The firm was charged with devising a scheme to defraud and with unlawful use of the United States mail. Among the documents introduced as evidence were letters mailed by the defendants to customers in North Dakota and South Dakota stating that the firm had an adequate supply of Selkirk wheat seed and would make all deliveries as promised. Cards had been mailed to the buyers to notify them when the seed would arrive at the railway freight station.

The Government was able to prove that the firm was financially insolvent throughout its operations and that the defendants were fully aware that they could not furnish seed of the Selkirk variety. Mislabeling the seed as to variety was a misdemeanor under the Federal Seed Act, but using the mails to defraud was a felony under the Postal Fraud Act. The two partners were found guilty of postal fraud and were sentenced to terms of 2 and 3 years in Federal prison.

Compliance with seed laws requires careful technical work.

Violations may be due to faulty organization, careless procedure, inexperience, or incompetence. Sometimes errors occur through circumstances not under control of the seedsman. All of these may cause loss to the planter.

Seed frauds, on the other hand, are caused by dishonesty, and they are avoidable. Not many outright frauds occur, but proper laws and vigilance will reduce that small number.

The basic difference between these types of violations is important and should be kept in view at all times, lest the legitimate seedsman be condemned unjustly or the activities of the racketeer be condoned.

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Our Laws That Pertain to Seeds

S. F. Rollin and Frederick A. Johnston

The basic purpose of the seed laws in the United States is to insure that seed is labeled truthfully.

It is possible for seed dealers legally to sell low-quality but correctly labeled seeds. The purchaser therefore should read and understand the information on the label, which must be attached to the container, to determine whether he wants to buy it.

The laws are not devised solely for the protection of farmers, gardeners, and homeowners. They are designed also for the protection of seedsmen. Seeds move from one dealer to another in the marketing process, particularly from areas of production to areas of use. Every handler of seeds needs the protection afforded by law.

Homeowners who buy packets of vegetable seeds seldom find any representation as to the percentage of germination. When vegetable seeds are above a certain specified standard in germination, most States do not require that the packet show the actual percentage of germination. Only vegetable seeds that are below the specified standard established for germination must be labeled to show the percentage of germination, the date of the germination test, and the words, “Below Standard.”

Connecticut in 1821 passed a law prohibiting the sale of grass seed containing Canada thistle and other weeds. Michigan in 1871 prohibited the sale of seeds containing Canada thistle and milkweed. Illinois, California, Missouri, and Nebraska between 1867 and 1895 legislated against seed containing
Canada thistle. The two earliest vegetable seed laws were adopted by Florida in 1889 and by California in 1891. By 1941, all 48 States had seed laws.

The Congress in 1904 appropriated money to the Department of Agriculture to obtain in the open market samples of seeds of grass, clover, or alfalfa to be tested, and directed the Secretary that if any such seeds were found to be adulterated or misbranded or if any seeds of Canada bluegrass were sold under any other name than Canada bluegrass, the results of the tests should be published, together with the names of the persons by whom the seeds were offered for sale.

Between 1904 and 1919, the Department examined approximately 15 thousand samples of commercial seeds of alfalfa, Kentucky bluegrass, orchardgrass, red clover, meadow fescue, smooth brome, hairy vetch, and redtop and found an average of about 20 percent of the samples adulterated with, or consisting of, other less desirable kinds of seeds, or containing the seeds of dodder, a noxious weed.

As a result of the testing of commercial seed samples in domestic commerce and samples submitted to the Department of Agriculture by the U.S. Customs Service between 1904 and 1912, the Congress passed the Seed Importation Act of 1912. This act restricted the importation of seeds of the principal forage plants on the basis of content of weed seeds and low purity. The act was amended in 1916 to require that all imported seeds of alfalfa and red clover be colored to indicate the degree of adaptability. It is estimated that the requirement saved American farmers more than 5 million dollars between 1926 and 1938.

