

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 121 boxes of apples at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce, on or about March 30, 1934, by the Olympic Warehouse & Cold Storage Co., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fancy Delicious D. S. Gamble, Brewster, Wash."

It was alleged in the libel that the article was adulterated in that it contained arsenic and lead, added poisonous or deleterious ingredients, which might have rendered the apples injurious to health.

On May 11, 1934, A. H. Holmes, trading as the Holmes Produce Co., Los Angeles, Calif., claimant, having admitted the allegations of the libel, 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 \$250, conditioned that it be brought into conformity with the law under the supervision of this Department. On May 24, 1934, the product having been reconditioned, final decree was entered making the release permanent and ordering the bond exonerated upon payment of costs.

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

**22545. Misbranding of mixed vegetables. U. S. v. 108 Cases of Mixed Vegetables. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 32666. Sample no. 41399-A.)**

Examination of the canned mixed vegetables involved in this case showed that the article was not composed of the varieties of vegetables listed and pictured on the label.

On May 3, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 108 cases of mixed vegetables at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce, on or about August 5, 1933, by the Larsen Co., from Green Bay, Wis., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "18K Brand Fancy Mixed Vegetables."

It was alleged in the libel that the article was misbranded in that the design on the label, which included prominent pictorial representation of tomatoes, corn, celery, cabbage, and beets, was false and misleading and tended to deceive and mislead the purchaser, since the product consisted essentially of a mixture of carrots, potatoes, and turnips; and in that the statement on the label, "Green beans, carrots, celery, peas, corn, onions, rutabagas, cabbage, potatoes, turnips all are in this can", was false and misleading and tended to deceive and mislead the purchaser since the can contained little or no beans, celery, peas, corn, onions, rutabagas, or cabbage, but consisted essentially of carrots, potatoes, and turnips.

On June 20, 1934, the Winston & Newell Co., Minneapolis, Minn., having appeared as claimant for the property and having admitted the allegations of the libel, 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 \$200, conditioned that it be relabeled under the supervision of this Department.

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

**22546. Misbranding of preserves. U. S. v. 129 Cases of Preserves. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 32688. Sample nos. 66604-A, 66605-A.)**

This case involved a shipment of assorted preserves. Sample jars taken from the cherry, blackberry, peach, apricot-pineapple, and pineapple were found to contain less than 1 pound, the weight declared on the label.

On May 9, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 129 cases of assorted preserves at Denver, Colo., consigned by the National Fruit Canning Co., alleging that the articles had been shipped in interstate commerce on or about July 15, 1933, from Seattle, Wash., and charging misbranding in violation of the Food and

Drugs Act as amended. The articles were labeled in part: "Contents 1 lb. Red & White Brand Cherry [or "Apricot-Pineapple", "Pineapple", "Blackberry", "Peach", "Strawberry", "Raspberry", or "Loganberry"] Pure Preserves \* \* \* Red & White Corp'n Distributors."

It was alleged in the libel that the articles were misbranded in that the statement on the label, "Contents 1 lb.", was false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the articles were food in package form and failed to bear a plain and conspicuous statement of the quantity of the contents since the statement on the label was incorrect.

On May 9, 1934, the National Fruit Canning Co., Seattle, Wash., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be released to the claimant upon payment of costs and the execution of a bond in the sum of \$1,680, conditioned that it be relabeled under the supervision of this Department.

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

**22547. Misbranding of apple butter. U. S. v. 40 Cases of Apple Butter. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled.** (F. & D. no. 32692. Sample nos. 65693-A, 64977-A.)

Sample jars of butter taken from the shipment in this case were found to contain less than 2 pounds, the labeled weight.

On or about May 11, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cases of apple butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about February 22, 1934, by the Goodwin Preserving Co., from Louisville, Ky., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "None-Such Brand Pure Apple Butter With Pure Apple Cider Net Weight 2 Lbs. Durand-McNeill-Horner Co. Distributors, Chicago, Ill."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Weight 2 Lbs.", 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 18, 1934, the Durand-McNeill-Horner Co., Chicago, Ill., claimant, 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 \$500, conditioned that it be relabeled under the supervision of this Department.

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

**22548. Adulteration of tullibeas. U. S. v. 3 Boxes of Fish (Tullibeas). Default decree of condemnation, forfeiture, and destruction.** (F. & D. no. 32696. Sample no. 65369-A.)

This case involved an interstate shipment of tullibeas that were infested with worms.

On April 6, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three boxes of tullibeas at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about March 29, 1934, by John Neumiller, from Williams, Minn., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance unfit for food.

On May 15, 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 by the United States marshal.

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