

demnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon the execution of a bond in the sum of \$8,000, conditioned that it be relabeled or repacked in containers that described its true nature.

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

23906. Misbranding of olive oil. U. S. v. 50 Cans, et al., of Olive Oil. Consent decree of condemnation and forfeiture. Product released under bond for refilling containers. (F. & D. nos. 33092, 33093, 33094. Sample nos. 6558-B to 6564-B, incl.)

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

On July 19, 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 libels praying seizure and condemnation of 521 cans of olive oil at Newark, N. J., alleging that the article had been shipped in interstate commerce, in part on or about May 23, 1933, and in part on or about June 8, 1934, by the Mercantile Importing Co., from New Bedford, Mass., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part, variously: "Azeita Puro De Oliveira Portuguez Portas de Rodam Castelo Branco Product of Portugal * * * 1 Quart"; "Azeita Puro D'Oliveira Portuguez Soloio Exportado Por Mandel Moreira Rato & Ca. Fos. * * * Lisboa * * * Extra Portugese Olive Oil Net Contents 1 Quart"; "Azeite Purissimo D'Oliveira Portugues Triunfante Importado por Tagus Importing and Exporting Co. New Bedford, Mass. * * * Net Contents One Quart."

The libels alleged that the article was misbranded in that the statements on the labels, "1 Quart", "Net Contents 1 Quart", and "Net Contents One Quart", were false and misleading and tended to deceive and mislead the purchaser; 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 August 16, 1934, the cases having been consolidated, and the Mercantile Importing Corporation, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released upon payment of costs and the execution of a bond in the sum of \$500, or the deposit of collateral in like amount, conditioned that the cans be refilled to the labeled volume.

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

23907. Misbranding of canned tomatoes. U. S. v. 297 Cases, et al., of Canned Tomatoes. Decrees of condemnation. Portion of product released under bond to be relabeled; remainder destroyed. (F. & D. nos. 33098, 33147, 33255. Sample nos. 4121-B, 4157-B, 4158-B.)

This case involved canned tomatoes that were below the standard established by this Department, all lots having been found to be of poor color, and one lot containing excessive peel. The product was not labeled to show that it was substandard, and was falsely labeled as to the name of the manufacturer and place of manufacture.

On July 18, July 30, and August 15, 1934, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 3 lots, consisting of 494 cases of canned tomatoes, at New Orleans, La. [one lot at Algiers, La.], alleging that the article had been shipped in interstate commerce, in various lots, on or about June 23, June 26, and July 7, 1934, respectively, by the Hazlehurst Canning Co., from Hazlehurst, Miss., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Shavers Brand Hand Packed Tomatoes * * * Packed by H. A. Shaver, Inc., Lakeland, Fla."

The article was alleged to be misbranded in that the statement on the label, "Packed by H. A. Shaver, Inc., Lakeland, Fla.", was false and misleading and tended to deceive and mislead the purchaser, since it was packed by the Hazlehurst Canning Co., at Hazlehurst, Miss. Misbranding was further alleged in that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, and its package or