

as "43" or "57" or "79." Use of such numbers indicates an intention of expressing with mathematical exactness the idea to be conveyed. That would be still more apparent if the representation was: "The protein content of the food stuff in this package is 43.3%." None would say that such a representation really means "about 43.3%."

I think the charge to the jury correctly stated the law.

The motion for a new trial should be and is overruled. It is so ordered.

On May 14, 1936, the court entered an order reducing the fine to \$100.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25879. Misbranding of cottonseed cake and meal. U. S. v. Temple Cotton Oil Co., a corporation. Plea of guilty. Fine, \$25. (F. & D. no. 36043. Sample nos. 33018-B, 33019-B.)**

This case involved shipments of cottonseed meal and cake that contained a smaller amount of protein than indicated on the label.

On December 2, 1935, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Temple Cotton Oil Co., a corporation, Little Rock, Ark., alleging that on or about June 11 and July 15, 1935, the said defendant had shipped from the State of Arkansas into the State of Kansas a number of sacks of cottonseed meal and cake, and that the article was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "100 Pounds Net [design of Indian] Quapaw Brand Cottonseed Meal—Cake Guaranteed Analysis Protein 43.00% \* \* \* Manufactured by Temple Cotton Oil Company, Little Rock, Ark."; "Equity Brand Cottonseed Cake & Meal \* \* \* Guaranteed Analysis Protein not less than 43%."

Misbranding was alleged for the reason that the statement "Protein not less than 43%", on the sack tag, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the article did not contain 43 percent of protein, but did contain less than 43 percent thereof.

On February 10, 1936, a plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$25.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25880. Adulteration of tomato puree. U. S. v. Riona Products Co., Inc. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 36052. Sample no. 30751-B.)**

This case involved a shipment of tomato puree that contained excessive mold.

On December 12, 1935, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Riona Products Co., Inc., trading at McAllen, Tex., alleging that on or about June 13, 1935, the defendant had shipped from the State of Texas to San Juan, P. R., a number of cans of tomato puree, and that the article was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Valley Rose Brand Tomato Puree \* \* \* Packed by Riona Products Co., Inc. McAllen, Texas."

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

On February 29, 1936, a plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$50 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25881. Adulteration of canned tuna. U. S. v. Franco-Italian Packing Co., Inc. Plea of guilty. Fine, \$75. (F. & D. no. 36068. Sample nos. 15878-B, 15881-B.)**

This case involved interstate shipments of canned tuna that consisted in part of a decomposed animal substance.

On December 27, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Franco-Italian Packing Co., Inc., having places of business at East San Pedro and Terminal Island, Calif., alleging that on or about May 31 and July 12, 1934, the defendant company sold and delivered a number of cans of tuna in cases to Haas, Baruch & Co., Inc., Los Angeles, Calif., under a guaranty that it complied with the Federal Food and Drugs Act, that the product was subsequently shipped on or about October 5,

1934, February 27, and April 22, 1935, from Los Angeles, Calif., into the State of Arizona, where it was sampled, and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Black & White Brand \* \* \* California Fancy Tuna \* \* \* Packed in Salad Oil, Haas, Baruch & Co., Los Angeles, Calif., Distributors."

The information alleged that the product was adulterated when shipped and delivered for shipment from Los Angeles, Calif., into the State of Arizona in that it was a product that consisted in part of a decomposed animal substance.

On April 28, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$75.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25882. Adulteration of butter. U. S. v. R. E. Cobb Co., a corporation. Plea of guilty. Fine, \$25. (F. & D. no. 36076. Sample no. 41040-B.)**

This case involved an interstate shipment of butter that was deficient in milk fat.

On February 4, 1936, the United States attorney for the District of North Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the R. E. Cobb Co., a corporation trading at Valley City, N. Dak., alleging shipment by said defendant in violation of the Food and Drugs Act as amended on or about September 4, 1935, from the State of North Dakota into the State of Minnesota of a quantity of butter labeled in part: "63 Pounds Net."

The article was alleged to be adulterated in that a substance deficient in milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat.

On July 24, 1936, the defendant entered a plea of guilty and the court imposed a fine of \$25.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25883. Adulteration of tomato paste. U. S. v. Uddo-Taormina Corporation and Anthony A. Taormina. Pleas of guilty. Fines, \$200 and costs. (F. & D. no. 36081. Sample nos. 38822-B, 42864-B.)**

This case involved an interstate shipment of tomato paste that contained excessive mold.

On or about May 11, 1936, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Uddo-Taormina Corporation and Anthony A. Taormina, trading at Donna, Tex., alleging that on or about June 30 and July 20, 1935, the said defendants had shipped from the State of Texas into the States of Louisiana and New York, respectively, a number of cans in cases of tomato paste, and that the article was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Naples Style Tomato Paste Salsa Di Pomodoro Prepared From Fresh, Ripe Tomatoes, Harmless Color and Sweet Basil Polly Brand Tipo Nap.oli Mfd. in U. S. A."

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

On June 11, 1936, pleas of guilty were entered on behalf of the defendants, and the court imposed a fine of \$100 and costs against each defendant.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25884. Adulteration and misbranding of Carlene's Imperial Champyne Americaine. U. S. v. 120 Bottles and 50 Bottles of Carlene's Imperial Champyne Americaine. Default decree of destruction. (F. & D. no. 36185. Sample no. 33036-B.)**

The labeling of this article bore misleading statements and a design falsely implying that it was champagne.

On August 28, 1935, 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 170 bottles of Carlene's Imperial Champyne Americaine at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about December 8, 1934, by the California Vineyards Co., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The shipment was made from Chicago, Ill. The article was labeled in part: (Bottle) "Carlene's Imperial Champyne Americaine"; (strip posters in shipping case) "Do you Like Champagne? Try Carlene's Imperial"; the invoice bore the statement, "Re-