27867. Misbranding of cocktail mixer. U. S. v. 35 Jugs of Cocktail Mixer. Default decree of condemnation and destruction. (F. & D. No. 40152. Sample No. 37547-C.)

This product was labeled to indicate that it was a fruitade base, whereas it consisted of an artificially colored citric-acid solution flavored with citrus oil and it contained little or no lemon juice.

On August 18, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 gallon jugs of cocktail mixer at Paterson, N. J., alleging that the article had been shipped in interstate commerce on or about August 9, 1937, by the Tavern Fruit Juice Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cardo Brand Cocktail Mixer Lemon Flavored Contains Fruit Juice, Fruit Acid, Flavor * * * Bottled exclusively for J. Cardillo & Sons Paterson, N. J."

It was alleged to be misbranded in that the name "Cocktail Mixer Lemon" prominently displayed and the statement "Contains Fruit Juice" were false and misleading and tended to deceive and mislead the purchaser when applied to an imitation lemon juice containing little or no lemon or other fruit juice; and in that it was an imitation of and was offered for sale under the distinctive name of another article, namely, lemon juice.

On September 27, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

27868. Misbranding of canned tomatoes. U. S. v. 98 Cases of Tomatoes. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40160. Sample No. 43677-C.)

This product fell below the standard established by this Department because it was not normally colored, and it was not labeled to indicate that it was substandard.

On or about August 21, 1937, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 98 cases of tomatoes at Savannah, Ga., alleging that they had been shipped in interstate commerce on or about July 16, 1937, by the Polk Cannery from Beaufort, S. C., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Sea Island Brand Tomatoes * * * The Polk Cannery Beaufort, S. C."

The article 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 for such canned food in that it was not normally colored, and its package or label did not bear a plain and conspicuous statement prescribed by regulations of this Department indicating that it fell below such standard.

On September 30, 1937, N. M. Polk, trading as the Polk Cannery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled in accordance with the law.

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

27869. Misbranding of butter. U. S. v. 40 Cases of Butter. Consent decree of condemnation. Product released under bond to be repacked. (F. & D. No. 40179. Sample No. 39401-C.)

This product was short of the declared weight.

On July 29, 1937, the United States attorney for the District of Hawaii, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cases of butter at Honolulu, Hawaii, consigned by Golden State Co., Ltd., alleging that the article had been shipped from San Francisco, Calif., on or about July 22, 1937, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cartons) "Net Weight 1 lb. Jersey Farm Dairy Company * * * Butter Distributed by Argonaut Milk Co. San Francisco."

It was alleged to be misbranded in that the statement "Net Weight 1 lb." was false and misleading and tended to deceive and mislead the purchaser since the cartons contained less than 1 pound; and in that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.