

commerce on or about January 18, 1937, by the H. J. McGrath Co. from Baltimore, Md., and charging adulteration in violation of the Food and Drugs Act as amended. The article was labeled in part: "McGrath's Early June Peas * * * Champion Brand. The H. J. McGrath Co. Baltimore, Md. U. S. A. Distributors."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the peas were not immature, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On January 7, 1938, a representative of the claimant, the H. J. McGrath Co., having informed the United States attorney that condemnation would not be contested, the product was condemned and ordered destroyed.

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

28078. Adulteration of apples. U. S. v. 31 Bushels and 19 Bushels of Apples. Decrees of condemnation and destruction. (F. & D. Nos. 40662, 40855. Sample Nos. 59641-C, 59775-C.)

This product was contaminated with arsenic and lead.

On October 12 and 30, 1937, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of two lots, totaling 50 bushels, of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on October 6 and 27, 1937, from Benton Harbor, Mich., by Abe Weisberg of Chicago; Ill. (one lot consigned to himself), and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled: "J. F. Smith * * * Benton Harbor, Mich." The remainder was labeled: "Julius Schlipp Coloma, Mich."

The article 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 3, 1937, and January 6, 1938, the claimant for one lot having consented to the entry of a decree and no claim having been entered for the other lot, the product was condemned and ordered destroyed.

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

28079. Adulteration of apples. U. S. v. 215 Crates and 140 Bushels of Apples. Default decrees of condemnation and destruction. (F. & D. Nos. 40680, 40738. Sample Nos. 59467-C, 59656-C.)

This product was contaminated with arsenic and lead.

On October 1 and 15, 1937, the United States attorney for the Northern District of Indiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 215 crates and 140 bushels of apples at Hammond, Ind., alleging that the article had been shipped in interstate commerce in part on or about September 28, 1937, from Hartford, Mich., by H. Shlensky & Sons (consigned to H. Shlensky & Sons, of Hammond, Ind.), and in part on or about October 7, 1937, from Riverside, Mich., by Hyman Shlensky (consigned to Hyman Shlensky & Sons, of Hammond, Ind.), and charging adulteration in violation of the Food and Drugs Act. A portion was labeled: "Herbert Chabot Riverside Mich." The remainder was unlabeled.

The article 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 13 and December 6, 1937, no claimant having appeared, the product was condemned and ordered destroyed.

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

28080. Adulteration of apples. U. S. v. 45 Baskets of Apples. Default decree of condemnation and destruction. (F. & D. No. 40847. Sample No. 50299-C.)

This product was contaminated with arsenic and lead.

On November 3, 1937, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 45 baskets of apples at Minneapolis, Minn., alleging that the article had been shipped in interstate

commerce on or about October 29, 1937, by C. M. Jones from Norwalk, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients which might have rendered it injurious to health.

On December 16, 1937, no claimant having appeared, the product was condemned and ordered destroyed.

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

28081. Adulteration and misbranding of preserves. U. S. v. 30 Cases and 2 Cases of Preserves. Default decree of condemnation with provision for delivery to charitable institutions. (F. & D. No. 37550. Sample Nos. 62627-B, 62628-B, 62629-B.)

The products covered by this action contained less fruit and more sugar than standard preserves. All contained added pectin; the red raspberry contained added acid and the plum contained excess moisture.

On April 6, 1936, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 32 cases, containing among other products, a number of jars of the preserves hereinafter described, at Washington, D. C., alleging that the articles had been shipped in interstate commerce on or about August 2, 1935, and January 22, 1936, from Pittsburgh, Pa., by Lutz & Schramm Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "L & S Pure Preserves Lutz & Schramm Co. Pittsburgh, Pa. * * * Red Raspberry [or "Blackberry" or "Pure Plum"] Preserves."

Adulteration was alleged in that sugar, acid, and pectin in the case of the raspberry; sugar and pectin with respect to the blackberry; and sugar, pectin, and water that should have been removed by boiling in the case of the plum preserves, had been mixed and packed with the articles so as to reduce or lower their quality; in that the said mixtures containing less fruit and more sugar than preserves should contain had been substituted for preserves, which they purported to be; and in that the articles had been mixed in a manner whereby inferiority was concealed.

Misbranding was alleged in that the articles were imitations of and were offered for sale under the distinctive names of other articles of food; and in that the statements on the labels, "Pure Preserves Red Raspberry [or "Blackberry" or "Plum"] Preserves * * * Guaranteed Pure," were false and misleading and tended to deceive and mislead the purchaser when applied to products resembling preserves but which contained less fruit than preserves.

On November 24, 1937, the claimant having filed no answer, judgment of condemnation was entered and the products were ordered turned over to charitable institutions.

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

28082. Adulteration of canned tuna. U. S. v. Van Camp Sea Food Co. Inc. Plea of nolo contendere. Fine, \$200. (F. & D. No. 38065. Sample Nos. 16215-B, 60129-B.)

This product was in part decomposed.

On March 4, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Van Camp Sea Food Co., Inc., Terminal Island, Calif., alleging sale and delivery by said defendant on or about January 6, 17, and 28, and February 11 and 18, 1936, to Smart & Final Co., Ltd., at Wilmington, Calif., of certain quantities of canned tuna under a guaranty that the article was not adulterated within the meaning of the Food and Drugs Act; that on March 7, 1936, the said Smart & Final Co., Ltd., shipped a quantity of the product in the identical condition as when so sold and delivered by the defendant, from the State of California into the State of Nevada; that the article was adulterated in violation of the Food and Drugs Act. It was labeled in part: "S and F Fancy Tuna * * * Packed for Smart & Final Co. Ltd."

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

On February 14, 1938, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$200.

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