

29700. Misbranding of canned cherries. U. S. v. 97 Cases of Canned Cherries (and two other seizure actions). Consent decrees of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 43052, 43177, 43178. Sample Nos. 19569-D, 19570-D, 19582-D.)

This product fell below the standard established by this Department because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On July 13 and August 2, 1938, the United States attorney for the District of Minnesota, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 867 cases of canned cherries at Duluth, Minn.; alleging that the article had been shipped in interstate commerce in part on or about August 7, 1937, and in part on or about April 25, 1938, by H. C. Hemingway & Co. from Lockport, N. Y.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Schuyler Pitted Red Cherries [or "Red Sour Pitted Cherries"] Distributed by [or "Packed By"] H. C. Hemingway & Co. Auburn Cayuga Co. N. Y."

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 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On September 30, 1938, H. C. Hemingway & Co., 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 in accordance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

29701. Adulteration of flour. U. S. v. 65 Bags, et al., of Flour. Decree of condemnation. Product released under bond for salvage as animal feed. (F. & D. Nos. 43989, 43990, 43991, 43994, 43995. Sample Nos. 49754-D to 49757-D, inclusive, 49760-D.)

This produce having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to be insect-infested.

On or about September 28, 1938, the United States attorney for the Northern District of Mississippi, acting upon reports by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 920 bags of flour at Greenwood, Miss.; alleging that the article had been shipped between the dates of September 18, 1937, and August 15, 1938, in part by P. H. Postel Milling Co. from Mascoutah, Ill., in part by the Trenton Milling Co. from Trenton, Ill., and in part by the Interior Flour Mills from Clinton, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, variously: "Cotton Dolly Flour P. H. Postel Milling Co.,"; "Silver Spoon Highest Patent Flour"; "First Choice Patent Flour Manufactured for LeFlore Grocery Co., Greenwood, Miss."

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

On October 27, 1938, Le Flore Grocery Co., Greenwood, Miss., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be salvaged by mixing it so that it could not be used for human consumption but could be used for animal feed.

M. L. WILSON, *Acting Secretary of Agriculture.*

29702. Adulteration of flour. U. S. v. 255 Bags and 100 Bags of Flour. Consent decrees of condemnation. Product released under bond. (F. & D. Nos. 44080, 44081. Sample Nos. 38159-D, 38160-D.)

This product having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to be insect-infested.

On October 5, 1938, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 355 bags of flour at Dothan, Ala.; alleging that the article had been shipped in interstate commerce on or about July 6, 1938, by Collins Flour Mills, Inc., from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Baart Cut-Off Flour."