

about October 15, 1937, by Harold Shlens from Traverse City, Mich., 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, namely, arsenic and lead, which might have rendered it harmful to health.

On October 26, 1937, E. H. Dietz & Co., Chicago, Ill., having appeared as claimant and consented, judgment of condemnation and forfeiture was entered, and the property was ordered released to claimant under bond for cleaning and removing of the spray residue under supervision of this Department.

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

28764. Adulteration of walnut meats. U. S. v. 1 Box, 3 Boxes, 10 Boxes, and 14 Boxes of Walnut Meats. Default decree of condemnation and destruction. (F. & D. No. 41336. Sample Nos. 57726-C, 57727-C, 57728-C, 57729-C.)

This product was in whole or in part wormy, rancid, and decomposed.

On January 5, 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 28 boxes of walnut meats at Jersey City, N. J., alleging that the article had been shipped on or about December 8, 1937, in interstate commerce by Abraham Feld (American Food Exchange) from New York, N. Y., 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 February 26, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

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

28765. Misbranding of canned tomatoes. U. S. v. 260 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product ordered released under bond for relabeling. (F. & D. No. 41345. Sample No. 36792-C.)

This product was substandard because the fruit was not normally colored, and it was not labeled to indicate that it was substandard.

On January 6, 1938, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 260 cases of canned tomatoes at Rockholds, Ky., consigned about September 9, 1937, alleging that the article had been shipped in interstate commerce by Lewis Canning Co. from Ewing, Va., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ritchie's Favorite Brand Tomatoes * * * Packed by A. B. Ritchie Canning Co., New Tazewell, Tenn."

It was alleged to be misbranded in that it was canned food, and it fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such food in that it was not normally colored, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that it fell below such standard.

On February 15, 1938, Mark Lewis, Tazewell, Tenn., having appeared as claimant, judgment of condemnation and forfeiture was entered. It was ordered that the property be released to the claimant under bond conditioned that it be relabeled under supervision of this Department.

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

28766. Misbranding of canned peas. U. S. v. 251 Cases and 144 Cases of Canned Peas. Portion of product released under bond for relabeling; remainder ordered destroyed. (F. & D. Nos. 40343, 40344. Sample Nos. 48150-C, 57881-C.)

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

On or about September 30 and November 20, 1937, the United States attorney for the Northern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 251 cases of canned peas at Terra Alta, W. Va., and 144 cases of canned peas at Grafton, W. Va., alleging that the article had been shipped in interstate commerce on or about August 25 and September 27, 1937, by the Mount Airy Canning Co. from Mountain Lake Park, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Macco Brand Early June Peas * * * Distributed By The Mount Airy Canning Co., Mount Airy, Md."

The article was alleged to be misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food since there was present an excessive number of mature peas, 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 December 1, 1937, the Mount Airy Canning Co. having entered an appearance and petitioned release of the lot seized at Terra Alta, W. Va., and having executed a bond conditioned that the goods be disposed of only in compliance with the law, a decree was entered ordering that the said lot be released for relabeling. On December 31, 1937, no claimant having appeared for the other lot, it was adjudged misbranded and ordered destroyed.

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

28767. Misbranding of canned cherries. U. S. v. 77 Cases of Cherries. Product released under bond for relabeling. (F. & D. No. 41666. Sample No. 9512-D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On February 10, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 77 cases of canned cherries at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about August 16, 1937, by Westfield Planters Cooperative Fruit Products, Inc., from Westfield, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Westfield Maid Brand * * * Packed by Westfield Planters Cooperative Fruit Products, Inc. Westfield * * * New York."

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 there was present more than one cherry pit per 20 ounces of net contents, and the 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 3, 1938, the Westfield Planters Cooperative Fruit Products, Inc., having petitioned for release of the product under bond for relabeling and having in the petition admitted the allegations of the libel and consented to the entry of a decree, it was ordered by the court that the product be released under bond for reshipment to the cannery for relabeling.

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

28768. Misbranding of canned tomatoes. U. S. v. 532 Dozen Cans of Tomatoes. Decree of condemnation and forfeiture. Property released to claimant under bond for relabeling. (F. & D. No. 41291. Sample No. 36794-C.)

This product was not normally colored, and was not labeled to indicate that it was substandard.

On December 29, 1937, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 532 dozen cans of tomatoes at Corbin, Ky., alleging that the article had been shipped (on or about December 11, 1937) in interstate commerce, by Hodges Canning Co. from Tazewell, Tenn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Hillcrest Best Brand Tomatoes * * * Packed by Hodges Canning Co., Tazewell, Tenn."

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 it was not normally colored, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that it fell below such standard.

On February 11, 1938, W. J. Breeding, Tazewell, Tenn., having appeared as claimant, judgment of condemnation and forfeiture was entered, and the property was ordered released to the claimant under bond conditioned that it be relabeled under supervision of this Department.

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