

filed in the District Court of the United States for said district an information against John A. Brenner, trading as the Brenner Vinegar Co., Marion, Ark., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about October 18, 1915, from the State of Arkansas into the State of Tennessee, of quantities of articles, labeled in part "Brenner's Blackberry" (or "Cherry") "Phosphate * * * Brenner Vinegar Co., Marion, Ark.," which were adulterated and misbranded.

Analyses of samples of the articles by the Bureau of Chemistry of this department showed that the products had no flavor of blackberry or cherry, and that they were artificially colored and artificially flavored imitations containing very little phosphate and very little, if any, blackberry or cherry.

Adulteration of the articles was alleged in the information for the reason that a substance, to wit, imitation blackberry (or cherry) phosphate, containing only a trace, if any, phosphoric acid or phosphate, artificially flavored and colored, had been substituted in whole or in part for blackberry (or cherry) phosphate, which the articles purported to be, and for the further reason that they were products inferior to blackberry (or cherry) phosphate, to wit, products containing only traces, if any, of phosphoric acid or phosphate, prepared in imitation of blackberry (or cherry) phosphate, artificially flavored and artificially colored with amaranth, so as to simulate the appearance of blackberry (or cherry) phosphate, and in a manner whereby their inferiority to said products was concealed.

Misbranding of the articles was alleged for the reason that the statements, to wit, "Blackberry Phosphate" and "Cherry Phosphate," borne on the kegs containing the articles, regarding the articles and the ingredients and substances contained therein, were false and misleading in that they represented that said articles were blackberry phosphate or cherry phosphate, and for the further reason that they were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the articles were blackberry phosphate or cherry phosphate, whereas, in truth and in fact, they were not, but were products containing only a trace, if any, of phosphoric acid, prepared in imitation of blackberry (or cherry) phosphate, artificially flavored and colored. Misbranding was alleged for the further reason that the articles were food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On November 22, 1920, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$75 and costs.

E. D. BALL, *Acting Secretary of Agriculture.*

8612. Adulteration of tomato pulp. U. S. * * * v. The Booth Packing Co., a Corporation. Plea of nolo contendere. Fine, \$10 and costs.
(F. & D. No. 8927. I. S. Nos. 2368-p, 3151-p.)

On August 10, 1920, the United States attorney for the District of Maryland, 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 Booth Packing Co., a corporation, having a place of business at Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on or about September 18, 1917, from the State of Maryland into the State of New Jersey, and on or about August 21, 1917, from the State of Maryland into the State of New York, of quantities of tomato pulp which was adulterated. The article was labeled in part, "Diamond Brand Tomato Pulp."

Analyses of samples of the article by the Bureau of Chemistry of this department showed the pulp was manufactured from partly decayed tomatoes.

Adulteration of the article in both consignments was alleged in the information for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On August 11, 1920, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$10 and costs.

E. D. BALL, *Acting Secretary of Agriculture.*

8613. Misbranding of "Fruit-a-tives." U. S. * * * v. 67 Dozen Packages of "Fruit-a-tives." Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 9464. I. S. No. 12538-r. S. No. E-1163.)

On November 25, 1918, the United States attorney for the District of Rhode Island, 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 67 dozen packages (42 dozen large and 25 dozen small) of an article, labeled in part "'Fruit-a-tives' * * * Tablets, Fruitatives Limited, Ogdensburg, N. Y.," remaining unsold in the original unbroken packages at Providence, R. I., alleging that the article had been shipped from Ogdensburg, N. Y., on or about October 19, 1918, and transported from the State of New York into the State of Rhode Island, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of aloin, cascara sagrada, quinine, and strychnine.

Misbranding of the article was alleged in substance in the libel for the reason that certain statements appearing on the carton containing the article, to wit, "'Fruit-a-tives' Fruit Liver Tablets * * * The Laxative and Healing Properties of Fresh Ripe Fruit * * * is made from the laxative or liver principle, extracted by a special process from oranges, apples, prunes and figs * * * is made from a special extract of concentrated and intensified fruit juice * * *," on the sticker on cork of bottle, to wit, "Made from Fresh Ripe Fruit," and statements of same tenor on bottle label and in circular accompanying the article, together with pictorial device of apparatus being fed different fruits and discharging tablets of the product, were false and misleading in that they conveyed the impression that the "laxative and healing properties" were due to fruit extracts, when, in fact, they were not. Misbranding was alleged for the further reason that the statement on the carton, to wit, "Antiseptic," was false and misleading in that while quinine, one of the ingredients, might be regarded as an antiseptic, it was not such in the form or dose found in the product, and for the further reason that the statement, to wit, "Harmless," was not corrected by the qualifying statement "When taken as directed," and was false and misleading in that the product was not harmless, but contained an active poison, nux vomica (strychnine).

Misbranding was alleged in substance for the further reason that the labeling bore the following false and fraudulent statements, regarding the therapeutic and curative effects of the article, to wit, (carton) "Strengthens the stomach and liver * * * Stimulates the kidneys, tends to purify the blood, tones up the nervous system," (bottle) "Relieves * * * Recurring Headaches, Dizziness, Backache," (circular) "'Fruit-a-tives' is an effective remedy * * * and has a distinctly remedial action on the Stomach, Bowels, Kidneys, Skin and Nervous System. In * * * Indigestion * * * Kidney Irritation, Skin Diseases, Headaches, Backaches, Sleeplessness, Pelvic Pains, Nervous depression and Blood impurity—'Fruit-a-tives' is very beneficial and highly recommended.