30196. Misbranding of canned cherries. U. S. v. 148 Cases of Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 44660. Sample No. 43449–D.)

This product was substandard because it contained an excessive number of pits, and it was not labeled to indicate that it was substandard.

On January 11, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 148 cases of canned cherries at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce on or about November 30, 1938, by Producers Cooperative Packing Co. from Portland, Oreg.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Flav-R-Pac Pitted Red Sour Cherries in Water Packed For North Pacific Canners & Packers, Inc. Portland, Ore. Seattle, Wash."

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, 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 regulation of this Department indicating that it fell below such standard.

On February 15, 1939, the Producers Cooperative Packing Co., claimant, 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 compliance with the law.

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

30197. Misbranding of canned cherries. U. S. v. 25 Cases of Cherries. Default decree of condemnation and destruction. (F. & D. No. 44357. Sample No. 30937–D.)

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

On November 22, 1938, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of canned cherries at Gallup, N. Mex.; alleging that the article had been shipped in interstate commerce on or about October 1, 1938, by Geo. W. Goddard Co. from Ogden, Utah; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Smith Brand Water Packed Red Sour Pitted Cherries * * * Distributed by Smith Canning Company, Clearfield, Utah."

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, 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 regulation of this Department indicating that it fell below such standard.

On February 9, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

30198. Adulteration of flour. U. S. v. 815 Bags of Flour. Consent decree of condemnation. Product released under bond to be denatured. (F. & D. No. 44288. Sample No. 34518–D.)

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

On December 13, 1938, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 815 bags of flour at Wilmington, N. C.; alleging that the article had been shipped on or about July 24, 1937, by Fisher Flouring Mills Co. from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fishers White Tag Flour."

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

On February 3, 1939, John T. Leonard, Jr., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product