

29072. Misbranding of canned peas. U. S. v. 198 Cases and 248 Cases of Peas. Consent decree of condemnation with provision for release under bond for relabeling. (F. & D. Nos. 42080, 42081. Sample Nos. 19280-D, 19401-D.)

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 March 29, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 446 cases of canned peas at St. Paul, Minn.; alleging that the article had been shipped in interstate commerce on or about March 12, 1938, by the Oostburg Canning Co., from Oostburg, Wis.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Parade Brand [or "State Fair Brand"] * * * Packed By Oostburg Canning Co. Oostburg, Wisconsin."

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 and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On May 3, 1938, Midway Jobbing Co., St. Paul, Minn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, with provision for release of the product under bond conditioned that it be relabeled to comply with the law.

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

29073. Misbranding of canned tomatoes. U. S. v. 144 Cartons and 95 Cartons of Tomatoes. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 42097, 42098. Sample Nos. 8446-D, 8447-D.)

This product was substandard because it was slack-filled, and it was not labeled to indicate that it was substandard. Moreover, the cans contained less than the amount declared on the label.

On April 8, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 239 cartons of canned tomatoes at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about February 15, 1938, from Centerville, Ind., by the King-McCoy Canning Corporation; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Jane Addams Brand Tomatoes Net Wt. 1 Lb. 3 Oz. [or "Net Wt. 1 Lb. 12 Oz."] Packed For State Wholesale Grocers, Inc. Chicago, Ill."

It was alleged to be misbranded in that the statements, "Net Wt. 1 Lb. 3 Oz." and "Net Wt. 1 Lb. 12 Oz.," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were 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 packages, since the quantities stated were not correct. It was alleged to be misbranded further in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture, since it was slack-filled because of excessive headspace, and the packages or labels did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On May 6, 1938, King-McCoy Canning Corporation, claimant, 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 to comply with the law.

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

29074. Misbranding of canned peas. U. S. v. 341 Cases of Canned Peas (and 1 similar seizure action). Decrees ordering product released under bond for relabeling. (F. & D. Nos. 41553, 41692. Sample Nos. 1303-D, 1305-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 January 28 and February 11, 1938, the United States attorney for the Eastern District of Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 876 cases of canned peas at Richmond, Va.; alleging that the article had