

29849. Misbranding of canned peas. U. S. v. 2,710 Cases of Canned Peas. Product ordered released under bond conditioned that the substandard portion be relabeled. (F. & D. No. 44076. Sample No. 31287-D.)

This product was in whole or in part substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On October 5, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2,710 cases of canned peas at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce on or about July 11 and 13, 1938, by Phillips Sales Co., Inc., from Newark, Del.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "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, since 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 December 1, 1938, the Phillips Sales Co. having appeared as claimant and having admitted the allegations of the libel with the exception that claimant maintained that a portion of the goods, identified by certain codes, was not substandard, judgment was entered ordering that the product be delivered to claimant upon the filing of a bond, conditioned that any peas which graded standard be released and that those which graded substandard be relabeled.

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

29850. Adulteration of crab meat. U. S. v. 95 Pounds of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 44111. Sample No. 34072-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to contain evidence of the presence of filth.

On August 12, 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 95 pounds of crab meat at Baltimore, Md.; alleging that the article had been shipped on or about August 11, 1938, by Nandua Seafood Co. from Keller, Va.; 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 animal substance.

On September 16, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

29851. Adulteration and misbranding of butter. U. S. v. Dublin Creamery Co., Inc. Plea of guilty. Fine, \$100. (F. & D. No. 42585. Sample No. 23727-D, 23729-D.)

This product contained less than 80 percent of milk fat.

On November 8, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Dublin Creamery Co., Inc., Dublin, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about May 4, 1938, from the State of Texas into the State of Louisiana, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Ol' Fashund Roll Finest Creamery Butter * * * Distributors Wilson & Co."

It was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by act of March 4, 1923.

The article was alleged to be misbranded in that the statement "Butter," borne on the wrapper, was false and misleading since it was not butter as defined by said act.

On November 26, 1938, the defendant entered a plea of guilty and the court imposed a fine of \$100 and costs.

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