbranding was alleged for the further reason that the article fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, because of excessive trimmings, nonuniformity of size, and small size, and because the liquid portion of the finished product read less than 13° Brix, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On July 17, 1933, the Washington Cannery Cooperative having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation was entered, and it was ordered by the court that the product be released to the claimant upon the execution of a good and sufficient bond, conditioned that it be relabeled under the supervision of this Department and that the claimant pay the costs of the proceedings.

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