

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the food and drugs act]

21826-21975

[Approved by the Acting Secretary of Agriculture, Washington, D.C., August 31, 1934]

21826. Misbranding of canned cherries. U. S. v. 70 Cases of Canned Cherries. Default decree of destruction. (F. & D. no. 29912. Sample no. 28119-A.)

This case involved an interstate shipment of canned cherries which were packed in a solution containing insufficient sugar to bring the liquid portion up to the standard prescribed by this Department and which were not labeled to indicate that they were substandard.

On March 12, 1933, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 70 cases of canned cherries at Lubbock, Tex., alleging that the article had been shipped in interstate commerce on or about October 3, 1932, by the Ray-Maling Co., from Portland, Oreg., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Ray-Brook Brand Red Sour Pitted Cherries * * * Packed by Ray-Maling Co., Inc., Kitchens, Hillsboro, Oregon."

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 product, because it was water-packed, 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 July 26, 1933, no claimant having appeared for the property, judgment was entered ordering that the product be destroyed by the United States marshal.

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

21827. Adulteration and misbranding of prepared mustard. U. S. v. 188 Cases of Prepared Mustard. Default decree of condemnation and destruction. (F. & D. nos. 30047, 30048. Sample no. 28925-A.)

This case involved an interstate shipment of prepared mustard that was found to contain added mustard bran. Sample jars taken from the shipment were found to contain less than 2 pounds, the labeled weight.

On April 5, 1933, 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 188 cases of prepared mustard at Chanute, Kans., alleging that the article had been shipped in interstate commerce on or about October 10, 1932, by the Mid-West Food Packers, Inc., from Fowlerton, Ind., and charging misbranding in violation of the Food and Drugs Act as amended. On May 15, 1933, the libel was amended to include an adulteration charge and further misbranding charges. The article was labeled in part: "Prepared Mustard Contents two lbs."

It was alleged in the libel as amended that the article was adulterated in that mustard bran had been substituted in part for the article.