

25533. Misbranding of cottonseed meal. U. S. v. Perkins Oil Co. Plea of guilty. Fine \$50. (F. & D. no. 31373. Sample nos. 17796-A, 17797-A.)

This case was based on an interstate shipment of cottonseed meal that contained less protein and more crude fiber than the percentages thereof represented on the label.

On March 9, 1934, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Perkins Oil Co., a corporation, Memphis, Tenn., charging shipment by said corporation in violation of the Food and Drugs Act, on or about January 28, 1933, from the State of Texas into the State of Maryland, of quantities of cottonseed meal which was misbranded. A portion of the article was labeled: "100 Pounds Net 'Green Tag Prime' Cotton Seed Meal Guaranteed Analysis Protein, Minimum 41.00 per cent Fat, Minimum 6.00 per cent Crude Fiber, Maximum 10.00 per cent Carbohydrates 25.00 per cent Made from Cotton Seed Manufactured for Green-Mish Company Washington, District of Columbia." The remaining portion of the article was labeled: "Gold Quality Prime 43% Cotton Seed Meal Protein 43% Fat 6% Ammonia 8.37% Carbohydrates 26% 100 Lbs. Net. Shipped by E. I. Bailey, Cleveland, O. Made from Cotton Seed only."

The article was alleged to be misbranded with respect to the portion first referred to, in that the statement, "Guaranteed Analysis Protein, Minimum 41.00 per cent * * * Crude Fibre, Maximum 10.00 per cent", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the article contained not less than 41 percent of protein and not more than 10 percent of crude fiber; whereas in fact the article contained less than 41 percent of protein and more than 10 percent of crude fiber. The article was alleged to be misbranded with respect to the remaining portion, in that the statement, "Protein 43% Fibre 10%", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the article contained 43 percent of protein and 10 percent of fiber; whereas in fact the article contained less than 43 percent of protein and more than 10 percent of fiber.

On April 30, 1936, a plea of guilty was entered on behalf of the defendant corporation and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

25534. Adulteration and misbranding of Nu-Vita yeast. U. S. v. George D. Miller. Plea of guilty. Fine, \$10 and costs. (F. & D. no. 31465. Sample nos. 22025-A, 35928-A.)

This case was based on interstate shipments of two lots of a product which was represented to consist of yeast. Examination showed that it consisted essentially of corn meal with about 1 percent of yeast present. The labeling of both lots contained unwarranted claims regarding its feeding value, and a card enclosed with one shipment bore unwarranted claims regarding its alleged therapeutic properties.

On February 22, 1935, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George D. Miller, Cedar Falls, Iowa, alleging shipment by said defendant in violation of the Food and Drugs Act, as amended, on or about January 23 and January 24, 1933, from the State of Iowa into the States of Colorado and Wisconsin, respectively, of quantities of Nu-Vita yeast which was adulterated and misbranded.

The article was alleged to be adulterated under the provisions of the law applicable to food in that a substance, corn meal, had been mixed and packed therewith so as to lower, reduce, and injuriously affect its quality and strength, and had been substituted in part for stock yeast, which the article purported to be. Adulteration was further alleged under the provisions of the law applicable to drugs in that the strength and purity of the article fell below the professed standard and quality under which it was sold, since it was represented to be composed essentially of yeast; whereas it was composed in large part of corn meal.

The article was alleged to be misbranded under the provisions of the law applicable to food in that the statements, "Nu-Vita Yeast", and "Nu-Vita Stock Yeast, The Utmost in Feeding Value for Livestock and Poultry", borne on the labels of both lots, and the statement, "Nu-Vita Yeast is a pure, unadulterated bacteria product free from any foreign materials or ingredients", borne on a

pink card shipped with one lot, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it did not consist essentially of yeast but did consist in large part of corn meal, which does not represent the utmost in feeding value for livestock and poultry and it was not a pure, unadulterated bacteria product free from any foreign materials or ingredients. Misbranding was further alleged under the provisions of the law applicable to foods, in that the article was composed in large part of corn meal prepared in imitation of a product composed essentially of yeast, and was offered for sale, and sold under the distinctive name of another article, namely, yeast and stock yeast.

Further misbranding was charged under the provisions of the law applicable to drugs, in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing on a white card shipped with one lot, falsely and fraudulently represented that the article was effective as a treatment, remedy, and cure for white diarrhea, coccidiosis in poultry, and necro and scours in swine.

On December 3, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$10 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25535. Misbranding of jellies and preserves. U. S. v. Wooster Preserving Co., a corporation. Plea of nolo contendere. Fine, \$400 and costs. (F. & D. no. 31527. Sample nos. 4605-A, 32808-A, 32809-A, 32810-A, 32811-A, 32813-A, 32814-A, 32815-A, 32816-A, 32817-A.)

The containers of these articles bore labels that erroneously represented the weight of their contents.

On June 21, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Wooster Preserving Co., a corporation, Wooster, Ohio, alleging shipment by it, in violation of the Food and Drugs Act, as amended, in the period from September 20, 1932, to February 18, 1933, from Wooster, Ohio, to Fort Wayne, Ind., and Pittsburgh, Pa., of quantities of jellies and preserves that were misbranded. The articles were labeled, severally, in part: (Jar) "Apple & Strawberry Net Weight 8 Oz. Avd. Pure Sugar Jelly Packed By The Wooster Preserving Co. Wooster, Ohio."; (can) "Red Raspbry-Preserves * * * 8½ Lbs.-W"; (can) "Strawbry Preserves * * * Contents 8½ Lbs.-W"; (can) "Peach Preserves * * * Contents 8½ Lbs.-W"; (can) "Apricot Preserves * * * Contents 8½ Lbs.-W"; (can) "Apple-Currant Jelly * * * Contents 8½ Lbs."; (can) "Apple-Strawberry Jelly * * * Contents 8½ Lbs."; (can) "Apple-Grape Jelly * * * Contents 8½ Lbs."; (can) "Apple-Raspbry Jelly * * * Contents 8½ Lbs."

Misbranding of the apple and strawberry jelly was charged (a) under the allegations that the labels on the jars bore the statement, to wit, "Net Weight 8 Oz.", that each of the jars contained an amount less than 8 ounces, and that the said statement was false and misleading; (b) under the allegation that the article was labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was in package form and that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

Misbranding of each of the nine other articles was severally charged (a) under the allegations that the labels on the cans bore the statement, to wit, "8½ Lbs.", that each of the cans contained an amount less than 8½ pounds, that the said statement was false and misleading; (b) under the allegation that the article was labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was in package form and that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 21, 1936, a plea of nolo contendere having been entered, a fine of \$400 was imposed, with costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

25536. Alleged adulteration of cold-pack strawberries. U. S. v. 359 Barrels of Cold-Pack Strawberries. Libel dismissed. (F. & D. no. 31565. Sample no. 49993-A.)

Decomposed fruit was alleged to be present in this product.

On November 9, 1933, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 359 barrels of