

On January 6, 1938, Phillips Sales Co., Inc., claimant, having admitted the allegations of the libel, judgment was entered ordering release of the product under bond to be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

28568. Misbranding of canned peas. U. S. v. 98 Cases of Canned Peas. Default decree of condemnation. Product delivered to charitable institution. (F. & D. No. 41272. Sample No. 37764-C.)

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

On December 29, 1937, 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 98 cases of canned peas at Mount Vernon, N. Y., alleging that the article had been shipped in interstate commerce on or about July 16, 1937, by the Phillips Commission Co. per Nuttle Canning Co., from Denton, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Nuttle Brand Early June Peas, Packed by Nuttle Canning Company, Denton, 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, since the peas were not immature, it contained excess foreign material, and its package or label did not bear a plain or conspicuous statement prescribed by the regulations of this Department indicating that it fell below such standard.

On January 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

W. R. GREGG, *Acting Secretary of Agriculture.*

28569. Misbranding of candy. U. S. v. 45 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. No. 41087. Sample No. 61246-C.)

This product was artificially colored and flavored, and it contained sulphur dioxide. It also was short weight.

On December 22, 1937, 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 45 boxes of candy at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about November 6, 1937, by the Puritan Chocolate Co. from Cincinnati, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Box) "Chocolate Cherry Cobbler The Puritan Chocolate Co., Cincinnati, Ohio."

It was alleged to be misbranded in that the labeling was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing artificial coloring, artificial flavor, and sulphur dioxide, which was not declared. It was alleged to be misbranded further in that the statement "Net Weight 2 Oz. or Over," borne on the wrapper, 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 wrapper, since the statement of contents was not correct and the wrapper was folded in such manner that the statement was covered.

On January 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28570. Misbranding of candy. U. S. v. 8 Cases of Candy. Default decree of condemnation and destruction. (F. & D. No. 41194. Sample No. 50583-C.)

The net weight of this product was less than that claimed in the contents statement that was inconspicuously placed on the bottom of the box.

On December 22, 1937, 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 eight cases of candy at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about November 22 and December 3, 1937, by Head Candies, Inc., from Atlanta, Ga., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Wrapper) "Head Candies, Inc. Atlanta Peanut Brittle 10 Ounces Net Weight."