

DISPOSITION: August 19, 1945. The Fisher Nut and Chocolate Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment was entered condemning the product, with the exception of any fit portion that might be segregated from the bad under the supervision of the Food and Drug Administration. The decree provided further that the product be released under bond, conditioned that it should not be disposed of in violation of the law.

8269. Misbranding of salted peanuts. U. S. v. 8 Cases of Salted Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 16866. Sample No. 27276-H.)

LIBEL FILED: July 26, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about June 21, 1945, by Idaho Food Products, Inc., from Boise, Idaho.

PRODUCT: 8 cases, each containing 48 11-ounce bags, of salted peanuts at Baker, Oreg.

LABEL, IN PART: "Carolyn Brand Thrifty Pack Quality Foods."

VIOLATIONS CHARGED: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of contents; Section 403 (i) (1), its label failed to bear the common or usual name of the article; and, Section 403 (i) (2), its label failed to bear the common or usual name of each of its ingredients.

DISPOSITION: September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8270. Adulteration of peanut butter and chocolate-covered peanuts. U. S. v. 75 Cases of Peanut Butter (and 4 other seizure actions against peanut products). Tried to the court. Judgment dismissing libels. Judgment reversed by the circuit court of appeals. Petition by claimant for writ of certiorari denied. Decree of condemnation and destruction. (F. D. C. Nos. 11023, 11076, 11127, 11143, 11193. Sample Nos. 53226-F, 53227-F, 53511-F, 53515-F, 58514-F.)

LIBELS FILED: Between October 27 and December 7, 1943, District of Maryland and Eastern District of North Carolina. Two of the Maryland libels were amended on January 20, 1944.

ALLEGED SHIPMENT: Between the approximate dates of October 6 and 15, 1943, by the Old Dominion Peanut Corporation, from Norfolk, Va.

PRODUCT: 162 cases of peanut butter at Baltimore, Md., and 23 cases of peanut butter at Tarboro, N. C., each case containing 24 jars, and 200 boxes of chocolate-coated peanuts at Wilson, N. C.

LABEL, IN PART: (Jars) "Top Notch Brand [or "Virginia Maid Brand"] Peanut Butter," "LaGrande Brand Peanut Butter * * * Packed For Foote Bros. and Co., Distributors, Norfolk, Va.," and (boxes) "Betteryet Chocolate Coated Peanuts."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, rodent excreta fragments, rodent hair fragments, and dirt; and, Section 402 (a) (4), they were prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: On December 29, 1943, upon application of the Old Dominion Peanut Corporation, claimant, the district court for the District of Maryland ordered that the three cases filed in that district and the two cases pending in the Eastern District of North Carolina be consolidated for hearing of preliminary proceedings and trial. The claimant thereafter filed a motion to impound the evidence and documents upon which all of the cases were based, alleging that they had been illegally obtained, and further prayed the court to return the seized merchandise and to quash and dismiss the consolidated cases. On February 2, 1944, this motion having come on for hearing, the testimony of witnesses of the respective parties having been heard in open court, and the proceedings and argument of counsel having been duly considered, the court handed down the following opinion:

COLEMAN, District Judge: "This suit involves four [five] consolidated libel proceedings under the Federal Food, Drug and Cosmetic Act (21 U. S. C. A. Secs. 301-392) on the ground of alleged adulteration of certain shipments of peanut butter.

"The motion of claimant to impound certain evidence and documents, to return the seized merchandise, and to quash and dismiss the libels, to which the Government has filed exceptions, must be granted for the following reasons.