

merce on or about August 3 and September 30, 1937, from Seattle, Wash., by the Rogers Co., of Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Heep Full Brand Red Sour Pitted Cherries * * * Packed by Valley Fruit Canning Co., Puyallup, Wash."

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 for such canned food, since there was present more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 8, 1938, the Valley Fruit Canning Co., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it not be disposed of contrary to law.

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

28860. Adulteration of apples. U. S. v. 554 Crates of Apples. Consent decree of condemnation. Product released under bond for cleaning. (F. & D. No. 40692. Sample Nos. 59382-C, 59383-C.)

This product was contaminated with arsenic and lead.

On October 23, 1937, 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 554 crates of apples at Blue Island, Ill., alleging that the article had been shipped in interstate commerce on or about October 19, 1937, from Sodus, Mich., by E. G. Sherman, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 3, 1937, E. G. Sherman, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that the apples be cleaned and the spray residue removed.

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

28861. Adulteration of canned cherries. U. S. v. 47 Cases and 46 Cases of Canned Cherries. Default decrees of condemnation and destruction. (F. & D. Nos. 41926, 41927. Sample Nos. 7508-D, 7509-D, 14961-D.)

This product contained worms.

On March 11, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 93 cases of canned cherries at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 21, 1938, from Corvallis, Oreg., by Western Oregon Packing Corporation, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Ferndale brand) "Royal Anne Cherries, Wallace, Burton & Davis Co., Distributors, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28862. Misbranding of canned tomatoes. U. S. v. 390 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41298. Sample No. 66440-C.)

This product fell below the standard established by this Department because it was not normally colored and it bore an excessive amount of peeling, and it was not labeled to indicate that it was substandard.

On January 3, 1938, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 390 cases of canned tomatoes at Clarksburg, W. Va., alleging that the article had been shipped in interstate commerce on or about August 16, 1937, from Tucker Hill, Va., by W. H. Sanford, Tucker Hill, Va., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Southern Leader Brand Tomatoes * * * Packed by W. H. Sanford, Tucker Hill, Va."

It 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, because it was not normally colored and the fruit was not peeled since the average amount of peel per pound of net content exceeded one square inch, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 18, 1938, W. H. Sanford, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

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

28863. Misbranding of canned cherries. U. S. v. 61 Cases of Cherries. Default decree of condemnation. Product delivered to charitable institution. (F. & D. No. 41669. Sample No. 67645-C.)

This product was packed in water and fell below the standard for fill of container established by this Department but was not labeled to indicate that it was substandard. It was also short weight.

On February 11, 1938, 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 61 cases of canned cherries at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 3, 1937, from Frankfort, Mich., by the Elberta Packing Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Telmo Brand Red Sour Pitted Cherries * * * Distributed by Franklin MacVeagh & Co., Chicago."

It was alleged to be misbranded in that the statement on the label, "Contents 1 Lb. 5 Oz. Avd.," was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; in 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 quantity stated was not correct; and in that it was canned food and fell below the standard of quality, condition, and fill of container promulgated by the Secretary of Agriculture for such canned food, since the cherries were packed in water and their drained weight was less than 13.5 ounces, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On April 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

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

28864. Misbranding of canned cherries. U. S. v. 16 Cases, 9 Cases, and 12 Cases of Canned Cherries. Consent decree ordering product released under bond. (F. & D. Nos. 41728, 41729. Sample Nos. 14871-D, 14872-D.)

This product was packed in water and the labels of two lots did not bear the statement prescribed by this Department. The other lot fell below the standard for fill of container established by this Department and was not labeled to indicate that it was substandard.

On or about February 2, 1938, 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 37 cases of canned cherries at Wallace, Idaho, alleging that the article had been shipped in interstate commerce on various dates between November 17, 1937, and January 5, 1938, from Spokane, Wash., by the Roundup Grocery Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Falls Brand * * * Pitted Sour Cherries [or "High Tide Brand Red Sour Pitted Cherries"] Packed for Roundup Grocery Co., Spokane, Wash."

It was alleged to be misbranded in that it was canned food, and the 16-case and the 12-case lots fell below the standard of quality, condition, and fill of container, and the 9-case lot fell below the standard of fill of container, promulgated by the Secretary of Agriculture for such canned food, and its labels did not indicate that it fell below such standards.

On March 15, 1938, the Roundup Grocery Co., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it not be disposed of contrary to law.

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