

15436. Adulteration of green split peas. U. S. v. 155 Bags * * *. (F. D. C. No. 28230. Sample No. 13422-K.)

LIBEL FILED: October 20, 1949, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 27, 1948, from Moscow, Idaho.

PRODUCT: 155 100-pound bags of green split peas at Philadelphia, Pa., in possession of Jacob Kauffman.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 7, 1949. Jacob Kauffman, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for denaturing and sale for nonhuman consumption, under the supervision of the Food and Drug Administration.

15437. Misbranding of canned peas. U. S. v. 351 Cases * * *. Tried to the court. Decree providing for release of portion of product and for condemnation and release under bond of remainder of product. (F. D. C. No. 21752. Sample No. 48831-H.)

LIBEL FILED: November 22, 1946, Eastern District of Texas.

ALLEGED SHIPMENT: On or about August 16, 1946, by Libby, McNeill & Libby, from Janesville, Wis.

PRODUCT: 351 cases, each containing 24 1-pound, 4-ounce cans, of peas at Beaumont, Tex.

LABEL, IN PART: "Happyvale Early June Peas * * * Emery Food Co., Chicago, Illinois, Distributors."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article was below standard in quality because of alcohol-insoluble solids in excess of 23.5 percent, the maximum permitted by the standard, and not labeled to indicate that it was substandard.

DISPOSITION: The Emery Food Co. having appeared as claimant and denied that the product was misbranded, the case came on for trial before the court on November 8, 1948, and was concluded on November 9, 1948. Judgment was entered condemning certain codes and ordering their release under bond for relabeling, and ordering the remaining codes released without bond. The decree contained the following findings by the court:

BRYANT, District Judge: "It appearing from the pleadings and evidence introduced that the shipment of 351 cases, more or less, of peas, each case containing 24 cans, and each can bearing a code number, such code number having been embossed on each can by the canner, such code numbers being 3P28C TFPN, 4P28C TFPN, 5P27C TFPN, 7P27C TFPN, and 8P27C TFPN, and the Court being of the opinion that those cans bearing the respective numbers set out herein, constitute separate articles of food, the Court finds that such shipment of 351 cases, more or less, of peas, is composed of five separate articles of food, each article of food being designated by the code number embossed on the respective cans;

"And it further appearing that the claimant has offered no evidence as to the quality of the peas contained in those cans bearing code number 5P27C TFPN, but that from the pleadings and evidence introduced by the libelant, a per-