The article was alleged to be misbranded in that it purported and was represented to be a food for which a definition and standard of identity had been promulgated pursuant to law and it failed to conform to such definition and standard of identity since its soluble solids content was less than 43 percent and such regulation requires that the soluble solids content of apple butter be not less than 43 percent.

On October 12, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. Subsequently, on October 23, the order of destruction was changed to order the delivery of the article to charitable institutions.

4459. Misbranding of apple butter. U. S. v. 37 Cases and 50 Cases of Apple Butter. Default decree of condemnation and destruction. (F. D. C. No. 8567. Sample Nos. 14224–F, 14225–F.)

This product was insufficiently concentrated and was short weight.

On October 22, 1942, the United States attorney for the District of Arizona filed a libel against 37 cases, each containing 24 2-pound cans, and 50 cases, each containing 6 No. 10 cans, of apple butter at Phoenix, Ariz., alleging that the article had been shipped in interstate commerce on or about April 6, 1942, by the Delta County Canning Co. from Delta, Colo.; and charging that it was misbranded. The article was labeled in part: (Cans) "Town Talk * * * Apple Butter * * * Packed for The Stone-Hall Co., Denver, Colo.," or "Town Talk Apple Butter * * * Special Hotel Pack."

The article was alleged to be misbranded (1) in that the name "Apple Butter" was false and misleading since it did not comply with the definition and standard of identity for apple butter prescribed by regulations promulgated pursuant to law; (2) in that the statements, "Contents 2 lbs," and "Net Contents 7 lbs. 3 oz.," were false and misleading as applied to an article that was short weight; (3) in that it was food in package form and its label failed to bear an accurate statement of the quantity of the contents; and (4) in that it purported to be and was represented as a food which a definition and standard of identity had been prescribed by regulations promulgated pursuant to law and it failed to conform to such definition and standard since it had not been concentrated by heat to such point that the soluble solids content of the finished product was not less than 43 percent as required by such regulations.

On November 18, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MEAT AND POULTRY

4460. Adulteration of turkeys. U. S. v. Falls City Creamery Company. Plea of guilty. Fine of $50 plus costs. (F. D. C. No. 7703. Sample No. 77139–E.)

On October 23, 1942, the United States attorney for the District of Nebraska filed an information against the Falls City Creamery Co., a corporation, at Falls City, Neb. charging shipment on or about May 28, 1942 from the State of Nebraska into the State of Pennsylvania of a quantity of turkeys that were adulerated in that they consisted in whole or in part of decomposed substances, and in that they were in whole or in part the product of diseased animals.

On November 6, 1942, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $50 and costs.

4461. Adulteration of poultry. U. S. v. 102 Barrels of Poultry. Default decree of condemnation and destruction. (F. D. C. No. 8654. Sample No. 2333–F.)

On October 29, 1942, the United States attorney for the Northern District of Illinois filed a libel against 102 barrels of poultry at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 2, 1942, by the H. & H. Poultry Co., Inc., from Selbyville, Del.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Milk Fed Poultry Brooke Meadow."

On October 30, 1942, the H. & H. Poultry Co., the shipper, having disclaimed liability and having asserted that the condition of the product was the result of negligence of the railroad company, and having abandoned the product and no claim or answer having been filed, judgement of condemnation was entered and the product was ordered destroyed.