

ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$325, conditioned that new labels be affixed which were truthful and descriptive.

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

22788. Adulteration of dried peaches. U. S. v. 21 Boxes of Dried Peaches. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32741. Sample no. 68979-A.)

This case involved a shipment of dried peaches which were insect-infested. On May 23, 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 21 boxes of dried peaches at Lewisburg, Pa., alleging that the article had been shipped in interstate commerce on or about July 18, 1933, by Francis H. Leggett & Co., from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Magnolia Brand California Peaches Extra Choice Rosenberg Bros. & Co. California USA."

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On June 30, 1934, 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.

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

22789. Misbranding of canned cherries. U. S. v. 25 Cases of Canned Cherries. Product released to claimant for relabeling. (F. & D. no. 32746. Sample no. 25760-A.)

This case involved a product labeled "Pitted Cherries." Examination showed that the article fell below the standard established by the Secretary of Agriculture, because of the presence of excessive pits, and that it was not labeled to indicate that it was substandard.

On May 24, 1934, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of canned cherries at Boise, Idaho, alleging that the article had been shipped in interstate commerce, on or about December 23, 1933, by H. D. Olson, from Ogden, Utah, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Red Sour Pitted Cherries * * * Distributed by H. D. Olson, Ogden, Utah."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because of the presence of excessive 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.

The Dependable Wholesale Co., Boise, Idaho, appeared as claimant for the property and consented to the entry of a decree. On June 18, 1934, judgment was entered ordering that the product be released to the claimant provided it be first relabeled, "Partially Pitted Cherries", and that unless relabeled within 10 days, it be forfeited and destroyed.

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

22790. Misbranding of apple butter. U. S. v. 230 Cases of Apple Butter. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 32755. Sample nos. 64929-A, 64976-A, 65694-A.)

Sample jars of apple butter taken from the shipment involved in this case were found to contain less than 2 pounds, the weight declared on the label.

On or about May 29, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 230 cases of apple butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about February 20, 1934, by Von Allmen Preserving Co., from Louisville, Ky., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Blossom Brand Pure Apple Butter Two Lbs. Net Durand McNeil Horner Co. Distributors Chicago Ill."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Two Lbs. Net", was false and misleading and tended to