

were artificially colored, and with the exception of the lemon, lemon-lime, and orange were also artificially flavored, had been substituted for Frute-Ade grape, strawberry, cherry, raspberry, lemon, lemon-lime, or orange flavors, namely, beverages which derived their fruit characteristics from juices of the said fruits.

Misbranding was alleged in that the statements, "Frute-Ade * * * drink * * * grape [or "Strawberry," "Cherry," "Raspberry," "Lemon," "Lemon Lime," or "Orange"] flavor" and "2½ fl. oz.," borne on the bottle labels, were false and misleading and were borne on the labels so as to deceive and mislead the purchaser, in that they represented that the articles were beverages which derived their fruit characteristics from juices of the fruits designated, and that the bottles contained 2½ fluid ounces thereof; whereas they contained little, if any, fruit juices, and the bottles contained less than 2½ fluid ounces of the said articles. Misbranding was alleged further in that the articles were offered for sale and sold under the distinctive names of other articles; and in that they were foods in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On December 22, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$25.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31031. Adulteration of butter. U. S. v. Spring Valley Butter Co., Inc. Plea of guilty. Fine, \$210. (F. & D. No. 42775. Sample Nos. 57621-D, 57646-D, 57648-D, 57659-D, 57662-D, 57664-D, 57665-D.)

This product was found to be deficient in milk fat.

On November 6, 1939, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Spring Valley Butter Co., Inc., of Nampa, Idaho, alleging shipment by said company in violation of the Food and Drugs Act, within the period from on or about March 30 to on or about May 27, 1939, from the State of Idaho into the State of California of quantities of butter which was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923.

On January 30, 1940, a plea of guilty having been entered on behalf of the defendant, a fine of \$210 was imposed.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31032. Misbranding of cottonseed nut cake. U. S. v. James W. Simmons, George A. Simmons, and Tom B. Simmons (Quanah Cotton Oil Co.). Pleas of guilty. Fine, \$100. (F. & D. No. 42736. Sample No. 4156-D.)

This product contained a smaller percentage of protein than was declared on its label.

On July 24, 1939, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against James W. Simmons, George A. Simmons, and Tom B. Simmons, trading as the Quanah Cotton Oil Co., Quanah, Tex., alleging that on or about October 10, 1938, the said defendants sold and delivered at Quanah, Tex., a quantity of cottonseed nut cake; that at the time of said sale and delivery the defendants gave the purchaser thereof a guaranty that the product was not adulterated or misbranded in violation of the Food and Drugs Act; that on or about October 10, 1938, the said cottonseed nut cake in the identical condition as when so sold and delivered was transported by the purchaser thereof from the State of Texas into the State of Kansas; that the article was misbranded in violation of the Food and Drugs Act; and that by reason of the said transportation, the said guaranty and the aforesaid misbranding, the defendants were amenable to the prosecution, fines, and other penalties which otherwise would attach to the shipper. The article was labeled in part: "43% Protein Cottonseed Cake and Meal—Prime Quality—Manufactured by Quanah Cotton Oil Company, Quanah, Texas."

Misbranding was alleged in that the statement "Protein not less than 43.00%," borne on the label, was false and misleading and was borne on the said label so as to deceive and mislead the purchaser, since the article contained less than 43 percent of protein, namely, not more than 40.06 percent of protein.