The act was further amended in 1926 to prohibit the shipment in interstate commerce of any falsely and fraudulently labeled seeds. Because of the seizure provisions in this amendment, the act was effective in helping States cope with interstate shipments of misbranded seeds.

The criminal provision of the act, as applied to interstate shipments, however, proved ineffective because of the lack of specific labeling requirements and the necessity for proving that the false labeling or false advertising was done knowingly.

A new Federal Seed Act was enacted in 1939. It required detailed labeling of seeds in interstate commerce, did not require proof of intent, and extended the scope of the act as it pertained to imported seeds.

The recommended uniform State seed law has contributed to the uniformity that exists in seed laws among the States and the Federal Seed Act. It is changed periodically by a joint committee representing various interested organizations. This enables seed officials who desire to revise their State seed laws to have an up-to-date guide in recommending the form and wording of revisions that they feel are desirable to promote uniformity.

The federal and State laws contain somewhat similar requirements. If seed is labeled to comply with the Federal Seed Act and is shipped in interstate commerce, it will normally comply with the labeling requirements of the State into which it is shipped.

The laws generally require that the label attached to the container of agricultural seeds show the percentage of pure seed, percentage of weed seeds, percentage of other crop seeds, percentage of inert matter, percentage of germination, percentage of hard seeds, if any, the date of the germination test, and the name and address of the shipper, or seller, or person who labeled the seeds.

The label also is required to show the names and rates of occurrence of seeds of noxious weeds recognized by the laws and regulations of the State in which the seed is being sold or into which the seed is shipped.
Most States prohibit the sale of seeds containing seeds of certain noxious weeds or limit the number permitted in seed sold, even if the seed is correctly labeled to indicate their presence.

Mixtures of agricultural seeds must be labeled to show the percentage of each kind of seed present in the mixture to the extent of 5 percent or more.

Some States require agricultural seeds to be labeled as to kind and variety, but most State laws require labeling only as to the kind of seed.

A *trademark*—brand—is a term by which goods may be distinguished as coming from a certain source. It is intended to identify the manufacturer or distributor—not the product itself. A trademark is private property and may be used only by the owner or with the owner’s permission. When a trademark is made a name of a variety, it is no longer protected as a trademark. Saying that it is still a trademark does not make it one. If the owner of a trademark uses it as a variety name or part of a variety name, he, in effect, loses the protection given trademarks and automatically permits other persons to use it as the name of the variety. If a “trademark” is used to identify genetic makeup instead of source, it is a variety name and not a trademark.

A variety name cannot be a valid trademark. Under the Federal Seed Act, the originator of a new variety has a right to name that variety. If the variety can be reproduced from seed, it may be produced and sold by anyone. Under the Federal Seed Act, the name that is given the variety by its originator must be used. This is true even though the name is a privately owned trademark.

The *patent laws* relating to plants provide for the granting of a patent to anyone who has invented or discovered and asexually reproduced any distinct and new variety of plant, other than from seeds, such as by rooting of cuttings by layering, budding, and grafting.

The applicant for a patent on a particular plant variety must have done something to create or produce it, and it must be distinct and new. A plant found by a person is not considered patentable.

*Laws regulate farmers and producers of seed as well as seed dealers and merchants.*

Certain features in most of the State laws and in the Federal Seed Act deal specifically with the responsibilities of farmer-producers of seed.

One is that a dealer who buys from a farmer seed indistinguishable as to variety will be held responsible for any misrepresentation as to variety unless the dealer obtains from the farmer a grower’s declaration as to variety. If the farmer signs such a declaration, he assumes the responsibility for the representation—whether he sells the seed to a dealer in another State or whether it is sold to a local dealer and the seed is expected to move in interstate commerce. The signing of a grower’s declaration without a sound basis for doing so may mean that seed is falsely labeled. Farmers should recognize their responsibility when they sign such declarations.

Provisions in most State laws and in the Federal Seed Act exempt a farmer from having to comply with the labeling requirements for seeds that he sells on his own premises and does not advertise for sale. Some State laws further provide that such seed may not contain prohibited seeds of noxious weeds. To this extent, a farmer may sell seed to his neighbor. More and more people think that such sales should be controlled more strictly, because home-grown seeds and seeds sold by farmer to farmer in the same locality without labeling generally are the poorest seeds sown by farmers.

