

district court a libel praying seizure and condemnation of 400 sacks of potatoes at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about January 5, 1938, by Paul Jackins, of Houlton, Maine, from Carys Mills, Maine, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement "U. S. No. 1," borne on the label, was false and misleading and tended to deceive and mislead the purchaser as applied to potatoes below U. S. Grade No. 1.

On January 17, 1938, the C. H. Robinson Co. having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond conditioned that it be regraded under the supervision of this Department.

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

**28477. Adulteration of cauliflower. U. S. v. 47 Crates of Fresh Cauliflower. Default decree of forfeiture and destruction.** (F. & D. No. 41153. Sample No. 64003-C.)

This product was contaminated with arsenic.

On November 29, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 47 crates of fresh cauliflower at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about November 10, 1937, by Frank Colacurcio & Co., of Seattle, Wash., from Portland, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Portland Rose Brand Cauliflower C. Taketa Distributor Portland Oregon."

It was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, arsenic, which might have rendered it injurious to health.

On December 21, 1937, no claimant having appeared, judgment of forfeiture was entered and it was ordered that the product be destroyed.

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

**28478. Adulteration and misbranding of butter. U. S. v. 5 Cartons of Butter. Default decree of condemnation and destruction.** (F. & D. No. 40622. Sample Nos. 55201-C, 55203-C, 55210-C.)

This product contained less than 80 percent of milk fat.

On October 18, 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 three cartons of butter at Springfield and two cartons of butter at Worcester, Mass., consigned on or about September 29, 1937, alleging that the article had been shipped in interstate commerce from Mitchell, S. Dak., by Armour Creameries, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Goldendale Creamery Butter Distributed by Armour Creameries."

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, which it purported to be, the act of March 4, 1923, providing that butter shall contain not less than 80 percent by weight of milk fat.

Misbranding was alleged in that the product was an imitation of and was offered for sale under the distinctive name of another article, butter.

On January 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**28479. Adulteration and misbranding of butter. U. S. v. Frye & Co. Plea of guilty. Fine, \$57 and costs.** (F. & D. No. 39783. Sample Nos. 33196-C, 33197-C, 33210-C, 36045-C.)

On December 17, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Frye & Co., a corporation trading at Seattle, Wash., alleging shipment by said company in violation of the Food and Drugs Act, on or about May 14 and 28 and June 11, 1937, from the State of Washington into the Territory of Alaska, of quantities of butter which was adulterated and misbranded. The article was labeled in part: "Mountain View Butter \* \* \* Frye and Company Packers and Provisioners."

It was alleged to be adulterated in that a product which contained 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 prescribed by the act of March 4, 1923, which the article purported to be.

Misbranding was alleged in that the statement "Butter," borne on the labels, was false and misleading since it represented that the article was butter, a product which should contain not less than 80 percent by weight of milk fat.

On January 10, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of \$57 and costs.

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

**28480. Misbranding of canned tomatoes. U. S. v. 478 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Article ordered released under bond for relabeling. (F. & D. No. 40229. Sample No. 44229-C.)**

This product was not normally colored, and it was not labeled to indicate that it was substandard.

On or about September 1, 1937, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 478 cases of canned tomatoes at Wadesboro, N. C., alleging that the article had been shipped in interstate commerce on or about August 2, 1937, by the Iodine Vegetable Cannery (R. L. Kirkwood) from Bennettsville, S. C., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Kirkwood Brand Tomatoes \* \* \* Packed by Iodine Vegetable Cannery Bennettsville, S. C."

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 the tomatoes were not normally colored and the 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 November 22, 1937, R. L. Kirkwood, trading as the Iodine Vegetable Cannery, 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 so as to comply with the Federal Food and Drugs Act.

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

**28481. Adulteration of canned shrimp. U. S. v. 195 Cases of Shrimp. Default decree of condemnation and destruction. (F. & D. No. 41673. Sample No. 16401-D.)**

This product was in whole or in part decomposed.

On February 10, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 195 cases of shrimp at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about September 8, 1937, by the Lone Star Fish & Oyster Co. from Corpus Christi, Tex., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Texas Star Brand Shrimp \* \* \* Packed by Lone Star Fish & Oyster Co."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 13, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**28482. Adulteration of flour. U. S. v. 9 Bags of Flour, et al. Default decree of condemnation and destruction. (F. & D. No. 40475. Sample Nos. 44088-C to 44091-C, incl.)**

This product was infested with weevils.

On or about October 13, 1937, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 113 bags of flour at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce on or about December 23, 1936, and May 21 and June 29, 1937, from New York, N. Y., by Hecker-Jones-Jewell Milling Division of the Standard Milling Co., and charging adulteration in violation of the Food and Drugs Act.