

On November 24, 1930, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17705. Misbranding of canned pimientoes. U. S. v. 63 Cases of Pimientoes. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 25202. I. S. No. 5174. S. No. 3479.)

Samples of canned pimientoes from the herein described interstate shipment having been found short weight, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Pennsylvania.

On October 11, 1930, the said United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 63 cases, each containing 100 cans of pimientoes, remaining in the original unbroken packages at Philadelphia, Pa., alleging that the article had been shipped by the Citizens Bank of Forsyth, Forsyth, Ga., on or about December 10, 1929, and had been transported from the State of Georgia into the State of Pennsylvania, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Can) "Park-Allen Brand Pimientoes Sweet Red Peppers Southern Cannery, Incorporated, Wayside, Georgia. Contents 4 Oz."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Contents 4 Oz.," was false and misleading and deceived and misled 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 November 1, 1930, the Citizen's Bank of Forsyth, Forsyth, Ga., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned in part that it be relabeled under the supervision of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17706. Adulteration and misbranding of cottonseed meal and cake. U. S. v. Tulsa Cotton Oil Co. Plea of nolo contendere. Fine, \$160. (F. & D. No. 25002. I. S. Nos. 09601, 09613, 09646, 09647, 09648, 09649.)

Samples of cottonseed meal and cake from the 6 interstate shipments herein described were examined and found to fall below the declared protein content. Four of the 6 shipments were found to contain a large proportion of sacks containing less than 100 pounds of the products, the weight declared on the labels.

On April 11, 1930, the United States attorney for the Northern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Tulsa Cotton Oil Co., a corporation, Tulsa, Okla., alleging shipment by said company, in violation of the food and drugs act as amended, in various consignments, on or about July 29, August 3, and October 7, 1929, respectively, from the State of Oklahoma into the State of Kansas, of quantities of cottonseed meal and cake which was adulterated and misbranded. The articles were labeled in part: (Tags) "100 Pounds Net Weight Guaranteed Analysis Protein not less than 41 per cent [or "Protein not less than 43 per cent"] * * * Manufactured by and for Tulsa Cotton Oil Company, Tulsa, Oklahoma;" "100 Pounds Net Weight Guaranteed Analysis Protein not less than 43% * * * Red Seal Brand Manufactured for and by Eufaula Cotton Oil Company, Eufaula, Oklahoma."

It was alleged in the information that the articles were adulterated in that substances containing less than 41 per cent of protein, or 43 per cent of protein, as the case might be, had been substituted for the said articles.

Misbranding was alleged for the reason that the statements, to wit, "Protein not less than 41 per cent," and "Protein not less than 43%," borne on the tags attached to the sacks containing the articles, and the statement "100 Pounds Net Weight" with respect to portions thereof, were false and misleading in that the said statements represented that the articles contained not less than 41 per cent, or 43 per cent, as the case might be, of protein, and that the sacks each contained 100 pounds, and for the further reason that the articles were