

**3887. Misbranding of "Purity Milk Maker," so-called. U. S. v. Frank Chesbro et al. (Chesbro Milling Co.). Plea of guilty. Fine, \$15. (F. & D. No. 4041. I. S. No. 9141-d.)**

On November 12, 1912, 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 Frank Chesbro, George Chesbro, and Loren Chesbro, a copartnership, doing business under the name of Chesbro Milling Co., Salamanca, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, on November 10, 1911, from the State of New York into the State of Maine, of a quantity of so-called "Purity Milk Maker," which was misbranded. The product was labeled: "Purity Milk Maker. 100 Lbs. net. Protein 24% to 26%. Fat 7 to 8%. Fiber 7 to 9%. Manufactured Expressly for Wm. S. Hills Co. Boston, Mass. Protein 26%; Fat 8%; Fiber 9%. Made from Brewers Grains, Cotton-seed Meal, Malt Sprouts, O. P. Oil Meal, Gluten Feed, Hominy or Kiln Dried Corn Meal."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Nitrogen (per cent).....	3.56
Protein (per cent).....	22.25
Fiber (per cent).....	8.64
Fat (per cent).....	6.36

Misbranding of the product was alleged in the information for the reason that it bore the label in the words and figures as aforesaid, which said label was false and misleading in that said food product in fact consisted essentially of nitrogen 3.56 per cent, protein 22.25 per cent, fiber 8.64 per cent, fat 6.36 per cent, and the statement "Protein 24% to 26%," borne on the package containing such product, and the statement "Protein 26%," borne on the tag attached to said package, were false and misleading, because, as a matter of fact, said product did not contain 26 per cent protein or 24 to 26 per cent protein, but a less amount, to wit, 22.25 per cent protein. Misbranding was alleged for the further reason that the statement "Fat 7 to 8%," borne on the package containing the product, and the statement "Fat 8%," borne on the tag attached to said package, were false and misleading, because, as a matter of fact, said food product did not contain 8 per cent of fat or 7 to 8 per cent of fat, but a less amount, to wit, 6.36 per cent of fat. Misbranding was alleged for the further reason that the product was so labeled or branded as to deceive and mislead the purchaser, it being labeled or branded "Protein 24% to 26%," "Protein 26%," "Fat 7 to 8%," and "Fat 8%," which form of labeling or branding misled and deceived the purchaser because, as a matter of fact, said food product did not contain 8 per cent of fat or 7 to 8 per cent of fat and 26 per cent of protein or 24 to 26 per cent of protein, but less amounts of fat and protein, to wit, 6.30 [6.36] per cent of fat and 22.25 per cent protein. It was further alleged in the information that the statements on said label were false and misleading and constituted a misbranding of said food product contained in said packages.

On April 6, 1915, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$15.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *May 28, 1915.*