

4965. Misbranding of oil. U. S. * * * v. 4 Cases * * * and 1 Case * * * of Oil. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 7368. I. S. No. 4211-1. S. No. E-597.)

On April 28, 1916, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 4 cases, each containing 12 one-gallon cans, of oil, and 1 case, containing 12 one-quarter gallon cans, of oil, remaining unsold in the original unbroken packages at Morristown, N. J., alleging that the article had been shipped, on or about March 9, 1916, by Anna Heller, trading under the name of the Venice Importing Co., New York, N. Y., and transported from the state of New York into the state of New Jersey, and charging misbranding in violation of the Food and Drugs Act. The article in the 4 cases was labeled: "Net contents—full gallon" (Italian coat of arms) "Olio Sopraffino Qualita Superiore Olio Finissimo. Cottonseed and Olive Oil. A compound. Tripolitania Brand." The article in the one case was labeled: "Net contents full $\frac{1}{4}$ gallon." (Italian coat of arms) "Olio Sopraffino Qualita Superiore Olio Finissimo. Cottonseed and Olive Oil. A compound. Tripolitania Brand."

Misbranding of the article was alleged in the libel for the reason that it was labeled and branded so as to deceive and mislead the purchaser as to the quantity contained in the cans, the 1-gallon cans being labeled, "Net contents—full gallon," and the quarter-gallon cans being labeled, "Net contents—full $\frac{1}{4}$ gallon"; that is to say, that each of the cans contained 1 full gallon or 1 full quarter gallon, respectively; whereas, in fact and in truth, each of the cans contained less than 1 gallon or $\frac{1}{4}$ gallon, as the case might be. Misbranding was alleged for the further reason that the general design and arrangement of the labels, including the words thereon, were such as to deceive and mislead the purchaser in giving the impression that the product was an Italian olive oil, when, in fact and in truth, it was composed of cottonseed oil together with olive oil, and for the further reason that the general arrangement and design of the label, including the words thereon, were such as to give the impression that the oil was a foreign product, when, in fact and in truth, it was not. Misbranding was alleged for the further reason that the statement, "Olive Oil," in large type upon the label deceived and misled, and was intended to deceive and mislead the purchaser into the belief that the product was olive oil, and this deception and misleading was not corrected by the words in small and inconspicuous type on the label "Cottonseed and."

On June 6, 1916, the said Anna Heller, claimant, having consented to a decree, judgment of condemnation and forfeiture was entered and, it appearing that said claimant had filed bond in the sum of \$300 in conformity with section 10 of the act and had paid the costs of the proceedings, it was ordered by the court that the product should be released and delivered to said claimant.

CARL VROOMAN, *Acting Secretary of Agriculture.*