

On March 11, 1922, the said Lee Davis, claimant, having filed his claim to the property and his answer to the libel, in which he admitted the allegations contained therein to be true, and the court having found that a certain proportion of the product was fit for human consumption, it was ordered by the court that the product might be released to said claimant upon payment of the costs of the proceeding and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that the product found to be unsuitable for sale and human consumption as food be destroyed.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10458. Adulteration and misbranding of butter. U. S. * * * v. Wilmer C. Gerhart and Charles J. Pagels (Gerhart & Pagels). Plea of guilty. Fine, \$200. (F. & D. No. 15838. I. S. No. 6429-t.)

On May 22, 1922, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Wilmer C. Gerhart and Charles J. Pagels, trading as Gerhart & Pagels, Solebury, Penn., alleging shipment by said defendants, on or about February 24, 1921, in violation of the Food and Drugs Act, as amended, from the State of Pennsylvania into the State of New Jersey, of a quantity of an article labeled in part, "Fancy Maybrook Creamery Butter * * * One Pound Net * * *" which was adulterated and misbranded.

Analyses of samples of the article by the Bureau of Chemistry of this department showed that it contained from 66.8 per cent to 70.1 per cent of butter fat and from 28.4 per cent to 32.1 per cent of moisture. Examination of a representative number of samples showed that the packages containing the article weighed less than one pound each.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, water, had been mixed and packed with the article so as to lower and reduce and injuriously affect its quality and had been substituted in part for butter, which the article purported to be; and for the further reason that a valuable constituent of the article, to wit, butter fat, had been in part abstracted.

Misbranding was alleged for the reason that the statements, to wit, "Fancy Creamery Butter" and "One Pound Net," borne on the packages containing the article, regarding it and the ingredients and substances contained therein, were false and misleading in that they represented that said article consisted wholly of fancy creamery butter and that each of the packages contained one pound net of the article; and for the further reason that the said article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of fancy creamery butter and that each of the packages contained one pound net thereof, whereas, in truth and in fact, said article did not consist wholly of fancy creamery butter but did consist of a product deficient in butter fat and which contained an excessive amount of added water and each of said packages did not contain one pound net of the article but did contain a less amount. Misbranding was alleged for the further reason that the article was a product deficient in butter fat and which contained added water prepared in imitation of fancy creamery butter and was offered for sale and sold under the distinctive name of another article, to wit, fancy creamery butter; and for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 22, 1922, a plea of guilty to the information was entered on behalf of the defendants, and the court imposed a fine of \$200.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10459. Misbranding of Nervtone tablets. U. S. * * * v. 17 Boxes of * * * Nervtone Tablets, et al. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 16029, 16031, 16034, 16035, 16036, 16037, 16038, 16039, 16041, 16043, 16047. Inv. Nos. 24537, 35602, 35605, 35606, 35607, 35608, 35609, 35610, 35612, 35615, 35620. S. No. E-3773.)

On February 21, 23, and 24, 1922, respectively, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 617 boxes of Nervtone tablets, remaining unsold in the original unbroken packages at Biddeford, Waterville, Lewiston, and