

culture, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by this Department indicating that it fell below such standard.

On December 7, 1939, Bruder & Zweil, Inc., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the labels be obliterated or destroyed and new labels describing the true nature of the product be affixed to each can.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31060. Misbranding of canned peas. U. S. v. 72 Cases of Peas. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. & D. No. 45596. Sample No. 77742-D.)

This product fell below the standard established by this Department since the peas were not immature, and it was not labeled to indicate that it was substandard.

On February 23, 1940, the United States attorney for the Eastern District of Pennsylvania filed in the district court a libel praying seizure and condemnation of 72 cases of canned peas at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about October 13, 1939, by the B. F. Shriver Co. from Westminster, Md.; and charging misbranding in violation of the Food and Drugs Act. It was labeled in part: (Cans) "Shriver Brand June Peas."

The article was alleged to be misbranded in that the peas were not immature and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 16, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31061. Misbranding of canned tomatoes with puree from trimmings. U. S. v. 379 Cases of Canned Tomatoes with Puree from Trimmings. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 45597. Sample No. 92374-D.)

This product was substandard because it did not consist of whole or large pieces, and it was not labeled to indicate that it was substandard.

On or about February 26, 1940, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed a libel against 379 cases of the above-named product at Jacksonville, Fla.; alleging that the article had been shipped in interstate commerce on or about December 29, 1939, by Norman L. Waggoner, Inc., from San Francisco, Calif.; and charging that it was misbranded in violation of the Food and Drugs Act. It was labeled in part: "Iona Tomatoes with Puree from Trimmings * * * The Great Atlantic and Pacific Tea Company Distributors."

Misbranding was alleged in that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it did not consist of whole or large pieces, 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 April 2, 1940, Norman L. Waggoner, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31062. Adulteration and misbranding of currant jelly and raspberry jam. U. S. v. 137 Cans of Currant Jelly and 187 Cans of Raspberry Jam. Default decree of condemnation and destruction. (F. & D. No. 39363. Sample Nos. 31251-C, 31252-C.)

The currant jelly contained less fruit juice and more sugar than standard jelly and contained added acid, pectin, and water. The raspberry jam contained less fruit and more sugar than standard jam and contained added pectin.

On April 12, 1937, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 137 cans of currant jelly and 187 cans of raspberry jam at Washington, D. C.; alleging that the articles had been shipped in interstate commerce on or about February 26, 1937, by the Sun Distributing Co., Inc., from Brooklyn, N. Y.; and charging misbranding

in violation of the Food and Drugs Act. The article was labeled in part: "Nature's Own Pure Currant Jelly [or "Raspberry Jam"] Manufactured by Fresh Grown Preserve Corp. Brooklyn, New York."

The currant jelly was alleged to be adulterated in that excess sugar, added acid, pectin, water, and ash material had been mixed and packed therewith so as to reduce or lower its quality; in that a mixture of fruit juice, sugar, acid, pectin, water, and ash material, containing less fruit juice and more sugar than jelly should contain, had been substituted for jelly; and in that the article had been mixed in a manner whereby its inferiority was concealed.

The raspberry jam was alleged to be adulterated in that excess sugar, added pectin, and ash material had been mixed and packed therewith so as to reduce or lower its quality; in that a mixture of fruit, sugar, pectin, and ash material containing less fruit and more sugar than jam should contain, had been substituted for jam; and in that the article had been mixed in a manner whereby its inferiority was concealed.

Misbranding was alleged in that the statements, "Pure Currant Jelly" and "Pure Raspberry Jam," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to articles resembling jelly and jam, but which contained less fruit than jelly and jam should contain. They were alleged to be misbranded further in that they were imitations of and were offered for sale under the distinctive names of other articles.

On June 21, 1938, the Sun Distributing Co., Inc., claimant, filed an answer denying that the products were adulterated and misbranded. On February 10, 1940, the case was set for hearing on March 5, 1940, and due notice thereof was served upon the claimant. No one appearing on behalf of the claimant at the hearing, the court entered the finding that the products were adulterated and misbranded as alleged in the libel. On March 20, 1940, judgment of condemnation was entered and the products were ordered delivered to various charitable institutions.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31063. Adulteration of tomato catsup, tomato puree, and tomato paste. U. S. v. Val Vita Food Products, Inc. Plea of guilty. Fine, \$1,500. (F. & D. No. 42790. Sample Nos. 20248-D, 20300-D, 20456-D, 20471-D, 20472-D, 20552-D, 28189-D, 39424-D, 39810-D, 39811-D, 39847-D, 40978-D, 44756-D, 50544-D, 50549-D, 50911-D, 62516-D, 62520-D, 37780-D.)

Samples of these products were found to contain worm fragments, insects, and insect fragments. Rodent hairs also were found in certain samples.

On February 7, 1940, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Val Vita Food Products, Inc., Fullerton, Calif., alleging shipment by said company in violation of the Food and Drugs Act, within the period from on or about April 9, 1938, to on or about January 15, 1939, from the State of California into the States of Nevada, Arizona, Oregon, Washington, Texas, New Jersey, and Alabama, of quantities of tomato catsup, tomato puree, and tomato paste that were adulterated. The articles were labeled in part, variously: "Val Vita Brand Tomato Catsup * * * Val Vita Food Products, Inc., Fullerton Calif."; "Monte Rio Brand Tomato Catsup * * * Orange County Cannery, Inc. Fullerton Calif."; "Val Vita Brand Tomato Puree * * * Orange County Cannery, Inc."; "Monte Rio Brand Tomato Catsup * * * Val Vita Food Products Inc."; "Val Vita Brand Tomato Paste * * * Val Vita Food Products Inc."; "Nation's Garden Brand Tomato Catsup * * * Packed for Fine Foods, Inc. Seattle Minneapolis."

The articles were alleged to be adulterated in that they consisted in whole or in part of filthy animal and vegetable substances, namely, tomato products containing worm fragments, insects, and insect fragments (and also rodent hairs that were found in certain samples). The information also charged violation of the Federal Food, Drug, and Cosmetic Act, reported in notice of judgment F. N. J. No. 629 published under that act.

On February 26, 1940, the defendant entered a plea of guilty to all counts and the court imposed a fine of \$100 on each of the first 15 counts, all of which involved violations of the Food and Drugs Act; and suspended imposition of fine on the remaining 3 counts, of which 2 involved violation of the Food and Drugs Act and 1 involved violation of the Federal Food, Drug, and Cosmetic Act.

GROVER B. HILL, *Acting Secretary of Agriculture.*