

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