

The articles were alleged to be misbranded in that they were offered for sale under the distinctive names of other articles in that the jar labels bore the statements, "Pure * * * Blackberry Jam," "Pure * * * Cherry Jam," "Pure * * * Raspberry Jam," and "Pure * * * Damson Plum Jam;" that the aforesaid statements on the labels were false and misleading; that said statements were applied to articles which were not jams but which bore a resemblance to jams so as to deceive and mislead the purchaser; that the articles contained a smaller proportion of fruit than jams should contain; and that the deficiency of fruit was concealed by the addition of a larger proportion of sugar than is contained in jams, and, in some instances, added acid, and in others, added acid and pectin.

On June 25, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$180 of which payment of \$130 was suspended.

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

27661. Misbranding of canned peas. U. S. v. 98 Cases of Canned Peas (and 6 other seizure actions against the same product). Decrees of condemnation. All lots but one released under bond to be relabeled. Remaining lot ordered destroyed. (F. & D. Nos. 39079, 39086, 39087, 39088, 39543, 39877, 39878. Sample Nos. 20335-C, 20336-C, 20337-C, 20373-C, 20514-C, 21147-C, 21148-C.)

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

On February 15, 1937, the United States attorney for the District of Rhode Island, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 312 cases of canned peas at Providence, R. I. On or about April 30 and June 21, 1937, libels were filed against 65 cases of canned peas at Boston, Mass.; 164 cartons of canned peas at Cambridge, Mass.; and 218 cartons of the product at Malden, Mass. The libels alleged that the article had been shipped in interstate commerce by A. W. Sisk & Son in various shipments on or about December 29, 1936, and January 12 and 19, 1937, from Baltimore, Md.; and on or about March 9, 1937, from Preston, Md., and charging misbranding in violation of the Food and Drugs Act. Portions of the article were labeled: (Cans) "Eventide Brand Early June Peas * * * Distributed by R. O. Dulin Preston, Md." The remainder was labeled: "Boyer's Early June Peas * * * W. W. Boyer & Co., Distributors, Baltimore, Md."

The article 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, since the peas were not immature—more than 25 percent being ruptured—and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On June 25, July 9, and July 27, 1937, A. W. Sisk & Son having appeared as claimant for the product covered by three of the four libels filed in the District of Rhode Island, and Roy E. Roberts, of Baltimore, Md., having appeared as claimant for the three lots seized in the District of Massachusetts, and said claimants having admitted the allegations of the libels, judgments of condemnation were entered, and the portions of the product that were claimed were ordered released under bond, conditioned that they be relabeled. On July 3, 1937, no claim having been entered in the remaining case in Rhode Island, the product seized (six cases) was condemned and destroyed.

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

27662. Adulteration of potatoes. U. S. v. 360 Sacks of Potatoes. Product released under bond to be relabeled. (F. & D. No. 39120. Sample No. 33522-C.)

This product, because of excessive grade defects, was below the grade declared on the label.

On February 23, 1937, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 360 sacks of potatoes at Cairo, Ill., alleging that the article had been shipped in interstate commerce on or about February 13, 1937, by the Wright Co. from Iola, Wis., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Sacks) "Wright County Wisconsin Potatoes, U. S. Grade No. 1."

It was alleged to be adulterated in that potatoes below United States grade No. 1 had been substituted wholly or in part for United States grade No. 1 potatoes, which it purported to be.