

the district court libels praying seizure and condemnation of 802 cartons and 50 cases of canned peas at Portland and Baker, Oreg., respectively, alleging that they had been shipped in interstate commerce in part on or about July 10, 1936, and in part on or about August 6, 1936, by the Idaho Canning Co., from Payette, Idaho, and charging adulteration and misbranding in violation of the Food and Drugs Act. A portion of the article was labeled: "Arrow Rock Brand Large Sweet Sifted Peas Size 5 * * * Packed and Guaranteed by Idaho Canning Co." The remainder was labeled: "Seven Peaks Brand June Peas * * * Packed by Idaho Canning Co. Payette and Wilder, Idaho."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

It was alleged to be misbranded in that the device of a circle borne on the label and intended to represent the exact size of the peas contained in the can, was false and misleading and tended to deceive and mislead the purchaser in that the said device represented that the peas in the can were only 10/32 inch in diameter; whereas they were approximately 13/32 inch in diameter.

On March 10 and April 9, 1937, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

27082. Adulteration and misbranding of canned tomato juice. U. S. v. 820, 57, and 38½ Cases of Canned Tomato Juice. Default decrees of condemnation and destruction. (F. & D. nos. 38899, 39006, 39023. Sample nos. 11693-C, 11694-C, 12192-C, 12831-C, 12833-C.)

This product contained excessive mold and a part of it was short in volume.

On December 31, 1936, January 28, and February 1, 1937, the United States attorneys for the Western District of Pennsylvania and the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 820 cases of canned tomato juice at North East, Pa., and 95½ cases of the product at Cleveland, Ohio. On January 5, 1937, the libel filed in the Western District of Pennsylvania was amended. The libels alleged that the article had been shipped in interstate commerce by North East Preserving Works, Inc., of North East, Pa.; that a portion had been shipped from Providence, R. I., to North East, Pa., on or about December 19, 1936; that the remainder had been shipped from North East, Pa., to Cleveland, Ohio, on or about October 6 and November 24, 1936; and that the article was adulterated and a portion also was misbranded in violation of the Food and Drugs Act as amended. One lot was labeled: "Fi-Na-St Pure Tomato Juice Distributed by First National Stores, Inc. Boston, U. S. A." The remainder was labeled: "North East Tomato Juice Contents 1 Qt. 1 Pt. 2 Fl. Oz. [or "Contents 1 Pt. 5 Fl. Oz."] * * * Packed by North East Preserving Works, Inc., North East, Penn."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

Misbranding was alleged with respect to a portion of the North East brand for the reason that the statement on the label, "Contents 1 Pt. 5 Fl. Oz.," was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short in volume; and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On March 11 and March 12, 1937, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

27083. Adulteration and misbranding of tomato soup and adulteration of tomato catsup. U. S. v. 119½ Cases of Tomato Soup and 600, 86, and 95 Cases of Tomato Catsup. Decrees of destruction. (F. & D. nos. 38900, 39069, 39153, 39368. Sample nos. 5243-C, 30088-C, 30122-C, 30243-C.)

These products contained filth resulting from the use of worm-infested fruit.

On January 5, 1937, 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 119½ cases of canned tomato soup at Duluth, Minn. On February 11, February 27, and April 13, 1937, libels were filed against 600 cases of tomato catsup at Kansas City, Mo., 86 cases at Lincoln, Nebr. and 95 cases at Fremont, Nebr. The libels alleged that

the articles had been shipped in various shipments in interstate commerce between the dates of July 29, 1936, and December 31, 1936, by the Vincennes Packing Corporation from Vincennes, Washington, and Seymour, Ind., and charging that they were adulterated and that the tomato soup also was misbranded in violation of the Food and Drugs Act. The articles were labeled variously: "Standby Tomato Soup * * * The Tomato Soup in this can is prepared from vine ripened tomatoes carefully selected, washed and trimmed Packed for Fine Foods, Inc., Seattle Wash. Minneapolis"; "Pickwick Brand Tomato Catsup * * * Distributed by Kansas City Wholesale Grocery Co. Kansas City, Mo."; "Black Bird Brand Catsup * * * Packed for H. P. Lau Co. Lincoln, Fremont, Nebr."

The articles were alleged to be adulterated in that they consisted wholly or in part of filthy vegetable substances.

The tomato soup was alleged to be misbranded in that the statement, "The tomato soup in this can is prepared from vine-ripened tomatoes, carefully selected, washed and trimmed", borne on the label, was false and misleading and tended to deceive and mislead the purchaser, in that the presence of worm-infested tomato pulp showed that the tomatoes were not "carefully selected, washed, and trimmed", but that they contained in part a filthy vegetable substance.

On February 24, April 12, April 21, and April 22, 1937, the H. P. Lau Co., claimant for the goods seized at Fremont, Nebr., having consented to the destruction of said lot and no claim having been entered for the remaining lots, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

27084. Adulteration of tomato paste. U. S. v. 9½ Cases and 12 Cases of Tomato Paste. Default decrees of condemnation and destruction. (F. & D. nos. 38902, 38947. Sample nos. 28456-C, 28624-C.)

This product contained excessive mold.

On January 4 and January 12, 1937, the United States attorney for the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 21½ cases of tomato paste at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce by the Gervas Canning Co., in part on or about October 16, 1936, from Forestville, N. Y., and in part on or about October 19, 1936, from Fredonia, N. Y., and charging adulteration in violation of the Food and Drugs Act. It was labeled in part: "Benito Brand * * * Tomato Paste packed by Stanley Packing Co., Inc., Forestville, N. Y."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On March 9, 1937, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

27085. Misbranding of canned bean soup, pea soup, and chicken broth. U. S. v. 10 Cases Each of Canned Bean Soup, Pea Soup, and Chicken Broth. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. nos. 38928, 38929, 38930. Sample nos. 29662-C, 29663-C, 29664-C.)

This case involved canned goods that were short in weight.

On January 13, 1937, 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 30 cases of canned goods at Seattle, Wash., alleging that the articles had been shipped in interstate commerce on or about December 19, 1936, by the Del Ray Corporation from San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Giffi Say Jiffy Condensed Bean Soup [or "Pea Soup" or "Chicken Broth"] Net Contents 10½ Fl. Oz."

The articles were alleged to be misbranded in that the statement "10½ Fl. Oz.", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to articles that were short in weight; and in that they were foods in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages since the quantity stated was not correct.