

**28439. Misbranding of canned cherries. U. S. v. 53 Cases of Canned Cherries. Product released under bond for relabeling. (F. & D. No. 39156. Sample No. 36107-C.)**

This product was substandard because it contained an excessive number of pits and was not labeled to indicate that it was substandard.

On March 1, 1937, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 53 cases of canned cherries at Butte, Mont., alleging that the article had been shipped in interstate commerce on or about September 19, 1936, from Post Falls, Idaho, by Seiter's Inc., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Coeur d'Alene Brand Red Sour Pitted Cherries Packed in Water Seiter's Inc."

It 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 for each 10 ounces of net contents, 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 13, 1937, the product having theretofore been released under bond by order of the court and having been relabeled by the claimant, Seiter's Inc., in accordance with the terms of the said bond, final order of release was entered.

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

**28440. Adulteration and misbranding of cocktail fruit mixer. U. S. v. 31 One-Gallon Jugs of Cocktail Fruit Mixer. Default decree of condemnation and destruction. (F. & D. No. 40688. Sample No. 61712-C.)**

This product consisted of water, lemon juice, and added acid; but was labeled to indicate that it was lemon juice.

On November 10, 1937, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 31 6-gallon jugs of cocktail fruit mixer at Jamestown, N. Y., alleging that the article had been shipped in interstate commerce on or about June 23 and July 22, 1937, by Skyscraper Products Co. from Philipsburg, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lemon \* \* \* Skyscraper Brand \* \* \* Cocktail Fruit Mixer Skyscraper Products Co. Philipsburg, Pa."

It was alleged to be adulterated in that it was mixed in a manner whereby inferiority was concealed.

The article was alleged to be misbranded in that the statements, "Lemon \* \* \* Fruit Mixer Use As a Juice of Fresh Fruit \* \* \* 1 Ounce of Lemon Fruit Mixer is Equivalent to the Juice of 1 Lemon," were false and misleading and tended to deceive and mislead the purchaser as applied to an article that consisted of water, lemon juice, and added acid; and also in that the article was an imitation of another article, namely, lemon juice.

On December 13, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

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

**28441. Adulteration of walnuts in shell. U. S. v. 7 Bags of Walnuts. Default decree of condemnation and forfeiture. Order of destruction. (F. & D. No. 40696. Sample No. 9518-C.)**

These walnuts were wormy and moldy.

On November 12, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven bags of walnuts at New York, N. Y., alleging that the article had been shipped on or about September 10, 1937, in foreign commerce from Morocco, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Product of Morocco T S C Noix Walnuts."

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

On December 6, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

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