

On October 1, 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.*

**23891. Adulteration and misbranding of canned tuna fish. U. S. v. 100 Cases of Canned Tuna Fish. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 32305. Sample no. 68641-A.)**

This case involved a shipment of canned tuna fish which was represented to be packed in olive oil. Examination showed that it was packed in oil consisting principally of cottonseed oil with little or no olive oil.

On March 12, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of canned tuna fish at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about March 2, 1934, by the Murphy Brokerage Co., from Louisville, Ky., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Piro Brand Tonno Tuna Fish Specially Prepared Italian Style in pure olive oil \* \* \* Packed by West Gate Sea Products Co. San Diego, Calif. Piro Brand Tonno Specialmente Preparato in olio d'oliva di Primissima Qualita Marca Piro."

The article was alleged to be adulterated in that tuna fish packed in a mixture of cottonseed oil and some olive oil had been substituted for tuna fish (tonno) packed in olive oil, which the article purported to be.

Misbranding was alleged in that the statements on the label, "Tonno" "Tuna Fish \* \* \* in pure Olive Oil", "Italian Style", and "Tonno \* \* \* in olio d'oliva di primissima qualita", were false and misleading and tended to deceive and mislead the purchaser when applied to tuna fish packed in a mixture of cottonseed oil and some olive oil. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On October 17, 1934, the Westgate Sea Products Co., San Diego, Calif., having appeared as claimant 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 relabeled under the supervision of this Department.

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

**23892. Misbranding of olive oil. U. S. v. 165 Cans of Olive Oil. Tried to the court. Judgment for the Government. Decree of condemnation, forfeiture, and sale. (F. & D. no. 32422. Sample no. 67058-A.)**

Sample cans of olive oil taken from the shipment involved in this case, were found to contain less than 1 quart, the volume declared on the label.

On March 24, 1934, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 165 cans of olive oil at Scranton, Pa., alleging that the article had been shipped in interstate commerce on or about February 28, 1933, and January 13, 1934, by the Venice Importing Co., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Pure Olive Oil Virgin Reginella Brand \* \* \* One Quart."

The article was alleged to be misbranded in that the statement, "One Quart", was false and misleading and tended to deceive and mislead 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 April 12, 1934, the Venice Importing Co., Brooklyn, N. Y., filed an answer denying the material allegations of the libel and praying release of the product. On November 16, 1934, the case having come on for trial before the court, judgment was entered for the Government and the court ordered that the claimant might obtain release of the goods on condition that it file a bond to insure proper relabeling. In January 1935, the claimant having failed to comply with the conditions of the said order, judgment of condemnation was entered and the product was ordered sold in bulk by the marshal.

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