

**4369. Adulteration and misbranding of apples. U. S. \* \* \* v. J. Quincy A. Nimerick. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 5990. I. S. No. 5496-h.)**

On December 17, 1915, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against J. Quincy A. Nimerick, Hamburg, Ill., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about September 25, 1913, from the State of Illinois into the State of Missouri, of a quantity of apples which were adulterated and misbranded. The barrels were branded, in part, "Wine Sap."

Examination of a sample of the product by a pomologist of the Bureau of Plant Industry of this department showed the following results:

Apples were York Imperial instead of Winesap. None of the apples would grade No. 2 in commercial size, the largest would rank as culls in size, but the smallest of them were too small and too poor to rank even as culls. Twenty-one of the smallest apples weighed only one-half pound.

Adulteration was alleged in the information for the reason that the apples were of inferior quality, in that they were a mixture of cull apples, apples without any merchantable value whatever, and a small percentage of merchantable apples, and said merchantable apples had been mixed with the culls and apples without any merchantable value whatever in a manner whereby their inferiority was concealed.

Misbranding was alleged for the reason that the following statement regarding the article, appearing on the label aforesaid, to wit, "Wine Sap," was false and misleading in that it indicated to purchasers thereof, and deceived and misled purchasers into the belief, that said article consisted of merchantable apples of the Winesap variety, when, in truth and in fact, it did not so consist, but consisted of a mixture of cull apples, apples without any merchantable value whatever, and a small percentage of merchantable apples, all of which were of the York Imperial variety.

On December 20, 1915, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25 and costs.

C. F. MARVIN, *Acting Secretary of Agriculture.*