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 peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On December 7, 1939, Bruder & Zweil, Inc., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the labels be obliterated or destroyed and new labels describing the true nature of the product be affixed to each can.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31057. Adulteration of tomato catsup. U. S. v. 227 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. & D. No. 45613. Sample No. 5470–D.)

Samples of this product were found to contain worm and insect fragments.

On July 6, 1939, the United States attorney for the Northern District of Texas filed a libel against 227 cases of tomato catsup at Dallas, Tex.; alleging that the article had been shipped in interstate commerce on or about March 31, 1939, by Val Vita Food Products, Inc., from Fullerton, Calif.; and charging that it was adulterated in that it consisted wholly or in part of a filthy substance. It was labeled in part: "Val Vita Brand Tomato Catsup * * * Orange County Canners, Inc. Fullerton, California."

On September 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31058. Adulteration and misbranding of butter. U. S. v. Otto Ernst Mertz (Edon Creamery). Plea of nolo contendere. Fine of $150 and costs. Payment of fine suspended upon payment of costs. (F. & D. No. 39762. Sample Nos. 25873–C, 33722–C, 33778–C, 33779–C.)

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

On November 16, 1937, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Otto Ernst Mertz, trading as the Edon Creamery at Edon, Ohio, alleging shipment by said company in violation of the Food and Drugs Act on or about December 19, 1936, and May 11 and June 3, 1937, from the State of Ohio into the State of Michigan, of quantities of butter which was adulterated and misbranded. The article was labeled in part: "Dellwood Creamery Butter."

Adulteration was alleged 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 by weight of milk fat as prescribed by the act of March 4, 1923.

Misbranding was alleged in that the statement "Butter," borne on the carton, was false and misleading and was borne on the said carton so as to deceive and mislead the purchasers since the article contained less than 80 percent by weight of milk fat.

On January 15, 1940, a plea of nolo contendere was entered on behalf of the defendant, and the court imposed a fine of $150 and costs; but suspended payment of the fine upon payment of the costs, which amounted to $20.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31059. Misbranding of canned peas. U. S. v. 85 Cases of Canned Peas. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 45565. Sample No. 69478–D.)

These canned peas were substandard because they were not immature, and they were not labeled to indicate that they were substandard.

On September 19, 1939, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 85 cases of canned peas at Providence, R. I.; alleging that the article had been shipped in interstate commerce on or about August 26, 1939, from Baltimore, Md., by Bruder & Zweil, Inc., in their own truck; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "J. M. Berry Brand Early June Peas * * * The H. J. McGrath Co. Baltimore Md., U. S. A. Distributors."

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 Agri-