

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

misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Ray Way Brand Water Packed Pitted Cherries Packed by Ray A. Ricketts Co., Canon City, Colo."

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 prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On May 25, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

PAUL V. McNUTT, *Administrator*.

31103. Misbranding of canned peas. U. S. v. 360 Cases of Canned Peas. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 45605. Sample No. 2706-E.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On April 17, 1940, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed a libel against 360 cases of canned peas at Springfield, Mass., alleging that the article had been shipped in interstate commerce on or about March 12, 1938, by the Melrose Canning Co., from Greenmount, Md.; and charging that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Loveland Garden Peas."

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 peas were not immature 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 May 27, 1940, the Melrose Canning Co. 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 relabeled as required by law.

PAUL V. McNUTT, *Administrator*.

31104. Misbranding of canned peas. U. S. v. 638 Cases of Canned Peas. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 45614. Sample No. 8114-E.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On May 25, 1940, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed a libel against 638 cases of canned peas at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce, from Plymouth, Wis., in part on or about September 22, 1937, by A. N. Meyers, broker for Knellsville Canning Co. and in part on or about October 5, 1937, by Knellsville Canning Co.; and charging that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Win-All Brand Size 4 Wisconsin Early Variety Peas packed by Knellsville Pea Canning Co. Port Washington, Wisconsin."

The article 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 peas were not immature 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 July 5, 1940, the Kildall Co., Minneapolis, Minn., claimant, having admitted the allegations of the label and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled in the manner required by law.

PAUL V. McNUTT, *Administrator*.

31105. Misbranding of canned cherries. U. S. v. 96 Cases of Canned Cherries. Decree of forfeiture. Product released under bond to be relabeled. (F. & D. No. 45581. Sample No. 66793-D.)

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

On January 2, 1940, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district