42. Misbranding of tooth paste. U. S. v. 69 Dozen Packages of Pebeco Tooth Paste. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 829. Sample No. 68326–D.)

The tubes containing this product occupied not more than 28 percent of the capacity of the cartons.

On October 30, 1939, the United States attorney for the Eastern District of New York filed a libel against 69 dozen packages of tooth paste at Brooklyn, N. Y. On December 11, 1939, the libel was amended. It was alleged in the amended libel that the article had been shipped in interstate commerce from Bloomfield, N. J., by Lehn & Fink Products Corporation on or about October 3, 1939; and that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On August 2, 1940, the claimant having failed to file an answer and the time for filing such answer having expired, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution on condition that the cartons be destroyed.

43. Misbranding of tooth paste. U. S. v. 89 Dozen Packages of Gibson's Tooth Paste. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 827. Sample No. 68329–D.)

The tubes containing this product occupied not more than 31 percent of the capacity of the cartons.

On October 27, 1939, the United States attorney for the Eastern District of New York filed a libel against 89 dozen packages of tooth paste at Brooklyn, N. Y. On December 11, 1939, an amended libel was filed. It was alleged in the amended libel that the article had been shipped in interstate commerce on or about September 18 and October 12, 1939, by the Lorr Laboratories from Paterson, N. J.; and that it was misbranded in that its containers were so made, formed, and filled as to be misleading. The article was labeled in part: "Gibson's Tooth Paste * * * Whelan Laboratories, Inc., New York, N. Y."

On January 5, 1940, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution on condition that the cartons be destroyed.

44. Misbranding of dental cream and dental liquid. U. S. v. 120 Dozen Packages of Colgate Ribbon Dental Cream and 4 8/12 Gross of Cue Dental Liquid. Default decrees of condemnation. Products ordered delivered to charitable associations. (F. D. C. Nos. 813, 841. Sample Nos. 68132–D, 68327–D.)

The tubes containing the dental cream occupied not more than 27 percent of the capacity of the cartons, and the bottles containing the dental liquid occupied not more than 24 percent of the capacity of the cartons.

On October 26 and November 2, 1939, the United States attorneys for the Eastern District of New York and the Southern District of New York filed libels against 120 dozen packages of dental cream at Brooklyn, N. Y., and 4 8/12 gross of dental liquid at New York, N. Y. On December 11, 1939, the libel filed in the Eastern District of New York was amended. It was alleged in the libels that the articles had been shipped in interstate commerce within the period from on or about September 6 to on or about October 9, 1939, by the Colgate-Palmolive-Peet Co. from Jersey City, N. J.; and that they were misbranded in that their containers were so made, formed, or filled as to be misleading.

On August 2, 1940, the claimant having failed to file an answer to the action instituted in the Eastern District of New York and having withdrawn its answer in the case instituted in the Southern District of New York, judgments of condemnation were entered and it was ordered that the products be distributed to charitable associations.

45. Misbranding of shaving cream and tooth paste. U. S. v. 19 Dozen Packages of Listerine Shaving Cream and 13 Dozen Packages of New Listerine Tooth Paste. Consent decrees of condemnation. Products ordered destroyed. (F. D. C. Nos. 728, 729. Sample Nos. 82418–D, 82419–D, 82420–D, 82426–D.)

Examination showed that the tubes containing these products occupied approximately only 22 percent of the space in the cartons and that the cartons were large enough substantially to hold two tubes. Moreover, the tubes of tooth paste contained less than the amount declared on the label.

On October 12, 1939, the United States attorney for the Northern District of Georgia filed libels against 19 dozen packages of shaving cream and 13 dozen packages of tooth paste at Atlanta, Ga., alleging that the articles had been shipped in interstate commerce within the period from on or about August 4 to Septem-