

On October 18, 1935, the Puget Fisheries, a Washington corporation, claimant, having admitted the allegation of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released to the C. M. Everitt Co., distributor for the claimant, under a bond conditioned that it be shipped to Seattle for examination under the supervision of this Department, that the portion unfit for human consumption be destroyed and that the good portion be labeled to show that it was packed by the Puget Fisheries.

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

25440. Misbranding of canned spinach. U. S. v. 150 $\frac{1}{4}$ Cases of Canned Spinach. Default decree of condemnation and destruction. (F. & D. nos. 36443, 36444. Sample nos. 32354-B, 32355-B, 32613-B, 32614-B.)

This case involved canned spinach which was misbranded, since it was slack filled and was not labeled to indicate that fact, and since the label failed to declare the quantity of the contents.

On September 30, 1935, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 $\frac{1}{4}$ cases of canned spinach at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about April 11, 1935, by the Clamme Canning Co., from Hartford City, Ind., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Hartford City Brand Spinach Lightweight packed by Clamme Canning Co. Hartford City, Ind."

The article was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture because of excessive headspace 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. 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.

On November 27, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

25441. Misbranding of canned peaches. U. S. v. 44 Cases of Canned Peaches. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 86445. Sample no. 29880-B.)

This case involved canned peaches that were substandard and that were not labeled to indicate that fact.

On October 1, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 44 cases of canned peaches at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about July 25, 1935, by the Georgia Canning Co., from Wayside, Ga., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Shaver's Brand * * * Georgia Yellow Peeled Freestone Peaches, Packed by Georgia Canning Company, Wayside, Georgia."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the pieces of fruit were not of uniform size, they did not meet the requirements of the term "tender", in that they were so soft as to lose their natural shape, and they were not in unbroken halves, and the package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that they fell below such standard.

On November 21, 1935, the Georgia Canning Co. having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled, under the supervision of this Department, to bear the substandard statement prescribed by the Secretary of Agriculture.

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