

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-