

28258. Adulteration of pickle spice. U. S. v. 11½ Cases of Pickle Spice (and three other seizures of the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 40527, 40528, 40632, 41006. Sample Nos. 36234-C, 50899-C, 51852-C, 63415-C.)

This product was insect-infested and a portion was dirty.

On October 20, 29, and December 4, 1937, the United States attorneys for the Western district of Washington and the District of Idaho, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 47½ cases and 119 packages of pickle spice in various lots at Bellingham, Seattle, and Everett, Wash., and 45 cases of pickle spice at Lewiston, Idaho, alleging that the article had been shipped in part by Wood & Selick, Inc., from New York, N. Y., into the State of Washington on or about May 28 and June 11, 1935, and in part for Allen & Henderson, Inc., sales agents for Wood & Selick, Inc., from Seattle, Wash., into the State of Idaho on or about August 3, 1937, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Favorite Brand Pickle Spice * * * Wood & Selick, Inc., New York, N. Y."

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

On November 30 and December 21, 1937, and January 7, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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

28259. Adulteration of butter. U. S. v. 29 Tubs and 51 Tubs of Butter. Consent decrees of condemnation. Product released under bond for reworking. (F. & D. Nos. 49671, 40683. Sample Nos. 56315-C, 57106-C, 57139-C.)

This product contained less than 80 percent of milk fat.

On October 26 and 29, 1937, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 80 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 12 and 13, 1937, from Baltimore, Md., by Chesapeake Creameries, Inc., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated 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 of milk fat, as provided by the act of March 4, 1923.

On November 3 and 4, 1937, Chesapeake Creameries, Inc., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be reworked to contain at least 80 percent of milk fat.

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

28260. Adulteration of walnut meats. U. S. v. 10 Cartons of Walnut Meats (and six other seizures of the same product). Decrees of condemnation. Portion of product ordered destroyed; remainder ordered released under bond. (F. & D. Nos. 40390, 40391, 40439, 40448, 40449, 40484, 40510, 40518, 40519. Sample Nos. 51210-C, 51211-C, 51221-C, 60630-C, 60703-C to 60707-C, incl.)

Samples of this product were found to be wormy, moldy, rancid, insect-infested, and decomposed.

On September 30 and October 7, 1937, the United States attorney for the District of Oregon, and on October 11, 15, 18, and 20, 1937, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 76 cartons of walnut meats at Portland, Oreg., and 74 cartons of walnut meats at Denver, Colo., portions of which were consigned by Morris Rosenberg and the remainder in the name of the Terminal Refrigeration Co., alleging that the article had been shipped in interstate commerce, between the dates of July 24 and September 27, 1937, in part from Los Angeles, Calif., and in part from Wilmington, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Walnut Mts. * * * Morris Rosenberg Los Angeles."

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

On October 8 and 29, 1937, Wadhams & Co. and Gray & Co., Portland, Oreg., respective claimants for two lots at Portland, Oreg., having consented to the entry of decrees, judgments of condemnation were entered and the lots were ordered released under bond conditioned that they not be disposed of contrary to law. On November 18, 20, and 29 and December 10, 1937, no claimant having appeared for the remaining lots, judgments of condemnation were entered and they were ordered destroyed.

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

28261. Misbranding of canned cherries. U. S. v. 78 Cases of Canned Cherries (and 2 other seizures of the same product). Decrees of condemnation. Portion released under bond for relabeling; remainder destroyed. (F. & D. Nos. 40486, 40487, 40920. Sample Nos. 58794-C, 58795-C, 62087-C.)

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

On October 14 and November 26, 1937, the United States attorneys for the Eastern District of Pennsylvania and the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 78 cases of canned cherries at Reading, Pa., 78 cases at Pottsville, Pa., and 24 cases at Youngstown, Ohio, alleging that the article had been shipped in interstate commerce on or about August 3 and 12 and September 28, 1937, from Rochester, N. Y., by Curtice Bros. Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Blue Label Water Pack Sour Cherries Pitted For Pies * * * Grade A Fancy Selected Quality * * * Curtice Brothers Co. Rochester, N. Y."

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 one cherry pit per 20 ounces of net contents, and its label or package did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On November 4, 1937, Curtice Bros. Co., Rochester, N. Y., claimant for the lots at Reading and Pottsville, Pa., having consented to the entry of a decree and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled. On December 28, 1937, no claim having been entered for the lot seized at Youngstown, Ohio, judgment of condemnation was entered and it was ordered destroyed.

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

28262. Misbranding of canned cherries. U. S. v. 398 Cases and 398 Cases of Pitted Cherries. Product ordered released under bond for relabeling. (F. & D. Nos. 40582, 40583. Sample Nos. 65003-C, 65004-C.)

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

On October 25, 1937, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 796 cases of canned cherries at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about October 1, 1937, from Penn Yan, N. Y., by the Comstock Canning Corporation, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Red Ring [or "Orchard Farm Brand"] Montmorency Red Sour Pitted Cherries Water Pack * * * Comstock Canning Corporation General Offices Newark, New York."

Misbranding was alleged in that the article fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food in that there was present more than one 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 it fell below such standard.

On November 5, 1937, the Comstock Canning Corporation, claimant, having admitted the allegations of the libels, judgments were entered ordering the product released under bond conditioned that it be relabeled.

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