

City, N. J., alleging that the article had been shipped in interstate commerce on or about May 17, 1937, by the Highway Butter & Egg Co. from Indianapolis, Ind., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Yolks with approx. 10% Sugar."

The article was alleged to be adulterated in that a mixture of egg yolk, egg white, and sugar had been substituted wholly or in part for egg yolk and sugar, which it purported to be.

It was alleged to be misbranded in that the statement "Yolks with approx. 10% Sugar" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that contained excess egg white.

On July 1, 1937, the Highway Butter & Egg Co., Inc., claimant, 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 under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28098. Adulteration and misbranding of ground oats. U. S. v. Shawnee Milling Co. (a corporation, trading as Okeene Milling Co.). Plea of guilty. Fine, \$50 and costs. (F. & D. No. 39819. Sample No. 2082-C.)**

This product contained excess oat hulls and less protein and more fiber than declared.

On November 19, 1937, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Shawnee Milling Co., a corporation trading as the Okeene Milling Co., at Okeene, Okla., alleging shipment by said company on or about November 20, 1936, from the State of Oklahoma into the State of Texas of a quantity of ground oats that were adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "Ground Oats Manufactured by Hugo Milling Co., Hugo, Oklahoma."

The article was alleged to be adulterated in that excessive oat hulls had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength and had been substituted in part for ground oats, which it purported to be.

It was alleged to be misbranded in that the statements on the tag, "Ground Oats" and "Guaranteed Analysis Crude Protein not less than 10.00% Crude Fiber, not more than 11.00%," were false and misleading and were borne on the tag so as to deceive and mislead the purchaser since said statements represented that the article consisted wholly of ground oats and contained not less than 10 percent of crude protein and not more than 11 percent of crude fiber; whereas it consisted in large part of excessive oat hulls, and contained less than 10 percent of crude protein, namely, not more than 8.44 percent, and contained more than 11 percent of crude fiber, namely, not less than 21.54 percent.

On December 14, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28099. Misbranding of canned tomatoes. U. S. v. 316 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for re-labeling. (F. & D. Nos. 40130, 40131, 40132. Sample Nos. 43793-C, 43795-C, 43796-C.)**

This product was not normally colored and was not labeled to indicate that it was substandard. A portion was falsely labeled as to the State in which it was packed.

On August 27, 1937, the United States attorney for the Northern District of Florida, acting upon reports by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 316 cases of canned tomatoes in various lots at Quincy and Tallahassee, Fla., alleging that the article had been shipped in interstate commerce on or about June 9 and 17, 1937, from Thomasville, Ga., by Allen Packing Co., Inc., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the product was labeled in part: "Palm Beach Gardens Brand Tomatoes \* \* \* Allen Packing Co., Inc., Thomasville, Georgia." The remainder was labeled in part: "Palm Beach Brand Tomatoes \* \* \* Packed Fresh From the Sunny Fields of Florida Sunshine Canning Corporation, Pahokee, Florida, Distributors."

It was alleged that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it was not normally colored 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.

Further misbranding was alleged in that the statement appearing on one lot, "Packed Fresh From The Sunny Fields of Florida," was false and misleading and tended to deceive and mislead the purchaser when applied to tomatoes which were not packed in Florida, the statement being incorrect because the tomatoes were packed at Thomasville, Ga.

On October 20, 1937, Love & Hearin Co. and Higdon Grocery Co., of Quincy, Fla., and the Daffin Mercantile Co., of Tallahassee, Fla., claimants, 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 to conform with the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28100. Adulteration of blueberries. U. S. v. 5 Crates of Blueberries. Default decree of condemnation and destruction. (F. & D. No. 40133. Sample No. 21263-C.)**

This product contained maggots.

On August 5, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five crates of blueberries at Boston, Mass., consigned about August 5, 1937, alleging that the article had been shipped from Salisbury, Md., by Thomas Davis, and charging adulteration in violation of the Food and Drugs Act.

It was alleged that the article was adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On October 4, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28101. Misbranding of canned tomatoes. U. S. v. 344 Cases of Canned Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41302. Sample No. 3679-C.)**

This product was not normally colored and was not labeled to indicate that it was substandard.

On December 30, 1937, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 344 cases of canned tomatoes at London, Ky., shipped on or about September 22 and 29, 1937, alleging that the article had been shipped in interstate commerce by the Lewis Canning Co. from Ewing, Va., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Ritchie's Favorite Brand Hand Packed Tomatoes \* \* \* Packed by Barren Creek Canning Co., Tazewell Tenn. [or "Packed by A. B. Ritchie Canning Co. New Tazewell Tenn."]."

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, in that the tomatoes were not normally colored, 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 February 15, 1938, Mark Lewis, Tazewell, Tenn., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28102. Adulteration and misbranding of noodles. U. S. v. 369 Cartons of Noodles (and 1 other seizure action against the same product). Decrees of condemnation. A portion was delivered to a charitable agency; remainder destroyed. (F. & D. Nos. 40155, 40634, 40635. Sample Nos. 38233-C, 38254-C, 56996-C, 56997-C.)**

This product was labeled to indicate that it derived its coloring solely from egg yolks; whereas it contained an added color, annatto.

On August 20 and November 1, 1937, the United States attorneys for the Southern District of New York, acting upon reports by the Secretary of Agri-