Most laws exempt from the labeling requirements seeds intended for processing. Seeds moved from the farm to a
OUR LAWS THAT PERTAIN TO SEEDS

seed-processing plant need not be labeled to show the detailed information required for processed seed. In interstate commerce, such seed must be labeled as “seed for processing.” The seed must actually be intended for processing and should not be labeled in this manner to escape the responsibility established for labeling processed seeds under the seed laws.

Another section of the laws deals with the use of a disclaimer or non-warranty clause on a label. These disclaimers are forbidden under some State seed laws. Under others, they are recognized if they do not disclaim responsibility for the information required to be on the label under the labeling laws. In other words, the seller can disclaim responsibility for the crop that is produced, but not for the percentage of germination or the variety or the purity percentages as labeled.

Farmers or purchasers cannot collect damages through the State seed laws or through the Federal Seed Act. Such damages must, as a last resort, be collected through a separate civil action filed by the buyer against the seller of seeds. The laws provide only for legal action against the seed (seizure) or against the person violating the seed laws (prosecution).

Labeling of treated seed to indicate that it is treated is one other significant feature. Farmer-producers of seeds should recognize that unused treated seed should not be mixed with and sold as part of the seeds produced the following season. Particularly, it should not be sold with a grain crop delivered to an elevator. Such treated seed has caused difficulty in the grain industry. Carloads of grain have been seized and condemned by the Food and Drug Administration because of the presence of treated seeds in the grain. The farmer-grower should take the necessary precautions in handling seed treated with highly toxic materials and should not use leftover seed treated with these materials for feed for any animals on the farm.

QUALITY REQUIREMENTS with respect to imported seeds, as established under the Federal Seed Act, provide that most seeds must consist of at least 75 percent pure live seed. The percentage of pure live seeds is calculated by multiplying the percentage of pure seeds by the percentage of germination and dividing by 100. The minimum of 75 percent of pure live seeds is reduced for certain specified kinds of seeds that are difficult to produce above a 75-percent, pure live seed percentage.

Seeds that are imported into the United States must not contain more than 2 percent of weed seeds. Seeds containing noxious-weed seeds in excess of one in 10 grams of seed the size of timothy, one in 25 grams of seed the size of sorghum, or one in 100 grams of seed the size of wheat, is not permitted entry into the commerce of the United States.

The specific noxious-weed seeds as set forth in the Federal Seed Act are whitetop (Lepidium draba, Lepidium repens, Hymenophysa pubescens); Canada thistle (Cirsium arvense); dodder (Cuscuta spp.); quackgrass (Agropyron repens); johnsongrass (Sorghum halepense); bindweed (Convolvulus arvensis); Russian-knapweed (Centaurea picris); perennial sowthistle (Sonchus arvensis); and leafy spurge (Euphorbia esula).

Imported seeds of alfalfa and red clover must be stained to indicate their adaptability for growing in this country. Alfalfa and red clover seeds grown in the Dominion of Canada must be stained so that 1 percent of the seed is colored violet. The seed from South America must be stained so that 10 percent of the seed is orange-red in color. Seed from different origins or nonestablished origins must be stained so that 10 percent of it is colored red.

The Customs Service in the Department of the Treasury cooperates with the Department of Agriculture in enforcement of the requirements relating to imported seed. The customs inspectors at the various ports of entry obtain samples of the seed as it arrives at the ports. The samples are submitted to
seed laboratories of the Department of Agriculture, where they are tested to determine whether they meet the requirements for importation. As soon as it is determined that the requirements for importation are met, the seeds are released into commerce. Complete germination tests are not made if the standard is met before the test is completed. The importer and the consignee are both informed of release of the seeds.

