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

City Packing Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Arctic Brand Early June Peas * * * Packed for Frederick City Packing Co. Frederick, Maryland."

It was alleged to be misbranded in that it was substandard, more than 25 percent of the peas being ruptured.

On April 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

28913. Misbranding of canned cherries. U. S. v. 408 Cases of Canned Cherries. Decree of condemnation and forfeiture. Product ordered released under bond for relabeling. (F. & D. No. 41501. Sample No. 2610-D.)

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

On or about January 26, 1938, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 408 cases of red pitted cherries at Lawton, Okla., alleging that the article had been shipped in interstate commerce on or about August 5, 1937, by H. C. Hemingway & Co. from Lockport, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Schuyler Pitted Red Cherries in Water Distributed By H. C. Hemingway & Co. Auburn N. Y."

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 it contained more than 1 cherry pit per 20 ounces of net contents, and the label on the package did not bear a plain and conspicuous statement, as prescribed by the Secretary of Agriculture, to the effect that it fell below such standard.

On February 1, 1938, H. C. Hemingway & Co., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled in compliance with the law.

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

28914. Adulteration of canned clams. U. S. v. 7 Cases of Canned Clams. Default decree of condemnation and destruction. (F. & D. No. 41498. Sample No. 964-D.)

This product was sour and decomposed.

On January 24, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of canned clams at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about October 29, 1937, by Brown & Hart Packing Co. from Millbridge, Maine, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "B & H Brand Fancy Clams * * * Packed By Brown & Hart Packing Co. Millbridge, Maine."

It was alleged that the article was adulterated in that it consisted in whole or in part of a decomposed animal substance.

On February 23, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

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

28915. Adulteration of whitefish. U. S. v. 3 Boxes of Whitefish. Default decree of condemnation and destruction. (F. & D. No. 41505. Sample No. 288-D.)

This product was infested with parasitic worms.

On January 21, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three boxes of whitefish at Los Angeles, Calif., alleging that the article had been shipped on or about January 13, 1938, by Selkirk Fish Co. from Winnipeg, Canada, 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 animal substance.

On February 25, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

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