

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.*