

district court an information against the Saukville Canning Co., a corporation, Saukville, Wis., alleging shipment by said defendant in violation of the Food and Drugs Act on or about May 7, 1936, from the State of Wisconsin into the State of Illinois, of a quantity of tomato puree which was adulterated and misbranded. The article was labeled in part: "Wisconsin 'Way Ahead Tomato Puree Packed By Saukville Canning Co. Saukville, Wis."

It was alleged to be adulterated in that a product deficient in solids and insufficiently concentrated had been substituted in whole or in part for tomato puree, which it purported to be; and in that it consisted in whole or in part of a decomposed vegetable substance.

The article was alleged to be misbranded in that the statement "Tomato Puree," borne on the label, was false and misleading and was borne on the label so as to deceive and mislead the purchaser, since it represented that the article was tomato puree; whereas the article was not tomato puree but was an insufficiently concentrated product deficient in solids.

On May 20, 1938, a plea of nolo contendere having been entered in behalf of the defendant, the court imposed a fine of \$50.

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

29109. Misbranding of canned apricots and canned peaches. U. S. v. 10 Cartons of Apricots and 22 Cartons of Peaches. Decrees of condemnation. Canned peaches released under bond to be relabeled; canned apricots ordered destroyed. (F. & D. Nos. 41683, 41888. Sample Nos. 14897-D, 15143-D.)

These products were misbranded since they fell below the standard established by this Department, and they were not labeled to indicate that they were substandard. The canned apricots were misbranded further since they were labeled "Standard Apricots."

On February 14 and March 5, 1938, the United States attorneys for the Districts of Idaho and Montana, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 10 cartons of canned apricots at Twin Falls, Idaho, and 22 cartons of canned peaches at Butte, Mont.; alleging that the articles had been shipped in interstate commerce by the Pacific Fruit & Produce Co., the former on or about July 26, 1937, from Salt Lake City, Utah, and the latter on or about August 10, 1937, from Seattle, Wash.; and charging misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Perfection Brand Water Pack Standard Apricots Packed for H. D. Olson & Sons Ogden, Utah"; and "Wauna Brand Oregon Freestone Peaches * * * Packed By Gresham Berry Growers, Inc. Gresham, Oregon."

They were alleged to be misbranded in that they were canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food in the following respects: The peaches consisted of fruit the units of which were not of uniform size, were not in unbroken halves, and were packed in water; and the apricots did not consist of unbroken halves; and the packages or labels did not bear plain and conspicuous statements indicating that the said products fell below such standards. The apricots were alleged to be misbranded further in that the statement "Standard Apricots" was false and misleading and tended to deceive and mislead the purchaser when applied to a substandard article.

On June 14, 1938, no claimant having appeared for the apricots, judgment of condemnation was entered and they were ordered destroyed. On June 16, 1938, Gresham Berry Growers, Inc., Gresham, Oreg., claimant for the canned peaches, having admitted the allegations of the libel, judgment of condemnation was entered and the said product was ordered released under bond, to be relabeled under the supervision of this Department.

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

29110. Misbranding of canned cherries. U. S. v. 45 Cases of Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41655. Sample No. 2476-D.)

This product was short weight.

On February 9, 1938, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 45 cases of canned cherries at Kearney, Nebr.; alleging that the article had been shipped in interstate commerce on or about July 17, 1937, by Varney Canning, Inc., from Roy, Utah; and charging misbranding in violation of the Food and Drugs Act as amended. The article was

labeled in part: "Leota Brand Pitted Red Sour Cherries * * * Contents 1 Lb. 2 Oz. Varney Canning Co. Ogden Utah."

It was alleged to be misbranded in that the statement "Contents 1 Lb. 2 Oz." was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On June 2, 1938, the Kearney Grocery Co., Kearney, Nebr., and William Varney Canning Co., claimants, 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.*

29111. Adulteration of canned cherries. U. S. v. 90 Cases of Cherries. Default decree of destruction. (F. & D. No. 42130. Sample Nos. 16986-D, 16994-D.)

Samples of this product were found to contain maggots.

On April 7, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 90 cases of canned cherries at Richmond, Va.; alleging that the article had been shipped in interstate commerce on or about December 31, 1937, from Portland, Oreg., by the Walla Walla Canning Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Home Spun Brand Royal Anne Cherries * * * Phillips-Lewis Co., Inc. Distributors, Richmond."

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

On June 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

29112. Adulteration and misbranding of frozen egg yolks. U. S. v. 35 Cans of A-1 Yolks. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 42154. Sample No. 8113-D.)

This product contained added egg white.

On April 9, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 cans of egg yolks at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about December 1, 1937, from Detroit, Mich., by Frigid Food Products, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Frigid Food Products, Inc. * * * Detroit, Mich. * * * Yolks."

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

It was alleged to be misbranded in that the statement "Yolks" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that contained added egg white.

On May 28, 1938, Frigid Food Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

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

29113. Misbranding of canned blueberries. U. S. v. 200 Cases of Canned Blueberries. Consent decree of condemnation. Product released under bond to be correctly relabeled. (F. & D. No. 41581. Sample Nos. 7593-D, 7611-D.)

This product was short weight.

On or about February 2, 1938, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned blueberries at New Haven, Conn.; alleging that the article had been shipped in interstate commerce on or about October 27, 1937, by the Sargentville Packing Co., from Ellsworth, Maine; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Gold Coin Brand Blueberries Contents 6 Lbs. 12 Oz. * * * Packed by Sargentville Packing Co. Sargentville, Maine."