

and in that such portion 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.

On March 22, 1938, Point Loma Tuna Packers, Inc., 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.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28841. Misbranding of canned peas. U. S. v. 79 Cases of Canned Peas. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41806. Sample No. 16826-D.)**

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On February 21, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 79 cases of canned peas at Snow Hill, Md., alleging that the article had been shipped in interstate commerce on or about January 7, 1938, by Roma Wholesale Grocery Co. from Scranton, Pa., and charging misbranding in violation of the Food and Drugs Act. The article had been shipped to Roma Wholesale Grocery Co., by W. D. Onley Canning Co., of Snow Hill, Md., and had been returned to the packer by the original consignee. The article was labeled in part: "Wecan Brand Quality Vegetables Early June Peas \* \* \* Distributed By W. T. Onley Canning Co., Snow Hill, Md."

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, in that the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 28, 1938, W. T. Onley Canning Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28842. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Product released under bond for segregation of good portion. (F. & D. No. 41840. Sample No. 16806-D.)**

These potatoes were represented to be U. S. grade No. 1, but fell below the standard established by this Department for that grade because of excessive defects.

On February 28, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at South Bend, Ind., alleging that the article had been shipped in interstate commerce on or about February 18, 1938, from Heyburn, Idaho, by Wayne Newcomb of Rupert, Idaho, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement on the label, "U. S. No. 1," was false and misleading and tended to deceive and mislead the purchaser.

On March 4, 1938, Wayne Newcomb having appeared as claimant, the product was released under bond conditioned that the potatoes be re-sorted.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28843. Adulteration of crab meat. U. S. v. 1 Barrel of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 41845. Sample Nos. 13302-D, 13303-D.)**

This product was filthy.

On February 18, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one barrel of crab meat at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about February 16, 1938, from Jacksonville, Fla., by the Florida Crab Meat Co., and charging adulteration in violation of the Food and Drugs Act.

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

On March 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28844. Misbranding of canned cherries. U. S. v. 21 Cases of Canned Cherries. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 41731. Sample No. 8962-D.)**

This product fell below the standard for fill of container established by this Department and was not labeled to indicate that it was substandard.

On February 18, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 cases of canned cherries at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 2 and September 24, 1937, from Plainwell, Mich., by the Plainwell Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Del Rea Brand Water Pack R S P Cherries Distributed by Ace Wholesale Grocers, Inc., Chicago, Ill."

The article was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, since the drained weight of the cherries was less than 13.5 ounces, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On April 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28845. Adulteration of allspice and red pepper. U. S. v. 6¾ Cases of Allspice (and 2 similar seizure actions). Default decrees of condemnation. Product destroyed. (F. & D. Nos. 41107, 41108, 41109. Sample Nos. 50538-C, 50540-C, 50541-C.)**

These products were infested with insects.

On December 16, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 6¾ cases of allspice and 24 cases of red pepper at Biloxi, Miss., alleging that the article had been shipped in interstate commerce on or about January 24, 1936, and September 16 and 17, 1937, from Cincinnati, Ohio, by the Frank Tea & Spice Distributing Co., of Cincinnati, Ohio, and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Dove Brand Allspice [or "Red Pepper"] \* \* \* The Frank Tea and Spice Co., Cincinnati, Ohio."

They were alleged to be adulterated in that they consisted in whole or in part of filthy vegetable substances.

On March 2, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28846. Adulteration of chili sauce. U. S. v. 105 Cases and 92 Cases of Chili Sauce. Default decrees of condemnation and destruction. (F. & D. Nos. 41854, 41858. Sample Nos. 16519-D, 16520-D.)**

This product contained pieces of sharp iron filings.

On March 3, 1938, the United States attorney for the Western District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 197 cases of chili sauce at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about December 17, 1937, from Bridgeton, N. J., by the P. J. Ritter Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ritter Genuine Tobasco Flavor Chili Sauce Made by P. J. Ritter Co., Bridgeton, N. J."

It was alleged to be adulterated in that it contained an added deleterious ingredient, sharp iron filings, which might have rendered it injurious to health.

On April 6, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*