

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 542, FOOD AND DRUGS ACT.

MISBRANDING OF CANNED TOMATOES AND CANNED PEAS.

(SHORT WEIGHT.)

On or about June 29, 1908, the Newburg Canning Company, Newburg, Ind., shipped from said city and State to Wichita, Kans., a consignment consisting of 285 cases of canned tomatoes.

On or about October 14, 1907, the Kewaunee Canning Company shipped from Kewaunee, Wis., to Wichita, Kans., 395 cases of canned peas.

Examination of samples of these products showed them to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and the report made that said products were liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Kansas.

In due course a libel was filed against the 285 cases of canned tomatoes and 395 cases of canned peas, charging said shipments and alleging that the products contained therein were misbranded, in that 285 cases of said tomatoes, each case containing 2 dozen cans, were labeled "2 doz. 3 lbs. Newburg Ideal Tomatoes. Packed by Dr. W. Wilson, successor to the Newburg Canning Co., Newburg, Indiana," which statement of weight was false because the said cases, instead of containing 2 dozen 3-pound cans, contained 2 dozen cans each of much less weight than 3 pounds, to wit, from 33 to 38 ounces each, including the weight of the can; that 145 cases of canned peas contained in said shipment were misbranded in that 80 cases were labeled, "2 doz. 2 lb. Pride of Kewaunee, Early June Peas, preserved with pure artesian water, Packed by Kewaunee Canning Co., Kewaunee, Wis.;" 41 cases were labeled "2 doz. 2 lb. Kewaunee Shore Selected, Sifted early June Peas. Preserved with pure artesian water. Packed by Kewaunee Canning Co., Kewaunee, Wis.;" 14

cases were labeled "2 doz. 2 lb. Kewaunee Shore Sweet Wrinkled Peas. Preserved with pure artesian water, packed by Kewaunee Canning Co., Kewaunee, Wis.;" and 10 cases were labeled "2 doz. 2 lb. Kewaunee Shore Selected Petit Pois peas, preserved with pure artesian water, packed by Kewaunee Canning Co., Kewaunee, Wis.," which statement of the weight of each and all of the aforesaid cans contained in said cases was incorrect, as said cases, and each of them, contained cans of much less weight than stated on said labels.

The libel also prayed seizure and condemnation of the aforesaid products for the reasons therein set forth.

On September 15, 1908, the Wichita Wholesale Grocery Company appeared as claimants, and, without denying the allegations of the libel, moved to discharge the property libeled. Whereupon the court ordered that proceedings be dismissed and the goods discharged and returned to the said claimant upon the execution of a bond by the said company, in the sum of one thousand dollars, conditioned that said articles should not be sold or otherwise disposed of contrary to the provisions of the act of Congress of June 30, 1906, or the laws of any State, Territory, or insular possession, and upon the payment on the part of said claimant of the costs of the action.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *July 29, 1910.*

