

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-