

district court a libel praying seizure and condemnation of 1,023 bags of flour at Greenwood, Miss.; alleging that the article had been shipped between the dates of March 1 and July 18, 1938, in part by the Fredericktown Milling Co. from Fredericktown, Mo., in part by Hays City Flour Mills from Hays, Kans., and in part by the Colonial Milling Co. from Nashville, Tenn.; and charging adulteration in violation of the Food and Drugs Act. The article was variously labeled in part: "Uncle Sam Soft Wheat Flour * * * Liberty Roller Mills Fredericktown, Mo."; "The Hays City Flour Mills Hays, Kansas Prize Winner Self-Rising Flour"; "Moonlight Standard * * * Colonial Milling Co. Nashville, Tenn."

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

On October 27, 1938, the Greenwood Grocery Co., Greenwood, Miss., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be denatured so that it could not be used for human consumption, but might be used as animal feed.

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

29741. Misbranding of canned apricots and canned pears. U. S. v. 44 Cases of Canned Apricots and 49 Cases of Canned Pears. Consent decrees ordering products released under bond. (F. & D. Nos. 43034, 43035. Sample Nos. 23071-D, 23072-D.)

These products fell below the standard established by this Department for such canned food and were not labeled to indicate that they were substandard. The canned apricots were labeled "Packed in medium syrup," but were in fact packed in water.

On July 14, 1938, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 44 cases of canned apricots and 49 cases of canned pears at Lewiston, Idaho; alleging that the article had been shipped in interstate commerce on or about August 10, 1937, by Cooperative Canning Exchange from White Bluffs, Wash.; and charging misbranding in violation of the Food and Drugs Act.

The articles were alleged to be misbranded in that they were canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since both were packed in water, the pears were not normally colored and the fruit was so soft that the pieces would lose their natural shape when removed to a dish and were not in unbroken halves since less than 90 percent of the units were unbroken and did not show excessive trimming, and the labels did not bear a plain and conspicuous statement indicating that they were substandard. The apricots were alleged to be misbranded further in that the statement "Packed in Medium Syrup," borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was packed in water.

On August 30, 1938, the Cooperative Canning Exchange having appeared as claimant, judgments were entered ordering that the products be released under bond conditioned that they should not be sold or disposed of contrary to law.

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

29742. Misbranding of canned cherries. U. S. v. 44 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 44310. Sample No. 27423-D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On November 12, 1938, the United States attorney for the District of Wyoming, 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 cherries at Cheyenne, Wyo.; alleging that the article had been shipped in interstate commerce on or about October 10, 1938, by Producers Canning Co. from Fort Collins, Colo.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "YB Your Best Brand Water Pack Red Pitted Cherries. Packed for Yoelin Bros. Merc. Co. Denver—Cheyenne."

It was alleged to be misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it contained more than 1 cherry pit per 20 ounces of net contents, and the cans did not bear a plain and conspicuous statement showing that it fell below such standard.