

court a libel praying seizure and condemnation of 1,495 cases of canned plums at Chicago, Ill., alleging that the article had been shipped in interstate commerce from Salem, Oreg., by the Starr Fruit Products Co. to Ft. Wayne, Ind., that it had been rejected by the consignee, and reshipped to Chicago, Ill., and charging that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Starr Brand Fancy Fresh Plums in Syrup \* \* \* Starr Fruit Products Co., Portland, Ore."

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

On November 3, 1937, the Starr Fruit Products 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 for sorting and disposal in compliance with the law.

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

**28963. Adulteration of butter. U. S. v. 11 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 40384. Sample No. 60409-C.)**

This product contained less than 80 percent of milk fat.

On or about September 3, 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 11 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 28, 1937, from Freeman, S. Dak., by Farmers' 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 October 5, 1937, Land O' Lakes Creamery, Inc., Chicago, Ill., 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 reworked to the legal standard.

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

**28964. Misbranding of canned cherries. U. S. v. 500 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond for re-labeling. (F. & D. No. 41608. Sample Nos. 29699-C, 368-D, 375-D.)**

This product fell below the standard established by this Department because it contained an excessive number of pits.

On February 3, 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 500 cases of canned cherries at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about January 3, 1938, from Seattle, Wash., by R. D. Bodle Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Haas, Baruch & Co., Los Angeles, Calif. Distributors \* \* \* Black and White Brand Red Sour Pitted Cherries."

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 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 it fell below such standard.

On March 29, 1938, R. D. Bodle, 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 under the supervision of this Department.

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

**28965. Misbranding of candy. U. S. v. 234 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. No. 41815. Sample No. 14069-D.)**

This product was short weight.

On February 23, 1938, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 234 boxes of candy at Portland,

Maine, alleging that the article had been shipped in interstate commerce on or about February 10, 1938, from Boston, Mass., by Gloria Chocolate Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Chimes Chocolates \* \* \* One Pound Net \* \* \* Gloria Chocolate Co., Boston, Mass."

It was alleged to be misbranded in that the statement "One Pound Net" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and 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 since the quantity stated was not correct.

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

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

**28966. Adulteration of flour. U. S. v. 6,300 Sacks of Flour. Consent decree of condemnation. Product released under bond to be disposed of for feed or other lawful purpose. (F. & D. No. 40964. Sample No. 44283-C.)**

This product was weevil- and insect-infested.

On November 30, 1937, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6,300 sacks of flour at Dothan, Ala., alleging that the article had been shipped in interstate commerce on or about June 15, 1937, from Pendleton, Oreg., by Collins Flour Mills, Inc., to Panama City, Fla., and that it had been reshipped on or about November 17, 1937, to Dothan, Ala., and charging that it was adulterated in violation of the Food and Drugs Act.

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

On April 16, 1938, Indiana Flour Co., Inc., 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 manufactured into feed or denatured or otherwise disposed of in conformity with the law.

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

**28967. Adulteration of frozen eggs. U. S. v. 181 Cans of Frozen Eggs. Decree of condemnation. Product released under bond. (F. & D. No. 42086. Sample No. 16996-D.)**

This product was in part decomposed.

On March 30, 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 181 cans of frozen eggs at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about November 22, 1937, from Chicago, Ill., by Marshall Kirby & Co., 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 decomposed animal substance.

On April 27, 1938, Marshall Kirby & Co., Inc., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it should not be disposed of in violation of the law. The decomposed portion was segregated and destroyed.

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

**28968. Adulteration of apples. U. S. v. 53 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41235. Sample No. 59689-C.)**

Examination of this product showed the presence of excessive arsenic and lead.

On October 15, 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 53 bushels of apples at Rockford, Ill., alleging that the article had been shipped in interstate commerce on or about October 10, 1937, from Benton Harbor, Mich., by C. L. Heinlen Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "L. C. Harris, R. 1, Benton Harbor, Mich."

It 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.