

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

On April 1, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**28854. Adulteration and misbranding of shelled peanuts. U. S. v. 240 Bags of Shelled Peanuts. Consent decree of condemnation. Product released under bond. (F. & D. No. 42153. Sample No. 9892-D.)**

These peanuts were dirty.

On April 9, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 240 bags of shelled peanuts at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about March 12, 1938, from Courtland, Va., by Birdsong Sons Corporation, and charging adulteration and misbranding 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 vegetable substance.

Misbranding was alleged in that the statement "No. 2," borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to Virginia shelled peanuts which contained damaged (dirty) kernels in excess of the tolerance permitted in U. S. No. 2 grade.

On April 28, 1938, Birdsong Storage Co., Suffolk, Va., 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 not be disposed of contrary to law.

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

**28855. Misbranding of hot sauce. U. S. v. 100 Cartons, 25 Cases, and 20 Cases of Hot Sauce. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 41853, 41976. Sample Nos. 2749-D, 2750-D, 10120-D.)**

This product was short weight.

On or about March 8, 1938, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 45 cases and 100 cartons of hot sauce at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about January 26 and 30, 1938, from Oakland, Calif., by F. M. Ball & Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "All Good Spanish Style [or "Great Value"] Hot Sauce \* \* \* F. M. Ball & Co., Oakland, Calif.;" or "Favorite Spanish Style Hot Sauce Distributed by Quality Foods, Ltd., Tampa, Fla."

It was alleged to be misbranded in that the following statements borne on the labels, "Net Contents 8 Oz. or 227 Grams" and "Contents 8 Oz. or 227 Grams," were 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 April 25, 1938, the cases having been consolidated, and F. M. Ball & 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.*

**28856. Adulteration and misbranding of butter. U. S. v. 15 Cases of Butter. Default decree of condemnation and destruction. (F. & D. No. 42011. Sample Nos. 16054-D, 16085-D.)**

This product contained less than 80 percent of milk fat.

On March 8, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of butter at Baton Rouge, La., alleging that the article had been shipped in interstate commerce on or about January 20, 1938, from Paris, Tex., by Swift & Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "1 Pound Net Swift's Brookfield Butter \* \* \* Distributed by Swift & Co., General Office Chicago."

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-