

22528. Misbranding of canned blackberries. U. S. v. 172 Cases of Canned Blackberries. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 32474. Sample nos. 52372-A, 69012-A.)

Sample cans of blackberries taken from the shipment involved in this case were found to contain less than the labeled weight.

On March 30, 1934, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 172 cases of canned blackberries at Wichita, Kans., alleging that the article had been shipped in interstate commerce, on or about December 2, 1933, by the Ray-Maling Co., Inc., from Hillsboro, Oreg., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Always Good Brand Blackberries, The Lehmann Higginson Grocer Company Distributors, Wichita, Kansas, Contents 6 lbs. 8 oz."

It was alleged in the libel that the article was misbranded in that the statement "Contents 6 lbs. 8 oz.", borne on the label, was false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the cans contained less than declared.

The Lehmann-Higginson Grocery Co., Wichita, Kans., appeared as claimant for the property, admitted the allegations of the libel, and executed a bond in the sum of \$250, conditioned that the product be relabeled under the supervision of this Department. On April 11, 1934, judgment of condemnation was entered and the court having found that the product had been properly relabeled, ordered that it be released to the claimant upon payment of costs of the proceedings.

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

22529. Misbranding of apple butter. U. S. v. 14 Cases and 16 Cases of Apple Butter. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 32480, 32481. Sample nos. 67780-A, 68813-A.)

Sample jars of apple butter taken from the shipments involved in these cases were found to contain less than 38 ounces, the labeled weight.

On April 2, 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 libels praying seizure and condemnation of 14 cases of apple butter at Newark, N. J., and 16 cases of apple butter at Vineland, N. J., alleging that the article had been shipped in interstate commerce on or about January 23, 1934, and March 1, 1934, by A. H. Renehan & Son from Sykesville, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Patapsco Brand Pure Apple Butter Cont. 38 Ozs. A. H. Renehan & Son, Sykesville, Md."

It was alleged in the libels that the article was misbranded in that the statement on the label, "Cont. 38 Ozs.", was false and misleading and tended to deceive and mislead 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 and was not made in terms of the largest unit contained in the package.

On May 19, 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.

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

22530. Adulteration of ripe olives. U. S. v. 10 Barrels, et al., of Ripe Olives. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 32489, 32490. Sample nos. 58847-A, 58848-A, 58849-A.)

These actions involved a shipment of ripe olives that were found to be in part moldy.

On April 2 and April 3, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 20 barrels of ripe olives at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce, on or about February 11, 1934, by the V. R. Smith Olive Co., from Lindsay, Calif., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libels that the article was adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On May 10, 1934, no claimant having appeared for the property, judgments of condemnation and forfeiture were 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.*

22531. Misbranding of chocolates. U. S. v. 58 Boxes of Chocolates. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32492. Sample no. 66998-A.)

Sample boxes of chocolates taken from the shipment involved in this case were found to contain less than 1 pound, the labeled weight.

On April 2, 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 58 boxes of chocolates at Jersey City, N. J., alleging that the article had been shipped in interstate commerce on or about November 17, 1933, by Lillian Clare Chocolates, Inc., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Lillian Clare Chocolates 1 Lb. Net."

It was alleged in the libel that the article was misbranded in that the statement "1 Lb. Net", borne on the label, was false and misleading and tended to deceive and mislead 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 May 19, 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.

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

22532. Misbranding of canned pitted cherries. U. S. v. 1,000 Cases of Canned Pitted Cherries. Default decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 32519. Sample no. 38497-A.)

This case involved a shipment of canned pitted cherries which fell below the standard established by this Department because of the presence of excessive pits and which were not labeled to indicate that they were substandard.

On April 9, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cases of canned pitted cherries at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about March 4, 1934, by the Comstock Canneries, Inc., from Newark, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Cata Red Sour Pitted Cherries Water Pack * * * Guaranteed and Distributed by Red Creek Canning Company, Red Creek, N. Y."

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 as prescribed by regulation of this Department, indicating that it fell below such standard.

On May 2, 1934, the Comstock Canneries, Inc., having appeared as claimant for the property, judgment of condemnation was entered and it was ordered by the court that the product be released to the claimant upon the execution of a bond in the sum of \$2,500, conditioned that it would not be sold or otherwise disposed of in violation of the law. On May 11, 1934, the product having been relabeled, final decree was entered releasing the bond and taxing costs against the claimant.

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

22533. Adulteration of canned sweetpotatoes. U. S. v. 60 Cases of Canned Sweetpotatoes. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32540. Sample nos. 67260-A, 67792-A.)

This case involved a shipment of canned sweetpotatoes which were under-processed and in a state of active decomposition.