5222. Misbranding of canned peas. U. S. v. 398 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9779. Sample No. 736–F.)

On April 12, 1943, the United States attorney for the Northern District of Illinois filed a libel against 398 cases, each containing 24 cans, of peas at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about January 21, 1943, by the Lakeside Packing Co., from Sheboygan, Wis.; and charging that it was misbranded. The article was labeled in part: (Cans) "Waverly Brand Early Peas." The article was alleged to be misbranded in that it purported to be canned peas, a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below the standard since it was a smooth skin variety of peas and the alcohol-insoluble solids were more than 23.5 percent, the maximum permitted by the standard; and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On May 5, 1943, the Lakeside Packing Co. having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5223. Misbranding of canned peas. U. S. v. 400 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9700. Sample No. 36968–F.)

One code of this product was of a sweet variety and not early June peas as labeled, and the remaining codes were substandard.

On March 26, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 400 cases, each containing 24 cans, of peas at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about February 19, 1943, by F. O. Mitchell & Bro. from Perryman, Md.; and charging that it was misbranded. The article was labeled in part: (Cans) "Winner Brand Early June Peas Contents 1 lb. 4 Oz. * * * Packed for Royal Club Grocers, Inc., Richmond, Va."

A portion of the article was alleged to be misbranded in that the statement "Early June Peas," appearing on the label, was false and misleading as applied to peas of a sweet variety.

The remainder was alleged to be misbranded in that it purported to be and was represented as food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since it was a smooth skin variety of peas and the alcohol-insoluble solids in the container were more than 23.5 percent, the maximum permitted by the regulations; and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On April 12, 1943, Parker Mitchell, trading as F. O. Mitchell & Bro., having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5224. Misbranding of red peppers. U. S. v. 13 Cases of Red Peppers. Default decree of condemnation. Product ordered delivered to welfare organization. (F. D. C. No. 9881. Sample No. 44304–F.)

A portion of the jars, about half, bore no quantity of contents statement; the remainder were labeled "2½ Oz. Net." The average weight of the contents of the jars was 1.11 ounces.

On or about May 6, 1943, the United States attorney for the District of New Jersey filed a libel against 13 cases of red peppers at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about January 21, 1943, by Randall Wine Vinegar, Inc., from Bronx, N. Y.; and charging that it was misbranded. The article was labeled in part: (Jars) "Eldeen Brand Crushed Red Peppers Packed By Eldeen Spice Co. New York."

The article was alleged to be misbranded (1) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; and (2) in that the statement "2½ Oz. Net," borne on some of the jars, was false and misleading as applied to an article that was short-weight.

On June 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a welfare organization.