

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

On May 12, 1938, a plea of not guilty having been entered and a jury having been waived, the case was tried to the court. Judgment of not guilty was entered as to count 1 and guilty as to counts 2, 3, and 4. A fine of \$40 and costs was imposed on the second count, and imposition of sentence suspended on the third and fourth counts for a period of 3 years.

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

29371. Misbranding of canned tomatoes. U. S. v. 398 Cases and 99 Cases of Canned Tomatoes (and 1 similar seizure action). Consent decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 43172, 43173, 43278, 43279. Sample Nos. 23656-D, 23657-D, 23673-D, 23674-D.)

This product fell below the standard established by this Department because it was not normally colored, and it was not labeled to indicate that it was sub-standard.

On or about August 1 and 20, 1938, the United States attorney for the Western District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 994 cases of canned tomatoes at Logansport, La.; alleging that the article had been shipped in interstate commerce on or about July 2 and July 18, 1938, by E. R. Adams Canning Co. from Jacksonville, Tex.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled variously: "Del Rio Brand Peeled Tomatoes * * * Packed for E. R. Adams Canning Co. Jacksonville, Texas"; "Texas Queen Brand [or "Vine Fresh Brand Tomatoes"] * * * Packed for Longhorn Canneries, Inc. * * * Jacksonville, Texas."

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 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.

On August 22, 1938, the cases having been consolidated and E. R. Adams Canning Co., claimant, having admitted the allegations of the libels, 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.*

29372. Adulteration and misbranding of noodles. U. S. v. 200 Pounds of Noodles. Default decree of condemnation and destruction. (F. & D. No. 43049. Sample No. 29769-D.)

This product was deficient in egg solids and was artificially colored to simulate the appearance of noodles containing more egg than was the case.

On July 11, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 pounds of noodles at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about June 14, 1938, by Quong Chow Co. from Baltimore, Md.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "From Quong Chow Noodle Co. * * * Baltimore, Md."

It was alleged to be adulterated in that an artificially colored substance deficient in egg had been substituted in whole or in part therefor; and in that it was mixed and colored in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that it was an imitation of and was offered for sale under the distinctive name of another article, noodles.

On August 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

29373. Adulteration of butter. U. S. v. 12 Cubes and 13 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 43001. Sample No. 17844-D.)

This product contained less than 80 percent of milk fat.

On or about June 20, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed