

the district court a libel praying seizure and condemnation of 215 cases of canned peas at Wellsville, N. Y., alleging that the article had been shipped in interstate commerce on or about September 8, 1937, by Burgoon & Yingling from Gettysburg, Pa., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "National Park Brand Early June Peas \* \* \* Packed by Burgoon & Yingling Gettysburg, Pa."

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 December 20, 1937, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to various charitable institutions.

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

**28428. Misbranding of canned cherries. U. S. v. 14 Cases, et al., of Red Pitted Cherries. Consent decree of condemnation. Product released under bond for relabeling.** (F. & D. No. 40861. Sample No. 60556-C.)

This product contained excessive pits and was water-packed. Its label did not indicate that it was substandard, and the statement "Water Pack" was not set out in the manner required by the regulations.

On November 18, 1937, 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 105 cases of red pitted cherries at Albuquerque, N. Mex., alleging that the article had been shipped on or about August 5 and September 15, 1937, in interstate commerce by the Ray A. Ricketts Co. from Canon City, Colo., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "O-Joy Brand Water Pack Red Pitted Cherries Packed by Ray A. Ricketts Company, Canon City, Colo. Crowley, Colo."

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 there was present more than one cherry pit per 20 ounces of net contents, and the special statement "Water Pack" was not on a strongly contrasting uniform background in caps 14-point bold-face type, 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 December 22, 1937, the Ray A. Ricketts Co., having appeared as claimant for the product and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling.

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

**28429. Adulteration and misbranding of Brazil nuts. U. S. v. 9 Bags of Brazil Nuts. Decree of condemnation. Product released under bond for relabeling and reconditioning.** (F. & D. No. 40910. Sample No. 58595-C.)

Examination of this product showed the presence of moldy and rancid nuts, and the bags failed to bear a statement of the quantity of contents.

On November 23, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine bags of Brazil nuts at Reading, Pa., alleging that the article had been shipped in interstate commerce on or about October 5, 1937, by General Foods Corporation, from Hoboken, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "King Cole Brites Jumbo Brazil nuts Packed by Baker-Bennett-Day Inc. Div. of General Foods Corp. New York."

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

Misbranding was alleged in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On December 2, 1937, General Food Sales Co., Inc., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond to be relabeled and reconditioned under the supervision of this Department.

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