had been shipped in interstate commerce in part on or about August 25, 1938, and in part on or about October 1, 1938, from Ogden, Utah; and charging misbranding in violation of the Food and Drugs Act. A portion of the article was labeled in part: "Smith Brand * * * Distributed by Smith Canning Company Clearfield, Utah." The remainder was labeled in part: "Gateway Brand * * * Perry Canning Co. Perry Utah Packers and Distributors."

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 there was present more than 1 cherry pit per 20 ounces of net contents and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 10, 1939, no claim having been entered, judgment of condemnation was entered and the product was ordered delivered to a welfare organization.

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

30138. Adulteration of tomato puree. U. S. v. 22 Cases and 7 Cases of Tomato Puree. Default decrees of condemnation and destruction. (F. & D. Nos. 44271, 44272. Sample Nos. 35664–D, 35665–D.)

This product contained excessive mold.

On November 2, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 29 cases of tomato puree at Springfield, Mass.; alleging that the article had been shipped in part on or about September 17, 1938, and in part on or about September 28, 1938, by Gervas Canning Co., Inc., from Fredonia, N. Y.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Gervas Brand Tomato Puree."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 13, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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

30139. Misbranding of canned cherries. U. S. v. 150 Cases of Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 44653. Sample No. 20372–D.)

This product was substandard because it was packed in water and a portion contained excessive pits, and it was not labeled to indicate that it was substandard.

On January 9, 1939, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 cases of canned cherries at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about November 16, 1938, by Producers Cooperative Packing Co. from Salem, Oreg.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Nature's Finer Flaver Brand Red Sour Pitted Cherries * * * Packed For M. A. Newmark & Co., Los Angeles, Calif."

It 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 packed in water and contained excessive pits, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 7, 1939, the Producers Cooperative Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled in compliance with the law.

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

30140. Adulteration of shrimp. U. S. v. 5,000 Pounds of Shrimp. Decree of condemnation. Product released under bond. (F. & D. No. 44647. Sample No. 20590–D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part decomposed.

On December 23, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in