If the seeds do not meet the quality requirements for importation, they may be reprocessed under supervision to bring them into line with the requirements; they may be destroyed under supervision of a representative of the Department of Agriculture; or they may be exported under the supervision of the Customs Service. In some instances, seeds of alfalfa and red clover that have not been stained properly must be stained under supervision before they are admitted into the commerce of the United States.

When the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, he may exempt such kinds from the provisions of the Federal Seed Act. Seed imported for other than seeding purposes under this exemption must be accompanied by a declaration setting forth the use for which the seeds are intended.

Seeds that may be declared as for other than seeding purposes include those of sorghum, barley, field corn, flax, oat, rye, soybean, wheat, and many others.

Seeds exported from the United States can be returned to the United States under certain circumstances even though they may not meet the quality requirements set forth in the Federal Seed Act.

Specified maximum quantities of seeds for experimental or breeding purposes may be imported into the United States regardless of the quality requirements if the seeds are not sold. Small quantities are not ordinarily sampled by customs inspectors; they therefore may be admitted without being tested.

No quality requirements have been established under the Federal Seed Act with respect to seed exported from the United States. Many countries have special requirements for entry of forage seeds, such as germination specifications, staining, or freedom from weed seeds, particularly dodder.

There are no quality requirements for domestic agricultural seeds under the Federal Seed Act except insofar as the noxious-weed requirements of the various States are recognized for seeds shipped in interstate commerce into those States.

Many States have strict requirements with respect to the number of seeds of noxious weeds of certain species or the total number of noxious seeds that will be permitted sale in those States. Some States prohibit seeds of noxious weeds of certain perennial species when present in any amount. Most State seed laws also have a limitation with respect to the percentage of weed seeds that may be contained in agricultural seeds sold within the State. This limitation varies from 0.5 percent to 5 percent, but usually it is about 2 percent.

Many of the State seed laws, particularly in the South, prohibit the sale of seed below a certain germination percentage, usually 60 or 70 percent. Exceptions are made for certain kinds of seeds that cannot normally be produced with a germination that high. Vegetable seeds are sold generally without labeling to show the percentage of germination, particularly on small packets, if the seed is above a certain established germination standard. Many States require large containers of vegetable seeds to be labeled with more detailed information than is required for small packets.

Plant quarantine regulations affect the importation, exportation, and interstate movement of seeds.

The regulations are enforced to pre-
vent the introduction and dissemination of injurious foreign insect and disease pests that are new here or are not widely distributed within this country.

Imported seeds may be divided into three general categories depending on their entry status and conditions of importations: Prohibited seeds, restricted seeds subject to inspection and fumigation at special inspection stations, and restricted seeds subject to inspection at any port of entry where plant quarantine inspection services are available.

Seeds in the prohibited category include bamboo, rice, wheat, cotton, corn, barberry, mahonia, mahoberberis, currant, gooseberry, mango, avocado, and others, from all or many foreign countries.

For example, unhusked rice seed from all foreign countries and localities, except Mexico, is prohibited to safeguard against the introduction of a number of injurious rice pests, including downy mildew (Sclerospora macrocarpa), leaf smut (Entyloma oryzae), blight (Oospora oryzerorum), and glume blotch (Melanomma glumarum).

Wheat seeds are prohibited from all countries where the flag smut disease (Urocystis tritici) is known to occur. These include a number of European, Near East, and Asiatic countries, but only Chile in this hemisphere.

Seeds of corn and closely related plants may not be imported from a number of countries in southeastern Asia because of several downy mildews and other corn diseases occurring in those areas.

Most types of seeds of trees and shrubs fall in the second category and may enter under a plant quarantine import permit subject to inspection and treatment upon arrival in the United States. Treatments are given at specified ports of entry that have approved facilities for the particular treatment required. The most commonly used treatment is fumigation with methyl bromide gas at dosages that will give maximum protection against pests without serious injury to viability.

The third category includes seeds of nearly all of the common field, vegetable, and flower crops that are essentially herbaceous in character of growth. Entry is allowed without a formal import permit but is subject to inspection upon arrival to determine freedom from harmful pests.

