

**28470. Misbranding of canned cherries. U. S. v. 166 Cases of Canned Cherries. Judgment entered ordering product released under bond. (F. & D. No. 41342. Sample No. 48790-C.)**

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

On January 5, 1938, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 166 cases of canned cherries at Lawton, Okla., alleging that the article had been shipped in interstate commerce on or about August 5, 1937, by H. C. Hemingway & Co. from Lockport, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Schuyler Pitted Red Cherries in Water Distributed by H. C. Hemingway & Co., Auburn \* \* \* N. Y."

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 it contained more than 1 cherry pit per 20 ounces of net contents and the 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 January 21, 1938, H. C. Hemingway & Co. having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act.

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

**28471. Adulteration of apples. U. S. v. 129 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41147. Sample No. 59589-C.)**

This product was contaminated with arsenic and lead.

On November 3, 1937, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 129 bushels of apples at Nashville, Tenn., alleging that the article had been shipped in interstate commerce on or about November 1, 1937, by E. Gallaher from Coloma, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "E. Gallaher, Coloma, Mich."

The apples were alleged to be adulterated because of the presence of excessive arsenic and lead, which might have rendered them harmful to health.

On January 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**28472. Adulteration of prunes. U. S. v. 706 Bags of Prunes. Default decree of condemnation and destruction. (F. & D. No. 40164. Sample No. 48126-C.)**

This product was moldy, dirty, and insect-infested.

On August 20, 1937, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 706 bags of prunes at Martinsburg, W. Va., alleging that the article had been shipped in interstate commerce on or about April 13, 1937, by the Winchester Dried Fruit Co. from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was moldy, dirty, and infested with insects.

On October 1, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**28473. Adulteration and misbranding of New Process Bouquet. U. S. v. One 5-Gallon Keg of New Process Bouquet. Default decree of condemnation and destruction. (F. & D. No. 41071. Sample No. 62094-C.)**

This product contained from 2 to 5 percent of a poison, namely, a glycol.

On December 10, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one keg of New Process Bouquet at Erie, Pa., alleging that the article had been shipped in interstate commerce on or about September 30, 1937, from Buffalo, N. Y., by Henry & Henry, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act.