

22690. Adulteration and misbranding of prepared mustard and misbranding of black pepper and cider vinegar. U. S. v. Abraham Brodsky and Owl Brand Products Co. Pleas of guilty. Fines, \$26. (F. & D. no. 31443. Sample nos. 20448-A, 20449-A, 20450-A.)

The products in this case consisted of prepared mustard that was adulterated with added mustard bran, and misbranded because of failure to bear a proper declaration of the quantity of the contents; black pepper that bore no declaration of the quantity of the contents; and of cider vinegar that was misbranded because of the presence of added water and failure to bear a proper declaration of the quantity of the contents.

On March 13, 1934, the United States attorney for the District of Delaware, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Abraham Brodsky and Owl Brand Products Co., a corporation, Wilmington, Del., alleging shipment by said defendants, in violation of the Food and Drugs Act as amended, on or about October 31, 1932, from the State of Delaware into the State of New Jersey, of quantities of prepared mustard which was adulterated and black pepper and cider vinegar which were misbranded. The articles were labeled in part: "Prepared Mustard Packed By A. Brodsky * * * Wilmington, Del."; "Owl Brand Black Pepper"; "Owl Brand Pure Cider Vinegar Packed by Abraham Brodsky * * * Wilmington, Del."

The information charged that the prepared mustard was adulterated in that mustard bran had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted in part for prepared mustard which the article purported to be.

Misbranding of the prepared mustard was alleged for the reason that the statement on the label, "Prepared Mustard", was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it was not prepared mustard in that it contained more crude fiber than prepared mustard contains. Misbranding of the prepared mustard was alleged for the further reason that it was offered for sale under the distinctive name of another article, and was an imitation of another article, namely, prepared mustard. Misbranding was alleged with respect to all products for the reason that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since in the case of the prepared mustard the statements were made as "Contents 16 oz." and "Contents 32 oz."; whereas regulations of this Department provide that the quantity of the contents when stated by weight shall be marked in terms of the largest unit in the package, namely, in avoirdupois pounds when the article weighs even pounds; in the case of the black pepper the label bore no statement of the quantity of the contents and the article did not come within the exemption for small packages since it contained more than one-half ounce avoirdupois; and in the case of the cider vinegar neither sized bottle bore a declaration of the contents in terms of the largest unit, namely, pint or quart, one of the quart bottles examined was incorrectly marked "16 Fluid Ounces", and one of the pint bottles examined was marked "16 Fluid Ounces", which was incorrect since the bottle contained materially less than 1 pint. Misbranding of the cider vinegar was alleged for the further reason that the designs of apples and the statement "Pure Cider Vinegar", borne on the bottle label, were false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the said statement and designs represented that the article was pure apple cider vinegar, whereas it contained approximately 40 percent of added water.

On June 16, 1934, pleas of guilty were entered, and the court imposed a fine of \$25 on Abraham Brodsky and a fine of \$1 on the Owl Brand Products Co.

M. L. WILSON, *Acting Secretary of Agriculture.*

22691. Misbranding of candy. U. S. v. Claude S. Allen (McGregor Toffee Co.). Plea of guilty. Sentence suspended. (F. & D. no. 31448. Sample nos. 16369-A, 16370-A, 16598-A, 16599-A.)

Sample packages of candy taken from the shipments involved in this case were found to contain less than 1 pound, the labeled weight.

On June 25, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Claude S. Allen, trading as the McGregor Toffee Co., Brooklyn, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, in various shipments, on or about Novem-

ber 15, December 6, 1932, and January 19, 1933, from the State of New York into the State of Massachusetts, of quantities of candy which was misbranded. The article was labeled in part: "McGregor Toffee Manufactured by McGregor Toffee Company, Brooklyn N. Y. Net weight 1 lb."

It was alleged in the information that the article was misbranded in that the statement "Net Weight 1 Lb.", borne on the packages, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the packages contained less than 1 pound. 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 packages, since the statement made was incorrect.

On July 11, 1934, the defendant entered a plea of guilty and the court ordered that sentence be suspended.

M. L. WILSON, *Acting Secretary of Agriculture.*

22692. Misbranding of canned salmon. U. S. v. Libby, McNeill & Libby. Plea of guilty. Fine, \$1,125. (F. & D. no. 31471. Sample nos. 20193-A, 22929-A, 22930-A, 22931-A, 25257-A, 25259-A, 25261-A, 28173-A, 28174-A, 28175-A, 29608-A, 36040-A.)

This case was based on various lots of canned salmon labeled "Fancy Red Alaska Salmon." Examination of the article showed that it consisted of low-grade salmon, some of the lots being in part tainted or stale.

On May 12, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Libby, McNeill & Libby, a corporation trading at San Francisco, Calif., alleging that on or about September 9, 1932, the said defendant had received at San Francisco, Calif., various interstate shipments of canned salmon from Seattle, Wash., which was misbranded in violation of the Food and Drugs Act, and that having so received the said product had delivered it to various firms in California for pay. The information further alleged that on or about September 9, 1932, the defendant had shipped in interstate commerce from Seattle, Wash., into the State of California, and on or about January 5 and March 6, 1933, from the State of California into the State of New Mexico; and on or about February 17, 1933, from the State of California into the State of Arizona, various lots of canned salmon which was misbranded. The article was labeled in part: "Libby's Fancy Red Alaska Salmon, Libby McNeill & Libby, Chicago."

The information alleged that the article was misbranded in that the statement "Fancy Red Alaska Salmon", borne on the label, was false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since the said statement represented that the article was Fancy, first-class grade and quality salmon, whereas it was not, certain of the lots consisting largely of very low-grade salmon and in part of stale salmon, and certain of the lots consisting in part of stale, tainted, decomposed, and low-grade salmon.

On July 14, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$1,125.

M. L. WILSON, *Acting Secretary of Agriculture.*

22693. Adulteration of tomato catsup and misbranding of canned cherries. U. S. v. Perry Canning Co. Plea of guilty. Fine, \$26. (F. & D. no. 31475. Sample nos. 28114-A, 28115-A.)

This case was based on a shipment of tomato catsup which contained excessive mold, and of a shipment of canned pitted cherries which fell below the standard established by the Secretary of Agriculture, because of the presence of excessive pits, and which were not labeled to indicate that they were sub-standard.

On April 4, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Perry Canning Co., a corporation, Perry, Utah, alleging shipment by said company in violation of the Food and Drugs Act, as amended, on or about August 22, 1932, from the State of Utah into the State of Texas, of a quantity of tomato catsup which was adulterated, and a quantity of canned cherries which were misbranded. The articles were labeled in part: "Golden 'Q' Brand Quality Water-Packed Red Sour Pitted Cherries, Perry Canning Co.", "Mountain Made Brand Standard Catsup, Packed By Perry Canning Co. Perry, Utah."