

28755. Misbranding of canned tomatoes. U. S. v. 49 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 41646. Sample No. 794-D.)

This product was substandard because it was not normally colored and was not labeled to indicate that it was substandard.

On February 12, 1938, the United States attorney for the Western District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 49 cases of canned tomatoes at Greer, S. C., alleging that the article had been shipped in interstate commerce on or about January 10, 1938, from Dandridge, Tenn., by Bush Bros. & Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Bush Bros. & Co., Canners and Distributors, Dandridge, Tenn."

The article 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 was not normally colored and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard. It was alleged to be misbranded further in that the statement on the cans, "Bush's Best Tomatoes * * * Extra Quality Canned Foods," was false and misleading and tended to deceive and mislead the purchaser.

On February 28, 1938, the claimants 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 delivered to a charitable institution.

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

28756. Adulteration of walnut meats. U. S. v. 168 Bags and 7 Bags of Walnut Meats. Default decree of condemnation and destruction. (F. & D. No. 41480. Sample No. 8995-D.)

This product was in whole or in part rancid and insect-infested.

On January 28, 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 175 5- and 10-cent bags of walnut meats at Hammond, Ind., alleging that the article had been shipped by the Queen Anne Candy Co. from Hammond, Ind., to Athens, Ohio, that it had been returned by the consignee, Charles D. Bill, on or about December 29, 1937, and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Quality Nut Meats * * * Queen Anne Products Corp., Hammond, Ind."

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

On March 8, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

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

28757. Misbranding of canned peas. U. S. v. 191 Cases of Canned Peas. Decree of condemnation and forfeiture. Product ordered released under bond for relabeling. (F. & D. No. 41335. Sample Nos. 66224-C, 66229-C.)

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 January 5, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 191 cases of canned peas at Mountain Lake Park, Md., in possession of the Mount Airy Canning Co., alleging that the article had been shipped in interstate commerce on or about November 19, 1937, by the Buxton & Landstreet Co. from Thomas, W. Va., and charging misbranding in violation of the Food and Drugs Act. This shipment consisted of goods formerly shipped by the Mount Airy Canning Co. from Mountain Lake Park, Md., and returned to that firm. The article was labeled in part: "USB4 Brand Early June Peas * * * Burton Proctor & Son Distributors Preston, Md."

The libel alleged that the article was 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 the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that it fell below such standard.