

31097. Misbranding of canned apricots. U. S. v. 92 Cases of Apricots. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 45599. Sample No. 70467-D.)

This product was substandard because the fruit was not of normal size and the units were not uniform in size, and it was not labeled to indicate that it was substandard.

On March 1, 1940, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed a libel against 92 cases of apricots at Lubbock, Tex., alleging that the article had been shipped in interstate commerce on or about August 8, 1939, by H. D. Olson, from Ogden, Utah; and charging that it was misbranded. The article was labeled in part: "Craig's Royal Brand Standard Apricots Packed by Wm. Craig Canning Co., Ogden, Utah."

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 the fruit was not of normal size and the units were not of uniform size, and its package or label did not bear a plain and conspicuous statement as prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On May 15, 1940, H. D. Olson, Ogden, Utah, having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the article was ordered released under bond on condition that it be relabeled in compliance with the law.

PAUL V. McNUTT, *Administrator.*

31098. Adulteration and misbranding of jams. U. S. v. 35 Cases of Assorted Jams. Consent decree of condemnation. Products ordered released under bond for relabeling. (F. & D. No. 44643. Sample Nos. 35851-D, 35852-D, 35853-D.)

These jams were found to contain apple in addition to the fruit indicated on the labels.

On January 9, 1939, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed a libel against 35 cases of assorted jams at New London, Conn., alleging that the article had been shipped in interstate commerce on or about January 3, 1939, from Fort H. G. Wright, N. Y.; and charging that they were adulterated and misbranded. The articles were labeled in part: "Nature's Own Pure Raspberry [or "Strawberry" or "Peach"] Jam Manufactured by Fresh Grown Preserve Corp. Brooklyn, New York."

The articles were alleged to be adulterated in that apple had been substituted in whole or in part for the said articles.

They were alleged to be misbranded in that the statements on the labels, "Pure Raspberry Jam," "Pure Strawberry Jam," and "Pure Peach Jam," were false and misleading and tended to deceive and mislead the purchaser when applied to products containing apple. They were alleged to be misbranded further in that they were imitations of and were offered for sale under the distinctive names of other articles.

On June 3, 1940, the Fresh Grown Preserve Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and it was ordered that the products be released under bond conditioned that they be relabeled in accordance with the requirements of the law.

PAUL V. McNUTT, *Administrator.*

31099. Adulteration of nutmegs. U. S. v. B. H. Old & Co., Inc. and Harry J. Schlichting. Pleas of guilty. Corporation fined \$100. Harry J. Schlichting fined \$50. (F. & D. No. 39787. Sample No. 26766-C.)

The product involved in this case was in whole or in part filthy and decomposed.

On March 2, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against B. H. Old & Co., Inc. and Harry J. Schlichting, an officer of the corporation, alleging that the said defendants had received from Holland and had caused to be delivered to a purchaser at Hoboken, N. J., a quantity of nutmegs that were adulterated. The information alleged further that the article had been shipped from Amsterdam, Holland, on or about July 23, 1936, by Schroder & Heil to Hoboken, N. J., and had been delivered by direction of the said B. H. Old & Co., Inc., in the original unbroken packages to the said purchaser at Hoboken, N. J. on October 3 and 5, 1936.

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

On February 1, 1940, pleas of guilty were entered by the defendants and the court sentenced B. H. Old & Co. to pay a fine of \$100 and Harry J. Schlichting to pay a fine of \$50.

PAUL V. McNUTT, *Administrator*.

31100. Adulteration of red perch fillets. U. S. v. 101 Boxes of Red Perch Fillets. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 45353. Sample No. 58470-D.)

Examination showed that this article contained parasites.

On May 19, 1939, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure of 101 boxes, each containing 10 pounds, of red perch fillets at Columbus, Ohio, alleging that the article had been shipped in interstate commerce on or about May 6, 1939, by T. & J. Busalacchi, Inc., from Boston, Mass.; and charging that it was adulterated in violation of the Federal Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On October 2, 1939, no claimant having appeared, a decree of condemnation and forfeiture was entered and the product was ordered destroyed.

PAUL V. McNUTT, *Administrator*.

31101. Adulteration and misbranding of wheat gray shorts and ground wheat screenings. U. S. v. Rodney Milling Co. Plea of guilty. Fine, \$100. (F. & D. No. 42783. Sample Nos. 5970-D, 5971-D.)

Wheat brown shorts and screenings had been substituted in whole or in part for wheat gray shorts and screenings in this shipment. Both lots contained larger percentages of crude fiber and one lot contained a smaller percentage of nitrogen-free extract than that declared.

On January 24, 1940, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Rodney Milling Co., a corporation, Kansas City, Mo., alleging shipment by said defendant on or about April 8 and 10, 1939, from the State of Missouri into the State of Kansas of quantities of the above-named product which was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "Jersey Wheat Gray Shorts & Ground Wheat Screenings."

The article was alleged to be adulterated in that wheat brown shorts and screenings had been substituted in whole or in part for wheat gray shorts and screenings.

Misbranding was alleged in that the statements, "Wheat Gray Shorts & Ground Wheat Screenings * * * Crude Fibre, not more than 6.00," with respect to both shipments, and the statement "Nitrogen-free Extract, not less than 55.00" with respect to one shipment, borne on the tags, were false and misleading and were borne on the said tags so as to deceive and mislead the purchaser since the article did not consist of wheat gray shorts and ground wheat screenings but did consist in whole or in part of wheat brown shorts and ground wheat screenings; it contained more than 6 percent of crude fiber, the two shipments having been found to contain 6.89 percent and 6.76 percent of crude fiber, respectively; and one lot contained less than 55 percent of nitrogen-free extract, namely, not more than 53.11 percent.

On April 4, 1940, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$100 and costs.

PAUL V. McNUTT, *Administrator*.

31102. Misbranding of canned red pitted cherries. U. S. v. 5 Cases of Canned Cherries. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 45604. Sample No. 6214-E.)

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

On April 22, 1940, 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 against five cases of canned cherries at Albuquerque, N. Mex., alleging that the article had been shipped in interstate commerce on or about September 13, 1939, by Curtiss Clymer from Monte Vista, Colo.; and charging that it was