

Misbranding was alleged for the reason that the statements on the respective labels, to wit, "Contains 5 Oz. Oyster Meat" and "Net Contents 5 Oz. Oyster Meat," were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article 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 20, 1922, no claimant having appeared for the property, a decree of the court was entered ordering that the product be delivered to a representative of this department to be disposed of according to law.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12096. Adulteration of shelled peanuts. U. S. v. 100 Bags of Shelled Peanuts. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18076. I. S. No. 15792-v. S. No E-4591.)

On November 22, 1923, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 100 bags of shelled peanuts, at New York, N. Y., alleging that the article had been shipped by C. O. Bashaw Co., from China, via San Francisco, Calif., on or about April 10, 1923, and transported in interstate-commerce into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance.

On February 8, 1924, J. M. McNiece Co., Inc., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be reprocessed so as to separate the good peanuts from the bad, the bad portion to be destroyed or denatured and the good portion released to the claimant.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12097. Adulteration and misbranding of apples. U. S. v. Myron Roberts. Plea of guilty. Fine, \$25. (F. & D. No. 16946. I. S. No. 6041-t.)

On March 6, 1923, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Myron Roberts, Hilton, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about February 8, 1922, from the State of New York into the State of Pennsylvania, of a quantity of apples which were adulterated and misbranded. The article was labeled in part: "New York Standard 'A' Grade Packed By M. Roberts Hilton, N. Y. Min. Size 2½ In."

Examination by the Bureau of Chemistry of this department of 4 barrels from the consignment showed that each of the said barrels contained many apples that were under the size declared on the label, many that were infested with insects, and some that were badly rusted. Three of the said barrels contained some apples that were wholly without color.

Adulteration of the article was alleged in the information for the reason that apples of a lower grade and quality than New York Standard A Grade and of less than 2½ inches in diameter each had been substituted in part for New York Standard A Grade apples of 2½ inches in diameter each, which the said article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "New York Standard 'A' Grade * * * Min. Size 2½ In.," borne on the barrels containing the article, regarding the said article, was false and misleading in that it represented that the said barrels contained only New York Standard A Grade apples of at least 2½ inches in diameter each, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said barrels contained only New York Standard A Grade apples of at least 2½ inches in diameter each, whereas, in truth and in fact, they did not but contained in part apples of a lower grade and quality than New York Standard A Grade apples and contained in part apples of less than 2½ inches in diameter each.

On November 13, 1923, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

HOWARD M. GORE, *Acting Secretary of Agriculture.*