

Lewisburg, Tenn.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "1 Pint (16 Fl. Oz.) Net 17½ oz. Avoir. Biolac A Milk Food \* \* \* Manufactured by The Borden Company New York—Chicago—San Francisco."

It was alleged to be misbranded in that the statement "1 pint (16 Fl. Oz.);" was false and misleading and tended to deceive and mislead the purchaser since it was short volume; and 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 not correct.

On June 1, 1938, the Borden Co., 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 "For Hospital use only—not for sale" and be donated to hospitals.

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

**29344. Misbranding of canned tomatoes. U. S. v. 289 Cases of Tomatoes. Default decree of condemnation. Product delivered to a charitable organization. (F. & D. No. 42268. Sample No. 4541-D.)**

This product was substandard because of the presence of excessive peel, and it was not labeled to indicate that it was substandard.

On April 28, 1938, the United States attorney for the District of North Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 289 cases of canned tomatoes at Bismark, S. Dak.; alleging that the article had been shipped in interstate commerce on or about August 25, 1937, by A. W. Sisk & Son from Trappe, Md.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pine Cone Brand Tomatoes \* \* \* Albert W. Sisk and Son Distributors."

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 the tomatoes were unpeeled and the cans did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On July 27, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered turned over to a charitable organization.

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

**29345. Adulteration and misbranding of vanilla and lemon extracts and Arovanilla. U. S. v. 30 Dozen Bottles of Vanilla Extract and 17 Dozen Bottles of Lemon Extract (and 1 similar seizure action). Default decree of condemnation and destruction. (F. & D. Nos. 41638, 41639, 41641. Sample Nos. 1329-D, 1330-D, 1331-D.)**

These cases involved so-called vanilla and lemon extracts which consisted of imitation extracts, the former containing diethylene glycol, a poison, and the latter possessing about one-half the flavoring strength of lemon extract; also an imitation vanilla extract designated "Arovanilla," which contained diethylene glycol.

On or about February 9 and 11, 1938, the United States attorney for the Southern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 30 dozen bottles of vanilla extract and 17 dozen bottles of lemon extract at Barnabus, W. Va., and one barrel of Arovanilla at Mabscott, W. Va.; alleging that the articles had been shipped in interstate commerce on or about November 6, 1937, and January 3 and 14, 1938, from Norfolk, Va., by Interstate Manufacturing Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Fine's Eagle Brand Pure Vanilla [or "Lemon"] Extract \* \* \* Bottled By Interstate Mfg. Co., Norfolk, Va.;" or "Arovanilla \* \* \* Mfd. By The Interstate Mfg. Co., Norfolk, Va."

Adulteration was alleged in that an imitation vanilla containing a poisonous substance, a glycol, had been substituted in whole or in part for pure vanilla extract; in that an imitation lemon extract deficient in citral content had been substituted in whole or in part for pure lemon extract; and in that an imitation vanilla flavor containing a poisonous substance, a glycol, had been substituted for Arovanilla, a food flavor. The vanilla and lemon extracts were alleged to be adulterated further in that they had been mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that statements on the several labels were false and misleading and tended to deceive and mislead the purchaser when applied to articles which consisted: (In the case of the so-called vanilla) of an imitation vanilla containing vanillin, coumarin, and caramel coloring, little, if any, vanilla extract, and no alcohol, and containing diethylene glycol, a poison; in the case of the so-called lemon of an imitation lemon extract containing no lemon oil, artificially flavored with citral, artificially colored with a coal-tar dye, and with a flavoring strength of not over one-half that of lemon extract; and in the case of the Arovanilla of an imitation vanilla flavor containing a glycol, a poison.

Misbranding was alleged further in that the articles were imitations of and were offered for sale under the distinctive names of other articles.

On April 14 and May 10, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

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

**29346. Adulteration of cream. U. S. v. Two 5-Gallon Cans and Eight 10-Gallon Cans of Cream (and eight other seizure actions). Consent decrees of condemnation and destruction.** (F. & D. Nos. 43073, 43074, 43150, 43155, 43156, 43181, 43335, 43336, 43516. Sample Nos. 31507-D, to 31512-D, incl., 31542-D, 31543-D, 31544-D.)

Samples of this product were found to be filthy or decomposed, or both.

On July 6, 7, 11, and 12 and August 11 and 12, 1938, the United States attorney for the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 10 5-gallon cans and 45 10-gallon cans of cream at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce within the period from on or about July 5, 1938, to on or about August 11, 1938, in various shipments by W. Johnson, Strasburg, Va.; D. M. Ketzler, Sharpsburg, Md.; M. K. Bowers, Charles Town, W. Va.; Luther Shroyer, Cecil, W. Va.; Geo. L. Miller, Grafton, W. Va.; L. R. Mason, Brunswick, Md.; Eldridge Dairy, Hagerstown, Md.; Zipf Hardware Co., St. Marys, W. Va.; J. W. Ayton, Gaithersburg, Md.; Upshur Dairy Prod., Buckhannon, W. Va.; M. White, Weston, W. Va.; Lyle Leichter, Cameron, W. Va.; Daisy Long, Cumberland, Md.; A. W. Helbig, Oakland, Md.; Terra Alta Creamery, Terra Alta, W. Va.; R. S. Unger, Berkeley Springs, W. Va.; G. W. Biggenbach, New Martinsville, W. Va.; C. E. Ziph, St. Marys, W. Va.; Will Way Farm, French, W. Va.; C. J. Luzader, Gilmer, W. Va.; E. J. Magaha, Brunswick, Md.; Fairmount Cream Station, Strasburg, Va., and Phillipi, Weston, Buckhannon, Ellenboro, Hancock, Berkeley Springs, and New Martinsville, W. Va.; T. L. Baughan, Columbia, Va.; J. W. Broadwater, Salem, W. Va.; W. L. Britton, Ellenboro, W. Va.; J. F. Mendenhall, Newport, Ohio; and L. E. Monroe, Salem, W. Va.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance.

On July 6, 7, 11, and 12 and August 11 and 12, 1938, the consignee having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

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

**29347. Adulteration of butter. U. S. v. 6 Boxes of Butter. Default decree of condemnation. Product delivered to a charitable institution.** (F. & D. No. 43025. Sample No. 18283-D.)

This product contained less than 80 percent of milk fat.

On June 23, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six boxes of butter at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce on or about June 19, 1938, by Douglas County Creamery from Roseburg, Oreg.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product 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 of milk fat.

On August 29, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

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