

On May 15, 1913, The Harbauer Co., Toledo, Ohio, claimant, having entered its appearance and the case coming on for hearing, judgment of condemnation was entered and it was ordered by the court that the product should be sold by the United States marshal after the obliteration of all marks, brands, and labels as to the contents of the barrels. It was provided, however, in the order of the court that the product should be released to said claimant upon payment of all costs of the proceedings and the execution of bond in the sum of \$600 in conformity with section 10 of the act.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *April 14, 1914.*

3092. Adulteration and misbranding of strawberry flavor. U. S. v. Maury-Cole Co. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 5199. I. S. No. 1247-e.)

On August 11, 1913, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said District an information against the Maury-Cole Co., a corporation, Memphis, Tenn., alleging the sale under a guarantee by said company for shipment in interstate commerce, in violation of the Food and Drugs Act, on or about August 1, 1912, of a quantity of strawberry flavor which was adulterated and misbranded. The information further alleged that the purchaser of the product afterward shipped the same in the original unbroken packages from the State of Tennessee into the State of Arkansas. The product was labeled (on cartons): "Choctaw Brand, Flavoring, Strawberry. (Guaranty Legend.) Serial No. 1126. Put up by Maury-Cole Co., Memphis, Tenn. Formula on bottle," and on the flaps of said carton, the words: "Choctaw Brand, Strawberry" (on bottles) "Choctaw Brand. Imitation Flavoring, Strawberry. Manufactured and guaranteed by Maury-Cole Co., Memphis, Tenn. Serial No. 1126. Harmless coloring."

Adulteration of the product was alleged in the information for the reason that a substance, to wit, an imitation of strawberry flavor, had been mixed and packed with said article of food in such manner as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that a substance, to wit, an imitation strawberry flavor, had been substituted in whole or in part for the genuine article, and for the further reason that it was colored in a manner whereby its inferiority was concealed. Misbranding was alleged in the libel for the reason that the statement "Flavoring Strawberry," borne on the carton, and the statement "Strawberry," borne on the bottle, were false and misleading because they conveyed the impression that the product was a genuine strawberry flavor, whereas, in truth and in fact, it was not a genuine strawberry flavor, but an imitation of strawberry flavor, the word "Imitation" which appeared inconspicuously on the label on the bottle being insufficient to correct the false impression conveyed by the statements "Flavoring of Strawberry" and "Strawberry."

On November 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$25, with costs of \$15.85.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *April 14, 1914.*

3093. Adulteration of tomato conserve. U. S. v. 50 Cases of Tomato Conserve. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5201. S. No. 1798.)

During the month of May, 1913, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 50 cases of tomato conserve, remaining unsold in the original unbroken packages at San Francisco, Cal., alleging that the product had been shipped on February 5, 1913,