

**22929. Adulteration of macaroni and spaghetti. U. S. v. 45 Boxes of Macaroni and 32 Boxes of Spaghetti. Default decrees of condemnation and forfeiture. Product delivered to Government agency.** (F. & D. no. 82737. Sample nos. 48140-A, 48141-A.)

These cases involved products that contained but a small amount of egg and that were artificially colored with yellow color to give them the appearance of containing a larger amount of egg than was present.

On May 29 and May 31, 1934, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 45 boxes of macaroni and 32 boxes of spaghetti at Reno, Nev., alleging that the articles had been shipped in interstate commerce, on or about April 4, 1934, by the Western Macaroni Co., from Salt Lake City, Utah, and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Macaroni [or "Spaghetti"] Carnation Brand Western Macaroni Mfg. Co. Inc. Salt Lake City, Utah. \* \* \* Made of Hard Wheat Flour and 1.5% of Egg."

The articles were alleged to be adulterated in that they were colored in a manner whereby inferiority was concealed, in that the color suggested a higher egg content than was the case.

On September 10, 1934, no claimant having appeared, judgments of condemnation and forfeiture were entered and the court ordered that they be delivered to some Government agency, in view of the fact that they were fit for human consumption.

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

**22930. Adulteration and misbranding of fountain sirup. U. S. v. 36 Cans and 90 Cans of Fountain Sirup. Decree of condemnation and forfeiture. Product released under bond to be relabeled.** (F. & D. nos. 82767, 82768. Sample nos. 61282-A, 61283-A.)

This case involved two lots of fountain sirup. One lot, labeled "Double strength chocolate fountain syrup", was chocolate sirup but was not double strength; this lot was also short weight. The remaining lot was represented to be chocolate fountain sirup but consisted of cocoa, water, and sugar.

On May 28, 1934, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 126 cans of fountain sirup at Lexington, Ky., consigned by the Schuster Sales Co., on or about April 29, and June 21, 1933, and March 30, 1934, alleging that the article had been shipped in interstate commerce, from Cleveland, Ohio, into the State of Kentucky, and charging adulteration and misbranding of one lot and misbranding of the remaining lot, in violation of the Food and Drugs Act as amended. Thirty-six cans of the article were labeled in part: "Schuster's Double Strength Chocolate Fountain Syrup \* \* \* Net Contents 8¼ Lbs. \* \* \* Produced and Guaranteed by Schuster's Incorporated, Cleveland, Ohio." The remaining 90 cans were labeled in part: "Schuster's Chocolate Fountain Syrup \* \* \* Produced and Guaranteed by the Schuster Company, Cleveland, Ohio."

Adulteration of the 90-can lot was alleged in that a substance containing cocoa had been substituted for a substance containing chocolate, which the article purported to be.

Misbranding of the said 90-can lot was alleged for the reason that the statements on the label, "Chocolate Fountain Syrup Specially Prepared from the finest powdered chocolate", and "Chocolate syrup makes \* \* \* chocolate drinks", were false and misleading and tended to deceive and mislead the purchaser, since the product did not contain chocolate; and for the further reason that the article was offered for sale under the distinctive name of another article. Misbranding of the 36-can lot was alleged for the reason that the statements on the label, "Double Strength Chocolate Fountain Syrup" and "Net Contents 8¼ Lbs.", were false and misleading and tended to deceive and mislead the purchaser, since it was not double strength chocolate fountain sirup, and was short of the declared quantity of the contents. Misbranding of the said 36-can lot 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 September 10, 1934, the Schuster Sales Co., Cleveland, Ohio, having appeared as claimant, judgment of condemnation and forfeiture was entered, and the court ordered that the product be released to the claimant upon pay-

ment of costs and the execution of a bond in the sum of \$100, conditioned that it be relabeled.

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

**22931. Misbranding of canned cherries. U. S. v. 18 Cases of Canned Cherries. Default decree of forfeiture and destruction. (F. & D. no. 32790. Sample no. 25773-A.)**

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

On June 1, 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 18 cases of canned cherries at Idaho Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about May 10, 1934, by the Symms Utah Grocer Co., from Salt Lake City, Utah, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Kaysville Brand Royal Anne Cherries, Pitted \* \* \* Packed in water by Kaysville Canning Corporation, Kaysville, Utah."

The libel alleged 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 regulations of this Department, indicating that it fell below such standard.

On August 9, 1934, no claimant having appeared, judgment of forfeiture was entered and destruction of the product was ordered.

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

**22932. Misbranding of canned cherries. U. S. v. 105 Cases and 38 Cases of Canned Cherries. Decrees of condemnation. Portion of product released under bond; remainder destroyed. (F. & D. nos. 32753, 32803. Sample nos. 71409-A, 71442-A.)**

These cases involved a product labeled pitted cherries. Examination showed that it fell below the standard established by this Department because of the presence of excessive pits and that it was not labeled to indicate that it was substandard.

On May 31 and June 11, 1934, the United States attorneys for the Districts of Colorado and New Mexico, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 105 cases of canned cherries at Pueblo, Colo., and 38 cases of canned cherries at Las Vegas, N. Mex., consigned by the California Packing Co., Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce in part on or about August 12, 1933, from Ogden, Utah, and in part on or about April 6, 1934, from Salt Lake City, Utah, 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 \* \* \* Packed by Pleasant Grove Canning Co. Pleasant Grove Orem Utah."

The libels alleged 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.

On August 22, 1934, the Pleasant Grove Canning Co., a Utah corporation, having appeared as claimant for the goods seized at Pueblo, Colo., and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$370, conditioned that it be relabeled under the supervision of this Department. On September 7, 1934, no claim having been entered in the remaining case, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

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

**22933. Adulteration and misbranding of canned cherries. U. S. v. 19 Cases of Canned Cherries. Default decree of forfeiture and destruction. (F. & D. no. 32804. Sample no. 71223-A.)**

This case involved a shipment of water-packed pitted cherries. Examination showed that it contained excessive pits and maggots; that it was not