

Standards", whereas it should have been labeled to show that it was substandard.

On July 30, 1934, 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 149 cases of canned tomatoes at Chicago, Ill., alleging that the article had been shipped in interstate commerce, on or about June 14, 1934, by Lovett & Kirk, Inc., from Los Fresnos, Tex., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Los Fresnos Brand Fancy Hand Packed Tomatoes [or "Los Fresnos Brand Hand Packed Tomatoes Extra Standards"] * * * Packed by Los Fresnos Packing Co., Los Fresnos, Texas." An attempt was made to delete the words "Fancy" and "Extra Standards" by pencil or red crayon, but the attempt was not successful and they remained conspicuous on the label.

The article was alleged to be misbranded in that the statements on the labels, "Fancy" and "Extra Standards", were false and misleading and tended to deceive and mislead the purchaser, when applied to a substandard product. Misbranding was alleged for the further reason that the article was canned food, and fell below the standard or quality and condition promulgated by the Secretary of Agriculture, because of poor color and excessive peel, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On October 8, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

23176. Misbranding of canned peas. U. S. v. 650 Cases, et al., of Canned Peas. Consent decrees of condemnation. Product released under bond for relabeling. (F. & D. nos. 33163, 33164, 33392, 33393. Sample nos. 481-B, 482-B, 502-B, 503-B.)

These cases involved canned peas that showed the presence of an excessive proportion of hard or mature peas and were not labeled to indicate that they were substandard.

On August 8, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,650 cases of canned peas at Los Angeles, Calif. On September 1, 1934, a libel was filed (amended November 12, 1934) against 1,850 cases of canned peas at Los Angeles, Calif. It was alleged in the libels that the article had been shipped in interstate commerce, by the Phillips Packing Co., in part on or about June 16, 1934, from Baltimore, Md., and in part on or about July 14, 1934, from Cambridge, Md., and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Phillips Delicious Early June Peas * * * Packed by Phillips Packing Co., Inc., Cambridge, Md."

The libels charged that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because of the presence of excessive hard or mature peas and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On August 10 and November 14, 1934, the Phillips Sales Co., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered by the court 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.*

23177. Misbranding of apple butter. U. S. v. 15 Cases of Apple Butter. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 33176. Sample no. 679-B.)

Sample jars of apple butter taken from the shipment in this case were found to contain less than 1 quart, the volume declared on the label.

On August 9, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of apple butter at Seattle, Wash., alleging that the article had been shipped in interstate commerce, on or about July 25, 1934, from Portland, Oreg., and charging mis-