

culture, filed in the district court libels praying seizure and condemnation of 498 cases of canned field peas with snaps at Sanford, Fla., and 62 cases of the product at Palatka, Fla., alleging that the article had been shipped in interstate commerce on or about July 20 and 24, 1937, from Mitchell, Ga., the former in the name of R. O. Kelley and the latter in the name of the R. O. Kelley Cannery, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kelley's Best * * * Packed by R. O. Kelley Mitchell, Ga."

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

On December 2, 1937, and January 11, 1938, no claimant having appeared, judgments of condemnation and forfeiture, with orders of destruction, were entered.

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

28510. Adulteration and misbranding of Raspberry Flow and misbranding of apricot juice. U. S. v. 35 Cases of Raspberry Flow (and 2 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 40515, 40516, 40712. Sample Nos. 10563-C, 41087-C, 41068-C.)

The former of these products was labeled to indicate that it was fresh raspberry juice; whereas it consisted of an aqueous infusion of dried raspberries slightly sweetened; the latter was a diluted slightly sweetened apricot pulp and was labeled to indicate that it was pure apricot juice. The labeling of the latter was also objectionable because of false and fraudulent curative and therapeutic claims for the product and failure to declare the quantity of contents in a plain and conspicuous manner.

On or about October 20 and November 15, 1937, the United States attorney for the Southern District of Texas, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 35 cases of Raspberry Flow and 170 cases of apricot juice at Houston, Tex., alleging that the articles had been shipped in interstate commerce on or about July 23 and October 21, 1937, from Los Angeles, Calif., by Pure Foods Corporation, and charging adulteration and misbranding of the former and misbranding of the latter in violation of the Food and Drugs Act as amended. The apricot juice was labeled in part: "Golden Flow Brand Pure Apricot Juice * * * Contents 15 Fl. Oz." An attempt had been made to change the figure "15" in the quantity of contents statement to "12" by pencil, but the "15" was still conspicuous and the "12" illegible. The Raspberry Flow was labeled: "Golden Flow Brand Raspberry Flow." Both products were labeled further: "Pure Foods Corp. Los Angeles, California."

The Raspberry Flow was alleged to be adulterated in that a sweetened aqueous infusion of dried raspberries had been substituted for fresh raspberry juice, which it purported to be. It was alleged to be misbranded in that the statements, "Raspberry Flow * * * The New Fruit Juice Beverage * * * The juice and pulp of genuine raspberries—water-sweetened," and the design of fresh raspberries and juice flowing out of a cornucopia were false and misleading and tended to deceive and mislead the purchaser as applied to a sweetened aqueous infusion of dried raspberries.

The apricot juice was alleged to be misbranded in that the statement "Pure Apricot Juice" and the design of juice flowing out of a cornucopia into a glass were false and misleading and tended to deceive and mislead the purchaser as applied to apricot pulp containing added water and sugar; in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct; and in that statements appearing on the label, "creating vigor, vitality and digestion * * * neutralizing body wear" were statements regarding the curative or therapeutic effects of the article and were false and fraudulent.

On December 23, 1937, and January 7, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

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

28511. Adulteration and misbranding of fruit flavors. U. S. v. 10 Cases, 7 Cases, and 28 Bottles of Lionel True Fruit Flavors. Default decrees of condemnation and destruction. (F. & D. Nos. 39982, 40024. Sample Nos. 20941-C, 20942-C, 21184-C, 21185-C, 21186-C.)

These products were labeled to indicate that they were true fruit flavors, whereas they consisted of mixtures of artificially colored acid solutions and

contained little or no fruit juices; the raspberry contained glycerin and artificial flavor, and the orange and the lemon and lime contained citrus-oil flavors. All products were short in volume.

On July 17 and August 2, 1937, the United States attorneys for the Districts of Maine and Connecticut, acting upon reports by the Secretary of Agriculture, filed in their district courts libels praying seizure and condemnation of 10 cases of fruit flavors at Augusta, Maine, and 7 cases and 28 bottles of fruit flavors at Norwich, Conn., alleging that the articles had been shipped in interstate commerce on or about April 24 and July 8, 1937, by Tyler Products Co., from Pawtucket, R. I., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: (Bottles) "Lionel True Fruit Raspberry [or "Orange" or "Lemon & Lime"] Flavor Pure Food Color * * * Tyler Products Co Pawtucket, R. I. 1 $\frac{3}{4}$ Oz."

The articles were alleged to be adulterated in that artificially colored acid solutions containing little or no fruit juices—the orange and the lemon and lime containing citrus-oil flavor, and the raspberry containing artificial flavor and glycerin—had been substituted for orange, lemon and lime, and raspberry fruit flavors, which they purported to be, and in that they had been mixed and colored in a manner whereby inferiority was concealed.

They were alleged to be misbranded in that the following statements in the labeling were false and misleading and tended to deceive and mislead the purchaser as applied to products of the composition found and which were short in volume, "True Fruit Raspberry [or "Orange" or "Lemon & Lime"] Flavor" and "1 $\frac{3}{4}$ Oz."; they were alleged to be misbranded further in that they were imitations of other articles, namely, orange, lemon and lime, and raspberry fruit flavors. They were alleged to be misbranded further in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages since the quantity stated was not correct.

On August 11 and November 30, 1937, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

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

28512. Misbranding of canned cherries. U. S. v. 72 Cases of Canned Cherries (and 2 other seizure actions against the same product). Decrees of condemnation. Portion of product released under bond for relabeling; remainder destroyed. (F. & D. Nos. 40871, 40888, 41977. Sample Nos. 60558-C, 60569-C, 3362-D.)

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

On November 19 and 20, 1937, and March 18, 1938, the United States attorney for the District of New Mexico, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 72 cases of canned cherries at Albuquerque, 24 cases at Las Vegas, and 14 cases at Raton, N. Mex., alleging that the article had been shipped in interstate commerce on or about September 13, 21, and 22, 1937, and January 22, 1938, from Delta, Colo., by Delta Canning Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Town Talk * * * Water Pack R. S. P. Cherries * * * Packed for The Stone-Hall Co., Denver, 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 each 20 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 20 and 22, 1937, the Delta County Canning Co., having filed a claim for the lots seized at Albuquerque and Las Vegas, N. Mex., and having consented to the entry of decrees, judgments of condemnation were entered and the said lots were ordered released under bond conditioned that they be relabeled. On April 18, 1938, no claim having been entered for the lot seized at Raton, N. Mex., the product was condemned and ordered destroyed.

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