

On November 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**29727. Adulteration of apple butter. U. S. v. 18½ Cases of Apple Butter. Default decree of condemnation and destruction.** (F. & D. No. 42922. Sample No. 19058-D.)

This product contained lead.

On June 13, 1938, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18½ cases of apple butter at Globe, Ariz.; alleging that the article had been shipped in interstate commerce on or about January 29, 1938, by Kern Food Products, Inc., from Los Angeles, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kern's Crystal Brand Pure Apple Butter."

It was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On November 17, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**29728. Adulteration of prunes. U. S. v. 9 Cases of Dried Prunes. Default decree of condemnation and destruction.** (F. & D. No. 43832. Sample No. 27588-D.)

This product having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to be insect-infested.

On September 9, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cases of prunes at Amarillo, Tex.; alleging that the article had been shipped on or about March 14, 1938, by California Prune & Apricot Growers Association from Sultana, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Heart's Delight California Fruits Packed By Richmond Chase Company San Jose, Calif."

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

On October 10, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**29729. Misbranding of chocolate-flavored malt. U. S. v. 71 Cartons of Menier Malt Chocolate. Consent decree of condemnation. Product released under bond to be relabeled.** (F. & D. No. 44234. Sample No. 11965-D.)

This product was labeled as consisting of malt, chocolate, and whole milk. It consisted, however, of 40 percent malt extract, 10 percent milk powder, 22 percent chocolate, and 30 percent of sugar. Furthermore, the cans contained less than the weight declared on the label.

On October 26, 1938, the United States attorney for the District of Puerto Rico, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure of 71 cartons of chocolate-flavored malt at San Juan, P. R.; alleging that the article had been shipped in interstate commerce by R. Fabien & Co. from New York, N. Y., on or about June 30, 1938; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Chocolate Menier New York—Paris—London."

Misbranding was alleged in that the statements on the label, "Menier Malt Chocolate Flavored Malt \* \* \* This Product is Made of Malt Chocolate and Whole Milk," were false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of malt extract, milk powder, chocolate, and sucrose. It was alleged to be misbranded further in that the statement "1 lb. Net 453.92 Grams" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight. It was alleged to be misbranded further 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 statement made was incorrect.

On November 15, 1938, Baquero & Co., of San Juan, P. R., claimant, having admitted the allegations of the libel and having consented to the entry of a