

label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On September 7 and 19, 1934, no answer having been filed to the libels covering two of the lots, the goods seized thereunder were condemned and destroyed. On October 9, 1934, the Hazlehurst Canning Co., having filed a claim to the remaining lot and having filed an answer admitting the allegations of the libel, judgment of condemnation was entered and the court ordered the goods released to the claimant upon payment of costs and the execution of a bond in the sum of \$532, conditioned that it be relabeled under the supervision of this Department.

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

23908. Adulteration of butter. U. S. v. 5 Boxes of Butter. Default decree of condemnation. Product delivered to charitable institutions. (F. & D. no. 32635. Sample nos. 67945-A, 67948-A.)

This case involved an interstate shipment of butter, samples of which were found to contain less than 80 percent by weight of milk fat.

On April 10, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5 boxes of butter at Jersey City, N. J., alleging that the article had been shipped in interstate commerce on or about March 29, 1934, by Klossner Gibbon Creamery, Klossner, Minn., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Great Atlantic & Pacific Tea Company." The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of Congress of March 4, 1923.

On June 26, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to charitable institutions.

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

23909. Misbranding of canned tomatoes. U. S. v. 781 Cases and 241 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 33120. Sample nos. 4376-B, 4377-B.)

This case involved an interstate shipment of canned tomatoes which fell below the standard established by this Department because of poor color and which were not labeled to show that they were substandard. The article was also falsely branded as to the name of the manufacturer and the place of manufacture.

On July 26, 1934, the United States attorney for the Western District of Tennessee, acting upon reports by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,022 cases of canned tomatoes at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about June 27, 1934, by the Hazlehurst Canning Co., from Hazlehurst, Miss., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Shaver's Brand Hand Packed Tomatoes * * * Packed by H. A. Shaver, Inc., Lakeland, Fla."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture because of poor color 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. Misbranding was alleged for the further reason that the statement on the label, "Packed by H. A. Shaver, Inc., Lakeland, Fla.", was false and misleading and tended to deceive and mislead the purchaser since it was packed in Hazlehurst, Miss.

On December 4, 1934, Davis-Mize & Co., Memphis, Tenn., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

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