

On March 9, 1934, no claimant having appeared for the property, judgment was entered finding the product adulterated and ordering that it be destroyed by the United States marshal.

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

**22126. Misbranding of canned tomatoes. U. S. v. 446 Cartons of Canned Tomatoes. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 31830. Sample nos. 51815-A 51956-A.)**

This case involved a shipment of canned tomatoes which contained excessive peel and which were not labeled to indicate that they were substandard.

On January 10, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 446 cartons of canned tomatoes at New York, N. Y., alleging that the article had been shipped in interstate commerce, on or about September 12, 1933, from Clayton, Del., by Thomas Roberts & Co., of Philadelphia, Pa. (manufacturer, W. Lee Wheatley, Clayton, Del.), and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Matawan Brand Tomatoes."

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 for such canned food, because of excessive peel 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 March 6, 1934, Walter L. Wheatley, agent for the owner, R. C. Williams & Co., having filed a claim for the property, 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 under the supervision of this Department.

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

**22127. Adulteration of canned cherries. U. S. v. 50 Cases of Cherries. Default decree of destruction. (F. & D. no. 31832. Sample no. 59202-A.)**

This case involved a shipment of canned cherries which were found to contain maggots.

On January 12, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of cherries at Joplin, Mo., alleging that the article had been shipped in interstate commerce, on or about November 8, 1933, by the Paulus Bros. Packing Co., from Salem, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Jack Sprat Brand Royal Anne Cherries, \* \* \* Packed for Jack Sprat Foods, Inc., Marshalltown, Iowa."

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 March 21, 1934, no claimant having appeared for the property, judgment was entered finding the product adulterated and ordering that it be destroyed by the United States marshal.

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

**22128. Adulteration of butter. U. S. v. 47 Tubs of Butter. Default decree of condemnation. (F. & D. no. 31833. Sample nos. 54478-A, 54479-A.)**

A sample of butter taken from the product involved in this case was found to contain mold, ants, a maggot, rodent and other hairs, a cockroach, segments of the bodies of flies and roaches, metallic filings, and other foreign substances.

On January 10, 1934, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 47 tubs of butter at Washington, D.C., alleging that the article was in possession of the Terminal Refrigerating & Warehousing Corporation, Washington, D.C. (stored for M. Holzbeierlein, Washington, D.C.), and was being offered for sale in the District of Columbia, and charging adulteration in violation of the Food and Drugs Act.