

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

## NOTICE OF JUDGMENT NO. 1247.

(Given pursuant to section 4 of the Food and Drugs Act.)

**MISBRANDING OF "CREME DE CACAO"; ADULTERATION AND MISBRANDING OF BLACKBERRY CORDIAL; ADULTERATION AND MISBRANDING OF PEPPERMINT EXTRACT; MISBRANDING OF "BERNARDINE"; ADULTERATION AND MISBRANDING OF BLACKBERRY CORDIAL; MISBRANDING OF "CREME DE CASSIS"; MISBRANDING OF CHAMPAGNE; MISBRANDING OF "ORANGE CURAÇAO."**

On November 1, 1910, the Grand Jury of the United States for the Northern District of California, in the city of San Francisco, after presentation by the United States Attorney for said district, upon a report of the Secretary of Agriculture, returned an indictment against E. G. Lyons & Raas Co., a corporation, San Francisco, Cal., in eight counts, charging shipments by said concern, in violation of the Food and Drugs Act, of adulterated and misbranded products, in the manner hereinafter stated, as follows:

(1) On February 14, 1910, shipment from the State of California into the Territory of Arizona of one case of "Creme de Cacao" which was misbranded. The product was labeled: "E. Dubreuil & Fils Fine Liqueurs Extra Creme de Cacao Superfine Guaranteed under Serial Number 16701." Examination of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed it to be of domestic origin. Misbranding was charged in the indictment against said product because the entire label gave to the purchaser the impression that the product was a foreign product, and was calculated to deceive and mislead the purchaser into the belief that it was a foreign product when, in fact, it was not such but was of domestic manufacture, having been manufactured in the city of San Francisco, Cal.

(2) On December 31, 1909, shipment from the State of California into the State of Oregon of two barrels of blackberry flavor cordial which was adulterated and misbranded. The product was labeled: "Monogram Blackberry Flavor Cordial. Contains 1/10 of 1 per cent Benzoate of Soda. Artificially colored. Sweetened with Sac-

charine." Analysis of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

|  |                             |
|--|-----------------------------|
| Specific gravity-----                            | 1. 1130                     |
|  | Per cent.                   |
| Alcohol, per cent by volume-----                 | 9. 40                       |
| Solids-----                                      | 29. 40                      |
| Nonsugar solids-----                             | 14. 50                      |
| Sucrose-----                                     | None.                       |
| Reducing sugar invert-----                       | 14. 90                      |
| Sugar in solids-----                             | 50. 69                      |
| Polarization direct, temperature 16° C-----      | 43. 3                       |
| Polarization invert, temperature 16° C-----      | 42. 8                       |
| Polarization invert, temperature 87° C-----      | 43. 6                       |
| Ash-----   | . 36                        |
| Glucose, 163 factor-----                         | 26. 70                      |
| Esters as ethyl acetate (original)-----          | . 0363                      |
| Esters as ethyl acetate (100 proof alcohol)----- | . 271                       |
| Benzoate of soda-----                            | . 07                        |
| Color-----                                       | Archil or a lake of archil. |

Adulteration was charged in the indictment against said product for the reason that an imitation blackberry cordial prepared from glucose, artificial flavoring matter, coloring matter, and saccharin had been mixed and packed with the article so as to reduce and lower its quality and strength, and said imitation blackberry cordial containing said ingredients had been substituted wholly or in part for the article. Misbranding was charged for the reason that the words "blackberry flavor cordial" were false and misleading as representing to the purchaser that the article was a genuine blackberry cordial prepared from blackberry fruit when, in fact, the article had been prepared from glucose, artificial flavoring matter, coloring matter and saccharin, making an imitation blackberry cordial whereby the purchaser would be deceived and misled.

(3) On April 28, 1909, shipment from the State of California into the Territory of Arizona of one 10-gallon keg of peppermint, which was adulterated and misbranded. The product was labeled: (On one side) "Peppermint. E. G. Lyons & Raas Co. Wholesale Liquor Dealers." (On the reverse side) "Peppermint. A. Steinfeld Co., Tucson, Ariz." Analysis of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

|                                   |         |
|-----------------------------------|---------|
| Specific gravity-----             | 0. 9587 |
| Alcohol (per cent by volume)----- | 36. 3   |
| Oil of peppermint-----            | Absent. |

Adulteration was charged in the indictment against said product for the reason that, whereas extract of peppermint contains not less than 3 per cent by volume of oil of peppermint, the said product

contained only a trace of peppermint oil and was mixed with a highly diluted peppermint extract sold in imitation of the genuine peppermint extract, which article reduced and lowered the quality and strength of the product and which diluted product was substituted in whole or in part for the genuine extract of peppermint. Misbranding was charged for the reason that the statement on the label was false and misleading, in that it gave to the purchaser the impression that he was buying a genuine extract of peppermint when, in fact, the product was not a genuine extract of peppermint but a highly diluted extract of peppermint sold in imitation of peppermint extract.

(4) On February 14, 1910, shipment from the State of California into the Territory of Arizona of two cases of "Bernardine" which was misbranded. The product was labeled: "Bernardine A M D G E. Dubreuil & Fils. Guarantee No. 16701. Liquor Extractus ex herbis Radicibusque." Examination of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed it to be of domestic origin. Misbranding was charged in the indictment against the product for the reason that it was so labeled as to give the impression that said product was a foreign liquor and the entire wording of the label was calculated to deceive and mislead the purchaser into the belief that it was a foreign product when, in fact, it was not a foreign product but a domestic product manufactured and bottled in the State of California.

(5) On October 18, 1909, shipment from the State of California into the State of Washington of 660 gallons of blackberry flavor cordial which was adulterated and misbranded. The product was labeled: (On the barrel) "Blackberry Flavor Cordial. E. G. Lyons & Raas Co., 430-34 Bryant St., San Francisco, Cal." Analysis of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

|  |           |
|--|-----------|
| Specific gravity 15.6° C/15.6° C. (by hydrometer)----- | 1.110     |
|  | Per cent. |
| Alcohol (by volume)-----                               | 10.23     |
| Solids -----   | 29.77     |
| Sucrose -----  | Absent.   |
| Reducing sugar as dextrose-----                        | 16.1      |
| Polarization direct, temperature 20° C-----            | 37.7      |
| Polarization invert, temperature 20° C-----            | 37.0      |
| Polarization invert, temperature 87° C-----            | 37.4      |
| Ash -----  | 0.33      |
| Fixed acid as tartaric-----                            | 0.40      |
| Glucose (175°) -----                                   | 22.95     |
| Benzoate of soda -----                                 | 0.097     |
| Saccharin -----  | Present.  |
| Coal-tar dye-----                                      | Present.  |

Adulteration was charged in the indictment against said product for the reason that an imitation blackberry cordial prepared from glucose, artificial flavoring matter, saccharin, and colored with coal-tar dye had been mixed and packed with the article so as to reduce and lower its quality and strength, and that said imitation blackberry cordial containing said ingredients had been substituted wholly or in part for the article. Misbranding was charged for the reasons that the words "blackberry flavor cordial" appearing on the label are false and misleading as representing to the purchaser that the article is a genuine blackberry cordial prepared from blackberry fruit when, in fact, the article had been prepared from glucose, artificial flavoring matter, and saccharin, and colored with a coal-tar dye, making an imitation blackberry cordial, whereby the purchaser might be misled and deceived.

(6) On February 26, 1910, shipment from the State of California into the Territory of Arizona of a case of "Creme de Cassis" which was misbranded. The product was labeled: "Creme de Cassis, Cordial, Barriere & Co., Brand, Guaranteed under Serial Number 5408." Examination of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed it to be of domestic origin. Misbranding was charged in the indictment against said product for the reason that the entire label was false and misleading, in that it gave to the purchaser the impression that the said product was a foreign product. Said label was, therefore, calculated to deceive and mislead the purchaser into the belief that said product was a foreign product when, in fact, it was not such, but was of domestic manufacture—manufactured and prepared in the State of California, and said label contained no inscription to indicate the place of manufacture.

(7) On October 15, 1909, shipment from the State of California into the State of Colorado of 10 cases of champagne which was misbranded. The product was labeled: (Neck) "Champagne Extra Dry E. Dubreuil & Fils." (Main) "Extra Dry Champagne E. Dubreuil & Fils. Guaranteed under Registered Serial Number 16701." Analysis of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

|   |           |
|---|-----------|
| Measure (cc.) -----   | 388       |
| Specific gravity -----  | 1. 0029   |
|   | Per cent. |
| Alcohol (by volume) -----                                       | 12. 48    |
| Glycerol -----  | . 55      |
| Solids -----  | 3. 04     |
| Nonsugar solids -----   | 1. 04     |
| Sucrose by Clerget -----  | . 2       |
| Reducing sugar, invert -----                                    | 1. 8      |
| Polarization direct, temperature 20° C. (normal solution) ----- | — . 2     |

|  |       |
|--|-------|
| Polarization invert, temperature 20° C. (normal solution)----- | —0.55 |
| Ash -----  | .22   |
| SO <sub>2</sub> (mg per liter)-----                            | 136   |
| Acid, as tartaric -----  | .50   |

Misbranding was charged in the indictment against said product for the reason that the entire appearance of the said label was calculated to deceive the purchaser into the belief that he was buying a foreign product when, in fact, said product was a domestic product and not champagne but an imitation champagne made of California wine, artificially carbonated, and the place of manufacture was not stated upon the label.

(8) August 6, 1909, shipment from the State of California into the State of Washington of 15 cases of orange curaçao which was misbranded. The product was labeled: "Orange Curaçao. E. Dubreuil and Fils. San Francisco, New York (design of lion and crown with the words "Royaume Des Pays-Bas, Je Maintiendrai) Fyne Dubb. Orange Curaçao, Likeuren." Examination of samples of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed it to be of domestic origin. The indictment charged misbranding against said product for the reason that the label was false and misleading, in that it was calculated to deceive and mislead the purchaser into the belief that the product was a foreign liquor when, in fact, said product was not a foreign liquor but was a domestic product—manufactured in the State of California, and the label did not state the place of manufacture.

On December 3, 1910, the defendant corporation pleaded guilty to each and all of the counts of said indictment, whereupon the court fined the defendant \$25 on each count, or a total of \$200.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *December 11, 1911.*