25260. Adulteration of tomato puree. U. S. v. 138 Cases, et al., of Eagle Brand Tomato Puree. Consent decree of condemnation and destruction. (F. & D. nos. 32995, 32996, 32997, 32998. Samples nos. 66358–A, 66359–A, 66361–A, 66362–A.)

These cases involved interstate shipments of tomato puree which was moldy and in whole or in part decomposed.

On June 26, 1935, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 426 cans of tomato puree at Mobile, Ala., alleging that the article had been shipped in interstate commerce on or about December 23, 1933, and February 24 and March 10, 1934, by Angelo Glorioso, from New Orleans, La., and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Eagle Brand Tomato Puree color added. Contents 4¾ ozs. net."

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

On October 14, 1935, Angelo Glorioso having appeared as claimant and having admitted the allegations of the libels and consented to decrees, judgments of condemnation and forfeiture were entered and it was ordered that the product be destroyed.

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

25261. Adulteration and misbranding of butter. U. S. v. Wilson E. Harris (Hoosier State Creamery). Plea of guilty. Fine, $5 and costs. (F. & D. no. 33766. Sample nos. 64367–A, 64371–A, 64372–A.)

This case was based on interstate shipments of butter that contained less than 80 percent of milk fat, and the packages of which were short in weight.

On October 17, 1934, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Wilson E. Harris, trading as Hoosier State Creamery, Rensselaer, Ind., charging shipment by said defendant in violation of the Food and Drugs Act, on or about February 15 and 26, 1934, from the State of Indiana into the State of Illinois, of quantities of butter which was adulterated and misbranded. The article was labeled: "Hoosier Maid Butter One Pound Net * * * 'Hoosier Maid' Butter is the finest that skill and modern methods can produce from select cream and is guaranteed to give satisfaction if kept in a cool place away from meats and vegetables Churned and Distributed by Hoosier State Creamery, Rensselaer, Indiana."

The article was alleged to be adulterated in that a product deficient in milk fat, that is, containing 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 Congress of March 4, 1923, which the article purported to be.

Misbranding of the article was alleged in that the statements, "Butter" and "One Pound Net", borne on the packages, were false and misleading, and in that the article was labeled so as to deceive and mislead the purchaser, since the statements, respectively, represented that the article was butter, that is, a product containing not less than 80 percent by weight of milk fat as prescribed by the act of Congress of March 4, 1923, and that the packages each contained 1 pound of the article; whereas in fact the article contained less than 80 percent by weight of milk fat, and each or nearly all of the packages contained less than 1 pound of the article. Misbranding of the article was alleged further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the contents of each or nearly all of the packages was less than 1 pound, the amount stated thereon.

On November 26, 1935, the defendant entered a plea of guilty and the court imposed a fine of $5 and costs.

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

25262. Adulteration of apples. U. S. v. Carl P. Helenbolt. Plea of guilty. Fine, $50. (F. & D. no. 33855. Sample no. 50502–A.)

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

On October 28, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Carl P. Helenbolt, a member of a partnership trading as J. J. Jackson & Son, Middleport, N. Y., alleging shipment by