

On April 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28899. Misbranding of canned peas. U. S. v. 654 Cartons of Canned Peas. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41874. Sample No. 17045-D.)

This product fell below the standard established by this Department since the peas were not immature, and it was not labeled to indicate that it was substandard. Moreover, its labeling bore a false and misleading statement regarding the variety of the peas.

On March 4, 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 654 cartons of canned peas at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 11, 1938, from Rehoboth, Del., by Stokely Bros. & Co., Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "American Wonder Brand Select Early June Peas * * * Fame Canning Company, * * * Indianapolis, Ind."

It was alleged to be misbranded in that the statement borne on the label, "American Wonder," was false and misleading and tended to deceive and mislead the purchaser when applied to peas of another variety. It was alleged to be misbranded further in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since 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 it fell below such standard.

On April 2, 1938, Howard E. Jones & 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.*

28900. Adulteration of evaporated apples. U. S. v. 280 Boxes of Evaporated Apples. Decree of condemnation and destruction. (F. & D. Nos. 41563, 41564. Sample Nos. 116-D, 117-D.)

This product was worm-infested.

On February 1, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 280 boxes of evaporated apples at Denver, Colo., consigned by Claypool & Hazel, alleging that the article had been shipped in interstate commerce on or about October 9, 1937, from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Morning Glory Brand Evaporated Apples. Packed By Claypool & Hazel, Springdale, Ark."

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

On February 11, 1938, Claypool & Hazel, having signed an acceptance of service and authorization, judgment of condemnation was entered and the product was ordered destroyed.

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

28901. Misbranding of preserves. U. S. v. 309 Jars of Raspberry Preserves and 93 Jars of Strawberry Preserves. Default decree of condemnation and destruction. (F. & D. No. 37351. Sample Nos. 44145-B, 44148-B, 65850-B, 65851-B.)

Samples of these products were found to be short of the declared weight.

On March 11, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 309 jars of raspberry and 93 jars of strawberry preserves at Springfield, Mass., alleging that the articles had been shipped in interstate commerce on or about August 14 and November 22, 1935, by Sambo Dairy Products, Inc., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Nessco Brand * * * Pure Raspberry Preserves Net

Weight 1 lb. [or "Strawberry Preserves Net Weight 2 Lbs."]. Distributed by New England Stores Service Corporation Boston, Worcester, Springfield."

The articles were alleged to be misbranded in that the statements on their respective labels "Net Weight 1 lb." and "Net Weight 2 Lbs.," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were short weight. 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 quantities stated were not correct.

On April 6, 1938, the claim and answer of the Sambo Dairy Products, Inc., was withdrawn and on April 25, 1938, judgment of condemnation and forfeiture, with order of destruction, was entered.

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

28902. Misbranding of canned tomatoes. U. S. v. 99 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. & D. No. 41554. Sample No. 3107-D.)

This product fell below the standard established by this Department because the fruit did not consist of whole or large pieces, and it was not labeled to indicate that it was substandard.

On January 29, 1938, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of canned tomatoes at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about January 15, 1938, by California Conserving Co. from Oakland, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Alameda Brand Tomatoes with Puree from Trimmings * * * Packed by California Conserving Co. Incorporated San Francisco."

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 the fruit did not consist of whole or large pieces 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 April 11, 1938, the California Conserving Co., Inc., having appeared and having consented, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

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

28903. Adulteration and misbranding of butter. U. S. v. 13 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 42013. Sample No. 3221-D.)

This product contained less than 80 percent of milk fat.

On March 8, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about February 26, 1938, from Salt Lake City, Utah, by the Western Creamery Co., of Salt Lake City, Utah, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "Butter * * *"

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

Misbranding was alleged in that the article had been represented as butter, which was false and misleading and deceived the purchaser since it contained less than 80 percent of milk fat.

On April 19, 1938, the Western Creamery Co., 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 not be disposed of contrary to law.

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