A few types of seeds in this group are subject to mandatory fumigation because of specific foreign insect pests that occur quite generally in such seed. Seeds of sweetpea (Lathyrus) and vetch (Vicia), for example, are subject to infestation by a number of seed beetles in the family Bruchidae. Several of them do not occur in this country and are known to be serious pests. Treatment therefore is required as a condition of entry. Although mandatory treatment is not required for most seeds in this category, any shipment found to represent a risk of introducing injurious pests is subject to treatment before release. If a suitable treatment is not available, other safeguards, as refusal of entry, may be required.

We have no plant quarantine requirements governing the exportation of seeds. Exportation of tobacco seed, however, is regulated by the Federal Tobacco Seed and Plant Exportation Act. Many foreign countries have laws regulating or prohibiting the entry of seeds. The requirements vary with the country of destination and may relate to entry of all seeds or of specified kinds only. For example, the United Kingdom regulates entry of seeds of lettuce, tomato, and peas. Egypt regulates the importation of all seeds for sowing. Most cotton-growing countries restrict the entry of seed of cotton.

Laws of many States regulate interstate movement thereinto of all seeds or of all except field, vegetable, and flower seeds. Some States have special quarantines relating to specified kinds of seeds, and interstate movement of some kinds is regulated also by one or more of six different Federal Domestic plant quarantines.
Tree and shrub seeds are not admissible to the United States mails unless accompanied by a certificate showing the seeds to be free of insects and plant diseases.

**Federal-state cooperation** in the enforcement of seed laws is possible because each of the 50 States has a State seed law. In the enforcement of the State law, seed inspectors visit seed dealers displaying seed for sale and obtain samples. The samples are submitted to the State seed laboratory for testing to determine whether the seeds are correctly labeled to comply with the State law. If there is no evidence that the seeds moved in interstate commerce, the jurisdiction lies entirely within the State law, and appropriate action may be taken under the law. This action usually consists of stopping the sale of the seeds until they are correctly labeled or disposed of in compliance with the law.

Prosecution under State seed laws is also possible but is recommended infrequently. If, however, the seeds moved in interstate commerce and were found to have been falsely labeled by a person in another State, the State law would not have jurisdiction over that person. This is the basic reason for the enactment of the Federal Seed Act.

There is agreement between the Department of Agriculture and the State agencies that when the State officials find in their inspection of seeds within the State evidence of violation of the Federal Seed Act, the information and the sample pertaining to the apparent violation will be forwarded to the appropriate area office of the Department of Agriculture for investigation. A duplicate force of inspectors to enforce the Federal Seed Act is therefore not necessary. After obtaining all the facts in a case that appears to warrant action under the Federal Seed Act, the area office reports the information to the Washington office.

The Washington office may proceed with various types of action under the Federal Seed Act. A warning letter or notice may be issued to the interstate shipper informing him of the apparent violation so that he can take steps to prevent such violations in the future.

A cease-and-desist proceeding may also be instituted. A cease-and-desist proceeding is similar to a court proceeding and may result in the issuance to the interstate shipper by the Secretary of Agriculture of an order to cease and desist from further violations of the Federal Seed Act. The Department must also afford the interstate shipper an opportunity to explain how the apparent violation occurred before a final decision is reached to recommend legal action against the firm. Further action may be held in abeyance for reconsideration at a later date, or the interstate shipper may be prosecuted in Federal court. A forfeiture of not less than 25 dollars nor more than 500 dollars on each count is provided under the civil section of the act in case of a finding for the Government. The interstate shipper may also be prosecuted under the criminal section of the act. A fine of not less than 25 dollars or not more than 1 thousand dollars on the first offense and 2 thousand dollars on each subsequent offense may be assessed in case of guilt.

