

**28867. Misbranding of canned peas. U. S. v. 150 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling.** (F. & D. No. 41273. Sample No. 57531-C.)

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

On December 28, 1937, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 cases of canned peas at Bristol, Conn., alleging that the article had been shipped in interstate commerce on or about August 25, 1937, from Denton, Md., by Phillips Sales Co., Inc., per Nuttle Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Nuttle Brand Early June Peas \* \* \* Packed by Nuttle Canning Co., Denton, 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 for such canned food, since the peas were not immature and contained excess foreign material, 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 23, 1938, Phillips Sales Co., Inc., claimant, having admitted the allegations of the libel and 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.*

**28868. Misbranding of potatoes. U. S. v. 400 Bags of Potatoes. Consent decree of condemnation. Product released under bond for relabeling.** (F. & D. No. 41848. Sample No. 16807-D.)

This product was labeled both U. S. grade No. 1 and Commercial grade, but bore defects in excess of the tolerance set up in the standards established by this Department for both grades.

On February 28, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 bags of potatoes at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about February 22, 1938, from Kingman, Maine, by W. H. Martin, of Bangor, Maine, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statements "U. S. 1" and "Commercial" were false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. grade No. 1, and failed to meet the standard for Commercial grade.

On March 7, 1938, W. H. Martin, claimant, having admitted the allegations of the libel and 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.*

**28869. Misbranding of canned peas. U. S. v. 998 Cases of Canned Peas. Consent decree releasing product under bond for relabeling.** (F. & D. No. 41855. Sample No. 16924-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 March 2, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 998 cases of canned peas at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about February 7, 1938, from Girdletree, Md., by Burton Proctor & Son, and charging misbranding in violation of the Food and Drugs Act.

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, in that 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 March 7, 1938, W. T. Onley Canning Co., Snow Hill, Md., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it be relabeled.

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

**28870. Adulteration of candy. U. S. v. 19 Boxes of Fig Bars. Default decree of condemnation and destruction. (F. & D. No. 41813. Sample No. 2019-D.)**

This product contained rodent hairs, insect fragments, and dirt.

On February 21, 1938, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 boxes of candy fig bars at Canton, Ohio, alleging that the article had been shipped in interstate commerce on or about January 10, 1938, from Chicago, Ill., by Dante Candy Co., of Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Dante's Doctor's Orders \* \* \* Fig Bars \* \* \* Dante Candy Co., Inc., Chicago, Ill."

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

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.*

**28871. Misbranding of potatoes. U. S. v. 360 Sacks of Potatoes. Consent decree of condemnation. Product released under bond for removal of tags. (F. & D. No. 42120. Sample No. 16811-D.)**

This product was represented to be U. S. Commercial grade but fell below that grade because of excessive defects.

On April 1, 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 360 sacks of potatoes at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 26, 1938, from Rosholt, Wis., by Alois Firkus and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Firkus Brand Alois Firkus, Stevens Point, Wisconsin."

The article was alleged to be misbranded in that the statement "U. S. Commercial" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes that were below U. S. Commercial grade.

On April 4, 1938, Alois Firkus, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that its tags be removed.

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

**28872. Adulteration of butter. U. S. v. 3 Cubes of Butter. Default decree of condemnation. Product delivered to charitable institution. (F. & D. No. 42041. Sample No. 18462-D.)**

This product contained less than 80 percent of milk fat.

On March 14, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three cubes of butter at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about June 29, 1937, from Plainview, Tex., by Plainview Cooperative Creamery, and charging adulteration 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.

On April 5, 1938, no claimant having appeared, judgment of condemnation was entered, and on April 12, 1938, the product was ordered delivered to a charitable institution.

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

**28873. Adulteration of butter. U. S. v. 105 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 42245. Sample No. 21714-D.)**

This product contained less than 80 percent of milk fat.

On April 6, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district