28865. Adulteration and misbranding of macaroni products. U. S. v. 365 Cartons of Macaroni Products (and 3 similar seizure actions). Default decrees of condemnation. Products ordered delivered to charitable institutions. (F. & D. Nos. 41530, 41548, 41583 to 41587, incl., 41700 to 41721, incl. Sample Nos. 7467–D to 7470–D, incl., 7472–D, 7476–D to 7497–D, incl., 7869–D, 8066–D, 8067–D.)

These products contained added yellow coal-tar color, simulating the appearance of egg noodles containing more eggs than was the case. One of the lots was short weight.

On January 25 and 26 and February 4 and 17, 1938, the United States attorneys for the Southern District of New York and the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 892 cartons and boxes and a number of separate packages of macaroni products in various lots at Paterson and Hoboken, N. J., and New York, N. Y., alleging that the articles had been shipped in interstate commerce on various dates between December 13, 1937, and January 20, 1938, from Wilkes-Barre, Pa., by Blue Ribbon Noodle Co. Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part, variously: "Conquista Brand [or "Blue Ribbon" or "Long's Best"] Pure Egg Noodles * * * Blue Ribbon Noodle Co. Inc., Wilkes-Barre, Pa."; "Halperson's Brand * * * Pure Egg."

The articles were alleged to be adulterated in that they were colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statements variously borne on the labels, "Pure Egg Noodles," "Canestro Pure Egg," "Pure Egg Noodles No artificial coloring," "Pure Egg No Coloring," and "Pure Egg Noodles No Coloring," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing added yellow coal-tar color—and, in the case of one lot—to articles deficient in eggs.

One of the lots was alleged to be misbranded further in that the statement, on the box, "Net Wt. 10 Lbs.," was false and misleading and tended to deceive and mislead the purchaser since the boxes contained less than 10 pounds; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously stated on the outside of the package since the quantity stated was not correct.

On various dates between February 23 and April 13, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to charitable institutions.

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

28866. Misbranding of canned peas. U. S. v. 465 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40230. Sample No. 44238–C.)

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

On or about September 4, 1937, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 465 cases of canned peas at Columbia, S. C., alleging that the article had been shipped in interstate commerce on or about July 7, 1937, from Baltimore, Md., by J. Langrall & Bro., Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maryland Chief Brand Early June Peas * * * Packed by J. Langrall & Bro. Inc., Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since the peas were not immature and more than 25 percent of them were ruptured, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On October 13, 1937, J. Langrall & Bro. Inc., having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

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