

**29356. Adulteration and misbranding of macaroni products. U. S. v. 37½ Cases, et al., of Macaroni (and 1 similar seizure action). Default decree of condemnation. Product delivered to welfare organizations. (F. & D. Nos. 42942, 42943. Sample Nos. 13561-D, 13562-D, 24833-D, 24834-D, 29037-D, 29038-D, 29039-D, 29042-D, 29043-D, 29044-D.)**

These products were made of wheat flour but were artificially colored to simulate the appearance of semolina products. Portions were also short weight.

On June 20, 1938, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 176 cases of macaroni products at Atlanta, Ga.; alleging that the articles had been shipped in interstate commerce on or about April 7, 13, and 22 and May 16, 1938, from Tampa, Fla., by Ferlita Macaroni Co., Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Tampa-Maid Brand Macaroni [or "Spaghetti" or "Pasta Di Semola"] \* \* \* Ferlita Macaroni Co., Inc. Tampa, Florida."

They were alleged to be adulterated in that they had been mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged with respect to certain lots in that the statement "6 Ozs. Net When Packed," appearing on the labels, was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and 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 package since the quantity stated was not correct. The remaining lots were alleged to be misbranded in that the Italian phrase "Pasta Di Semola Superiore Qualita" was misleading since it might imply to the purchaser that the article was made of semolina.

On August 1, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to welfare organizations.

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

**29357. Misbranding of Lem-E-Zee Mix. U. S. v. 27 Cases of Lem-E-Zee Mix. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 43040. Sample No. 27534-D.)**

This product was labeled to indicate that it was lemon juice, but consisted of an artificially colored liquid flavored with lemon oil and containing citric acid and only approximately 10 percent of lemon juice.

On July 15, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 27 cases of Lem-E-Zee Mix at Casper, Wyo.; alleging that the article had been shipped in interstate commerce on or about May 14, 1938, from Marshalltown, Iowa, by Marshall Food Products Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lem-E-Zee Mix \* \* \* Distributed By Marshall Food Prod. Co. Marshalltown, Ia."

It was alleged to be misbranded in that the statements, "Use wherever lemon juice is required" and "contains pure lemon juice," were false and misleading and tended to deceive and mislead the purchaser when applied to an article that was imitation lemon; and in that it was an imitation of and was offered for sale under the distinctive name of another article, lemon juice.

On August 1, 1938, Western Grocer Co., Marshalltown, Iowa, trading as Marshall Food Products Company, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

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

**29358. Adulteration and misbranding of Solvent PFW 1. U. S. v. 6½ Bottles of Solvent PFW 1. Default decree of condemnation and destruction. (F. & D. No. 41278. Sample No. 52167-C.)**

This product was commercial carbitol, a glycol or a glycol ether, or both, poisons.

On December 28, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6½ bottles of Solvent PFW 1 at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about June 22, 1937, from New York, N. Y., by Polak's Frutal Works, Inc.; and charging adulteration and misbranding in

violation of the Food and Drugs Act. The article was labeled in part: "Polak's Frutal Works Amersfoort Holland \* \* \* Solvent PFW 1."

It was alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for Solvent PFW 1, a food-flavor solvent.

Misbranding was alleged in that the statement "Solvent PFW 1" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons.

On August 17, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**29359. Misbranding of canned cherries. U. S. v. 240 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond for relabeling.** (F. & D. No. 43110. Sample No. 22893-D.)

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

On July 21, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 240 cases of canned cherries at Wilmington, Calif.; alleging that the article had been shipped in interstate commerce on or about July 7, 1938, from Portland, Oreg., by Paulus Bros. Packing Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "White Tag R. S. P. Cherries Packed in Water \* \* \* Paulus Bros. Packing Co., Salem, Oregon."

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 for such canned food, 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 as prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On August 22, 1938, Paulus Bros. Packing Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

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

**29360. Adulteration of cream. U. S. v. Three 10-Gallon Cans, One 8-Gallon Can, and Eight 5-Gallon Cans of Cream (and 19 other seizure actions). Consent decrees of condemnation and destruction.** (F. & D. Nos. 43353, 43389 to 43392, incl., 43394 to 43407, incl., 43515. Sample Nos. 27258-D, 30830-D, 31161-D to 31164-D, incl., 31166-D to 31174-D, incl., 41002-D, 41003-D, 41004-D, 41006-D, 41007-D.)

This product was filthy or decomposed, or both.

Between the dates of July 20 and August 17, 1938, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the district court 20 libels praying seizure and condemnation of a total of 33 5-gallon cans, 6 8-gallon cans, and 27 10-gallon cans of cream at Trinidad, Colorado Springs, and Denver, Colo.; alleging that the article had been shipped in interstate commerce within the period from on or about July 20 to August 17, 1938, in various shipments by G. W. Wilson, Hereford, Tex.; Emmett Thornton, Plainview, Tex.; Fred Burton, Mills, N. Mex.; H. L. Butler, Goree, Tex.; P. M. Baker, Kendall, Kans.; J. R. Bostick, Childress, Tex.; Ray Wilson, Boise City, Okla.; John Patterson, Happy, Tex.; Marion Gridlebaugh, Maxwell, N. Mex.; J. T. Easterling, Clarendon, Tex.; A. R. Shipp, Shallowater, Tex.; O. I. Mercer, Memphis, Tex.; A. J. Bell, Clovis, N. Mex.; James Merc. Co., Farley, N. Mex.; G. S. Reed, Amarillo, Tex.; Wilson Co., Mills, N. Mex.; Mrs. B. W. Blair, Texline, Tex.; E. M. Rupp (or Ruff), Clayton N. Mex.; G. W. Baskin, Plainview, Tex.; R. Stringfellow, Des Moines, N. Mex.; Joe Vocasek, Taylor Springs, N. Mex.; G. F. Ward, La Mesa, Tex.; Robert Auras, Taylor Springs, N. Mex.; S. H. Garrison, Idalou, Tex.; Phil McConnell, Taylor Springs, N. Mex.; W. C. Chambers, Olney, Tex.; G. L. White, Dalhart, Tex.; D. B. Mayfield, Chillicothe, Tex.; S. G. Garrison, Lakeview, Tex.; D. B. Perdue, Hedley, Tex.; P. J. Mercer, Lakeview, Tex.; Kuzma Pobor, Raton, N. Mex.; Ernest Tatman, Griggs, Okla.; J. E. Richards, Sedan, N. Mex.; Ira Tredway, Greenville, Tex.; Burden Groc., Hedley, Tex.; Leslie Middleton, Ruleton, Kans.; Fred Storer, Dubois, Idaho; Elbert Holdren, Syracuse, Kans.; Frank Gow,