

On or about September 13, 1933, 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 12 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 30, 1933, by the Genoa Cooperative Creamery Co., from Genoa, Wis., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was 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 by the act of March 4, 1923.

On September 13, 1933, the Genoa Cooperative Creamery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it be reworked under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

21438. Adulteration and misbranding of cherry, raspberry, peach, and strawberry preserves. U. S. v. 133 Cases of Strawberry, Peach, Cherry, and Red Raspberry Preserves, et al. Default decrees ordering products delivered to charitable institutions, or destroyed. (F. & D. nos. 29889, 29890. Sample nos. 18206-A to 18213-A, incl.)

These cases involved interstate shipments of preserves which contained a higher proportion of sugar and a lower proportion of fruit than prescribed by the United States standards.

On March 14, 1933, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 267 cases of preserves at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about September 13, 1932, by the William Edwards Co., from Cleveland, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: (Jars) "First Prize Brand * * * Pure Strawberry [or "Cherry" or "Peach" or "Red Raspberry"] Preserves."

It was alleged in the libels that the articles were adulterated in that excess sugar had been mixed and packed therewith so as to reduce and lower and injuriously affect their quality and strength; and in that mixtures of fruit and sugar, containing less fruit than preserves, had been substituted for pure preserves.

Misbranding was alleged for the reason that the statement on the label, "Pure Strawberry Preserves", "Pure Peach Preserves", "Pure Cherry Preserves", "Pure Red Raspberry Preserves" and "Pure Raspberry Preserves", were false and misleading and deceived and misled the purchaser when applied to articles consisting of mixtures of fruit and sugar containing less fruit than preserves. Misbranding was alleged for the further reason that the articles were offered for sale under the distinctive names of other articles.

No claims or answers were filed in the cases.

On August 12, 1933, judgments were entered ordering that the products be delivered to charitable institutions, in lieu of destruction, the court having found that though in violation of the Federal Food and Drugs Act, they were not unwholesome.

M. L. WILSON, *Acting Secretary of Agriculture.*

21439. Adulteration and misbranding of grape juice. U. S. v. John E. Rice (John E. Rice Orchards). Plea of nolo contendere. Fine, \$25. (F. & D. no. 28181. I.S. no. 38878.)

This case was based on an interstate shipment of a product labeled to convey the impression that it was grape juice, which contained undeclared added water and sugar. The declaration of the quantity of the contents on the label was not plain and conspicuous.

On May 25, 1933, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John E. Rice, trading as the John E. Rice Orchards, Marlboro, Mass., alleging shipment by said defendant in violation

of the Food and Drugs Act as amended, on or about August 15, 1931, from the State of Massachusetts into the State of Rhode Island, of a quantity of grape juice which was adulterated and misbranded. The article was labeled in part: "Rice John E. Rice Orchards [design of bunch of grapes] * * * Made From Pure Fruit [indistinct statement of weight, "Contents 1 Pt."] Concord Grape * * * John E. Rice Orchards, Marlboro, Mass."

It was alleged in the information that the article was adulterated in that undeclared added substances, water and sugar, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and had been substituted in large part for the article.

Misbranding was alleged for the reason that the statements, "Concord Grape, Made From Pure Fruit", together with the design of a bunch of grapes, borne on the label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, in that the said statement and design represented that the article was pure grape juice made from Concord grapes; whereas it was a mixture of grape juice and added undeclared water and sugar. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, "Concord Grape." Misbranding was alleged for the further reason that the article 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 statement made was scarcely discernible.

On August 18, 1933, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

21440. Adulteration of canned salmon. U. S. v. 3,105 Cases, et al., of Canned Salmon. Portion of product ordered released under bond for separation and destruction of decomposed part. Decree of condemnation and forfeiture entered with respect to remainder, with provision for release under bond. (F. & D. nos. 28992, 28999. Sample nos. 25233-A, 25235-A to 25238-A, incl., 25240-A, to 25242-A, incl.)

These cases involved several lots of salmon which was found to be in part decomposed.

On October 3 and October 4, 1932, the United States attorney for the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 6,575 cases of canned salmon at San Francisco, Calif. On November 16, 1933, an amended libel was filed in place of the original libel of October 4, 1933. It was alleged in the libels that the article had been shipped in interstate commerce by the Red Salmon Canning Co., from Bristol Bay, Alaska; that a part of the product had been shipped on a date uncertain, arriving at San Francisco on or about August 8, 1932; that the remainder had been shipped from Bristol Bay, on or about August 8, 1932; and that the article was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Lucille Brand [or "Jack Frost Brand" or "Rising Light Brand"] Red Alaska Sockeye Salmon Packed by Red Salmon Canning Co., at Bristol Bay, * * * Alaska."

It was alleged in the libels that the article was adulterated in that it consisted in part of a decomposed animal substance.

The Red Salmon Canning Co., Bristol Bay, Alaska, appeared as claimant in both cases. On August 1, 1933, the 4,731 cases of the product covered by the libel filed October 3, 1932, were ordered released to the claimant, upon payment of costs and the execution of a bond in the sum of \$52,041, conditioned that each can be opened, with the exception of so much of the goods as a representative of this Department might authorize released without opening and examination, and that all decomposed salmon be destroyed and that the sound and wholesome portion be re-canned. On October 31, 1933, judgment of condemnation and forfeiture was entered in the remaining case, and the court ordered that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$15,650, conditioned that it would not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act.

M. L. WILSON, *Acting Secretary of Agriculture.*