

payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, conditioned in part that the product be rebranded.

HOWARD M. GORE, *Secretary of Agriculture.*

**12490. Misbranding of butter. U. S. v. 9½ Cases and 2½ Cases of Butter. Decrees of condemnation and forfeiture. Product released under bond. (F. & D. No. 18833. I. S. Nos. 16150-v, 16151-v. S. No. E-4883.)**

On July 11, 1924, the United States attorney for the Eastern District of Pennsylvania, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 12 cases, each containing 30 1-pound prints, of butter, remaining in the original unbroken packages at Philadelphia, Pa., alleging that the article had been shipped from North Wilkesboro, N. C., on or about June 20, 1924, and transported from the State of North Carolina into the State of Pennsylvania, and charging misbranding in violation of the food and drugs act as amended. A portion of the article was labeled in part: "Our Special Brand \* \* \* Made \* \* \* by the Laurel Creamery Company, North Wilkesboro, N. C." The remainder of the said article was labeled in part: "Blue Ridge Valley Butter \* \* \* Wilkes Co-operative Creamery North Wilkesboro, N. C."

Misbranding of the article was alleged in substance in the libels for the reason that the packages inclosing the article contained labels which bore statements regarding the said article which were false and misleading in that the said statements represented that the packages contained 1 pound of butter, or 1 pound net weight of butter, as the case might be, whereas in fact they did not. 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 August 8, 1924, the Wilkes Co-Operative Creamery Co. having appeared as claimant for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of bonds in the aggregate sum of \$320, in conformity with section 10 of the act, conditioned in part that the product be reworked under the supervision of this department.

HOWARD M. GORE, *Secretary of Agriculture.*

**12491. Adulteration and misbranding of gray wheat shorts and screenings. U. S. v. 400 Sacks and 400 Sacks of Gray Wheat Shorts and Screenings. Consent decrees of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. Nos. 18377, 18378. I. S. Nos. 12305-v, 12306-v. S. Nos. C-4267, C-4268.)**

On January 10, 1924, the United States attorney for the District of Kansas, 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 800 sacks of gray wheat shorts and screenings, remaining in the original unbroken packages at Kansas City, Kans., alleging that the article had been shipped by T. C. Brunner & Son, from Omaha, Nebr., in two consignments, namely, on or about December 12 and December 14, 1923, respectively, and transported from the State of Nebraska into the State of Kansas, and charging adulteration and misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Gray Wheat Shorts and Screenings Not more than 4% Wheat Screenings Guaranteed Analysis \* \* \* Not More than 5.5% Crude Fibre T. C. Brunner & Son Omaha 100 Lbs. When Packed."

It was alleged in substance in the libels that the article was adulterated in that it was not gray wheat shorts but was wheat mixed feed and screenings, with a high crude-fiber content, namely 8.21 per cent crude fiber.

It was further alleged in substance that the article was misbranded in that it was labeled so as to deceive and mislead the purchaser in that the tag on the packages containing the said article stated that the contents of the said packages were "Gray Wheat Shorts and Screening," while, in truth and in fact, the said contents were wheat mixed feed and screenings finely ground. Misbranding was alleged for the further reason that the article was in package form and the contents were not stated in terms of weight or measure correctly on the outside of the package in that the label stated that the said contents

were "100 Lbs. When Packed," when, in truth and in fact, the said contents were considerably less than 100 pounds. Misbranding was alleged for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article, and for the further reason that the name of the manufacturer or producer was not correctly given on the label of the said packages, the label representing that T. C. Brunner & Son, Omaha, were the manufacturers and producers of the said article, when, in truth and in fact, the Omaha Flour Mills Co. of Omaha, Nebr., were the manufacturers and producers and T. C. Brunner & Son were the brokers and distributors thereof.

On February 14 and 26, 1924, respectively, the Southard Feed & Milling Co., Kansas City, Kans., having appeared as claimant for the property and having consented to the entry of decrees, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of bonds in the aggregate sum of \$2,000, in conformity with section 10 of the act, conditioned in part that it be rebranded.

HOWARD M. GORE, *Secretary of Agriculture.*

**12492. Misbranding of grapes. U. S. v. James Marcelletti. Plea of guilty. Fine, \$50. (F. & D. No. 17126. I. S. No. 178-v.)**

On March 26, 1923, the United States attorney for the Western District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against James Marcelletti, Paw Paw, Mich., alleging shipment by said defendant, in violation of the food and drugs act as amended, on or about September 28, 1922, from the State of Michigan into the State of New York, of a quantity of grapes which were misbranded.

Misbranding of the article was alleged in the information for the 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 package.

On July 30, 1923, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50.

HOWARD M. GORE, *Secretary of Agriculture.*

**12493. Misbranding of cottonseed feed. U. S. v. Southern Cotton Oil Co., a Corporation. Plea of guilty. Fine, \$25. (F. & D. No. 17798. I. S. No. 1458-v.)**

On November 30, 1923, the United States attorney for the Eastern District of North Carolina, 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 Southern Cotton Oil Co., a corporation, trading at Goldsboro, N. C., alleging shipment by said company, in violation of the food and drugs act, on or about November 1, 1922, from the State of North Carolina into the State of Virginia, of a quantity of cottonseed feed which was misbranded. The article was labeled in part: (Tag) "Scoco Cottonseed Feed Guaranteed Analysis Protein 36% \* \* \* Manufactured By The Southern Cotton Oil Co. Charlotte, N. C."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it contained 34.13 per cent of protein.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Guaranteed Analysis Protein 36%," borne on the tags attached to the sacks containing the article, regarding the said article and the ingredients and substances contained therein, was false and misleading in that the said statement represented that the article contained not less than 36 per cent of protein, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 36 per cent of protein, whereas, in truth and in fact, it did contain less than 36 per cent of protein, to wit, approximately 34.13 per cent of protein.

On June 12, 1924, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25.

HOWARD M. GORE, *Secretary of Agriculture.*