

The article was alleged to be misbranded in that the statement "apple butter", borne on the jars, was false and misleading and in that the statement was borne on the jars so as to deceive and mislead the purchaser, since it represented that the article was apple butter, i. e., a product made from fresh apples and the juice thereof; whereas the article had been made from dried or evaporated apples.

On May 7, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50 and costs.

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

25980. Misbranding of canned peas. U. S. v. 134 Cases of Canned Peas, and other cases. Decrees of condemnation. Portion of product released under bond to be relabeled; remainder destroyed. (F. & D. nos. 35496, 35601, 35639, 35640, 35679, 35839, 36692, 37099. Sample nos. 19398-B, 23135-B, 23136-B, 23137-B, 23148-B, 23198-B, 28922-B, 36381-B, 39588-B, 48570-B, 49692-B.)

These cases were based on interstate shipments of canned peas that fell below the standard established by the Department of Agriculture because the peas were not immature, as shown by the presence of an excessive proportion of ruptured peas that were not labeled to indicate that they were substandard.

On May 16, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 134 cases of canned peas at Fall River, Mass., and on and between June 13, 1935, and January 23, 1936, libels were similarly filed in other districts, praying seizure and condemnation of 997 cases of the product at Waterloo, Iowa; 2,673 cases at Cedar Rapids, Iowa; 48 cartons at Lewiston, Maine; 500 cases at Nashville, Tenn.; 1,137 cases at Kansas City, Mo.; 500 cases at Jersey City, N. J.; and 204 cases at Macon, Ga. It was alleged in the libels that the article had been shipped in interstate commerce between the dates of January 5 and November 2, 1935, by G. L. Webster Co., Inc., from Cheriton, Va., and that it was misbranded in violation of the Food and Drugs Act as amended. The shipments were made by the G. L. Webster Co., Inc. The article was labeled in part: "Park Hall Brand [or "Tower Hill Brand", Eyre Hall Brand", "Blue Dot Brand", or "Webster's"] Early June Peas * * * Packed by G. L. Webster Company Incorporated Cheriton Virginia."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On June 21, September 4, 1935, and January 15, 1936, G. L. Webster Co., Inc., claimant, having admitted the allegations of the libels against the lots seized at Fall River, Mass., Kansas City, Mo., and Nashville, Tenn., and having consented to the entry of decrees, judgments of condemnation were entered, and it was ordered that the said lots be released under bond conditioned that they be relabeled. On September 24, 1935, the lots seized at Cedar Rapids, Iowa, were ordered released to the claimant, the G. L. Webster Co., Inc., under a bond conditioned that they be relabeled. On July 23, 1935, and January 21, February 27, and April 30, 1936, no claimant having appeared for the lots seized at Lewiston, Maine, Jersey City, N. J., Macon, Ga., and Waterloo, Iowa, decrees of condemnation were entered and it was ordered that they be destroyed.

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

25981. Adulteration and misbranding of preserves. U. S. v. 47 Cases of Assorted Alleged Preserves. Default decree of condemnation and forfeiture. (F. & D. no. 37111. Sample nos. 51403-B, 51405-B to 51408-B, incl.)

This case involved interstate shipments of so-called blackberry, peach, pineapple, strawberry, and raspberry preserves, all of which contained added acid and all of which, with the exception of the pineapple variety, were insufficiently concentrated and contained added pectin; the quantity of the contents of the packages of each of the several products was less than represented on the labels.

On January 27, 1936, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of 47 cases of assorted alleged preserves at Washington, D. C., alleging that the articles had been shipped in interstate commerce

on or about November 20 and 29, 1935, from Front Royal, Va., by the Old Virginia Packing Co., Inc., and that they were adulterated and misbranded in violation of the Food and Drugs Act as amended. The articles, contained in jars, were labeled: "Net Weight 1 Pound, D. G. S. Brand Pure Blackberry [or "Peach", "Pineapple", "Strawberry", or "Raspberry"] Preserves Distributed by District Grocery Stores Washington, D. C."

All of the articles except the so-called "Pineapple Preserves" were alleged to be adulterated (1) in that water, added pectin, and acid had been mixed and packed with the articles, so as to reduce, lower, or injuriously affect their quality; (2) in that water, added pectin, and added acid had been substituted in part for the articles, respectively, and (3) in that water, added pectin, and added acid had been mixed with the articles, respectively, in a manner whereby inferiority was concealed. The so-called "Pineapple Preserves" were alleged to be adulterated (1) in that added acid had been mixed and packed with the article so as to reduce, lower, or injuriously affect its quality; (2) in that added acid had been substituted in part for the article; and (3) in that added acid had been mixed with the article in a manner whereby inferiority was concealed.

The articles were alleged to be misbranded (1) in that the statements on the label, "Pure Blackberry Preserves", "Pure Peach Preserves", "Pure Pineapple Preserves", "Pure Strawberry Preserves", or "Pure Raspberry Preserves", as the case might be, and "Net Weight 1 Pound", were false and misleading and tended to deceive and mislead the purchaser when applied to products of the composition found and to packages containing less than 1 pound thereof. The articles were alleged to be further misbranded in that they were imitations of and offered for sale under the distinctive names of other articles; and in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On April 17, 1936, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the products be disposed of in accordance with law.

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

25982. Adulteration and alleged misbranding of wine. U. S. v. 64 Bottles of Lombardi Blackberry Wine. Default decree of condemnation. Product delivered to Secretary of Treasury for disposal according to law. (F. & D. no. 37130. Sample no. 51173-B.)

This case involved interstate shipments of so-called blackberry wine which was artificially colored grape wine containing little or no blackberry flavor, and which contained less alcohol than the percentage thereof represented on the label.

On January 30, 1936, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying seizure and condemnation of forty-six 1-gallon bottles and eighteen 1-quart bottles of so-called blackberry wine at Washington, D. C., alleging that the article was being offered for sale in the District of Columbia, and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Lombardi Blackberry Wine Alcoholic Contents 24-28 Proof * * * Bottled from tax paid packages by the Roma Wine & Liquor Co., Baltimore, Md."

The article was alleged to be adulterated in that an artificially colored grape wine containing little or no blackberry flavor had been substituted for blackberry wine, which the article purported to be; and in that the article was mixed and colored in a manner whereby inferiority was concealed.

The article was alleged to be misbranded in that the statement "Blackberry Wine * * * 24-28 Proof" was false and misleading and tended to deceive and mislead the purchaser when applied to an artificially colored grape wine containing little or no blackberry flavor, and containing 10.6 percent of alcohol by volume. The article was alleged to be misbranded further, in that it was an imitation of and was offered for sale under the distinctive name of another article.

On April 8, 1936, no claimant having appeared, a decree of condemnation condemning the product adulterated was entered, and it was ordered that the product be delivered to the Secretary of the Treasury for disposal by him in accordance with law.

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