

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, and the discrepancies between the actual weight and the branded weight of the contents of the jars exceeded the tolerance provided under Regulation 26 of the United States Department of Agriculture.

On September 25, 1935, the case was tried to the court and judgment of guilty was entered, a fine of \$200 was imposed, and costs were assessed against the defendant.

W. R. GREGG, *Acting Secretary of Agriculture.*

25538. Adulteration and misbranding of preserves. U. S. v. The William Edwards Co., a corporation. Plea of nolo contendere. Fine, \$400. (F. & D. no. 32115. Sample nos. 18206-A, 18207-A, 18208-A, 18209-A, 18210-A, 18211-A, 18212-A, 18213-A, 33302-A, 33303-A, 33304-A, 33305-A, 33306-A.)

The quality of these products was injuriously affected by the quantity of sugar mixed with them and a substance had been substituted for what the products purported to be, namely, preserves.

On July 27, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the William Edwards Co., a corporation, Cleveland, Ohio, alleging shipments by it, in violation of the Food and Drugs Act as amended, on or about September 13, 1932, and September 20, 1932, from Cleveland, Ohio, to Birmingham, Ala., of quantities of preserves that were adulterated. The articles were labeled in part, severally, as follows: (Jars) "Pure Strawberry Preserves * * * The William Edwards Co. Producers Cleveland, Ohio"; (jars) "Pure Peach Preserves"; (jars) "Pure Cherry Preserves"; (jars) "Pure Red Raspberry Preserves"; (jars) "Pure Raspberry Preserves"; (jars) "Pure Cherry Preserves"; (jars) "Pure Blackberry Preserves."

Adulteration of the several products was severally charged (a) under the allegation that sugar had been mixed and packed with the product so as to reduce, lower, and injuriously affect its quality and strength as preserves; (b) under the allegation that a mixture of fruit and sugar, which contained less fruit than preserves, had been substituted for that which the article purported to be.

Misbranding of the several products was severally charged (a) under the allegations that the label attached to the jars bore the statement, to wit, "Pure * * * Preserves" that the product consisted in part of sugar and contained less fruit than preserves and that the said statement was false and misleading; (b) under the allegation that the article was labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was offered for sale under the distinctive name of another article, namely, "Pure * * * Preserves."

On March 21, 1936, a plea of nolo contendere having been entered, a fine of \$400 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

25539. Adulteration and misbranding of alleged butter. U. S. v. John F. Seymour and John F. Seymour, Jr. Pleas of guilty. Fines, \$600. (F. & D. no. 32197. Sample no. 43257-A.)

This case was based on an interstate shipment of oleomargarine which was represented to be creamery butter.

On August 12, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John F. Seymour and John F. Seymour, Jr., residents of Baltimore, Md., or New York, N. Y., alleging shipment by said defendants, on June 9, 1933, from the State of New Jersey into the State of New York, of a quantity of a product purported to be creamery butter which was adulterated and misbranded in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that oleomargarine had been substituted wholly for creamery butter, which the article purported to be.

Misbranding was alleged for the reason that the article was an imitation of another article, and was offered for sale under the distinctive name of another article, namely, creamery butter.

On December 2, 1935, pleas of guilty were entered and the court imposed a fine of \$300 against each defendant.

W. R. GREGG, *Acting Secretary of Agriculture.*