

26313. Adulteration of canned peas. U. S. v. 104 Cases of Canned Peas. Consent decree of condemnation and destruction. (F. & D. no. 87469. Sample no. 65055-B.)

This case involved canned peas that were infested with pea weevil.

On March 27, 1936, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 104 cases of canned peas at Spokane, Wash., alleging that the article had been shipped in interstate commerce on or about October 11, 1935, by the P. J. Burk Canning Co., from Athena, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Fresh Flavor Brand Peas * * * Packed by P. J. Burk Canning Company, Inc. Athena, Oregon."

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

On September 16, 1936, the P. J. Burk Canning Co., Milton, Oreg., having consented to the entry of a decree, judgment of condemnation was entered ordering that the product be destroyed.

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

26314. Adulteration of tomato puree. U. S. v. 317 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. no. 37474. Sample no. 65059-B.)

This case involved tomato puree that contained excessive mold.

On March 27, 1936, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 317 cases of tomato puree at Spokane, Wash., alleging that the article had been shipped in interstate commerce on or about October 7, 1935, by Seiter's, Inc., Post Falls, Idaho, and charging adulteration in violation of the Food and Drugs Act. The article was labeled "Vesta Brand Tomato Puree * * * Distributed by the McClintock-Trunkley Co. Spokane, Wash."

On December 8, 1936, 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.*

26315. Misbranding of chocolate malt. U. S. v. 24 Cases of Chocolate Malt. Default decree of condemnation and destruction. (F. & D. no. 37500. Sample no. 65207-B.)

This product was represented to be chocolate malt containing an appreciable amount of skim milk and eggs. Examination showed that it was a mixture of sugar, cocoa, and corn starch, containing little or no malt and no appreciable amounts of skim milk and eggs, and that it was short in weight.

On March 31, 1936, 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 24 cases of chocolate-flavored malt at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about February 4, 1936, by General Desserts Corporation, from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Wt. 7¼ Oz. Lovely Chocolate-Flavored Malt Lovely Chocolate Malt is a Pure Food Concentrate Containing Malt, Cane Sugar, Cocoa, Skimmed Milk and Eggs. * * * General Desserts Corp. New York, N. Y."

The article was alleged to be misbranded in that the statements on the labels, "Chocolate-Flavored Malt * * * Chocolate Malt * * * Containing Malt * * * Skimmed Milk and Eggs * * * "Net Wt. 7¼ Oz.", were false and misleading and tended to deceive and mislead the purchaser when applied to the product which was a mixture of sugar, cocoa, and cornstarch, containing little or no malt and no appreciable amount of skimmed milk and eggs and which was short in weight; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On September 24, 1936, 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.*