

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed animal substance.

On December 15, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

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

20650. Adulteration and misbranding of grape concentrate and banana concentrate. U. S. v. Joe Lowe Corporation. Plea of guilty. Fine, \$500. (F. & D. no. 28065. I. S. nos. 22673, 22749, 22777.)

This case was based on several shipments of grape and banana concentrate, artificially colored and artificially flavored, and containing little, if any, true fruit or fruit juices. The banana concentrate was labeled to convey the impression that it was a true fruit product, the natural color and flavor of which had been enhanced or improved by artificial color and flavor. The articles were imitations and were not labeled as such.

On January 9, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Joe Lowe Corporation, trading at Los Angeles, Calif., charging violation of the Food and Drugs Act. It was alleged in the information that on or about June 12 and June 24, 1931, the defendant company had shipped from the State of California into the States of Utah and Colorado, quantities of grape concentrate, and had shipped on or about April 15, June 22, and June 24, 1931, from the State of California into the State of Colorado, quantities of banana concentrate, which products were adulterated and misbranded. The labels on the bottles containing the grape concentrate bore the statements: "Popsicle * * * Grape Concentrate artificial color * * * Joe Lowe Corporation." The cases containing a portion of the grape concentrate were labeled in part: "Popsicle Syrup Grape Flavor Syrup 100 Lbs. Grape." The bottles containing the banana concentrate were labeled: "Popsicle * * * artificial flavor and color Banana Concentrate * * * Joe Lowe Corporation."

Adulteration of the grape concentrate was alleged in the information for the reason that an artificially colored sirup, prepared in imitation of grape concentrate and containing undeclared artificial flavor, but containing no flavor derived from grapes and little, if any, grape juice, had been substituted for the article. Adulteration of the banana concentrate was alleged for the reason that an artificially flavored and colored imitation of banana concentrate, containing no true banana flavor derived from banana and little, if any, banana fruit, had been substituted for banana concentrate enhanced in flavor and color by artificial means which the article purported to be. Adulteration of both products was alleged for the further reason that they had been mixed and colored in a manner whereby damage and inferiority were concealed.

Misbranding of the grape concentrate was alleged for the reason that the statements, "Grape * * * Flavor Sirup, 100 Lbs. Grape" and "Grape Concentrate", borne on the labels, were false and misleading and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was flavoring made from grapes, having the distinctive and natural flavor derived from grapes; whereas it was not, but was an artificially colored and artificially flavored product containing little, if any, grape juice. Misbranding of the banana concentrate was alleged for the reason that the statement "Banana Concentrate" in large, conspicuous type, and the statement "Artificial Flavor and Color" in smaller type, borne on the label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was a flavoring sirup made from banana with the natural and distinctive flavor derived from bananas, and that there had been added to the article an artificial flavor and color to enhance its true flavor and color; whereas it was not as represented, but was an artificially colored and flavored product containing little, if any, banana fruit. Misbranding was alleged for the further reason that the articles were imitations of and were offered for sale under the distinctive names of other articles.

On January 23, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$500.

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