

ture, since more than 25 percent thereof were ruptured, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 4, 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.*

**25727. Misbranding of confectionery. U. S. v. 23 Boxes of Candy Bars. Default decree of condemnation and destruction. (F. & D. no. 37212. Sample no. 54102-B.)**

This case involved an interstate shipment of confectionery the packages of which were short in weight.

On February 17, 1936, 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 23 boxes of candy at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about December 18, 1935, by Diamant, Inc., from Chicago, Ill., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Twin Bars It's Ahead O'time So Distinctive 5¢ Milk Chocolate Roasted Nuts Net Weight 2 Oz. Diamant Inc. Chicago, Ill."

The article was alleged to be misbranded (a) in that the statement "Net Weight 2 Oz.", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to the packages of a product containing less than 2 ounces; and (b) in that the quantity of the contents of the package was not plainly and conspicuously marked on the outside thereof, since the quantity stated was not correct.

On March 11, 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.*

**25728. Adulteration and misbranding of Molaska Granul Molasses. U. S. v. 35 Bags of a Product labeled "Molaska Granul Molasses." Default decree of condemnation and destruction. (F. & D. no. 37217. Sample no. 8348-B.)**

This case involved an interstate shipment of an article, labeled "Molaska Granul Molasses", which contained ground cacao shells.

On February 15, 1936, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 bags of a product, labeled "Molaska Granul Molasses", at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 16, 1936, by the Drimolass Refining Corporation, from New York, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act.

The article was alleged to be adulterated (a) in that cacao shells had been mixed and packed with the article so as to lower, reduce, or injuriously affect its quality, and (b) in that cacao shells had been substituted in part for dried molasses, which the article purported to be.

The article was alleged to be misbranded in that the statement "Granul Molasses", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product containing cacao shells.

On March 23, 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.*

**25729. Adulteration and misbranding of tomato juice. U. S. v. 137 Cases and 90 Cases of Canned Tomato Juice. Default decree of condemnation and destruction. (F. & D. nos. 37223, 37224. Sample nos. 49345-B, 49346-B.)**

These cases involved interstate shipments of canned tomato juice which contained excessive mold and was in whole or in part decomposed, and the cans of which were short in volume.

On or about February 19, 1936, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 137 cases and 90 cases, respectively, of canned tomato juice at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about September 30 and November 9, 1935, by the Robinson Canning Co., from Siloam Springs,

Ark., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "King of Ozarks Brand Tomato Juice Contents 10 Fl. Oz. Packed by Robinson Canning Co. Robinson, Ark."

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

The article was alleged to be misbranded (a) in that the statement "Contents 10 Fl. Oz." was false and misleading and tended to deceive and mislead the purchaser; and (b) 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 stated was incorrect.

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.*

**25730. Adulteration of dried apples. U. S. v. 445 Sacks of Dried Apples. Consent decree of condemnation. Product released under bond for dehydrating. (F. & D. no. 37226. Sample no. 55657-B.)**

This case involved an interstate shipment of dried apples which were found to contain excessive moisture.

On or about February 25, 1936, 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 445 sacks of dried apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 18, 1935, by H. R. Gragg, from Palmyra, N. Y., and that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated (a) in that partially evaporated apples had been mixed and packed with the article so as to reduce, lower, or injuriously affect its quality; and (b) in that partially evaporated apples had been substituted in whole or in part for evaporated apples which the article purported to be.

On March 18, 1936, F. J. Van Dewater, claimant, having admitted the allegations of the libel and having consented to a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be dehydrated under the supervision of the Department of Agriculture.

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

**25731. Misbranding of apple butter. U. S. v. 70 Cases of Apple Butter. Consent decree of condemnation and forfeiture providing for release of the product under bond for relabeling. (F. & D. no. 37227. Sample no. 47739-B.)**

The weight of the contents of the container of this article was erroneously labeled.

On February 21, 1936, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 70 cases of apple butter at Fort Wayne, Ind., alleging that the article had been shipped in interstate commerce, on or about December 2, 1935, by Libby, McNeill & Libby, Chicago, Ill., from Blue Island, Ill., to Fort Wayne, Ind., charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Packed by Libby, McNeill & Libby, Chicago."

Misbranding of the article was charged (a) under the allegations that the label on the jars bore the statement, "Libbys Apple Butter Caramelized Sugar Added Net Weight One Lb. Ten Oz.", that the amount of apple butter by weight contained in each and all of the jars was substantially less in weight than 1 pound 10 ounces, that the said statement was false and misleading and tended to deceive and mislead the purchaser; and (b) that the article was food in package form and the contents thereof was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect, the quantity of the contents being substantially less than the amount declared.

On or about March 4, 1936, consent decree of condemnation and forfeiture was entered, providing for release of the product to the claimant, Libby, McNeill & Libby, for relabeling upon furnishing of bond in the sum of \$500.

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