

Adulteration of the blackberry, raspberry, cherry, and strawberry jams, and of the pineapple preserves, was alleged in the information for the reason that sugar, water, and pectin had been mixed and packed with the articles in excess of their proper proportions so as to reduce and lower and injuriously affect the quality and strength of the said articles; and for the further reason that products deficient in fruit and containing an excessive proportion of sugar, water, and pectin had been substituted for the said articles. Adulteration of the peach and apricot preserves was alleged for the reason that fruit juice, a valuable constituent of the articles, had been in part abstracted.

Misbranding of the blackberry, raspberry, cherry, and strawberry jams, and the pineapple preserves, was alleged for the reason that the statements, "Blackberry Jam", "Raspberry Jam", "Pineapple Preserves", "Cherry Jam", and "Strawberry Jam", appearing on the labels of the respective products, followed by the statement, "Added Fruit Pectin & Fruit Acid", were false and misleading, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser, since the said statements represented that the articles were fruit jams or preserves to which had been added fruit pectin and fruit acid, whereas they were not such products, but were deficient in fruit and contained an excessive proportion of sugar, water, and pectin. Misbranding of the said blackberry, raspberry, cherry, and strawberry jams and pineapple preserves was alleged for the further reason that the articles were offered for sale under the distinctive names of other articles. Misbranding of the raspberry jam and pineapple preserves was alleged for the further reason that the statements of weight, "Net Weight 16 Oz." or "Net Weight 32 Oz.", borne on the labels, also were false and misleading and deceived and misled the purchaser, since certain of the jars contained less than declared in the labeling. Misbranding was alleged with respect to all products 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 since the statement of weight was in small and very fine type, was not readily discernible, and was not in terms of the largest unit contained in the package, namely, pounds; and in certain of the products the statement was incorrect.

On December 19, 1932, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of \$150.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20548. Misbranding of canned tomatoes. U. S. v. 318 Cases, et al., of Canned Tomatoes. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 28258. I. S. nos. 53906, 53907. S. no. 6088.)**

This action involved the interstate shipment of quantities of canned tomatoes which fell below the standard promulgated by the Secretary of Agriculture for such canned food and was not labeled to show that it was substandard.

On April 29, 1932, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 486 cases of canned tomatoes, remaining in the original packages at Rock Island, Ill., alleging that the article had been shipped in interstate commerce on or about February 18, 1932, by the Ozark Canning Co., from Springdale, Ark., to Rock Island, Ill., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Ozark Pride Brand Hand Packed Tomatoes \* \* \* Packed by Ozark Canning Co., Hindsville, Ark."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality promulgated by the Secretary of Agriculture for such canned food, in that it contained an excessive amount of peel, and its package or label did not bear a plain and conspicuous statement indicating that it fell below such standard of quality.

On December 15, 1932, the Ozark Canning Co., Hindsville, Ark., having appeared for the property 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 said claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it be relabeled, under the supervision of this Department, so that it comply with the law.

R. G. TUGWELL, *Acting Secretary of Agriculture.*