

cherries in the container were blemished with hail injury, scar tissue, or other abnormalities, such as bird pecks, bruises, limb rub, surface cracks and scale, and its label failed to bear, in such manner and form as such regulations specify, a statement that it fell below such standard; and in that it was in package form and its label did not bear an accurate statement of the quantity of the contents, since the cans contained less than the amount declared on the label.

The remainder of the canned cherries was alleged to be misbranded: (1) In that the statement "choice sirup" borne on the label was false and misleading since it suggested that the article was packed in sirup, but it was packed in water. (2) In that it purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations promulgated pursuant to law, but it failed to conform to such definition and standard since such standard did not provide for canned cherries packed in water being designated as canned cherries packed in choice sirup and, further, since its label failed to bear the common name of the optional liquid packing medium present in the article, water. (3) In that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since more than 15 percent by count of cherries in the container were blemished with scab, hail injury, scar tissue, or other abnormalities such as bird pecks, bruises, limb rub, and surface cracks, and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On March 3, 1943, pleas of guilty having been entered by the defendants, the court imposed a fine of \$30 on the company.

**4632. Misbranding of canned cherries. U. S. v. 446 Cases of Canned Cherries. Decree of condemnation. Product ordered released under bond for re-labeling.** (F. D. C. No. 8915. Sample No. 19333-F.)

On November 25, 1942, the United States attorney for the District of Massachusetts filed a libel against 446 cases, each containing 24 cans, of cherries at Charleston, Mass., alleging that the article had been shipped in interstate commerce on or about August 29, 1942, by the Smithfield's Pure Food Co., Inc., from Hilton, N. Y. The article was labeled in part: (Cans) "Smithfield's Red Sour Pitted Cherries in Water Contents 1 Lb. 4 Ozs."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of fill of container had been prescribed by regulations promulgated pursuant to law, but it fell below such standard since there was not present in the container the maximum quantity of the cherry ingredient which can be packed as required and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On January 26, 1943, the Smithfield's Pure Food Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**4633. Adulteration of canned peaches. U. S. v. 29 Cartons of Canned Peaches. Default decree of condemnation and destruction.** (F. D. C. No. 8931. Sample No. 14923-F.)

This product contained worm fragments.

On November 27, 1942, the United States attorney for the Southern District of California filed a libel against 29 cartons, each containing 48 cans, of peaches at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about September 12, 1942, by the Gerber Products Co. from Fremont, Mich.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Cans) "Gerber's New Strained Peaches."

On January 28, 1943, no answer or other pleading having been filed, judgment of condemnation was entered and the product was ordered destroyed.

**4634. Misbranding of canned peaches. U. S. v. 178 Cases of Canned Peaches. Consent decree of condemnation. Product released under bond for re-labeling.** (F. D. C. No. 8278. Sample No. 28127-F.)

Examination showed the product to be substandard in quality.

On or about September 1, 1942, the United States attorney for the Southern District of Florida filed a libel against 178 cases, each containing 24 cans, of peaches at Lakeland, Fla., alleging that the article had been shipped in interstate commerce on or about July 18, 1942, by the Georgia Canning Co., Inc. from

Wayside, Ga. The article was labeled in part: "Shaver's Brand White Freestone Peaches Halves in Heavy Syrup Contents 1 Lb. 12 Ozs."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations as provided by law and it fell below such standard since the standard provides that all peach units should be pierced by a weight of not more than 300 grams and that in the case of peach halves all units be untrimmed or so trimmed as to preserve normal shape, whereas, all peach units when so tested were not pierced by a weight of not more than 300 grams and all units were not untrimmed or were not so trimmed as to preserve normal shape, and the label of the article failed to bear, in such manner and form as the standard specifies, a statement that it fell below standard.

On January 4, 1943, the Georgia Canning Co., Inc., a corporation, 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 under the supervision of the Food and Drug Administration.

**4635. Adulteration of stuffed green olives. U. S. v. 10 Cases of Stuffed Green Olives. Default decree of condemnation and destruction. (F. D. C. No. 9016. Sample No. 19536-F.)**

This product had undergone decomposition and was unfit for food.

On December 14, 1942, the United States attorney for the District of Massachusetts filed a libel against 10 cases, each containing 24 bottles, of stuffed green olives at Camp Edwards, Mass., alleging that the article had been shipped in interstate commerce on or about October 26, 1942, by Francis H. Leggett & Co. from New York, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Bottles) "Premier Spanish Olives Stuffed With Spanish Sweet Peppers."

On January 11, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**CANNED VEGETABLES**

**4636. Adulteration of canned asparagus. U. S. v. William Peter Jensen (Kenton Packing Co.). Plea of guilty. Fine, \$150. (F. D. C. No. 8771. Sample Nos. 89548-E to 89550-E, incl.)**

Examination of this product showed the presence of cans that had undergone flat-sour decomposition and in which the contents were sour, putrid, and contained living bacteria.

On January 15, 1942, the United States attorney for the District of Delaware filed an information against William Peter Jensen, trading as the Kenton Packing Co., at Kenton, Del., alleging shipment on or about May 8, 1942, from the State of Delaware into the State of New York of a quantity of canned asparagus that was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Sweet Life All Green Spears \* \* \* Asparagus."

On January 30, 1943, the defendant having entered a plea of guilty, the court imposed a fine of \$150.

**4637. Adulteration of cut green beans. U. S. v. 4,704 Cases of Cut Green Beans. Consent decree of condemnation. Fit portion ordered released. (F. D. C. No. 8965. Sample No. 15706-F.)**

This product was underprocessed and in part decomposed.

On December 8, 1942, the United States attorney for the District of Utah filed a libel against 4,704 cases, each containing 6 No. 10 cans, of cut green beans at Ogden, Utah, alleging that the article had been shipped in interstate commerce on or about June 25 and 26, 1942, by Roberts Bros., Inc., from Winter Haven, Fla.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Can) "Big R Brand Cut Green Beans."

On February 5, 1943, Roberts Bros., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered, the decree providing that, upon the execution of a bond conditioned upon the separation of the fit from the unfit cans under the supervision of the Food and Drug Administration, the claimant might obtain release of the portion fit for human consumption.