

information against the H. J. McGrath Co., Baltimore, Md., alleging shipment in violation of the Food and Drugs Act by said company, on or about August 17, 1936, and January 19, 1937, from the State of Maryland into the States of Ohio and Pennsylvania of quantities of tomato paste which was adulterated and misbranded. The article was labeled in part: (Cans) "Champion Brand * * * The H. J. McGrath Company Baltimore, Md., U. S. A. Distributors."

It was alleged to be adulterated in that a substance deficient in tomato solids had been substituted for tomato paste, which it purported to be. One lot was alleged to be adulterated further in that it consisted in whole and in part of a decomposed vegetable substance.

The article was alleged to be misbranded in that the statements "Tomato Paste * * * Salsa di Pomodoro," together with the design and device of a scene from Naples on the label, were false and misleading and were borne on the label so as to deceive and mislead the purchaser since they represented that the article was tomato paste of foreign origin; whereas it was not tomato paste but was a product deficient in tomato solids, and was not of foreign origin, but was produced in the United States of America.

On November 19, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of \$50 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28451. Adulteration of candy. U. S. v. 10 Barrels of Chocolates and 9 Barrels of Hard Candies. Default decree of condemnation and forfeiture. Order of destruction. (F. & D. No. 40612. Sample No. 58590-C.)

This product contained foreign material, such as sticks, splinters, bits of paper, and nondescript filth.

On October 28, 1937, 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 10 barrels of chocolates and 9 barrels of hard candies at Camden, N. J., alleging that the article had been shipped in interstate commerce on or about October 13, 1937, by S. F. Whitman & Son, Inc., from Philadelphia, Pa., and charging adulteration 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.

On December 20, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28452. Misbranding of canned peas. U. S. v. 7,200 Cases of Canned Peas. Decree of condemnation. Product released under bond, the substandard portion to be relabeled. (F. & D. No. 40420. Sample Nos. 58604-C, 67477-C.)

A part of this product fell below the standard for canned peas established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On October 4, 1937, 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 7,200 cases of canned peas at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce between the dates of June 12 and June 28, 1937, inclusive, by Phillips Sales Co., from Newark, Del., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Phillips Delicious Early June Peas * * * Packed by Phillips Packing Co., Inc., Cambridge, Md."

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, more than 25 percent being ruptured and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On December 13, 1937, Phillips Sales Co., having appeared as claimant, judgment of condemnation was entered, and it was ordered that the product be released to the claimant under bond conditioned that the substandard portion be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*