

the outside of the package, since the quantity of the contents was less than the declared weight.

On January 31, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of \$30.

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

**24214. Misbranding of canned orange juice. U. S. v. Henry A. Baker. Plea of nolo contendere. Fine, \$50. (F. & D. no. 32892. Sample nos. 42004-A, 42005-A.)**

This case was based on interstate shipments of canned orange juice which was found to be short volume.

On October 31, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Henry A. Baker, trading at Anaheim, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about December 3 and December 22, 1932, from the State of California into the State of Colorado, of quantities of canned orange juice which was misbranded. The article was labeled in part: "Hanson's 100% Pure California Fruit Juices \* \* \* Hanson & Choate Products Company Los Angeles, California Net Contents ½ Gallon [or "1 Gallon" or "100 oz." or 6½ pints"]."

The article was alleged to be misbranded in that the statements regarding the quantity of the article contained in the variously sized cans, namely, "Net Contents ½ Gallon", "Net Contents 1 Gallon", "100 oz.", and "Net Contents 6½ Pints", respectively, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the cans contained less than the declared quantity.

On January 7, 1935, the defendant entered a plea of nolo contendere, and the court imposed a fine of \$50.

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

**24215. Misbranding of canned cherries. U. S. v. 130 Cases of Canned Cherries. Product released under bond to be relabeled. (F. & D. no. 32980. Sample no. 76602-A.)**

This case involved an interstate shipment of canned cherries which fell below the standard prescribed by the Secretary of Agriculture for such products, because of the presence of excessive pits, and which was not labeled to indicate that it was substandard.

On June 20, 1934, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 130 cases of canned cherries at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about November 8, 1933, and April 6, 1934, by the Geneva Preserving Co., from Geneva, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Monogram Red Sour Pitted Cherries \* \* \* Water Pack Packed for The Staples Grocery Co. Inc. Richmond, Va."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food because it contained an excessive number of pits, 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 January 25, 1935, the Geneva Preserving Co., Geneva, N. Y., having appeared as claimant for the property, judgment was entered ordering that the product be released to the claimant under bond, conditioned that it be relabeled in order to comply with the law.

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

**24216. Misbranding of salad oil. U. S. v. 300 Cans of Salad Oil. Consent decree of condemnation. Product released under bond. (F. & D. no. 33024. Sample no. 70433-A.)**

This case involved a product consisting essentially of cottonseed oil with a slight taste of olive oil, which was labeled to convey the impression that it was olive oil of foreign origin. Sample cans taken from the shipment were found to contain less than the declared volume.

On June 28, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 300 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about May 28, 1934, by Angelo D. Polizzi, from Rochester, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "La Feroce Brand Vegetable Salad Oil Slightly Flavored with Pure Olive Oil A Compound Net Contents One Gallon."

The article was alleged to be misbranded in that the impression conveyed by the predominatingly green color of the label and the prominence given to the legend "Pure Olive Oil", and the statement on the label, "Net Contents One Gallon", were false and misleading, and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so, and for the further reason that it 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 February 18, 1935, Joseph Polizzi, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be repacked in properly labeled cans or otherwise disposed of in a manner approved by this Department.

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

**24217. Misbranding of black pepper. U. S. v. 40 Cases of Black Pepper. Default decree of condemnation and destruction. (F. & D. no. 33031. Sample no. 68547-A.)**

Sample packages of black pepper taken from the shipment involved in this case were found to contain less than 3 ounces, the labeled weight.

On June 29, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cases of black pepper at Dothan, Ala., alleging that the article had been shipped in interstate commerce, on or about February 7 and April 2, 1934, by the Cumberland Manufacturing Co., Inc., from Nashville, Tenn., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Windsor Brand Black Pepper Three Oz. Net Weight Packed by Cumberland Mfg. Co., Inc., Nashville, Tenn."

The article was alleged to be misbranded in that the statement on the label, "Three Oz. Net Weight", was false and misleading and tended to deceive and mislead the purchaser, and in that it was food in package form and the label failed to bear a statement of the quantity of the contents since the statement made was incorrect.

On December 6, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

**24218. Misbranding of canned tomatoes. U. S. v. 148 Cases of Canned Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33057. Sample nos. 68400-A, 77427-A.)**

This case involved an interstate shipment of canned tomatoes which fell below the standard promulgated by the Secretary of Agriculture for such products because of lack of color, and which was not labeled to indicate that it was substandard.

On July 9, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 148 cases of canned tomatoes at Brockton, Mass., alleging that the article had been shipped in interstate commerce on or about May 15, 1934, by C. W. Baker & Sons, from Sanford, Fla., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Eckerson's Tomatoes Hand Packed \* \* \* Packed by Eckerson Fruit Cannery, Inc. at Sanford, Fla. Executive Office Jersey City, N. J."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food because of lack of color, and its package or label failed to bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.