29059. Adulteration of canned tomato puree. U. S. v. 938 Cases and 222 Cases of Tomato Puree. Consent decree of condemnation and destruction. (F. & D. Nos. 42182, 42183. Sample Nos. 15520–D, 15521–D.)

This product contained excessive mold.

On or about April 23, 1938, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,160 cases of tomato puree at Lawrence, Kans.; alleging that the article had been shipped in interstate commerce in part on or about September 24, 1937, and in part on or about February 9, 1938, by Columbus Foods Corporation from Columbus, Wis.; and charging adulteration in violation of the Food and Drugs Act.

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

On May 14, 1938, the Columbus Foods Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29060. Misbranding of canned tomatoes. U. S. v. 398 Cases of Tomatoes. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 42135. Sample No. 5421–D.)

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

On April 7, 1938, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 398 cases of canned tomatoes at Birmingham, Ala.; alleging that the article had been shipped in interstate commerce on or about September 20, 1937, by M. Schild & Co. from Winchester, Tenn.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Spring City Brand Hand Packed Tomatoes * * * M. Schild & Co. Dayton, Tenn."

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 prescribed by the Secretary indicating that it fell below such standard.

On May 31, 1938, no claimant having appeared, judgment of condemnation was entered, and the product was ordered delivered to a charitable institution for use as food, but not for sale.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29061. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 42365. Sample No. 16815–D.)

This product was below U. S. grade No. 1 because of excessive grade defects.

On May 11, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about May 5, 1938, from Dover-Foxcroft, Maine, by W. H. Martin, of Bangor, Maine; and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement "U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. grade No. 1.

On May 11, 1938, Wm. A. Scarlett & Co., Philadelphia, Pa., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29062. Adulteration of butter. U. S. v. 31 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 42889. Sample No. 21741–D.)

This product contained less than 80 percent of milk fat.

On May 3, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 31 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce