9872. Adulteration of ice cream. U. S. * * * v. Lagomarcine-Grupe Co., a Corporation. Plea of guilty. Fine, $10 and costs. (F. & D. No. 14363. I. S. No. 9960-r.)

On April 22, 1921, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Lagomarcine-Grupe Co., a corporation, Davenport, Iowa, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about June 25, 1920, from the State of Iowa into the State of Illinois, of a quantity of a product invoiced as ice cream, which was adulterated.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, cocoanut oil, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in whole or in part for ice cream, which the article purported to be. Adulteration was alleged for the further reason that a valuable constituent of the said article, to wit, butter fat, had been abstracted in part therefrom.

On May 9, 1921, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of $10 and costs.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

9873. Misbranding of canned tomatoes. U. S. * * * v. 55 Cases * * * of Tomatoes. Decree ordering release of product under bond to be relabeled. (F. & D. No. 14369. I. S. No. 5926-t. S. No. E-3074.)

On January 29, 1921, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 55 cases, each containing 6 cans, of tomatoes, remaining in the original unbroken packages at Pittsburgh, Pa., alleging that the article had been shipped by the Preston Canning Co., Preston, Md., on or about November 1, 1920, and transported from the State of Maryland into the State of Pennsylvania, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Cans) "IXL Brand Tomatoes * * * Average Net Weight Of Contents 6 Pounds 7 Ozs. * * * Packed by Preston Canning Co., Preston, Md."

Misbranding of the article was alleged in substance in the libel for the reason that the labels on the cans containing the said article contained the statement, "Average Net Weight Of Contents 6 Pounds 7 Ozs.," which was false and misleading and deceived and misled the purchaser, since an examination of the said article showed it to be short weight. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package in terms of weight or measure.

On April 20, 1921, the Preston Canning Co., Preston, Md., having entered an appearance as claimant for the property and having filed an answer admitting that the facts set forth in the libel were true and praying leave to file a bond for the release of the product for the purpose of rebranding the same, it was ordered by the court that the said product be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of $100, in conformity with section 10 of the act, conditioned in part that the product be rebranded so as to correctly state the average net weight of the contents of the said cans.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*