

**12172. Adulteration of shell eggs. U. S. v. John Bostock. Plea of guilty. Fine, \$25.** (F. & D. No. 17602. I. S. No. 8201-v.)

On August 18, 1923, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against John Bostock, trading at Blue Hill, Nebr., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about December 9, 1922, from the State of Nebraska into the State of Colorado, of a quantity of shell eggs which were adulterated. The article was labeled in part: "J. Bostock, Upland, Nebr."

Examination by the Bureau of Chemistry of this department of 1,800 eggs from the consignment showed that 143, or 7.94 per cent of those examined, were inedible eggs, consisting of black rots, mixed or white rots, and spot rots.

Adulteration of the article was alleged in the information for the reason that it consisted in part of a filthy and decomposed and putrid animal substance.

On March 10, 1924, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**12173. Misbranding and alleged adulteration of canned oysters, U. S. v. 19,680 Cans and 720 Cans of Oysters. Consent decree of condemnation and forfeiture. Product released under bond.** (F. & D. No. 17432. I. S. Nos. 5312-v, 5313-v. S. No. C-4002.)

On or about March 26, 1923, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 19,680 alleged 5-ounce cans and 720 alleged 10-ounce cans of oysters, remaining in the original unbroken packages at Kansas City, Mo., alleging that the article had been shipped by the Shelmore Oyster Products Co., from Charleston, S. C., on or about January 31, 1923, and transported from the State of South Carolina into the State of Missouri, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Cans) "Oysters \* \* \* Crystal Bay Brand \* \* \* Contains 5 Oz. Oyster Meat" (or "Contains 10 Oz. Oyster Meat").

Adulteration of the article was alleged in substance in the libel for the reason that excessive brine had been mixed and packed therewith so as to reduce and lower its quality and strength, and for the further reason that brine had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement appearing on the labels of the said cans, "5 Oz." or "10 Oz.," as the case might be, was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation and was offered for sale under the distinctive name of another article. 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, since the quantity stated was incorrect.

On April 16, 1923, the Shelmore Oyster Products Co., Charleston, S. C., claimant, having admitted the allegations of the libel and consented to the entry of a decree of condemnation and forfeiture, judgment of the court was entered finding the product to be misbranded and ordering that it be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be relabeled under the supervision of this department.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**12174. Misbranding of Noxit and B-I-F injection. U. S. v. 3 Dozen Bottles of Noxit and 4½ Dozen Bottles of B-I-F. Default decrees of condemnation, forfeiture, and destruction.** (F. & D. Nos. 10822, 10832. I. S. Nos. 13954-r, 13964-r. S. Nos. E-1634, E-1635.)

On July 8 and 11, 1919, respectively, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 3 dozen bottles of Noxit and 4½ dozen bottles of B-I-F injection, at Paterson, N. J., alleging that the articles had been shipped by the Frederick F. Ingram Co., Detroit, Mich., in part on or about December 1, 1917, and in part on or about May 21, 1919, and trans-

ported from the State of Michigan into the State of New Jersey, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analyses of samples of the articles by the Bureau of Chemistry of this department showed that the Noxit consisted essentially of zinc acetate, opium, berberine, alcohol, glycerin, and water, and that the B-I-F injection consisted essentially of zinc acetate, boric acid, opium, berberine, alcohol, glycerin, and water.

Misbranding of the articles was alleged in substance in the libels for the reason that certain statements appearing in the circular accompanying the articles falsely and fraudulently represented them to be effective in the treatment and cure of gonorrhoea, clap, and gleet, whereas, in truth and in fact, the said articles would not produce the curative and therapeutic effects claimed.

On March 28, 1924, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**12175. Misbranding of linseed oil meal. U. S. v. 160 Sacks of Linseed Oil Meal. Decree entered providing for release of product under bond to be relabeled.** (F. & D. No. 18455. I. S. No. 10598-v. S. No. E-4773.)

On March 10, 1924, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 160 sacks of linseed oil meal, consigned December 13, 1923, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped by Mann Bros. Co. from Buffalo, N. Y., and transported from the State of New York into the State of Maryland, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "100 Pounds Pure Old Process Linseed Oil Meal From The Mann Bros. Co. Buffalo, N. Y. Guaranteed Analysis Minimum Protein 35 Minimum Fat 6 Maximum Fiber 10 Minimum Carbohydrates 35."

Misbranding of the article was alleged in the libel for the reason that the statement, "Guaranteed Analysis Minimum Protein 35," was false and misleading and deceived and misled the purchaser, in that the said statement represented that the article contained 35 per cent of protein, whereas, in truth and in fact, it contained a less amount.

On March 26, 1924, Walter F. MacNeal & Co., Baltimore, Md., having appeared as claimant for the property, judgment of the court was entered providing that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be relabeled to the satisfaction of this department.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**12176. Misbranding of macaroni and spaghetti. U. S. v. Jake Cusimano (J. Cusimano & Co.). Plea of guilty. Fine, \$25.** (F. & D. No. 17803. I. S. Nos. 6124-v, 6125-v, 9371-t.)

On January 17, 1924, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Jake Cusimano, trading as J. Cusimano & Co., New Orleans, La., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about January 23, 1922, from the State of Louisiana into the State of Florida, of a quantity of spaghetti, and on or about January 5, 1923, from the State of Louisiana into the State of Alabama, of quantities of spaghetti and macaroni, all of which were misbranded. The macaroni was labeled in part: "Patriot Brand Elbows Macaroni Manufactured By J. Cusimano New Orleans, La. Net Weight 5 Oz.;" (stamped) "4 Oz." The spaghetti was labeled in part: "Patriot Brand Spaghetti Manufactured By J. Cusimano New Orleans, La." The consignment of spaghetti into Alabama was further labeled: "Net Weight 5 Oz.;" (stamped) "4 Oz."

Examination by the Bureau of Chemistry of this department of samples of the articles showed that the average net weight of 8 cartons of the macaroni was 3.69 ounces and that the average net weight of 8 cartons of the spaghetti consigned into Alabama was 3.76 ounces.

Misbranding of the macaroni and of the spaghetti consigned into Alabama was alleged in the information for the reason that the statements, to wit,