

28071. Misbranding and alleged adulteration of butter. U. S. v. 37 Cases and 91 Cases of Butter. Decrees of condemnation. Product released under bond for reworking. (F. & D. Nos. 40254, 40274. Sample Nos. 35336-C, 35338-C.)

This product contained less than 80 percent by weight of milk fat.

On August 27 and September 1, 1937, the United States attorney for the Western District of Tennessee, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 128 cases of butter at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about August 20 and 26, 1937, from Bruce, Miss., by the Yorkshire Creamery Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "Riverdale Brand Creamery Butter"; or "Morrell's Yorkshire Farm Brand Creamery Butter."

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of Congress of March 4, 1923.

It was alleged to be misbranded in that the statement "Butter," on the label, was false and misleading since it contained less than 80 percent of milk fat.

On October 11, 1937, the Yorkshire Creamery Co., Bruce, Miss., and John Morrell & Co., Memphis, Tenn., claimants, having admitted that the product was deficient in milk fat, judgment was entered finding it misbranded and ordering that it be condemned and released under bond for reworking.

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

28072. Adulteration of apples. U. S. v. 32 Bushels of Apples. Default decree of destruction. (F. & D. No. 40270. Sample No. 35478-C.)

This product was contaminated with arsenic and lead.

On September 4, 1937, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 32 bushels of apples at Joplin, Mo., alleging that the article had been shipped in interstate commerce on or about August 31, 1937, by G. L. Maples from Bentonville, Ark., consigned to the Maples City Market, Joplin, Mo., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On December 29, 1937, no claimant having appeared, judgment was entered ordering that the product be destroyed.

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

28073. Misbranding of canned tomatoes. U. S. v. 200 Cases of Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 40282. Sample No. 41079-C.)

This product fell below the standard for canned tomatoes established by this Department because the tomatoes did not consist of whole or large pieces; and it was not labeled to indicate that it was substandard.

On September 11, 1937, the United States attorney for the Eastern District of Louisiana, 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 tomatoes at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about August 23, 1937, by Val Vita Food Products, Inc., of Fullerton, Calif., from Los Angeles Harbor, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Val Vita Brand Tomatoes with Puree from Trimmings Made from Whole Ripe Tomatoes * * * Val Vita Food Products, Inc. Distributors Fullerton, California."

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 did not consist of whole or large pieces; and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.