

Sweet Peas [or "Garden Run Sweet Peas"] * * * Distributed by Ray-Maling Company, Inc. Hillsboro Oregon." The cherries were labeled in part: "Klipnockie Brand Water Pack Red Pitted Cherries * * * The Oneonta Grocery Co Oneonta, N. Y. Distributors."

The canned peas were alleged to be adulterated in that they consisted of a filthy vegetable substance, namely, peas that contained dead pea weevils.

Portions of the canned peas were alleged to be misbranded in that the statement "Garden Run Sweet Peas" was false and misleading and was borne on the labels so as to deceive and mislead the purchaser, since the article did not consist of garden run peas but consisted of peas of the largest size in the garden run of peas.

The canned cherries were alleged to be adulterated in that they consisted of a filthy vegetable substance, namely, cherries infested with maggots.

On January 17, 1938, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$750.

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

28972. Misbranding of canned peas. U. S. v. 362 Cartons of Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41346. Sample No. 55801-C.)

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 January 6, 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 362 cases of canned peas at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about November 27, 1937, by the Southern Packing Co., Inc., from Smithsburg, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Value Brand Early June Peas * * * Southern Packing Co. Inc. Baltimore, 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, in that the peas were not immature, 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 February 17, 1938, Southern Packing Co., Inc., Baltimore, Md., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

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

28973. Adulteration of tomato paste. U. S. v. 133 Cans of Tomato Paste (and 7 similar seizure actions). Tried to the court. Judgment for the Government. Decrees of forfeiture and destruction. (F. & D. No. 36142. Sample No. 15556-B.)

This product contained evidence of worm infestation.

On August 16, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court eight libels praying seizure and condemnation of 669 cases and 119 cans of tomato paste at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about July 19, 1935, from Harbor City, Calif., by Harbor City Food Corporation, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Campagnola Brand Tomato Paste * * * Harbor City Canning Co. Los Angeles, California."

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

On December 6, 1937, Harbor City Food Corporation having appeared as claimant, one of the cases was brought on for trial before the court without a jury upon a stipulation that the testimony introduced should apply equally to all the seizures. Decision was reserved until March 3, 1938, when the product was adjudged to be adulterated and the court handed down the following opinion:

MARIS, *District Judge*: "The United States has filed its libel in this case seeking the confiscation and condemnation under the Food and Drugs Act as amended, 21 U. S. C. A. § 1, et seq., of 133 cases, more or less, each containing 100 cans of