

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 8, 1938, the Delray Corporation, 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.*

28907. Adulteration of scallops. U. S. v. 42 Gallons of Scallops. Default decree of condemnation and destruction. (F. & D. No. 42096. Sample No. 12223-D.)

This product contained added water.

On March 24, 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 a libel praying seizure and condemnation of 42 gallons of scallops at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 19, 1938, by Fort Myers Seafood Co. from Fort Myers, Fla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance, water, had been mixed and packed with and substituted in part for scallops.

On April 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28908. Misbranding of butter. U. S. v. 7 Cases of Butter. Consent decree of condemnation. Product released under bond for relabeling or repacking. (F. & D. No. 41152. Sample No. 60658-C.)

This product was short weight.

On January 7, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of butter at Parco, Wyo., alleging that the article had been shipped in interstate commerce on or about November 8, 1937, from Denver, Colo., by the Rhodes Ranch Egg Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Case) "From the Rhodes Ranch Egg Company * * * 32 Lbs. Net * * * Plain Quarters Lb. Prints in 1 Lb. Cartons"; (wrapper) "4 Oz. Net Weight."

The libel alleged that the article was misbranded in that the labels on the case and wrapper were false and misleading since the prints did not contain 4 ounces net 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.

On February 16, 1938, the Rhodes Ranch Egg 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 repacked or relabeled under the supervision of this Department.

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

28909. Adulteration and misbranding of sliced seedling. U. S. v. 50 Cartons of Sliced Seedling. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. & D. No. 41565. Sample No. 45053-C.)

This product was sliced apricot or peach kernels; but was represented to be sliced seedling, a term referring to sliced almonds and other nuts but not to apricot or peach kernels.

On January 31, 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 a libel praying seizure and condemnation of 50 cartons of sliced seedling at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about December 14, 1937, by Bashaw & Co. from Sacramento, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Sliced Seedling * * * Bashaw Co. * * * San Francisco, Cal."

It was alleged to be adulterated in that apricot or peach kernels had been substituted for "sliced seedling," a term referring to sliced almonds or other nuts but not to apricot or peach kernels.

It was alleged that the article was misbranded in that the statement "sliced seedling" was false and misleading and deceived and misled the purchaser when applied to apricot or peach kernels.

On March 9, 1938, Bashaw Co., having appeared and admitted the allegations and consented, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled "Sliced Apricot Kernels."

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

28910. Adulteration and misbranding of potatoes. U. S. v. 100 Bags of Potatoes. Default decree of condemnation and destruction. (F. & D. No. 42167. Sample No. 14174-D.)

These potatoes were seriously damaged by net necrosis and were below the grade declared on the label.

On April 11, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 bags of potatoes at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about April 7, 1938, from Bangor, Maine, by Leech & Ayer, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maine Potatoes Grade U. S. No. 1, P. Armstrong Ft. Fairfield."

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

Misbranding was alleged in that the statement "U. S. Grade No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below United States grade No. 1.

On April 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28911. Adulteration and misbranding of peanut butter. U. S. v. 41 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. & D. No. 41928. Sample No. 16129-D.)

This product was short of the declared weight, and some of the samples examined contained ants.

On March 11, 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 41 cases of peanut butter at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about September 14, 1937, by the Dothan Oil Mill Co., from Dothan, Ala., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Weight 16 Ozs. Domco Fine Quality Peanut Butter Made by Dothan Oil Mill Co. Dothan, Ala."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

It was alleged to be misbranded in that the statement "Net Wt 16 Ozs" 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 April 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28912. Misbranding of canned peas. U. S. v. 56 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. No. 41968. Sample No. 11778-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 16, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 56 cases of canned peas at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about February 25, 1938, from Thurmont, Md., by Frederick