

district court a libel praying seizure and condemnation of five cartons of candy at Hammond, Ind., alleging that the article had been shipped in interstate commerce—having been shipped by the Queen Anne Candy Co., of Hammond, Ind., to Hartford, Conn., and having been returned by the consignee to Queen Anne Candy Co., at Hammond, Ind., on or about December 28, 1937; 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 and decomposed vegetable substance.

On March 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28785. Misbranding of apples. U. S. v. 600, 500, 900, 110, and 30 Baskets of Apples. Decree of condemnation. Product released under bond for re-labeling. (F. & D. Nos. 40943 to 40946, incl. Sample Nos. 66421-C to 66424-C, incl.)

This product fell below the grades declared on the baskets because of excessive defects.

On or about November 30, 1937, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2,140 baskets of apples at Tabler, W. Va., alleging that the article had been shipped in interstate commerce between September 1, 1937, and October 25, 1937, from Winchester and Alban, Va., by L. B. Resseque, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Baskets) "U. S. No. 1 [or "U. S. Utility"] * * * Grown & Packed by L. B. Resseque Winchester, Va."

It was alleged to be misbranded in that the apples fell below the respective grades indicated on the baskets.

On December 31, 1937, no claim or answer having been filed, judgment of condemnation and destruction was entered. L. B. Resseque having subsequently moved for leave to intervene as claimant, the motion was granted and on January 12, 1938, the product was ordered released under bond conditioned that it be disposed of only in compliance with the law and under the supervision of this Department.

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

28786. Adulteration and misbranding of butter. U. S. v. 49 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 42093. Sample No. 3130-D.)

This product contained less than 80 percent of milk fat.

On February 16, 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 49 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about May 1, 1937, from Hutchinson, Kans., by Salt City Creamery, of Hutchinson, Kans., and charging adulteration and misbranding in violation of the Food and Drugs Act.

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 was labeled "butter," which was false and misleading and deceived the purchaser, since it contained less than 80 percent of milk fat.

On March 31, 1938, Bennett & Layton, Inc., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

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

28787. Misbranding of canned peas. U. S. v. 126 Cases of Canned Peas. Default decrees of condemnation. Property ordered delivered to charitable institution. (F. & D. No. 41198. Sample No. 48451-C.)

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

On December 21, 1937, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court