

court a libel praying seizure and condemnation of 100 cases of canned cherries at Miami, Fla.; alleging that the article had been shipped in interstate commerce on or about December 29, 1939, by the Washington Packers, Inc., from Tacoma, Wash.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Fruitfull Brand Water Pack Red Sour Pitted Cherries."

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, since there was present more than 1 cherry pit for each 20 ounces of net contents 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 July 14, 1939, the Washington Packers, Inc., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled in part: "Below U. S. Standard Good Food—Not High Grade Water Pack Red Sour Partially Pitted Cherries."

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30760. Adulteration of dried apple chops. U. S. v. 219,900 Pounds of Dried Apple Chops. Default decree of condemnation and destruction. (F. & D. No. 45109. Sample No. 17574-D.)**

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be decomposed, moldy, and insect-infested.

On March 29, 1939, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 219,900 pounds of dried apple chops at Waynesboro, Pa.; alleging that the article had been shipped on or about March 16 and April 15, 1937, by the C. H. Musselman Co. from Charles Town, W. Va.; and charging adulteration in violation of the Food and Drugs Act.

Adulteration was alleged in that the article consisted wholly or in part of a filthy and decomposed vegetable substance.

On August 1, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30761. Adulteration of butter. U. S. v. 22 Tubs, 12 Tubs, and 7 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 45461. Sample No. 60636-D.)**

This product contained less than 80 percent by weight of milk fat.

On May 31, 1939, 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 a libel praying seizure and condemnation of 41 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about May 22, 1939, by the Fairmont Creamery Co. from Pittsburgh, Pa.; and charging adulteration in violation of the Food and Drugs Act.

Adulteration was alleged 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 by weight of milk fat, as provided by the act of March 4, 1923.

On June 28, 1939, the Fairmont Creamery Co., 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 it be reworked so that it contain not less than 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30762. Adulteration of canned evaporated milk. U. S. v. 42 Cases of Canned Evaporated Milk. Default decree of condemnation and destruction. (F. & D. No. 45507. Sample No. 60552-D.)**

Examination of this product showed that it was in whole or in part decomposed.

On June 20, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 42 cases of canned evaporated

milk at East Orange, N. J.; alleging that the article had been shipped in interstate commerce on or about March 28, 1939, by the Ewing Von Allmen Dairy Co. from Findley, Ohio; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "American House Evaporated Milk \* \* \* Manufactured by Ewing Von Allmen Dairy Co."

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

On August 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30763. Adulteration of tomato paste. U. S. v. Fredonia Salsina Canning Co., Inc., and Anthony A. Gugino. Pleas of guilty. Fines of \$150 imposed against each defendant. Payment of fine imposed upon Anthony A. Gugino suspended. (F. & D. No. 42676. Sample No. 24090-D.)**

Samples of this product were found to contain excessive mold.

On April 3, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fredonia Salsina Canning Co., Inc., Fredonia, N. Y., and Anthony A. Gugino, president and treasurer of the company, alleging shipment by said defendants in violation of the Food and Drugs Act on or about July 30, 1938, from the State of New York into the State of Ohio of a quantity of tomato paste which was adulterated. The article was labeled in part: "Sky Lark Brand Tomato Paste."

It was alleged to be adulterated in that it consisted in part of a decomposed and filthy vegetable substance, namely, tomato paste which contained excessive mold.

On July 24, 1939, pleas of guilty having been entered on behalf of the defendants, the court sentenced each to pay a fine of \$150, but suspended payment of the fine imposed on Anthony A. Gugino.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30764. Adulteration of butter. U. S. v. 136 Cartons of Butter. Consent decree of condemnation and destruction. (F. & D. No. 45102. Sample No. 45239-D.)**

This product contained filth.

On March 11, 1939, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 136 cartons of butter at Tallahassee, Fla.; alleging that the article had been shipped in interstate commerce on or about March 3, 1939, from Tifton, Ga., by Armour & Co., Inc.; and charging adulteration in violation of the Food and Drugs Act. Armour & Co., Inc., held an instrument signed by R. C. Wilson, owner of the Tifton Ice Cream & Creamery Co., from whom it purchased this article, which guaranteed that the product was not adulterated nor misbranded within the meaning of the Food and Drugs Act. The article was labeled in part: "Spring Brook Brand Creamery Butter. \* \* \* Distributed by Armour Creameries."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal or vegetable substance.

On April 1, 1939, Armour & Co., Inc., and R. C. Wilson filed a joint answer admitting the allegations of the libel but denying that the butter belonged to Armour & Co., Inc., and averring that the owner was R. C. Wilson. On April 19, 1939, the said R. C. Wilson having consented to the entry of a decree and having agreed to pay costs of the proceedings and to surrender all claim to the butter, judgment of condemnation was entered and it was ordered that the product be destroyed and that costs be taxed against claimants. All costs were paid by R. C. Wilson.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30765. Adulteration of frozen whole eggs. U. S. v. 100 Cans of Frozen Whole Eggs. Default decree of condemnation and destruction. (F. & D. No. 44752. Sample Nos. 36782-D, 36783-D, 43604-D.)**

This product had been shipped in interstate commerce and remained unsold and in the original unbroken packages. At the time of examination it was found to be in whole or in part decomposed.