

a libel praying seizure and condemnation of 34 cans of olive oil at Newark, N. J., alleging that the article had been shipped in interstate commerce, on or about February 1, 1934, by A. Corrao, from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "One Gallon Net La Prosperita Brand Superfine Lucca Virgin Olive Oil Imported by D. Prospero Newark, N. J."

The article was alleged to be misbranded in that the statement on the label, "One Gallon Net", was false and misleading and tended to deceive and mislead the purchaser; and for the further reason that it 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 September 26, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

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

**22894. Misbranding of canned cherries. U. S. v. 60 Cases of Canned Cherries. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 82384. Sample no. 60813-A.)**

This case involved a product labeled, "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 March 16, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 60 cases of canned cherries at San Francisco, Calif., alleging that the article had been shipped in interstate commerce, on or about March 10, 1934, by the Eugene Fruit Growers Association, from Portland, Oreg., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Mountain Home \* \* \* Water Pack Red Sour Pitted Cherries, Haas Bros., distributors."

The article was alleged to be adulterated in that it was canned food, and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because it contained an excessive number of pits, and its package or label failed to bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On September 27, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

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

**22895. Misbranding of process butter. U. S. v. 5 Cases and 10 Cases of Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32377. Sample nos. 61944-A, 61945-A.)**

Sample packages of butter taken from the shipment in this case were found to be short weight.

On February 8, 1934, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of process butter at New Orleans, La., alleging that the article had been shipped in interstate commerce, on or about January 31, 1934, by the Cloverleaf Butter Co., from Birmingham, Ala., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "One Pound Net [or "1 Lb. Net Weight"] Cloverleaf Creamery Co."

It was alleged in the libel that the article was misbranded in that the statements on the labels, "One Pound Net" and "1 Lb. Net Weight", were false and misleading and deceived and misled the purchaser, and for the further reason that it 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 not correct.

On June 9, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered and the product was ordered sold. On August 30, 1934, an amended decree was entered ordering it destroyed, since it had not been sold and was no longer fit for consumption.

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