

**5252. Adulteration and misbranding of oats. U. S. \* \* \* v. Callahan & Sons, a corporation. Plea of guilty. Fine, \$280.** (F. & D. No. 7662. I. S. Nos. 3141-k, 3142-k, 11688-k, 11691-k, 11693-k, 14676-k, 14677-k, 14690-k, 14692-k, 14698-k, 15902-k, 15960-k, 15961-k, 16107-k.)

On February 15, 1917, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Callahan & Sons, a corporation, Louisville, Ky., alleging shipment by said company, in violation of the Food and Drugs Act, from the State of Kentucky on or about May 5, 1915 (2 shipments), into the State of West Virginia; on or about May 27, 1915, into the States of Virginia and Georgia; on or about May 31, 1915, into the State of North Carolina; on or about April 30, 1915, into the States of Alabama, Florida, Georgia, and Tennessee; on or about May 4, 1915, into the States of Georgia and Florida; on or about May 27, 1915, into the States of Florida and West Virginia; and on or about May 31, 1915, into the State of Georgia, of quantities of white oats which were adulterated and misbranded.

Analyses of samples of the article from the two shipments of May 5, 1915, by the Bureau of Chemistry of this department showed 18.3 per cent and 18.1 per cent of barley.

Adulteration of the article in these shipments was alleged in the information for the reason that a certain substance, to wit, barley, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for white oats, which the article purported to be.

Misbranding was alleged for the reason that the statement regarding the article and the ingredients and substances contained therein, appearing on its label, to wit, "White Oats Special," was false and misleading in that it indicated to purchasers thereof that said article consisted of white oats; and for the further reason that it was labeled as aforesaid, so as to deceive and mislead purchasers into the belief that it consisted of white oats, when, in truth and in fact, it did not, but consisted of a mixture of oats and barley.

Analyses of samples of the article from the shipments of May 27, 1915, into Virginia and May 31, 1915, into North Carolina, by the said Bureau of Chemistry, showed 12.5 per cent and 18.6 per cent of barley, and that they were heavily bleached with sulphur dioxid in each case.

Adulteration of the article in these shipments was alleged for the reason that a certain substance, to wit, barley, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for white oats, which the article purported to be; and for the further reason that a certain substance, to wit, bleached oats, had been substituted in part for white oats, which the article purported to be.

Misbranding was alleged for the reason that the statement regarding the article and the ingredients and substance contained therein, appearing on its label, to wit, "Dixie White Oats Special" (or "White Oats," as the case might be), was false and misleading in that it indicated to purchasers thereof that said article consisted of white oats; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchasers into the belief that it consisted of white oats, when, in truth and in fact, it did not, but consisted of, to wit, a mixture of bleached oats and barley.

Analyses of samples of the article from the shipments of April 30, 1915, to the States of Alabama, Florida, Georgia, and Tennessee, by the said Bureau of Chemistry, showed, respectively, 16.5 per cent, 14.5 per cent, 14.4 per cent, and 14.4 per cent of moisture.

Adulteration of the article in these shipments was alleged for the reason that a certain substance, to wit, water, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for white oats, which the article purported to be.

Misbranding was alleged for the reason that the statement, regarding the article and the ingredients and substances contained therein, appearing on its label, to wit, "Callahan's Electric Oats Choice 2 White," was false and misleading in that it indicated to purchasers thereof that said article consisted of white oats; and for the further reason that it was labeled as aforesaid so as to deceive and mislead purchasers into the belief that it consisted of white oats, when, in truth and in fact, it did not, but consisted of, to wit, a mixture of oats and water.

Analyses of samples of the article from the shipments of May 4, 1915, to the States of Georgia and Florida, and of May 27, 1915, to the State of Georgia, by the said Bureau of Chemistry showed 17.7 per cent and 28.1 per cent of feed barley in the first 2 shipments, and 20.3 per cent of barley and 15.3 per cent of moisture in the last shipment, and the article in this shipment was also heavily bleached with sulphur dioxid.

Adulteration of the article in these shipments was alleged for the reason that a substance, to wit, feed barley (or substances, to wit, water and barley), had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for white oats, which the article purported to be; and for the further reason, in the case of the shipment of May 27, 1915, to Georgia, that a certain substance, to wit, bleached oats, had been substituted in whole or in part for white oats, which the article purported to be.

Misbranding was alleged for the reason that the statement regarding the article and the ingredients and substances contained therein, appearing on its label, to wit, "Georgia (or "Florida") "White Oats Special," was false and misleading in that it indicated to purchasers thereof that said article consisted of white oats, and that it had been produced in the State of Georgia (or Florida); and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchasers into the belief that it consisted of white oats, and that it had been produced in the State of Georgia (or Florida), when, in truth and in fact, it did not so consist, but consisted of a mixture of oats and feed barley (or, in the case of the shipment of May 27, 1915, to Georgia, of water, barley, and bleached oats), and had not been produced in the State of Georgia (or Florida).

Analyses of samples of the articles from the shipments of May 27, 1915, to Florida and West Virginia and May 31, 1915, to Georgia, by the said Bureau of Chemistry showed 15.1 per cent, 14.5 per cent, and 13.1 per cent of moisture, that they were bleached with sulphur dioxid, and in the case of the shipment to Georgia they also contained 20.1 per cent of barley screenings.

Adulteration of the article in all these shipments was alleged for the reason that a certain substance, to wit, water (or certain substances, to wit, water and barley), had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for

white oats, which the article purported to be; and for the further reason that a certain substance, to wit, bleached oats, had been substituted in whole or in part for white oats, which the article purported to be.

Misbranding was alleged for the reason that the statement regarding the article and the ingredients and substances contained therein, appearing on its label, to wit, "Callahan's A Brand Fancy Clipped White Oats" (or "Callahan's Electric Oats Choice 2 White" or "Georgia White Oats Special"), was false and misleading in that it indicated to purchasers thereof that said article consisted of white oats, and in the case of the shipment to Georgia, that the article had been produced in the State of Georgia; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchasers into the belief that it consisted of white oats, and in the case of the shipment to Georgia, that the article had been produced in the State of Georgia, when, in truth and in fact, it did not so consist, but consisted of, to wit, a mixture of bleached oats and water, in the case of the shipments to Florida and West Virginia, and a mixture of water, barley, and bleached oats, in the case of the shipment to Georgia, and further, in the case of the shipment to Georgia, had not been produced in the State of Georgia.

On February 20, 1917, the defendant company entered a plea of guilty to the information, and the court imposed a fine of \$280.

**R. A. PEARSON, *Acting Secretary of Agriculture.***