In addition to these actions under the Federal Seed Act that can be taken against the person responsible, a seizure action can be taken against the seed. The seed that is falsely labeled or prohibited from sale in a particular State is seized by the U.S. marshal and its disposition is determined by the U.S. district court. The court may return the seed to the shipper to be reprocessed and relabeled, the court may permit its sale or shipment into a jurisdiction in which its sale would not be prohibited, or the seed may be destroyed. When no claimant appears, some courts have given seed having a low germination to charitable institutions rather than to destroy it.

Some outstanding cases have occurred between 1939 and 1959. There have been 237 court cases involving
prosecution of interstate shippers under the Federal Seed Act. These have involved 170 different persons or firms and 520 separate shipments of seeds.

One of the most important group of cases involved the falsification on the part of a large number of seed dealers of the origin (place where grown) of alfalfa seed. The origin of alfalfa seed is important to farmers, because it indicates the region in which the seed may be hardy or nonhardy. In 1950, when the price of southern-origin alfalfa seed was unusually low compared to the price of northern-origin alfalfa seed, many persons apparently decided that a substitution of southern-origin alfalfa seed for northern-origin alfalfa seed would be profitable and could not be detected. They overlooked the fact that certain weed and crop seeds occur in alfalfa in the southwestern part of the United States, but not in alfalfa seed produced in the Northern States. By detecting these particular kinds of weed and crop seeds, officials could establish that all the seeds, or part of the seeds in each shipment, originated in the Southwest and not in the Northern States, as claimed. Investigations revealed that approximately 1 million pounds of low-priced southern-origin alfalfa seeds had been misrepresented as higher priced seeds of northern origin. If this fraud had been successful, northern farmers, in addition to paying up to double the market value of the seed, would have faced the loss of most of their alfalfa crops.

In all, 12 criminal cases were filed against 8 firms and 7 individuals for violating the Federal Seed Act in connection with this false labeling as to origin of alfalfa seed. Nine individuals were prosecuted for conspiracy to violate the act and two for violation of the mail fraud statute. The fines totaled more than 25 thousand dollars. Two individuals were placed on probation for 1 year, one for 2 years, and one for 6 months. One defendant was sentenced to imprisonment for 1 year and a day for violation of the mail fraud statute. Nearly 500 thousand pounds of the mislabeled seeds were seized under Federal court orders and relabeled to show the correct origin.

Another case involved the use of the old Midwest variety of soybean seed that had been discarded as not being of value for planting purposes. A new variety name was assigned to this seed, and it was advertised and distributed as a new, highly productive variety. Growing tests identified the variety as Midwest. The firm was prosecuted under the Federal Seed Act and forced to cease its false advertising.

Another case involved the first court action under the Federal Seed Act of 1939, in which a firm sold for seeding purposes malting barley that was devoid of germination. It had the appearance of good-quality seed, but looks were deceiving.

Another series of cases involved a firm that sold packets of vegetable seeds in display boxes to small general stores. The firm never discarded any of its old, low-germinating seed, but continued to offer for sale the same seed in the same packets year after year. Tests made on the seeds each year at various locations indicated that much of it was worthless for planting purposes. Prosecution of the firm under the Federal Seed Act continued periodically until the death of the owner of the firm. In nine Federal court cases, the firm paid a total of 11 thousand dollars in fines.

Since the enactment of the Federal Seed Act of 1939, attempts have been made to mislead the public with respect to the characteristics of certain kinds and varieties of seed. "Michels grass" was claimed to be a cross between Mosida wheat and Giant wild ryegrass and to be a true perennial. Chromosome counts and growing tests made by specialists in the Department of Agriculture indicated the seed was rye and that claims made for this so-called cross could not be supported.

The supply of Dwarf Essex rape seed from Europe and Japan was cut off in 1940 because of war. Much annual rape seed was sold as Dwarf Essex rape seed. The high prices of the scarce
Dwarf Essex encouraged some people to import the annual rape seed and mislabel it. One prosecution under the Federal Seed Act resulted and stopped the practice.

