

jellies, but were jellies deficient in the juices of the said fruits containing more pectin than jellies contain. Misbranding was alleged for the further reason that the articles were sold under the distinctive names of other articles.

On March 27, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$100 and costs.

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

**24710. Misbranding of cottonseed screenings. U. S. v. John J. Culbertson, Jr., John S. LeClercq, Jr., and Algernon S. Roberts (Prairie Cotton Oil Co.).** Plea of guilty. Fine, \$300 and costs. (F. & D. no. 33810. Sample nos. 57539-A, 57541-A, 57545-A, 57547-A, 63715-A, 63718-A.)

This case was based on interstate shipments of cottonseed screenings that contained less than 43 percent of protein, the amount declared on the label.

On December 14, 1934, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John J. Culbertson, Jr., John S. LeClercq, Jr., and Algernon S. Roberts, trading as the Prairie Cotton Oil Co., Chickasha, Okla., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about October 28, October 31, November 18, November 20, and November 21, 1933, and March 8, 1934, from the State of Oklahoma into the State of Kansas of quantities of cottonseed screenings which were misbranded. The article was labeled in part: "43 Per Cent Cotton Seed Cake or Meal Prime Quality Prairie Cotton Oil Company (A Business Trust) Chickasha, Oklahoma Guaranteed Analysis Protein, not less than 43 per cent."

The article was alleged to be misbranded in that the statements, "43 Per Cent" and "Guaranteed Analysis Protein, not less than 43 per cent", borne on the tags attached to the sacks containing the article, were false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein.

On May 3, 1935, a plea of guilty was entered and the court imposed a fine of \$300 and costs.

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

**24711. Adulteration and misbranding of chocolate-covered candies. U. S. v. Pasquale Margarella (P. Margarella).** Plea of guilty. Fine, \$80. (F. & D. no. 33834. Sample nos. 54411-A, 54412-A, 58136-A, 66228-A, 66230-A, 66233-A, 66234-A, 66235-A, 66248-A, 67733-A.)

This case was based on interstate shipments of alleged chocolate-coated candies which were in fact candies coated with a mixture of chocolate and cocoa shell. One of the products which was sold under the name of "Jelly Frappe" contained an artificially colored and flavored imitation jelly-like center.

On February 28, 1935, 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 an information against Pasquale Margarella, trading as P. Margarella, New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act on or about August 31, September 22, and November 6, 1933, and January 4, 1934, from the State of New York into the State of Connecticut; on or about October 2, 1933, and January 13, 1934, from the State of New York into the State of Pennsylvania; on or about January 19, 1934, from the State of New York into the State of Massachusetts; and on or about May 16, 1934, from the State of New York into the State of New Jersey, of quantities of alleged chocolate-coated candies which were adulterated and misbranded. The various items were labeled, respectively: "Choc. Cov. Nutty Caramels"; "Tudor City Peppermints"; "Chocolate Covered Pops"; "Choc. Cov. Twisters"; "Choc. Cov. Jelly Frappe"; "Choc. Cov. Moons"; "Chocolate Covered Turkey Eggs"; "Chocolates"; "Special Foil Assortment." The products in most of the shipments were further labeled, "World's Fair Brand \* \* \* Pure Chocolate Candy \* \* \* P. Margarella New York, N. Y.", together with a design of a boy holding a chocolate-covered bar in his hand.

The articles were alleged to be adulterated in that a substance, excessive shell, had been mixed therewith so as to reduce and lower and injuriously affect its quality, and in that excessive shell had been substituted in part for the articles. The jelly frappe was alleged to be further adulterated in that a product containing artificially colored and flavored imitation jelly had been substituted for a product containing fruit jelly frappe, which the article purported to be.

Misbranding was alleged for the reason that the statements "Choc. Cov." and "Pure Chocolate Covered Candy", "Chocolate Covered Pops", "Chocolates", and "Choc. Cov. Jelly Frappe", "Chocolate M. M. Turkey Eggs" and "Choc-O", together with the design showing a chocolate-covered bar, borne on the labels of the various products, were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since the said statements and designs represented that the articles were pure chocolate-covered candies and that the centers of the jelly frappe consisted of fruit jelly frappe; whereas they were not pure chocolate-covered candies, but were covered with a mixture consisting of chocolate and cocoa shell, and the centers of the jelly frappe consisted of an artificially colored and flavored imitation jelly. Misbranding was alleged with respect to most of the products for the further reason that they were offered for sale under the distinctive name of another article, namely, pure chocolate-covered candy. Misbranding of the jelly frappe was alleged for the further reason that it was an imitation of another article, namely, pure chocolate-covered fruit jelly frappe.

On May 15, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$80.

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

**24712. Misbranding of beer. U. S. v. Golden West Brewing Co. Plea of guilty. Fine, \$50. (F. & D. no. 33842. Sample no. 60461-A.)**

This case was based on an interstate shipment of beer which contained 6.25 percent of alcohol, and which was misbranded because the case label bore the representation that the article contained not more than 4 percent of alcohol, and on the bottle the alcohol content was declared in proof spirits in a manner to create the impression that it contained 12½ percent of alcohol.

On October 30, 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 the Golden West Brewing Co., a corporation, Oakland, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 26, 1934, from the State of California into the State of Oregon of a quantity of beer which was misbranded. The article was labeled in part: (Case) "Golden Glow Beer \* \* \* Does not contain more than 4.0 per centum of alcohol by volume"; (bottle) "Golden Glow Ale over 12½% alcohol american proof spirits \* \* \* Golden West Brewing Co. Los Angeles—Oakland—San Francisco California."

The article was alleged to be misbranded in that the statement, "Does not contain more than 4.0 per centum of alcohol by volume", borne on the case, and the conspicuous isolated statement "12½%", together with the inconspicuous statement "over 12½% Alcohol American Proof Spirits", borne on the bottle label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, in that the statement on the case represented that the article contained not more than 4 percent of alcohol, and the statements on the bottle represented that the article contained at least 12½ percent of alcohol; whereas it contained more than 4 percent of alcohol and contained less than 12½ percent of alcohol.

On May 17, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$50.

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

**24713. Misbranding of canned peaches. U. S. v. California Packing Corporation. Plea of guilty. Fine, \$40. (F. & D. no. 33851. Sample no. 66727-A.)**

This case was based on shipments of canned peaches which were found to be short weight.

On November 27, 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 the California Packing Corporation, San Francisco, Calif., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about August 29, 1933, and January 2, 1934, from the State of California into the State of Wyoming of quantities of canned peaches which were misbranded. The article was labeled in part: "Our Family Contents 1 lb. 14 oz. Halves Yellow Cling Peaches Distributed by Nash-Finch Co General Offices Minneapolis, Minn."

The article was alleged to be misbranded in that the statement "1 lb. 14 oz.", borne on the label, was false and misleading, and for the further reason that