

destroyed, and that costs be assessed against the claimant. On December 12, 1935 and January 24, 1936, Libby, McNeill & Libby having withdrawn its claim for the lot seized at Walla Walla, Wash., and no claimant having appeared for the lot seized at Portland, Oreg., default decrees of condemnation were entered and the lots were ordered destroyed.

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

**25656. Adulteration and misbranding of whisky. U. S. v. 6 Cases of "Sherwood Bottled in Bond", et al. Default decree of condemnation. Product forfeited to United States. (F. & D. no. 36210. Sample no. 30149-B.)**

This case involved the interstate shipment of an alcoholic distillate that was an imitation of whisky.

On August 26, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6 cases of a product labeled in part, "Sherwood Bottled in Bond"; 9 quart bottles, more or less; of same, 1 case, more or less, containing 24 pint bottles; and 4 pint bottles, more or less, of the same product, at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about May 23, 1935, by the Sherwood Distilling & Distributing Co., from Baltimore, Md., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that, in the case of food, it was mixed with and colored by charred wood in a manner whereby inferiority was concealed; and in that an alcoholic distillate stored in charred wood but not obtained from grain had been substituted for whisky.

The article was alleged to be misbranded, in the case of food, in that the statement on the label, "Sherwood \* \* \* Bottled in Bond", was false and misleading and tended to deceive and mislead the purchaser, since it created the impression that the product was whisky; whereas it was not.

On February 17, 1936, no claimant having appeared, a decree of condemnation and forfeiture was entered and it was ordered that the product be turned over to the district supervisor of the Alcohol Tax Unit of the Treasury Department for disposition.

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

**25657. Adulteration of tomato paste. U. S. v. 303 Cases and 398 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. no. 36211. Sample nos. 28409-B, 28410-B.)**

This case involved a shipment of canned tomato paste that contained worm debris, i. e., small pieces of worms.

On August 23, 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 a libel, and subsequently an amended libel, praying seizure and condemnation of 701 cases of tomato paste at Houston, Tex., alleging that the article had been shipped in interstate commerce on or about May 29, 1935, by the Uddo-Taormina Corporation, from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Tomato Paste Giardiniera Brand [or "Flag Brand"] \* \* \* Packed by La Sierra Heights Canning Company, Los Angeles, California."

The amended libel charged that the article was adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 31, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

**25658. Adulteration of tomato paste. U. S. v. 1,000 Cartons and 494 Cases of Tomato Paste. Default decrees of condemnation and destruction. (F. & D. nos. 36267, 36281. Sample nos. 16051-B, 38820-B.)**

Samples of the tomato paste involved in these cases were found to contain worm debris.

On September 3 and September 7, 1935, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,000 cartons and 494 cases of tomato paste, respectively, at New Orleans, La., alleging that the article had been shipped on or about May 22 and August 16, 1935, by the Anaheim Canning Co., from Anaheim, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kitty Brand

Tomato Paste Color Added Net Contents Six Oz Packed By Glorioso Canning Co. Anaheim Cal."

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

On June 8, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the product be destroyed.

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

**25659. Adulteration and misbranding of butter. U. S. v. 15 Cartons of Butter. Default decree of condemnation and forfeiture providing for sale for rendering purposes.** (F. & D. no. 36295. Sample no. 31052-B.)

This product contained less than 80 percent by weight of milk fat, but was sold as and for butter.

On August 10, 1935, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cartons of butter at Scranton, Pa., alleging that the article had been shipped in interstate commerce, on or about July 3, 1935, by the Borden Produce Co., Inc., Kansas City, Mo., therefrom to Scranton, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Package) "Farmfield Solids"; (tag) "Cold Stg. PA.-237 Rec'd Jul 8 1935 8106"; (retail carton) "One Pound Net Weight Farmfield \* \* \* Fine Creamery Butter"; (parchment paper wrapped about butter) "Farmfield Fine Creamery Butter One Pound Net."

Adulteration of the product was charged under the allegation that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding of the article was charged under the allegation that the label bore the statement, to wit, "butter"; that the article contained less than 80 percent by weight of milk fat; and that the aforesaid statement was false and misleading.

On January 16, 1936, no claimant having appeared, a default decree of condemnation and forfeiture was entered, providing for sale at public auction for rendering purposes.

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

**25660. Adulteration of apples. U. S. v. 290 Bushels of Apples. Consent decree of condemnation. Product released under bond.** (F. & D. no. 36303. Sample no. 23333-B.)

Examination of the apples involved in this case showed the presence of lead and arsenic in amounts that might have rendered the article injurious to health.

On July 11, 1935, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 290 bushels of Oldenburg (Duchess) apples at Minneapolis, Minn., alleging that the article had been shipped on or about July 6, 1935, in interstate commerce by the F. H. Simpson Co., from Ozark, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or other deleterious ingredients, namely, lead and arsenic, which might have rendered it injurious to health.

On July 15, 1935, Phil Malat, claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the court ordered that the article be released to claimant under bond conditioned that the article be rewashed and reconditioned under the supervision of this Department.

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

**25661. Adulteration of tomato sauce. U. S. v. 145 Cases of Tomato Sauce, and other actions. Default decrees of condemnation and destruction.** (F. & D. nos. 36311, 36690, 87369. Sample nos. 16313-B, 32652-B, 52847-B.)

These cases involved canned tomato sauce, samples of which were found to contain rodent hairs and filth resulting from worm and insect infestation.

On or about September 9, December 21, 1935, and March 14, 1936, the United States attorneys for the Eastern District of Missouri and the District of Arizona, acting upon reports by the Secretary of Agriculture, filed in the respective district courts libels praying seizure and condemnation of 164 cases and 48 cans of tomato sauce at St. Louis, Mo., and 7 cases of the product at Flagstaff,