Another recurring type of false representation has been the claim that a new variety of wheat produced from a handful of wheat found in King Tut’s tomb will produce larger yields of wheat than varieties now in existence. This wheat has been advertised as “Miracle,” “Wonder,” “Egyptian,” “Seven-Headed,” “Thousand Fold,” and “King Tut.” Investigation invariably establishes that this so-called new variety is one of the varieties of Poulard wheat, sometimes called Polish wheat, which is not suitable for flour for baking purposes in this country. Its value as a feed is inferior, and the claims as to its production are exaggerated.

Decisions on Federal Seed Act cases contested in courts have served as guides to enforcement officials and seedsmen. In one case, the presiding judge in his charge to the jury stated: “Advertising in the mistaken belief that malt barley in the defendant’s possession was spring barley would constitute no defense to the charge of falsely advertising spring barley; that the mere fact that some agent or employee of the defendant company unintentionally labeled the product would constitute no defense; that whether the defendant knew the seed being advertised or offered for sale was not truthfully labeled or was misrepresented was immaterial and would be no protection; and that an honest mistake would constitute no defense.”

The net result of these statements was that it was not necessary under the new Federal Seed Act to prove intent until 1956. An amendment adopted in 1956 provided for criminal action or for civil action under the act. To proceed with criminal action, it is necessary to establish certain specified elements of intent—namely, gross carelessness, fail-ure to inform oneself of the pertinent facts, or knowledge. Civil action is possible without establishing any element of intent.

In another case, the judge in his charge to the jury on one count directed the jury to return a verdict of not guilty as the evidence showed that the inspector who sampled the seed did not obtain a sample of the minimum size prescribed in the rules and regulations for sampling. In another count, involving labeling of oats seed as to variety, the judge stated that a seedsmen who had a sample of the seed tested by two different laboratories had taken the proper precautions to insure the identity of the variety of the seed and was therefore not violating the Federal Seed Act because of the exemption provided in the labeling as to variety of indistinguishable seed.

In an appeal to the United States circuit court of appeals on a cease-and-desist order issued by the Secretary of Agriculture, the court stated that the State and Federal officials followed the rules and regulations substantially in obtaining samples and in making the analyses, but no evidence was presented to show that the petitioner did the same; that samples are receivable in evidence to show the quality or condition of the entire mass of seed from which they are taken; that the difference in time of taking samples is not material, although usually there is some change in germination over a long period; that the burden of knowing what is for sale and telling the truth about it is placed on the distributor under the act because he is presumed to have the better facilities for ascertaining the facts; that the records of the laboratories of the Federal and State Governments are on an equal footing as evidence because of the cooperative agreement in effect; that reports which are of a public nature and taken under competent authority to ascertain a matter of public interest are admissible in evidence; and that the Administrator was free to issue a
cease-and-desist order applicable to all shipments made by the petitioner in interstate commerce.

In two cases, which were consolidated for purposes of trial, the defendant waived trial by jury, admitted that the shipments were made as alleged, and admitted that the results of the official tests were correct. The trial in this instance revolved solely around the element of intent. The judge ruled that criminal penalties should not be imposed in cases where a statement may be indicated as false when, after investigation made with reasonable care, the statement was used innocently and without any knowledge on the part of the accused that it was not true at the time made. He also ruled that penalties should not be inflicted where every reasonable precaution has been taken to justify a belief in the mind of the shipper that a true statement has been made and without any proof that the defendant was attempting to avoid or circumvent the penalties involved. The judge found the defendant not guilty.

In the first contested civil action that was decided in favor of the Government in February 1960, the court’s opinion included the following statements:

"In House Report No. 2473, subsection (b) of the amendment was described as providing a civil penalty payable to the United States for any violation of the Federal Seed Act or the rules and regulations made and promulgated thereunder, with or without intent.

"The defendant alleged that its good faith in shipping the seed in interstate commerce and in labeling them in accordance with tests conducted by a competent expert and technologist constituted a complete defense in that it showed an absence of any intention on its part or the part of its employees to falsely label or mislead by false labeling. It contended that such good faith on its part also furnished a complete defense to any technical violation that may have resulted or been produced by other analyses differing with those of the defendant.

