

deceive and mislead the purchaser, when applied to a product containing 4.4 percent of alcohol.

On June 16, 1934, the American Brewing Co., 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 to the claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it be relabeled.

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

22798. Misbranding of beer. U. S. v. 486 Cases of Beer. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 32802. Sample no. 66508-A.)

This case involved a shipment of beer labeled, "Contains Not More than 6% Alcohol by Volume", the statements, "Not More than", being in small inconspicuous type, and the statement, "6% Alcohol by Volume", being in large type prominently displayed. Analysis of the article showed that it contained 5.22 percent of alcohol.

On June 1, 1934, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 486 cases of beer at Jackson, Miss., alleging that the article had been shipped in interstate commerce, on or about May 23, 1934, by the Jackson Brewing Co., from New Orleans, La., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Jax Beer."

It was alleged in the libel that the article was misbranded in that the statement, "Contains not more than 6% Alcohol by Volume", was false and misleading and tended to deceive and mislead the purchaser, since it was intended to convey the impression that the article contained 6 percent of alcohol, whereas it contained not more than 5.22 percent of alcohol.

On June 15, 1934, the Jackson Brewing Co., New Orleans, La., 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 to the claimant, upon payment of costs and the execution of a bond in the sum of \$1,000, conditioned that it be relabeled.

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

22799. Misbranding of canned cherries. U. S. v. 47 Cases of Canned Cherries. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 32807. Sample no. 66831-A.)

This case involved a shipment of "Pitted Cherries", which fell below the standard established by the Secretary of Agriculture, because of the presence of excessive pits, and which were not labeled to indicate that they were sub-standard. The words "Water Pack", appearing on the label, were not in proper type.

On June 5, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 47 cases of canned cherries at Pueblo, Colo., consigned by the Pleasant Grove Canning Co., Orem, Utah, alleging that the article had been shipped in interstate commerce, from the State of Utah into the State of Colorado, on or about September 4, 1933, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Utah Valley Brand Red Sour Pitted Cherries Water Pack. * * * Packed by Pleasant Grove Canning Co., Pleasant Grove-Orem, 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 an excessive number of pits, the statement "Water Pack" was not in proper type, 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.

On August 22, 1934, the Pleasant Grove Canning Co., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the filing of cash bond in the sum of \$166, conditioned that it be relabeled.

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