

It 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 since it contained less than 80 percent of milk fat.

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

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

28857. Misbranding of canned peas. U. S. v. 300 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40838. Sample No. 50334-C.)

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 November 19, 1937, 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 300 cases of canned peas at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about July 17 and 24, 1937, from Fredonia, Wis., by the Fredonia Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lady Clare Brand Sifted Early June Peas * * * Packed for M. Muskal, Chicago, Ill."

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, 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 such canned food fell below such standard.

On January 6, 1938, judgment of condemnation was entered and on February 11, 1938, upon application of M. Muskal, claimant, the product was released under bond conditioned that it be relabeled.

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

28858. Adulteration of Sausage Emulsifier, Soy Flour, and Soy Bean Grits. U. S. v. 193 Bags of Sausage Emulsifier, et al. Consent decree of condemnation. Product released under bond for conversion into stock feed. (F. & D. Nos. 41188, 41189, 41190. Sample Nos. 53233-C, 53234-C, 53235-C.)

These products were infested with insects.

On December 20, 1937, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 734 bags of the above named products at Fort Worth, Tex., alleging that the article had been shipped in interstate commerce on or about November 24, 1936, from Chicago, Ill., by Archer-Daniels-Midland Co., and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Packer's Pride Sausage Emulsifier * * * Ross & Rowe, Inc., Sole Distributors, New York Chicago"; "Archer Brand Grits [or "Apple Blossom Soy Flour"] * * * Manufactured by Archer-Daniels-Midland Company, Minneapolis, Minn."

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

On February 22, 1938, Archer-Daniels-Midland Co., 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 converted into stock feed.

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

28859. Misbranding of canned cherries. U. S. v. 79 Cases of Canned Cherries. Consent decree ordering release of product under bond. (F. & D. No. 41809. Sample No. 15101-D.)

This product fell below the standard established by this Department since it contained an excessive number of pits and was not labeled to indicate that it was substandard.

On February 21, 1937, the United States attorney for the District of Idaho, 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 cherries at Weiser, Idaho, alleging that the article had been shipped in interstate com-

merce on or about August 3 and September 30, 1937, from Seattle, Wash., by the Rogers Co., of 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."

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 for such canned food, since there was present more than 1 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 of Agriculture indicating that such canned food fell below such standard.

On March 8, 1938, the Valley Fruit Canning Co., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it not be disposed of contrary to law.

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

28860. Adulteration of apples. U. S. v. 554 Crates of Apples. Consent decree of condemnation. Product released under bond for cleaning. (F. & D. No. 40692. Sample Nos. 59382-C, 59383-C.)

This product was contaminated with arsenic and lead.

On October 23, 1937, 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 554 crates of apples at Blue Island, Ill., alleging that the article had been shipped in interstate commerce on or about October 19, 1937, from Sodus, Mich., by E. G. Sherman, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 3, 1937, E. G. Sherman, 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 the apples be cleaned and the spray residue removed.

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

28861. Adulteration of canned cherries. U. S. v. 47 Cases and 46 Cases of Canned Cherries. Default decrees of condemnation and destruction. (F. & D. Nos. 41926, 41927. Sample Nos. 7508-D, 7509-D, 14961-D.)

This product contained worms.

On March 11, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 93 cases of canned cherries at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 21, 1938, from Corvallis, Oreg., by Western Oregon Packing Corporation, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Ferndale brand) "Royal Anne Cherries, Wallace, Burton & Davis Co., Distributors, N. Y."

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

On April 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28862. Misbranding of canned tomatoes. U. S. v. 390 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41298. Sample No. 66440-C.)

This product fell below the standard established by this Department because it was not normally colored and it bore an excessive amount of peeling, and it was not labeled to indicate that it was substandard.

On January 3, 1938, 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 390 cases of canned tomatoes at Clarksburg, W. Va., alleging that the article had been shipped in interstate commerce on or about August 16, 1937, from Tucker Hill, Va., by W. H. Sanford, Tucker Hill, Va., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Southern Leader Brand Tomatoes * * * Packed by W. H. Sanford, Tucker Hill, Va."