

On August 27, 1937, 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 197½ cases of canned cherries at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about July 8, 1937, by the Orrtanna Canning Co. from Orrtanna, Pa., and charging misbranding in violation of the Food and Drugs Act. One lot was labeled: (Can) "Pocahontas Brand Red Sour Pitted Cherries \* \* \* Packed for H. P. Taylor Jr, Inc. Sole Distributors Richmond, Va." The other lot was unlabeled but was invoiced "R. S. P. Cherries."

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 in both lots more than one cherry pit per 10 ounces of net contents and the cherries in one lot were packed in water; and the package or label did not bear a plain and conspicuous statement prescribed by the regulations of this Department indicating that it fell below such standard.

On September 21, 1937, the Orrtanna Canning Co., Orrtanna, Pa., having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released to the claimant under bond conditioned that it be relabeled in compliance with the law.

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

**27812. Adulteration and misbranding of butter. U. S. v. 36 Cubes of Butter. Decree of condemnation. Product released under bond. (F. & D. No. 40209. Sample No. 39046-C.)**

This product contained less than 80 percent of milk fat.

On August 2, 1937, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 36 cubes of butter at San Francisco, Calif., alleging that it had been shipped in interstate commerce on or about July 27, 1937, by the Lander Creamery Co. from Rawlins, Wyo., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lander Creamery Co Primrose Ice Cream 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.

The article was alleged to be misbranded in that the statement "Butter" was false and misleading and deceived the purchaser since it contained less than 80 percent of milk fat.

On August 13, 1937, Bennett & Layton, Inc., San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be reworked to the legal standard.

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

**27813. Misbranding of canned tomatoes. U. S. v. 198 Cases of Tomatoes. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 40215. Sample No. 44037-C.)**

This product fell below the standard for canned tomatoes established by this Department because it was not normally colored, and it was not labeled to indicate that it was substandard. It also was falsely labeled as to the name of the packer and place of manufacture.

On or about September 8, 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 198 cases of canned tomatoes at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce on or about July 21, 1937, by the Pomona Products Co. from Adel, Ga., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Royal King Brand Tomatoes \* \* \* Packed by Holloway Canning Co. Ft. Pierce, Florida."

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 the tomatoes were not normally colored, and the label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard. Misbranding was alleged for the further reason that the statement, "Packed By Holloway Canning Co. Ft. Pierce, Florida," was