

ment of costs and the execution of a bond in the sum of \$100, conditioned that it be relabeled.

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

**22931. Misbranding of canned cherries. U. S. v. 18 Cases of Canned Cherries. Default decree of forfeiture and destruction. (F. & D. no. 32790. Sample no. 25773-A.)**

This case involved a product labeled "Pitted Cherries." Examination showed that it fell below the standard established by this Department because of the presence of excessive pits, and that it was not labeled to indicate that it was substandard.

On June 1, 1934, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 cases of canned cherries at Idaho Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about May 10, 1934, by the Symms Utah Grocer Co., from Salt Lake City, Utah, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Kaysville Brand Royal Anne Cherries, Pitted \* \* \* Packed in water by Kaysville Canning Corporation, Kaysville, Utah."

The libel alleged 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 prescribed by regulations of this Department, indicating that it fell below such standard.

On August 9, 1934, no claimant having appeared, judgment of forfeiture was entered and destruction of the product was ordered.

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

**22932. Misbranding of canned cherries. U. S. v. 105 Cases and 38 Cases of Canned Cherries. Decrees of condemnation. Portion of product released under bond; remainder destroyed. (F. & D. nos. 32753, 32803. Sample nos. 71409-A, 71442-A.)**

These cases involved a product labeled pitted cherries. Examination showed that it fell below the standard established by this Department because of the presence of excessive pits and that it was not labeled to indicate that it was substandard.

On May 31 and June 11, 1934, the United States attorneys for the Districts of Colorado and New Mexico, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 105 cases of canned cherries at Pueblo, Colo., and 38 cases of canned cherries at Las Vegas, N. Mex., consigned by the California Packing Co., Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce in part on or about August 12, 1933, from Ogden, Utah, and in part on or about April 6, 1934, from Salt Lake City, Utah, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Utah Valley Brand Red Sour Pitted Cherries \* \* \* Packed by Pleasant Grove Canning Co. Pleasant Grove Orem Utah."

The libels alleged 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 prescribed by regulation of this Department, indicating that it fell below such standard.

On August 22, 1934, the Pleasant Grove Canning Co., a Utah corporation, having appeared as claimant for the goods seized at Pueblo, Colo., and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$370, conditioned that it be relabeled under the supervision of this Department. On September 7, 1934, no claim having been entered in the remaining case, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

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

**22933. Adulteration and misbranding of canned cherries. U. S. v. 19 Cases of Canned Cherries. Default decree of forfeiture and destruction. (F. & D. no. 32804. Sample no. 71223-A.)**

This case involved a shipment of water-packed pitted cherries. Examination showed that it contained excessive pits and maggots; that it was not

labeled to indicate that it was substandard and was not properly labeled to show that it was water-packed cherries.

On June 4, 1934, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 cases of canned cherries at Moscow, Idaho, alleging that the article had been shipped in interstate commerce on or about April 30, 1934, by the Puyallup & Sumner Fruit Growers Association, from Portland Oreg., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Por-to Brand, Packed in water fruit \* \* \* sour pitted cherries, Mason Ehrman and Co., Portland, Oregon."

The libel alleged that the article was adulterated in that it consisted wholly or in part of a filthy vegetable substance.

Misbranding was alleged in that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture and failed to bear a statement indicating that it fell below such standard, examination having shown that the cherries contained maggots and excessive pits and that the statement "packed in water" was not on the main panel and was not in direct conjunction with the name of the product.

On August 9, 1934, no claimant having appeared, judgment of forfeiture was entered and destruction of the product was ordered.

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

**22934. Adulteration of butter. U. S. v. McKenzie Milk Products Co. Plea of guilty. Fine, \$100. (F. & D. no. 32874. Sample no. 66073-A.)**

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On September 6, 1934, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the McKenzie Milk Products Co., a corporation, McKenzie, Tenn., alleging shipment by said company in violation of the Food and Drugs Act on or about January 30, 1934, from the State of Tennessee into the State of New York of a quantity of butter that was adulterated.

The information alleged that the article was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent of milk fat as required by the act of March 4, 1923, which the article purported to be.

On September 25, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$100 in lieu of fines and costs.

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

**22935. Adulteration of butter. U. S. v. 6 Cubes and 1 Cube of Butter. Decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 32922. Sample no. 71322-A.)**

This case involved a shipment of butter, samples of which were found to contain less than 80 percent of milk fat.

On May 26, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cubes of butter at Seattle, Wash., alleging that the article had been shipped in interstate commerce, on or about May 23, 1934, by the North Star Dairy, from Kalispell, Mont., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of Congress of March 4, 1923.

On June 2, 1934, the North Star Dairy, having appeared as claimant, and having paid costs of the proceedings, judgment of condemnation and forfeiture 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 \$200, conditioned that it should not be sold or disposed of contrary to the provisions of the Federal Food and Drugs Act and all other laws.

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