30366. Adulteration and misbranding of blackberry preserve. U. S. v. 12 Cases of Assorted Preserves. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 44913. Sample No. 42344–D.)

The blackberry preserve in these assorted preserves consisted in part of apple and raspberry.

On February 27, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 cases of assorted preserves, each case containing a number of jars of blackberry preserve, at Pottstown, Pa.; alleging that the article had been shipped in interstate commerce on or about January 12, 1939, by Fresh Grown Preserve Corporation from Brooklyn, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The blackberry variety was labeled in part: "Top Notch Brand Pure Blackberry Preserve * * * Sun Distributing Co. Inc. Distributors."

The blackberry preserve was alleged to be adulterated in that apple and raspberry had been substituted wholly or in part for blackberry preserve, which the article purported to be.

Misbranding was alleged in that the statement on the label, "Pure Blackberry Preserve," was false and misleading and tended to deceive and mislead the purchaser when applied to an article which contained large amounts of apple and raspberry fruit tissues; and in that it was an imitation of and was offered for sale under the distinctive name of another article, "Pure Blackberry Preserve."

On March 24, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution after removal of the labels.

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

30367. Misbranding of cottonseed meal. U. S. v. Swift & Co. Plea of guilty. Fine, $50. (F. & D. No. 42659. Sample No. 4153–D.)

This product contained less protein than declared on the tag.

On February 1, 1939, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation trading at Little Rock, Ark.; alleging shipment by said defendant in violation of the Food and Drugs Act on or about June 25, 1938, from the State of Arkansas into the State of Kansas of a quantity of cottonseed meal which was misbranded. The article was labeled in part: (Tag) "Cotton Bloom Cottonseed Meal * * * Protein (min.) 43.00%."

It was alleged to be misbranded in that the statement on the tag, "Protein (min.) 43.00%," was false and misleading and was borne on the tag so as to deceive and mislead the purchaser, since it contained less protein than so represented, namely, not more than 40.81 percent of protein.

On March 21, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $50.

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

30368. Adulteration of frozen fish. U. S. v. 884 Boxes of Fish Fillets. Default decree of condemnation and destruction. (F. & D. No. 44842. Sample No. 58742–D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part decomposed.

On February 16, 1939, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 884 boxes of fish fillets at Xenia, Ohio.; alleging that the article had been shipped on or about February 4, 1939, by O'Donnell-Usen Fisheries [Corporation] from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On March 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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