

ship of the trade-mark appearing on the goods is in a position to contest the allegations of the libel, when the claimant has admitted the same.

This matter being in admiralty, the decree will operate only upon the res; neither in word nor in effect will it touch any right of the intervenor with respect to its trade-mark. And since in open court the intervenor expressly disclaimed any desire to repossess the goods, and expressed consent to any decree which does not disparage its trade-mark, it cannot possibly suffer prejudice from this ruling.

And so, without prejudice to the intervenor with respect to its trade-mark, and without expressing any disagreement with the decision of Judge Thomas in a similar case wherein it appears that the same label as that here involved did not constitute a misbranding within the meaning of the Pure Food and Drugs Act, I rule only that the motion to strike the exceptions may be granted and that

A decree of forfeiture may enter.

On July 28, 1936, the Lucca Importing Co. having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

26105. Misbranding of salad oil. U. S. v. 52 Gallon Cans of Salad Oil. Default decree of condemnation. Product distributed to charitable institutions. (F. & D. no. 34460. Sample no. 21224-B.)

This case involved a product that consisted of sunflower oil which was sold as salad oil.

On or about December 6, 1934, 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 52 gallon cans of salad oil at Hartford, Conn., alleging that the article had been shipped in interstate commerce on or about October 1, 1934, by A. Krasno from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act.

The article was labeled in part: "Italian Cook Brand Pure Vegetable Salad Oil * * * Agash Refining Corp. Bush Terminal, Brooklyn, N. Y."

The article was alleged to be misbranded in that the following statements on the label and the use of the Italian national colors thereon were misleading and tended to deceive and mislead the purchaser, since they created the impression that the product was Italian olive oil; whereas it was not: "Italian Cook Italian Cook Oil Per insalate * * * ha quel sapore delicato che mesce perfettamente con altri cibi. Per Friggere * * * da al vostro cibo quella crosta con crespezza bruna—esso non penetra, rendendo moscio il cibo. Per infornare * * * non e troppo spesso o troppo tennuo. Mesce perfettamente. Per tutti i cibi infornati. Per Mayonnaise * * * puo essere usato con qualsiasi ricetta—non occorre sperimentare. * * * e un'olio vegetale puro." Misbranding was alleged for the further reason that the statement on the label, "Pure Vegetable Salad Oil", was misleading and tended to mislead the purchaser since this term might include olive oil. Misbranding was alleged for the further reason that the article purported to be a foreign article when not so.

On April 22, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be distributed to charitable institutions.

W. R. GREGG, *Acting Secretary of Agriculture.*