

3092. Misbranding of canned cherries. U. S. v. 191 Cases and 170 Cases of Canned Cherries. Consent decrees of condemnation. Product ordered released under bond for relabeling. (F. D. C. Nos. 6816, 6819. Sample Nos. 87504-E, 87711-E.)

Examination showed that this product was not of Fancy quality as labeled, that there was excessive headspace in the cans, and that portions were short of the declared weight.

On February 5, 1942, the United States attorneys for the District of Columbia and the District of Maryland filed libels against 191 cases of canned cherries at Washington, D. C., and 170 cases of canned cherries at Frederick, Md., alleging that the article had been shipped in interstate commerce on or about July 15, 1941, and January 5 and 7, 1942, by the C. H. Musselman Co. from Biglerville, Pa.; and charging that it was misbranded. It was labeled in part: "Contents 1 Pound Musselman's Red Sour Pitted Cherries Fancy Quality."

The article was alleged to be misbranded in that the statement "Fancy Quality" was false and misleading as applied to an article that was not Fancy because of too many spotted and blemished cherries; in that it purported to be a food for which a standard of fill of container had been prescribed by regulations as provided by law but it fell below the standard of fill of container applicable thereto, and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard. Portions of the article were alleged to be misbranded further in that the statement "Contents 1 Pound" was false and misleading as applied to an article that was short weight; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On March 16 and 20, 1942, the C. H. Musselman Co., Biglerville, Pa., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of the Food and Drug Administration.

3093. Adulteration of maraschino cherries. U. S. v. 15 Half-Gallon Jars of Maraschino Cherries. Default decree of condemnation and destruction. (F. D. C. No. 6802. Sample No. 90427-E.)

Examination showed that this product contained hairs closely resembling those of rodents.

On February 5, 1942, the United States attorney for the District of Rhode Island filed a libel against 15 half-gallon jars of maraschino cherries at Conimicut, R. I., alleging that the article was shipped in interstate commerce on or about January 14, 1942, by Max Block & Co., Inc., from New York, N. Y.; 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: "Aylesworth Cherries $\frac{1}{10}$ of 1 Percent Benzoate Certified Color."

On April 1, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3094. Adulteration and misbranding of canned peaches. U. S. v. 173 Cases, 49 Cases, and 59 Cases of Canned Peaches. Consent decree of condemnation. Portion ordered released under bond for relabeling; remainder ordered destroyed. (F. D. C. No. 5647. Sample Nos. 48604-E, 48605-E, 48606-E.)

One lot of this product was worm-infested and its label failed to bear the common names of the optional ingredients, viz, "Yellow Freestone" and "Halves." All lots were substandard in quality because the largest unit in the container was more than twice the weight of the smallest unit and because the peaches were not untrimmed or so trimmed as to preserve the normal shape of the units.

On or about September 13, 1941, the United States attorney for the District of Georgia filed a libel against 281 cases of canned peaches at Augusta, Ga., alleging that the article had been shipped in interstate commerce on or about August 14, 1941, by Walter P. Rawl from Gilbert, S. C.; and charging that it was misbranded and that a portion was also adulterated. The article was labeled in part: "Carolina Brand Peeled Peaches Contents 1 Lb. 3 Ozs. Packed in Water"; "Carolina Brand Yellow Freestone Peaches Halves in Water Contents 1 Lb. 12 Ozs."; and "Halves in Syrup Contents 1 Lb. 12 Ozs. Carolina Yellow Freestone Peaches."

A portion (173 cases) was alleged to be adulterated in that it consisted in whole or in part of a filthy substance; and to be misbranded in that it purported to be a food for which a definition and standard of identity had been prescribed by regulations as provided by law but its label failed to bear the