

On December 30, 1937, and February 28, 1938, the United States attorneys for the District of Nebraska and the District of Wyoming, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 139 cases of canned cherries at Scottsbluff, Nebr., and 31 cases of the product at Casper, Wyo., alleging that the article had been shipped in interstate commerce on or about August 30, 1937, from Roy, Utah, by Varney Canning Co., Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Valley Home Brand Red Sour Pitted Cherries Packed in Water. Packed for Nash Finch Co. Minneapolis, Minn."

It was alleged to be misbranded in that it was canned food and fell below the standard for fill of container promulgated by the Secretary of Agriculture for such canned food, and its label did not bear a plain and conspicuous statement indicating that such canned food fell below such standard.

On April 15 and 22, 1938, the Varney Canning Co. having appeared as claimant and having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be relabeled.

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

**28925. Adulteration of canned salmon. U. S. v. Hydaburg Fisheries, Inc. Plea of guilty. Fine, \$200 and costs. (F. & D. No. 39464. Sample Nos. 23629-C, 23677-C, 23638-C, 23712-C, 29282-C.)**

This product was in whole or in part decomposed.

On June 14, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Hydaburg Fisheries, Inc., Seattle, Wash., alleging shipment by said defendant in violation of the Food and Drugs Act on or about September 6 and August 26, 1936, from the Territory of Alaska into the State of Washington of quantities of canned salmon which was adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 4, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$200 and costs.

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

**28926. Adulteration and misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Consent decree of condemnation. Product released under bond for destruction of adulterated portion and relabeling of remainder. (F. & D. No. 41942. Sample No. 16810-D.)**

One of these two lots of potatoes was seriously damaged by net necrosis, and both lots fell below their labeled grades because of excessive defects.

On or about March 11, 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 400 sacks of potatoes at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about March 4, 1938, from Dover-Foxcroft, Maine, by M. A. Sanborn Co., and charging that a portion of them were adulterated and that all of them were misbranded in violation of the Food and Drugs Act.

The said portion 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 statements, "U. S. No. 1 Size B" and "U. S. Commercial," borne on the tags, were false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. grade No. 1 and U. S. Commercial, respectively.

On March 17, 1938, Melvin A. Sanborn of Dover-Foxcroft, Maine, 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 the potatoes tagged "U. S. No. 1 Size B" be relabeled, and that the potatoes tagged "U. S. Commercial" be destroyed or sold as animal food.

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