

**31064. Adulteration of canned mackerel. U. S. v. 100 Cases of Canned Mackerel. Default decree of condemnation and destruction. (F. & D. No. 44106. Sample No. 33987-D.)**

This product was in whole or in part decomposed.

On October 13, 1938, the United States attorney for the Eastern 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 100 cases of canned mackerel at Zebulon, N. C.; alleging that the article had been shipped in interstate commerce on or about September 22, 1938, by Foote Bros. & Co. from Norfolk, Va.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sunset Brand California Mackerel Packed by Southern California Fish Corporation Los Angeles Harbor Calif."

Adulteration was alleged in that the article consisted wholly or in part of a decomposed animal substance.

On March 11, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**31065. Misbranding of canned tomatoes. U. S. v. 99 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond for relabeling. (F. & D. No. 45585. Sample No. 75570-D.)**

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

On January 11, 1940, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 99 cases, each containing 24 cans, of tomatoes at Alva, Ky.; alleging that the article had been shipped in interstate commerce on or about October 18, 1939, by Vannoy & Bailey from Tazewell, Tenn.; and charging that it was misbranded. The article was labeled in part: "Powell's Mountain Brand Hand Packed Tomatoes."

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 it was not normally colored, and its package or label did not bear a plain and conspicuous statement indicating that it fell below such standard.

On February 24, 1940, Vannoy & Bailey, claimants, having admitted that the product was misbranded and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered and it was ordered that the product be released to the claimants under bond, for relabeling.

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

**31066. Adulteration of butter. U. S. v. Lisbon Cooperative Creamery Co., Inc. Plea of nolo contendere. Fine, \$250 and costs. (F. & D. No. 42773. Sample No. 26878-D.)**

This product was found to be deficient in milk fat.

On November 20, 1939, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Lisbon Cooperative Creamery Co., Inc., DeWitt, Iowa, alleging shipment in interstate commerce on or about June 6, 1939, from DeWitt, Iowa, into the State of New York, of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a product that contained less than 80 percent by weight of milk fat had been substituted for butter, a product that should contain not less than 80 percent by weight of milk fat, as prescribed by law.

On April 2, 1940, a plea of nolo contendere having been entered on behalf of the defendant, a fine of \$250 and costs was imposed.

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

**31067. Misbranding of canned tomatoes. U. S. v. 223 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond for relabeling. (F. & D. No. 45589. Sample No. 75568-D.)**

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

On January 11, 1940, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 223 cases, each containing 24 cans, of tomatoes at Harlan, Ky.; alleging that the article had been shipped in interstate commerce on or about August 11, 1939, by the L. S. Sloat Canning Co. from