

On September 6, 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 10 cartons of peanuts at Hammond, La.; alleging that the article had been shipped on or about August 1, 1938, by Planters Nut & Chocolate Co. from Memphis, Tenn.; and charging adulteration in violation of the Food and Drugs Act.

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

On November 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**29695. Misbranding of olive oil. U. S. v. 34 Gallons of Olive Oil. Default decree of condemnation and destruction.** (F. & D. No. 44077. Sample Nos. 26505-D, 26508-D.)

This product was short of the declared volume.

On October 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 34 gallons of olive oil at New Brunswick, N. J.; alleging that the article had been shipped in interstate commerce, on or about July 27, 1938, by Antonio Corrao, from New York, N. Y.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "One Gallon Net Madre Sicilia Olive Oil \* \* \* Sicilian Olive Oil Importing Co."

It was alleged to be misbranded in that the statement "One Gallon Net" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short volume; 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 November 3, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**29696. Adulteration of apple butter. U. S. v. 44 Cases of Apple Butter. Default decree of condemnation and destruction.** (F. & D. No. 43986. Sample No. 31292-D.)

This product contained rodent hairs.

On September 28, 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 44 cases of apple butter at Johnstown, Pa.; alleging that the article had been shipped in interstate commerce on or about August 2, 1938, by Old Virginia Packing Co., Inc., from Front Royal, Va.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Old Virginia Superior Quality Pure Apple Butter."

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

On November 3, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**29697. Adulteration of apples. U. S. v. 55 Bushels of Apples. Consent decree of condemnation with provision for release for removal of deleterious substances.** (F. & D. No. 44243. Sample No. 32187-D.)

This product was contaminated with arsenic and lead.

On September 30, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 55 bushels of apples at Munster, Ind.; alleging that the article had been shipped in interstate commerce on or about September 20, 1938, from Benton Harbor, Mich., by Walter L. Mills to himself at Munster, Ind.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "R. P. Myers R-2 Benton Harbor, Mich."

The article 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.

On November 10, 1938, Raymond P. Myers, Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered with the provision that after removal of the poisonous and deleterious ingredients under the supervision of this Department, the claimant be permitted to use and to dispose of the product.

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

**29698. Adulteration and misbranding of macaroni products. U. S. v. 120½ Cases of Spaghetti, et al. Default decree of condemnation. Portion ordered delivered to a charitable organization; remainder ordered destroyed.** (F. & D. No. 42982. Sample Nos. 10436-D to 10439-D, inclusive.)

These products were made from wheat flour and were colored with a yellow color which gave them the appearance of macaroni products made from semolina. Two lots also were short weight.

On or about July 7, 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 a libel praying seizure and condemnation of 399 cases of macaroni products at Jacksonville, Fla.; alleging that the articles had been shipped in interstate commerce on or about May 14, 1938, by Cox's Warehouse from Atlanta, Ga.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. Portions were labeled in part: "Tampa-Maid Brand Spaghetti [or "Macaroni"] \* \* \* Ferlita Macaroni Co. Inc., Tampa, Florida." The remainder were labeled in part: "Vittoria Brand [or "Ferlita Brand"] \* \* \* Manufactured by Ferlita Macaroni Co. Inc. Tampa, Florida."

All lots were alleged to be adulterated in that they were mixed and colored in a manner whereby inferiority was concealed.

The Vittoria brand was alleged to be misbranded in that the Italian phrase "Pasta Di Semola Superiore Qualita," borne on the label, was misleading and tended to deceive and mislead the purchaser since it implied that the article was made of semolina. The Tampa Maid brand was alleged to be misbranded in that the statement "6 Ozs. Net When Packed," borne on the label, 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 contents was not plainly and conspicuously marked on the outside of the packages, since the statement made was incorrect.

On October 4, 1938, no claimant having appeared, judgment of condemnation was entered and it was ordered that the portions found suitable for food (226½ cases) be delivered to a charitable institution, and the remainder destroyed.

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

**29699. Misbranding of canned peas. U. S. v. 21 Cases of Canned Peas. Default decree of condemnation. Product ordered delivered to charitable institutions.** (F. & D. No. 44122. Sample No. 41700-D.)

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

On October 10, 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 21 cases of canned peas at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about October 28, 1937, by the Frederica Packing Co. from Frederica, Del.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Frederica Brand Early June Peas."

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 the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On November 1, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

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