

court an information against the Perkins Oil Co., a corporation trading at West Memphis, Ark., alleging shipment by said company on or about October 16, 1936, from the State of Arkansas into the State of Kansas of a quantity of cottonseed meal that was misbranded in violation of the Food and Drugs Act as amended. It was labeled in part: (Tag) "Golden Rod Brand Cottonseed Meal * * * 100 Lbs. Net Wt. Manufactured by Perkins Oil Co. Memphis, Tenn."

The article was alleged to be misbranded in that the statement on the tag, "100 Lbs. Net Wt.," was false and misleading and in that it was labeled so as to deceive and mislead the purchaser, since the sacks contained less than 100 pounds net; it was alleged to be misbranded further in that it was food in package form and the quantity of contents was not plainly and conspicuously stated on the outside of the package.

On October 18, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$150.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28019. Misbranding of tomato paste. U. S. v. 198 Cases of Tomato Paste. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40252. Sample No. 38326-C.)

This case involved an interstate shipment of canned tomato paste which was short weight.

On September 8, 1937, 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 a libel praying seizure and condemnation of 198 cases of canned tomato paste at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 31, 1937, by the West Coast Packing Co. from Long Beach, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Seemano Brand Tomato Paste Net Weight 7 lbs. 2 oz.—3.24 Kilograms Seeman Bros., Inc., Wholesale Distributors New York."

Misbranding was alleged in that the statement, "Net weight 7 lbs. 2 oz.—3.24 kilograms," was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On October 8, 1937, Seeman Bros., Inc., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28020. Adulteration and misbranding of jellies and jams. U. S. v. Carolina Mushroom Growers, Inc. Plea of guilty to counts 1, 2, and 3; plea of nolo contendere to remaining counts. Fine, \$300 and costs. (F. & D. No. 38591. Sample Nos. 48876-B, 48879-B, 48881-B, 48882-B, 48884-B, 48890-B, 48891-B, 63704-B, 63706-B, 63715-B.)

These products were deficient in fruit and contained excess sugar, excess moisture, and added pectin and acid. In some lots the quantity of the contents was less than that declared and in others the net-weight declaration was illegible.

On July 13, 1937, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Carolina Mushroom Growers, Inc., Charlotte, N. C., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about February 4, April 13, November 11, 1935, February 20 and February 29, 1936, from the State of North Carolina into the State of South Carolina of quantities of jellies and jam that were adulterated and misbranded. The jellies were labeled in part: "Carolina Jelly Apple Flavor [or "Pure Quince," "Crab Apple," "Plum," or "Strawberry"]." The jam was labeled in part: "Pure Seedless Blackberry Jam." All were labeled: "Carolina Mushroom Growers Inc., Charlotte, N. C." Some lots were labeled "14 oz. Net"; one was labeled "Net Contents 1 Pound"; one was labeled "Net Contents 10 oz. Av."; and in some lots the declaration of weight was illegible.

The articles were alleged to be adulterated in that sugar, pectin, water, and acid had been mixed and packed therewith so as to reduce and lower their

quality and strength; in that mixtures deficient in fruit juice in the case of the jellies and deficient in fruit in the case of the jam, which mixtures contained excess sugar, added pectin, added acid and water which should have been boiled off in the process of manufacture, had been substituted for jellies and jam which the articles purported to be; in that they were inferior to jellies and jam and had been mixed so as to simulate the appearance of jellies and jam in a manner whereby their inferiority was concealed.

The articles were alleged to be misbranded in that the statements, "Jelly Apple Flavor," "Pure Quince Jelly," "Pure Crab Apple Jelly," "Pure Plum Jelly," "Pure Strawberry Jelly," and "Pure Seedless Blackberry Jam," borne on the labels, were false and misleading, and were borne on the labels so as to deceive and mislead the purchasers. They were alleged to be misbranded further in that they were prepared in imitation of jellies and jam and were offered for sale and sold under the distinctive names of other articles, namely, jellies and jam.

Misbranding was alleged further in that the statements "Net Contents 1 Pound" and "Net Contents 14 oz.," borne on the labels of certain lots, were false and misleading and were borne on said labels so as to deceive and mislead the purchasers, since the jars contained less than declared. Certain lots were alleged to be misbranded further in 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.

On October 4, 1937, the defendant entered a plea of guilty to counts 1, 2, and 3, and entered a plea of nolo contendere to counts 4 to 28, inclusive. The court imposed a fine of \$300 and costs on counts 1, 2, and 3, and suspended judgment on the remaining counts.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28021. Adulteration of damson plums. U. S. v. 17 Half-Bushels of Damson Plums. Default decree of condemnation and destruction. (F. & D. No. 40603. Sample No. 59042-C.)

This product was contaminated with arsenic and lead.

On August 30, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 half-bushels of damson plums at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 26, 1937, by Jochem Bros. from Bridgman, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "H. Schultz R-2, Benton Harbor, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 5, 1937, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28022. Adulteration of canned spinach. U. S. v. 50 Cases of Spinach. Consent decree of condemnation. Product released under bond conditioned that unsound portion be destroyed. (F. & D. No. 40036. Sample No. 53306-C.)

Samples of this product were found to be undergoing progressive acid decomposition.

On August 3, 1937, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of canned spinach at Tuscaloosa, Ala., alleging that the article had been shipped in interstate commerce on or about May 29, 1937, by Stokely Bros. & Co. from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Stokely's Finest Spinach * * * Stokely Bros. & Co., Inc. General Offices Indianapolis, Ind."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed and putrid vegetable substance.

On November 17, 1937, the claimant having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the unsound portion be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*