

17 an average weight of 23.6 pounds and in 24 crates of the shipment of July 21 an average weight of 23.8 pounds.

Misbranding of the article was alleged in the informations for the reason that the statement, to wit, "Net Weight 26 Lbs.," borne on the crates containing the article, regarding the said article, was false and misleading in that it represented that the said crates each contained 26 pounds net weight of the article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said crates contained 26 pounds net weight of the article, whereas, in truth and in fact, each of said crates did not contain 26 pounds net weight of the article 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 February 5, 1923, pleas of guilty to the informations were entered on behalf of the defendant company, and the court imposed fines in the aggregate amount of \$102.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

11382. Adulteration and misbranding of wheat shorts. U. S. v. Sutherland Flour Mills Co., a Corporation. Plea of not guilty. Tried to the court. Judgment of guilty as to counts 3 and 4, and of not guilty as to counts 1, 2, 5, and 6. Fine, \$200. (F. & D. No. 15453. I. S. No. 9162-t.)

On November 15, 1921, the United States attorney for the Eastern District of Illinois, 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 Sutherland Flour Mills Co., a corporation, Cairo, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 11, 1920, from the State of Illinois into the State of Florida, of a quantity of alleged grey shorts which was adulterated and misbranded. The article was labeled in part, (tag) "Wheat Shorts with Mill Run Ground Screenings * * * Manufactured by Sutherland Flour Mills Co. Cairo, Ill.," and was invoiced as grey shorts.

Examination of the article by the Bureau of Chemistry of this department showed that it consisted of reground bran, ground screenings, and flour. Shorts, if present, were present in a small proportion.

Adulteration of the article was alleged in the first count of the information for the reason that a substance, to wit, reground bran, had been mixed and packed with the said article so as to reduce and lower and injuriously affect its quality and strength. Adulteration was alleged in the second count for the further reason that a substance, to wit, reground bran, had been substituted wholly or in part for grey shorts, which the article purported to be. Adulteration was alleged in the third count for the further reason that a substance, to wit, reground bran, had been substituted wholly or in part for wheat shorts with mill run ground screenings, which the article purported to be.

Misbranding was alleged in the fourth count of the information for the reason that the article was a product composed wholly or in part of reground bran and was an imitation of and offered for sale under the distinctive name of another article, to wit, grey shorts. Misbranding was alleged in the fifth and sixth counts for the reason that the statement, to wit, "Wheat Shorts with Mill Run Ground Screenings," borne on the tags attached to the sacks containing the article, regarding the article and the substances and ingredients contained therein, was false and misleading in that the said statement represented the article to be wheat shorts with mill run ground screenings, to wit, an article consisting principally of wheat shorts and containing no reground bran, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was wheat shorts with mill run ground screenings, to wit, an article consisting principally of wheat shorts and containing no reground bran, whereas, in truth and in fact, said article contained little or no wheat shorts, but was an article composed wholly or in part of reground bran.

On May 16, 1922, the defendant company having entered a plea of not guilty to the information, the case came on for trial before the court, and after the submission of evidence and arguments by counsel the matter was taken under

advisement by the court which, on Nov. 16, 1922, rendered a judgment of not guilty on counts 1, 2, 5, and 6, and of guilty on counts 3 and 4 and imposed a fine of \$100 and costs on each of the said two counts.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

11383. Misbranding of smoked herrings. U. S. v. F. E. Booth Co., a Corporation. Plea of nolo contendere. Fine, \$100. (F. & D. No. 16012. I. S. No. 3389-t.)

On April 12, 1922, the United States attorney for the Northern District of California, 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 F. E. Booth Co., a corporation, Pittsburg, Calif., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about September 12, 1919, from the State of California into the State of Missouri, of a quantity of smoked herrings which were misbranded. The article was labeled in part: "Booth's Herrings Net Contents 15 Ozs. * * * General Offices San Francisco, Cal. U. S. A. F. E. Booth Co."

Examination of a sample of the article by the Bureau of Chemistry of this department showed that the average net weight of 12 cans was 13.6 ounces.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Net Contents 15 Ozs.," borne on the labels attached to the cans containing the said article, regarding the article, was false and misleading in that it represented that each of said cans contained 15 ounces net of the article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said cans contained 15 ounces net of the article, whereas, in truth and in fact, each of said cans did not contain 15 ounces net of the said article 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 March 29, 1923, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

11384. Misbranding of chocolates. U. S. v. Schutter-Johnson Candy Co., a Corporation. Plea of guilty. Fine, \$50. (F. & D. No. 16204. I. S. Nos. 3589-t, 3590-t.)

On January 2, 1923, the United States attorney for the Northern District of Illinois, 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 Schutter-Johnson Candy Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about December 2, 1921, from the State of Illinois into the State of Minnesota, of a quantity of chocolates which were misbranded. The article was labeled in part: "Courtship Chocolates Assorted One pound net" (or "Half pound net") "* * * Schutter-Johnson Candy Co. Chicago, U. S. A."

Examination of samples of the article by the Bureau of Chemistry of this department showed that the average net weight of 18 half-pound packages was 7.13 ounces, and that the average net weight of 16 pound packages was 13.19 ounces.

Misbranding of the article was alleged in the information for the reason that the statements, to wit, "One pound net" and "Half pound net," borne on the labels attached to the respective-sized packages containing the article, regarding the said article, were false and misleading in that the said statements represented that each of said packages contained one pound net or one-half pound net, as the case might be, of the said article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said packages contained one pound net or one-half pound net, as the case might be, of the said article, whereas, in truth and in fact, each of said packages did not contain one pound net or one-half pound net, as the case might be, of the said article 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 March 2, 1923, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*