

On January 17 and March 9, 1938, the United States attorneys for the District of New Jersey and the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 119 cases of canned peas at Hoboken, N. J., and 83 cartons of canned peas at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about September 22, 1937, and January 26, 1938, by D. E. Foote & Co., Inc., from Baltimore, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "New Boy Early June Peas \* \* \* American Grocery Company Distributors Hoboken, N. J.;" or "Foote's Best Brand Early June Peas \* \* \* Packed by D. E. Foote & Co. Incorporated Baltimore, 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, since the peas were not immature, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 28 and April 13, 1938, no claimant having appeared, default was entered and the product was ordered delivered to certain charitable organizations, provided that the labels were first removed by such organizations.

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

**28801. Misbranding of canned peas. U. S. v. 1,286 Cases of Peas. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41803. Sample No. 1318-D.)**

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On February 19, 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 1,286 cases of canned peas at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about July 14, 1937, by H. M. Ruff & Son from Woodbine, Pa., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Mar-Lo Brand \* \* \* Early June Peas \* \* \* H. M. Ruff & Son Distributors Woodbine, Pa."

The article 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 peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 25, 1938, H. Weldon Ruff 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.*

**28802. Misbranding of canned cherries. U. S. v. 129 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41810. Sample No. 15106-D.)**

This product fell below the standard established by this Department because of the presence of more than 1 cherry pit per 20 ounces of net contents, and it was not labeled to indicate that it was substandard.

On February 24, 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 129 cases of canned cherries at Ontario, Oreg., alleging that the article had been shipped in interstate commerce on or about August 3 and September 21, 1937, by the Rogers Co. from Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Heep Full Brand Red Sour Pitted Cherries \* \* \* Packed by Valley Fruit Canning Co. Puyallup, Wash."

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, in that there was present more than one cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 16, 1938, the Valley Fruit Canning 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 be relabeled.

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