

31006. Adulteration of candy. U. S. v. 15 Boxes and 7 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. Nos. 43284, 43286. Sample Nos. 27668-D, 27675-D.)

On August 11, 1938, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 boxes of candy at Springfield, Ill.; alleging that 7 boxes of the article had been shipped from Paducah, Ky., on or about September 1, 1937, by Gilliam Candy Co., and that 15 boxes had been shipped from St. Louis, Mo., on or about February 8, 1938, by National Candy Co., Inc.; and charging that it was adulterated in violation of the Food and Drugs Act. One lot was labeled in part: "National Chocolate Peanut Clusters." The remaining lot was labeled in part: "Peco Flake."

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

On December 22, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31007. Adulteration of flake egg albumen. U. S. v. 33 Barrels of Flake Egg Albumen. Consent decree of condemnation. Product ordered released under bond. (F. & D. No. 44332. Sample No. 26444-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On November 14, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 barrels of flake egg albumen at Jersey City, N. J.; alleging that the article had been shipped on or about August 10, 1938, by Henningsen Bros., Inc., from Lamesa, Tex.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fancy Flake Hen Egg Albumen."

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

On January 9, 1940, Henningsen Bros., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered ordering release of the product under bond, conditioned that it be denatured in such manner as to effectively preclude its use for human consumption but not its availability for technical use.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31008. Misbranding of canned peaches. U. S. v. 80 Cases of Canned Peaches. Decrees of condemnation. Product released under bond for relabeling. (F. & D. Nos. 45576, 45577. Sample No. 70543-D.)

This product was substandard, since the fruit was excessively trimmed and was not in unbroken halves. It was not labeled to indicate that it was substandard.

On November 24, 1939, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 80 cases of canned peaches at Denver, Colo. (consigned by the Perry Canning Co.); alleging that the article had been shipped in interstate commerce on or about November 2, 1939, from Brigham, Utah; and charging that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Utah Brand * * * Water Packed Peaches Colorado Brokerage Co. Denver Colo. Successors to A. L. Brewer Canning Co., Ogden, Utah."

Misbranding was alleged in that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the fruit was not in unbroken halves, 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.

Meyer Levy, Denver, Colo., filed a claim and answer admitting the allegations of the libel and averring that the product had been ordered from the Perry Canning Co.; that by mistake the Perry Canning Co. had omitted the substandard legend from the labels of the cans; and also that the words "Colorado Brokerage Company successors to A. L. Brewer" were placed on the labels by mistake.