

On February 17, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

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

**28773. Adulteration of canned peas. U. S. v. 1,700 Cases of Canned Peas. Default decree and order of destruction. (F. & D. No. 41467. Sample No. 7584-D.)**

This product was weevil-infested.

On January 19, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,700 cases of canned peas at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about November 12, 1937, by Big Horn Canning Co. from Longview, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Unigrow Brand Sweet Peas \* \* Packed Especially For United Grocers Company Brooklyn, N. Y."

Adulteration was alleged in substance in that the article consisted in whole or in part of a filthy vegetable substance since it was infested with weevils.

On April 12, 1938, no claimant having appeared, judgment of destruction was entered.

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

**28774. Adulteration and misbranding of olive oil. U. S. v. 11 Cans and 8 Cases of Olive Oil. Default decree of condemnation and destruction. (F. & D. No. 41443. Sample No. 37696-C.)**

This product was an artificially colored and flavored cottonseed oil which contained little, if any, olive oil.

On January 18, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 gallon cans and 8 cases, each containing 12 gallon cans of alleged olive oil, at Brooklyn, N. Y., alleging that the article had been delivered for shipment from New York, N. Y., to Jersey City, N. J., on or about December 20, 1937, by Carmine Esposito, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled in part: (Cans) "Net Contents One Gallon Olio Puro Garantito Impaccato Expressamente per Minning [design of olive branch and olives] da V. B. & D. S. Maria Evico Pro Caserta Italy, \* \* \* Pure Imported Olive Oil"; (cases) "12—1-gallon Tins Italian Pure Olive Oil Products of Italy."

The product was alleged to be adulterated in that artificially colored and flavored cottonseed oil had been mixed and packed with it so as to reduce or lower its quality or strength.

It was alleged to be misbranded in that the statements appearing on the cans and cases were false and misleading and tended to deceive and mislead the prospective purchaser, since it contained little, or no, olive oil. It was alleged to be misbranded further in that it purported to be a foreign product, which it was not.

On March 7, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

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

**28775. Adulteration and misbranding of spaghetti. U. S. v. Favro Macaroni Manufacturing Co. Plea of guilty. Fine, \$11 and costs. (F. & D. No. 39842. Sample No. 36616-C.)**

This product was made from flour and semolina and was artificially colored so as to simulate the appearance of spaghetti made wholly from semolina.

On March 4, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Favro Macaroni Manufacturing Co., a corporation, Seattle, Wash., alleging that on or about June 8, 1937, the defendant had shipped from the State of Washington into the State of Oregon, a quantity of spaghetti which was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: (Case) "Spaghetti \* \* \* 100% Semolina \* \* \* Favro Macaroni Mfg. Co., Seattle Portland."

It was alleged to be adulterated in that a substance, namely, spaghetti made from flour and semolina, had been substituted wholly for spaghetti made wholly from semolina, which it purported to be; and in that it had been colored with

tartrazine and orange I, in a manner whereby its inferiority to spaghetti made wholly from semolina was concealed.

It was alleged to be misbranded in that the statement "100% Semolina," borne on the case, was false and misleading and was applied thereto so as to deceive and mislead the purchaser in that the said statement represented that the article had been made wholly from semolina; whereas it had been made from flour and semolina and was artificially colored so as to simulate the color of spaghetti made wholly from semolina.

On March 28, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$11 and costs.

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

**28776. Adulteration of dried prunes. U. S. v. 42 Boxes of Dried Prunes. Default decree of condemnation and destruction. (F. & D. No. 41607. Sample No. 8322-D.)**

This product was infested with worms and weevils.

On February 5, 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 42 boxes of prunes at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 5, 1937 [1936], from San Jose, Calif., by California Prune & Apricot Growers Association Plant No. 11, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Golden Glow Brand \* \* \* Pitted Prunes, Calif. Prune and Apricot Growers Association, San Jose, Calif."

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

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**28777. Misbranding of pecan meats, walnut meats, and mixed salted nuts. U. S. v. 30 Cases of Pecan Meats, 27 Cases of Walnut Meats, and 35 Cases of Mixed Salted Nuts. Decree of condemnation. Product ordered released under bond for repacking and sale in bulk. (F. & D. No. 41347. Sample Nos. 55253-C, 55254-C, 55255-C, 55275-C, 55276-C, 55277-C.)**

This product was packed in a container with a false bottom. The quantity of the contents was not plainly and conspicuously declared.

On January 7, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 92 cases of nut meats and mixed salted nuts at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about November 12, 1937, by John W. Leavitt Co. from Boston, Mass., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Weight 4 Ozs. [or "Net Weight 5 Ozs. Salted Nuts"] \* \* \* Nut Meats John W. Leavitt Co., Boston, Mass."

It was alleged to be misbranded in that the package bore a device which was misleading as to the quantity of the contents of the package. The article was alleged to be misbranded further 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.

On February 23, 1938, John W. Leavitt Co. having appeared, admitted the allegations of the libel, and consented, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be repacked and sold only in bulk. On March 5, 1938, the decree was amended to permit shipment under the direction and supervision of this Department to Boston, Mass., for such repacking.

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

**28778. Adulteration and misbranding of catsup. U. S. v. 24 Cases of Catsup. Default decree of condemnation and destruction. (F. & D. No. 41344. Sample No. 21588-C.)**

This product contained a red artificial color and pulp other than tomato pulp.

On or about January 7, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of catsup at Gulfport, Miss., alleging that the article had been shipped in interstate commerce on or about December 11, 1937, by E. A. Zatarain and