

was ordered released under bond conditioned that it be denatured and disposed of for purposes other than human consumption.

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

30199. Misbranding of canned cherries. U. S. v. 28 Cases and 15 Cases of Cherries. Default decree of condemnation and destruction. (F. & D. Nos. 44426, 44427. Sample Nos. 30962-D, 30963-D.)

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

On November 29, 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 43 cases of canned cherries at Clayton, N. Mex.; alleging that the article had been shipped in interstate commerce on or about September 2, 1938, by Producers Canning Co. from Fort Collins, Colo.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Highland Brand Water Pack Colorado Red Pitted Cherries."

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 as 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.*

30200. Adulteration of butter. U. S. v. 60 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 44895. Sample No. 54116-D.)

This product was deficient in milk fat since it contained less than 80 percent of milk fat.

On January 19, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 60 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about January 5, 1939, by Romine Creamery from Osage City, Kans.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat, as provided by act of March 4, 1923.

On January 26, 1939, Dauber Bros., Chicago, Ill., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to bring it up to the legal standard.

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