

The article was alleged to be misbranded in that the statements, "1-5/8," "Min. 1-3/4 inch," "Min. 1-7/8 inch," "Min. 2 inch," "1-7/8 min.," "1-7/8 in min.," and "2-1/2 up," variously appearing on the labels, and the statement "U. S. No. 1," appearing on the label of the K & B brand, were false and misleading and tended to deceive and mislead the purchaser when applied to peaches that were undersized, or in the case of the said K & B brand, undergrade.

On June 7, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

29153. Misbranding of canned cherries. U. S. v. 397 Cases of Canned Cherries. Decree releasing product under bond for relabeling. (F. & D. No. 42374. Sample Nos. 23116-D, 18502-D.)

This product fell below the standard established by this Department because it contained excess packing medium, and it was not labeled to indicate that it was substandard.

On May 11, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 397 cases of canned cherries at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about March 19, 1938, from Seattle, Wash., by Food Associates, Inc.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Haas Baruch & Co. Los Angeles, Calif. Distributors, Black and White Brand Water Pack Red Sour Pitted Cherries."

It was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture, since it contained excess packing medium, 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 June 15, 1938, the National Fruit Canning Co., claimant, having admitted the allegations of the libel, the product was ordered released under bond conditioned that it be relabeled.

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

29154. Adulteration and misbranding of candy. U. S. v. 60 Boxes of Candy (and two similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 42215, 42216, 42298. Sample Nos. 8595-D, 8596-D, 20999-D.)

Samples of this product were found to contain insects, insect fragments, human hair, and rodent hair. One lot was short weight.

On April 18 and May 6, 1938, the United States attorney for the Eastern District of Wisconsin and the Northern District of Indiana, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 14 dozen boxes of candy at Milwaukee, Wis., and 60 boxes of candy at South Bend, Ind.; alleging that the article had been shipped in interstate commerce on or about March 1 and April 22, 1938, from Chicago, Ill., by the Ambrosia Candy Co.; and charging adulteration of all lots and misbranding of a portion in violation of the Food and Drugs Act. The article was labeled in part: "By Peggy Page Chicago To Mother" or "Easter Greetings 2½ Lbs. Net."

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

A portion of the "Easter Greetings" was alleged to be misbranded in that the statement "2½ Lbs. Net" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the aforesaid statement was incorrect.

On June 23 and July 20, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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

29155. Adulteration and misbranding of walnut chips. U. S. v. 16½ Cans of Walnut Chips. Default decree of condemnation and destruction. (F. & D. No. 42334. Sample No. 18707-D.)

This product was infested with insects. In addition, it was represented to consist of walnuts; whereas it also contained peanuts, pecans, and shredded coconut.

On May 7, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16½ cans of walnut chips at Seattle, Wash.; alleging that the article had been shipped in interstate commerce on or about April 2, 1938, from Los Angeles, Calif., by the L. A. Nut House; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "La-Nut Brand Walnut Chips Manufactured by L A Nut House Los Angeles."

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

Misbranding was alleged in that the designation "Walnut Chips" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing other nuts in addition to walnuts.

On June 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

29156. Adulteration of maple sirup. U. S. v. 4 Drums of Maple Sirup. Consent decree of condemnation. Product released under bond for deleading. (F. & D. No. 42418. Sample No. 22734-D.)

This product contained lead.

On May 19, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four drums of maple sirup at Chelsea, Mass.; alleging that the article had been shipped in interstate commerce on or about May 9, 1938, from Sherman, N. Y., by Gordon M. Tice; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On June 22, 1938, the New England Maple Syrup Co., Chelsea, Mass., 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 deleaded.

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

29157. Adulteration of butter. U. S. v. 150 Tubs of Butter (and 1 similar seizure action). Consent decree of condemnation. Product released under bond for reworking. (F. & D. Nos. 42983, 42990. Sample Nos. 21783-D, 21786-D.)

This product contained less than 80 percent of milk fat.

On June 6 and 13, 1938, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court 2 libels praying seizure and condemnation of 272 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about May 19 and 30, 1938, from Muskogee, Okla., by Swift & Co.; 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 not contain less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On June 29, 1938, the cases having been consolidated and Swift & Co., claimant, having admitted the allegations of the libel and 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 to the legal standard.

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

29158. Adulteration and misbranding of whitefish caviar. U. S. v. 15 Dozen Cans of Whitefish Caviar (and 11 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 42181, 42291, 42343, 42388, 42389, 42390, 42417, 42473, 42474, 43037, 43038, 43039. Sample Nos. 1711-D, 1712-D, 10595-D, 13168-D, 13169-D, 16462-D, 16463-D, 16465-D, 19438-D, 24656-D, 24657-D, 24658-D, 24695-D.)

This product contained parasitic worms, and in some instances other extraneous substances. Certain lots were short weight.

On various dates between April 13 and July 8, 1938, six United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 741½