

Misbranding was alleged in that the statement "Butter Cookies" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing little or no butter; and in that it was offered for sale under the distinctive name of another article, butter cookies.

On June 3, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On June 25, 1938, an amended decree was entered ordering the product distributed to charitable institutions.

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

29198. Misbranding of white meat fish. U. S. v. 66 Cases of White Meat Fish. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 42309. Sample No. 18711-D.)

The labeling of this product implied that it was tuna fish; whereas it was a species of fish known as yellowtail, which is not one of the tunas.

On May 5, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 66 cases of white meat fish at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about April 6, 1938, from San Diego, Calif., by the Sun Harbor Packing Corporation; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Warranty Brand Choice of the Sea White Meat Fish * * * Packed by Sun Harbor Packing Corp. * * * San Diego, Calif. * * * White Meat of the Bonita or Yellowtail."

The article was alleged to be misbranded in that the prominent designation "White Meat Fish" on the main panel of the label was false and misleading and tended to deceive and mislead the purchaser when applied to yellowtail, since the term "White Meat" definitely implied to consumers that the article was white meat tuna, whereas yellowtail is not a tuna; and this statement was not corrected by the inconspicuous reference on the rear panel to "Bonita or Yellowtail."

On June 15, 1938, P. Fahey, Inc., 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 relabeled.

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

29199. Adulteration and misbranding of vanilla flavoring. U. S. v. 588 Bottles of Vanilla Flavoring. Product adjudged adulterated and misbranded and ordered destroyed. (F. & D. No. 42415. Sample No. 22503-D.)

This product contained a smaller amount of the soluble extractives of the vanilla bean than pure vanilla flavoring should contain. It was also short of the declared volume.

On May 18, 1938, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 588 bottles of vanilla flavoring at Terra Alta, W. Va.; alleging that the article had been shipped in interstate commerce on or about July 6, 1936, from Pittsburgh, Pa., by Pennex Products Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pennex Brand Pure Vanilla Flavoring * * * Manufactured and Distributed by Pennex Products Co. Incorporated, Pittsburgh, Pa."

It was alleged to be adulterated in that an article containing in 100 cubic centimeters the soluble matter from less than 10 grams of vanilla beans had been substituted wholly or in part for pure vanilla flavoring, which it purported to be.

Misbranding was alleged in that the statements on the carton and bottle, "Pure Vanilla Flavoring," and on the bottle, "Cont. 6 Dram," were false and misleading and tended to deceive and mislead the purchaser when applied to an article containing in 100 cubic centimeters the soluble matter from less than 10 grams of vanilla beans, and when applied to an article that was short volume. Misbranding was alleged further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On June 29, 1938, no claimant having appeared, the product was adjudged adulterated and misbranded and was ordered destroyed.

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