"Relative to such prosecutions as there involved, and as is involved in the cases at bar, the Supreme Court said:

"'The prosecution . . . is based on a now familiar type of legislation whereby penalties serve as effective means of regulation. Such legislation dispenses with the conventional requirement for criminal conduct—awareness of some wrongdoing. In the interest of the larger good it puts the burden of acting at hazard upon a person otherwise innocent but standing in responsible relation to a public danger.

"'The teaching of this rule is that such articles may be misbranded without any consciousness of fraud at all. Hardship there doubtless may be under a statute which thus penalizes the transaction though consciousness of wrongdoing may be totally wanting.'"

SEED CONTROL ORGANIZATIONS in the United States consist of State seed officials, who belong to regional organizations and an international organization. The regional organizations consist of one in the Northeastern States, one in the Southern States, one in the North Central States, and one in the Western States.

The regional groups meet annually to discuss problems and procedures to be followed in the enforcement of the laws and recommend procedures to be followed to establish greater uniformity in the administration of the laws in the various States.

Each of these associations is designated by the region in which it operates—for example, the Association of Seed Control Officials of the Northeastern States.

The international organization, which includes representatives from all States and Canada, is called the Association of American Seed Control Officials. This organization meets biennially. The international organization attempts to accomplish the same objectives as the regional organiza-
tions, except to operate on an international basis.

**Progress and Benefits** in enforcement of the seed laws are difficult to measure. In 1940, on the basis of State reports, it was estimated that 25 percent of the seeds in commercial channels was falsely labeled.

The extent of compliance with the State seed laws and the Federal Seed Act between 1946 and 1960 is shown by surveys that indicate that the proportion of inspected seeds in violation of the State seed laws during this period averaged 13 percent. The proportion of inspected seed in interstate commerce in violation of the Federal Seed Act averaged 8 percent.

The findings indicate a considerable improvement from the surveys made between 1904 and 1919 and in 1940, even though the laws have been made stricter. The improvement undoubtedly came about because of greater knowledge among consumers, the increased efficiency of harvesting and cleaning machinery, the awareness of seedsmen that it pays to sell a high-quality product, and the increased activity on the part of officials.

The extent to which these factors influence the quality of any particular kind or lot of seed purchased by consumers varies considerably. For that reason, some seeds of low quality are still sold and purchased, and some seeds are still falsely represented and advertised.

Let no one say, though, that misrepresentation is an ill only of these later days. We know it has existed a long time.

The first law we know of to control the quality of seeds was adopted in the Republic of Berne, Switzerland, on April 2, 1815.

It reads: "Clover seed be sold pure and without any addition of other seeds. The sale of sweet clover seed (**Melilotus alba**), as far as such seed is sold pure and unadulterated, is permitted. On the other hand, the sale of any ordinary or Dutch clover seed, adulterated with sweet clover seed or any impurity, is prohibited and liable to the fine mentioned below.

"In those counties, where a considerable sale of clover seeds takes place, 2 to 4 honourable men, who are experts in clover seeds, shall be appointed as inspectors and their names shall be made known to the vendors of seeds. These inspectors are held to examine clover seed offered for sale on public markets and in stores. If they find clover seeds adulterated with sweet clover or other species, they are held to confiscate such seed and to deposit it with the County Councilor.

"The County Councilor shall consult two more experts, and upon examination, if the seed is really adulterated, cause it to be thrown into the water. The vendor shall be punished the first time by a fine of Frs. 10- . . . in cases of repetition with a fine of Frs. 50. . . .

"The names of the punished shall be announced . . . and be made public through the weekly newspaper. If the inspectors find the seed true to kind, but impure, then they shall be held to have such lots cleaned on the expense of the vendor who, in addition, has to pay a fine of Fr. 1- . . . ."

This law sounds much like a stop-sale, seizure, and court action in the seed laws enforced today in the United States. It even required publicity regarding the court actions. This is also required under the Federal Seed Act.

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