20815. Misbranding of canned tomatoes. U. S. v. 800 Cases and 219 Cases of Canned Tomatoes. Product ordered released under bond to be relabeled. (F. & D. nos. 29619, 29656. Sample no. 21283-A.)

These cases involved an interstate shipment of canned tomatoes that contained excessive peel and excessive liquid. The article fell below the standard for canned tomatoes established by this Department and was not labeled to indicate that fact.

On or about December 12 and 19, 1932, the United States attorney for the Eastern District of New York, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States libels praying seizure and condemnation of 1,019 cases of canned tomatoes, remaining in the original packages at Brooklyn, N.Y., alleging that the article had been shipped in interstate commerce on or about September 6, 1932, by the Harbor City Canning Co., from Harbor City, Calif., to Brooklyn, N.Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Campagnola Brand Tomatoes with Puree from Trimmings. Packed by Harbor City Canning Co., Los Angeles, Cal."

It was alleged in the libels that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because of the presence of excessive peel and because of its low drained weight, and the labels did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard.

On January 20, 1933, Paolo Alonge & Bro., claimants, having admitted the allegations of the libels and having consented to the entry of decrees, judgments were entered ordering that the product be released to the claimant upon payment of costs and the execution of bonds totaling $2,000, conditioned that it be relabeled, "Below U.S. Standard, Low Quality But Not Illegal."

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20816. Adulteration and misbranding of butter. U. S. v. Red 73 Creamery, Inc. Plea of guilty. Fine, $25. (F. & D. no. 28196. I. S. no. 42942.)

This case was based on an interstate shipment of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On October 8, 1932, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States an information against the Red 73 Creamery, Inc., a corporation, Union City, Ohio, alleging shipment by said company in violation of the Food and Drugs Act, on or about February 3, 1932, from the State of Ohio into the State of Pennsylvania, of a quantity of butter that was adulterated and misbranded. The article was labeled in part: "Red 73 Company Country Roll Butter * * * Packed by Red 73 Creamery Co., Union City, Ind."

It was alleged in the information that the article was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as defined and required by the act of March 4, 1923.

Misbranding was alleged for the reason that the statement "Butter", borne on the packages, was false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since the statement "Butter" represented that the article contained not less than 80 percent by weight of milk fat as required by law, whereas it contained less than 80 percent of milk fat.

On February 18, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of $25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20817. Adulteration of butter. U. S. v. George William Woerlein (Groveport Creamery Co.). Plea of guilty. Fine, $10. (F. & D. no. 28199. I. S. nos. 43132, 43142.)

This case was based on the interstate shipment of two lots of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On October 22, 1932, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States an information against George William Woerlein,