

article was labeled in part: (Can) "Nunsogood Brand" (or "Maple Sweet Brand") "Evergreen Sugar Corn Contents 1 lb. 4 oz. * * * Packed By New Vienna Canning Co., New Vienna, Ohio."

Misbranding of the article was alleged in the libel for the reason that the statement "1 lb. 4 oz," borne on the labels, was false and misleading and deceived and misled the purchaser, 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 said package.

On July 8, 1925, the National Grocer Co., San Antonio, Tex., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product might be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,728.50, in conformity with section 10 of the act.

R. W. DUNLAP, *Secretary of Agriculture.*

13565. Adulteration and misbranding of apples. U. S. v. American Fruit Growers, Inc. Plea of guilty. Fine, \$50. (F. & D. No. 16939. I. S. No. 6084-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 the American Fruit Growers, Inc., trading at Lockport, N. Y., alleging shipment by said company, in violation of the food and drugs act, on or about May 3, 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: (Barrel) "Tip Top Brand York State Baldwins New York Standard A Vol. 3 Bu. Min. Size 2½ in."

Examination of a sample consisting of 4 barrels of the article, by the Bureau of Chemistry of this department, showed that the barrels contained a very large number of apples under 2½ inches in diameter, and many apples were infested with insects.

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 and of less than 2½ inches in diameter each had been substituted in part for New York Standard A apples of 2½ inches in diameter, which the said article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "New York Standard A Min. Size 2½ in.," borne on the barrels containing the article, was false and misleading, in that the said statement represented that the said barrels contained only New York Standard A 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 barrels contained only New York Standard A apples of at least 2½ inches in diameter each, whereas said barrels did not contain only New York Standard A apples of at least 2½ inches in diameter each but contained in part apples of a lower grade and quality than New York Standard A apples and contained in part apples of less than 2½ inches in diameter each.

On April 10, 1923, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13566. Misbranding of oysters. U. S. v. Paul Powell and Ira F. Burton (Powell and Burton). Pleas of guilty. Fines, \$50. (F. & D. No. 18741. I. S. No. 2350-v.)

On October 16, 1924, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Paul Powell and Ira F. Burton, copartners, trading as Powell & Burton, Wachapreague, Va., alleging shipment by said defendants, in violation of the food and drugs act as amended, on or about December 17, 1923, from the State of Virginia into the State of New York, of a quantity of oysters which were misbranded. The article was labeled in part: "Minimum 1 Gallon Volume."

Examination by the Bureau of Chemistry of this department of 12 cans from the consignment showed an average shortage of 2.35 per cent.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Minimum 1 Gallon Volume," borne on the packages containing the article, was false and misleading, in that the said statement

represented that the packages contained not less than 1 gallon of oysters, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said packages contained not less than 1 gallon of oysters, whereas each of said packages did not contain 1 gallon of oysters but did contain a less amount. 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 November 10, 1924, the defendants entered pleas of guilty to the information, and the court imposed fines in the aggregate amount of \$50.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

13567. Adulteration and misbranding of horse and mule feed. U. S. v. Joseph William Bell (J. W. Bell Mill & Elevator Co.). Plea of nolo contendere. Fine, \$100. (F. & D. No. 19343. I. S. Nos. 3240-v, 3241-v, 16551-v, 16552-v, 16599-v, 16603-v, 16606-v, 16607-v, 21720-v.)

On April 30, 1925, the United States attorney for the Western District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Joseph William Bell, trading as the J. W. Bell Mill & Elevator Co., Spartanburg, S. C., alleging shipment by said defendant, in violation of the food and drugs act, in various consignments, namely on or about January 29, February 1, April 3 and 22, and May 6, 1924, respectively from the State of South Carolina into the State of North Carolina, and on or about May 16, 18, and 21, 1924, respectively, from the State of South Carolina into the State of Georgia, of quantities of horse and mule feed which was adulterated and misbranded. The article was labeled in part: "From J. W. Bell Mill And Elevator Spartanburg, S. C. * * * "Bi-Mo" Horse and Mule Feed Buy More Guaranteed Average Analysis Protein 9.00%." The labels bore the further statements: "Ingredients Corn, Oats, Alfalfa Meal, Ground Grain Screenings, Cotton Seed Meal, Molasses and 1 per cent Salt" or "Ingredients Cracked Corn, Rolled Oats, Alfalfa Meal, Oat Feed, Salt and Molasses," as the case might be.

Analyses of samples of the article by the Bureau of Chemistry of this department showed that the product in eight of the nine consignments was deficient in protein, the said 8 samples containing 6 per cent, 5.44 per cent, 8 per cent, 8.56 per cent, 7.75 per cent, 7.56 per cent, 7.69 per cent, and 8.56 per cent, respectively, of protein. Examination by said bureau showed that three of the nine consignments contained both ground and unground oat hulls not declared as ingredients but did not contain alfalfa meal and cottonseed meal as declared. The remaining six consignments contained a very small amount of cracked corn, the oats consisted mostly of empty and light oats with loose hulls, straw and chaff, and they did not contain alfalfa meal as declared. One of the said six consignments contained cottonseed meal not declared.

Adulteration of the article was alleged in substance in the information for the reason that a product which contained certain ingredients not declared on the labels and which did not contain certain ingredients that were declared and which in eight of the nine shipments contained less than 9 per cent of protein had been substituted for an article purporting to be composed of the ingredients declared on the labels and purporting to contain 9 per cent of protein in eight of the nine consignments.

Misbranding was alleged in substance for the reason that the statements, to wit, "Guaranteed Average Analysis Protein 9.00%," with respect to eight of the nine consignments of the product, and the statements "Ingredients Corn, Oats, Alfalfa Meal, Ground Grain Screenings, Cotton Seed Meal, Molasses and 1 per cent Salt" or "Ingredients Cracked Corn, Rolled Oats, Alfalfa Meal, Oat Feed, Salt and Molasses," as the case might be, borne on the labels, were false and misleading, in that the said statements represented that the article contained 9 per cent of protein and was composed wholly of the ingredients declared on the labels, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained 9 per cent of protein and was composed wholly of the ingredients declared on the labels, whereas the said article in eight of the said nine consignments contained less than 9 per cent of protein, and the product involved in all of the consignments contained certain ingredients not declared on the labels and did not contain certain ingredients that were declared.

On May 26, 1925, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of \$100.

R. W. DUNLAP, *Acting Secretary of Agriculture.*