

that the articles condemned herein shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act, or the laws of any State, Territory, District, or insular possessions, and said articles condemned herein shall be delivered to said claimant as the owner thereof, and the district attorney not objecting to the amount of said bond, it is now ordered and adjudged that said motion be granted, and thereupon said claimant produced and delivered to the court its bond, with R. S. Hughes as surety, which bond is approved by the court, and it is ordered that upon payment of the costs herein to the clerk, the articles condemned herein shall be delivered to said claimant, said F. T. Gunther Grocery Company, Incorporated.

The facts in this case were as follows:

On or about January 30, 1909, an inspector of the Department of Agriculture found in the possession of the F. T. Gunther Grocery Company, Owensboro, Ky., 800 cases (each containing 2 dozen cans) of corn labeled "2 dozen 2 lbs. Dana's Luscious Sugar Corn, packed by the Carthage Cannery, Carthage, Ind." The corn had been shipped the F. T. Gunther Company by the Henry Coburn Storage and Warehouse Company, a corporation, of Indianapolis, Ind., for account of J. M. Paver and Company, and were invoiced by the Dana Canned Goods Company, a corporation doing business at Belpre, Ohio. A number of cans were weighed by the inspector and the average gross weight of each was found to be 23 ounces. The corn was, therefore, misbranded within the meaning of section 8 of the act, and on February 1, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of Kentucky, and libel for seizure and condemnation was duly filed with the result hereinbefore stated.

H. W. WILEY,

F. L. DUNLAP,

Approved:

*Board of Food and Drug Inspection.*

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., *September 23, 1909.*

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(N. J. 96.)

**MISBRANDING OF A CEREAL.**

(AS TO QUALITY AND DIGESTIVE PROPERTIES.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 23d day of February, 1909, in the district court of the United States for the district of Connecticut, in a prosecution by the United States against the New England Food Company, a corporation of South Norwalk, Conn., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Connecticut to Massachusetts certain packages of a food

product, labeled "Nivara Cereal Food. Nivara is made from rice, wheat and barley malt, no sweetening or shortening. Mfg. by the New England Food Co., South Norwalk, Conn. A wonderful property of Nivara is that it helps to digest other foods. It is a rich concentrated food," which were misbranded within the meaning of section 8 of the act in that the cereal did not in fact have the property of helping to digest other food, and was not a rich concentrated food, the said New England Food Company having entered a plea of guilty, the court imposed upon it a fine of \$10.

The facts in the case were as follows:

On March 16, 1908, an inspector of the Department of Agriculture purchased from the Henry Siegel Company, Boston, Mass., samples of a food product labeled as above stated. The goods were a part of a shipment made by the manufacturers, the New England Food Company, South Norwalk, Conn., to Henry Siegel Company, on or about September 10, 1907. A sample of the product was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture, and the following results obtained and stated:

Water (per cent) .....	3.78
Ash (per cent) .....	1.70
Fat (per cent) .....	.11
Protein (per cent) .....	12.31
Crude fiber (per cent) .....	1.07
Carbohydrates by difference (per cent) .....	81.03
Fuel value (calories per gram) .....	3,977.72

It was evident that the article was not a rich concentrated food, and had not the property of assisting in the digestion of other foods, and was therefore misbranded within the meaning of section 8 of the act, because the statements on the label that "Nivara is a rich concentrated food" and "a wonderful property of Nivara is that it helps to digest other foods" were false, misleading, and deceptive.

The Secretary of Agriculture having, on August 11, 1908, afforded the dealer and manufacturer a hearing, and the dealer having established a guaranty, and the manufacturers having failed to show any fault or error in the aforesaid analysis, the facts were reported on January 29, 1909, to the Attorney-General, and the case referred to the United States attorney for the district of Connecticut, who filed an information against the New England Food Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

Approved: *Board of Food and Drug Inspection.*

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *September 20, 1909.*