

Misbranding of the article was alleged in substance in the information for the reason that the statements appearing on the tag attached to the sack containing the article, regarding it and the ingredients contained therein, to wit, "* * * Protein Minimum 36.00% * * * Crude Fiber Maximum 14.00% * * *," were false and misleading in that the said statements represented that the article contained not less than 36 per cent of protein and not more than 14 per cent of crude fiber, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 36 per cent of protein and not more than 14 per cent of crude fiber, whereas, in truth and in fact, the said article contained less than 36 per cent of protein and more than 14 per cent of crude fiber.

On October 3, 1921, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

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

10222. Misbranding of potatoes. U. S. * * * v. Horace G. Ballard (H. & R. Ballard). Plea of guilty. Fine, \$25. (F. & D. No. 14741. I. S. No. 2460-t.)

On September 7, 1921, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Horace G. Ballard, trading as H. & R. Ballard, Pavo, Ga., alleging shipment by said defendant, on or about September 24, 1920, in violation of the Food and Drugs Act, as amended, from the State of Georgia into the State of Ohio, of a quantity of (sweet) potatoes in unlabeled crates, which were misbranded.

Misbranding of the article was alleged in the information for the 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 December 12, 1921, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

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

10223. Adulteration and misbranding of Bakers' Whip. U. S. * * * v. 7 Pounds of Bakers' Whip * * *. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 14827. I. S. No. 8475-t. S. No. E-3330.)

On April 22, 1921, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 7 pounds of Bakers' Whip, remaining in the original unbroken packages at Hagerstown, Md., consigned on or about March 30, 1921, alleging that the article had been shipped by the W. B. Wood Mfg. Co., St. Louis, Mo., and transported from the State of Missouri into the State of Maryland, and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that a substance containing baking powder, starch, and a small amount of gum had been mixed and packed with, and substituted wholly or in part for, the said article. Adulteration was alleged for the further reason that the article was mixed and colored in a manner whereby damage or inferiority was concealed.

Misbranding was alleged for the reason that the statements on the label of the can containing the article, to wit, "Bakers' Whip An Egg Substitute Saves Time Saves Money If you are looking for something to use in place of Eggs, this is it. There Is No Other Each one pound of Bakers' Whip is equal in strength to 50 Eggs, and should be used in like proportion. Dissolve one-fourth pound of Bakers' Whip in one pint of warm water. Stir well and it is ready to use. * * * When you consider each one-fourth lb. of Bakers' Whip is equal to about 13 eggs, you can readily determine its use. * * * Do Not Accept Imitations. This Is The Original," were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of, and was offered for sale under the distinctive name of, another article.

On December 23, 1921, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

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