

as amended. The article was labeled in part: "Contents 12 Ozs. Net When Packed \* \* \* Manufactured for A. Wahking & Sons, Louisville, Ky."

It was alleged to be misbranded in that the statement on the label, "Contents 12 Ozs. Net When Packed," was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; 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 was not stated correctly.

On December 18, 1937, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be turned over to a charitable institution.

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

**28064. Adulteration and misbranding of cocktail fruit juice. U. S. v. 10 Cartons of Cocktail Fruit Juice (and 1 other seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 40225, 40228. Sample Nos. 21070-C, 48505-C.)**

These products were labeled to indicate that they were lemon juice; whereas they were artificially colored acid mixtures, containing in one instance less than 15 percent of lemon juice and in the other little or no lemon juice.

On August 31, 1937, the United States attorneys for the District of Massachusetts and the District of Columbia, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 10 cartons of cocktail fruit juice at Boston, Mass., and 10 cartons of a similar product at Washington, D. C., alleging that the articles had been shipped in interstate commerce on or about August 17, 1937, by the Castle Products Co., Inc., from Irvington, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. One product was labeled in part: "Tomahawk Brand Cocktail Fruit Juice Lemon \* \* \* Castle Products, Inc., Newark, N. J."; the other was labeled in part: "Banner Brand Cocktail Fruit Juice \* \* \* Bottled Expressly for Banner Bros. Washington, D. C. Lemon."

The articles were alleged to be adulterated in that they were mixed and colored in a manner whereby inferiority was concealed.

They were alleged to be misbranded in that the following statements in the labeling were false and misleading and tended to deceive and mislead the purchaser since they implied that the articles were pure lemon juice, whereas they were not, one consisting of a mixture of acid, water, citrus oil, artificial color, and less than 15 percent of lemon juice and the other consisting of a mixture of water, acid, artificial color, and fruit pulp, containing little or no lemon juice: (Tomahawk brand) "Fruit Juice Lemon Use As the Juice of Fresh Fruit \* \* \* Use whenever lemon juice is desired. Two tablespoons are equal to the juice of one lemon. Contains the juice of tree-ripened, California-squeezed lemons"; (Banner brand) "Cocktail Fruit Juice Use as the juice of Fresh Fruit Contains Natural Fruit Juice \* \* \* Lemon." They were alleged to be misbranded further in that they were imitations of and offered for sale under the distinctive name of another article, namely, lemon juice. They were alleged to be misbranded further in that the statements of composition, (Tomahawk brand) "Contains the juice of tree-ripened California squeezed lemons. Flavor, fruit acid, cert. color and  $\frac{1}{10}$  of 1% sodium benzoate added" and (Banner brand) "Contains Natural Fruit Juice, Fruit Acid, Certified Color and  $\frac{1}{10}$  of 1% Benzoate of Soda"; were misleading and tended to deceive and mislead the purchaser since the former contained 85 percent of water and the latter contained about 95 percent of water, and the water was not declared.

On October 11 and 18, 1937, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

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

**28065. Adulteration of butter. U. S. v. 42 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 40243. Sample Nos. 34077-C, 34078-C.)**

This product contained less than 80 percent of milk fat.

On or about August 19, 1937, 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 42 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate

commerce on or about August 7, 1937, from El Reno, Okla., by the W. D. Wright Produce Co., 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, as provided for by the act of Congress of March 4, 1923.

On September 23, 1937, the W. D. Wright Produce Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked.

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

**28066. Adulteration and misbranding of lemon juice flavor. U. S. v. 39 Jugs of Lemon Juice Flavor. Default decree of condemnation and destruction. (F. & D. No. 40253. Sample No. 38187-C.)**

This product was an artificially colored and flavored acid solution containing no fruit juice, and was labeled to convey the impression that it was lemon juice. It was also short in volume.

On September 7, 1935, 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 39 jugs of lemon juice flavor at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about August 17, 1937, by Sunkist Fruit Juice Co. from the Bronx, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Carton) "Sunkist Lemon-Mixer Flavor \* \* \* Made by Sunkist Fruit Juice Co. New York"; (jug) "Sunkist Lemon Juice Flavor"; (blown into jug) "Full Gallon."

It was alleged to be adulterated in that it was mixed and colored in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that the statements in the labeling, (carton) "Lemon Mixer" and (jug) "Lemon Juice \* \* \* Used wherever lemons are required Made With Fresh Fruit \* \* \* Superior Quality," were false and misleading and tended to deceive and mislead the purchaser in that they implied that the article was pure lemon juice, whereas it was not pure lemon juice but was an artificially colored and flavored acid solution containing no fruit juice; in that the statement blown into the jug, "Full Gallon," was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short in volume; in that the article was an imitation of and was offered for sale under the distinctive name of another article, namely, lemon juice; 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 October 26, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

**28067. Adulteration of shelled peanuts. U. S. v. 198 Bags of Shelled Peanuts. Consent decree of condemnation. Product released under bond to be disposed of for purposes other than human food. (F. & D. No. 40261. Sample No. 31623-C.)**

This product was insect-infested.

On September 10, 1937, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 198 bags of shelled peanuts at Cincinnati, Ohio, consigned on or about August 19, 1937, alleging that the article had been shipped in interstate commerce by the Southern Cotton Oil Co. from Cordele, Ga., 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 vegetable substance.

On November 16, 1937, the Southern Cotton Oil Co., Atlanta, Ga., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be used for animal feed or for purposes other than human consumption.

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