

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1654.

(Given pursuant to section 4 of the Food and Drugs Act.)

ALLEGED MISBRANDING OF PASTURE DAIRY MEAL; ALLEGED ADULTERATION AND MISBRANDING OF RED FEATHER POULTRY SCRATCH FEED; ALLEGED MISBRANDING OF JUNE PASTURE DAIRY MEAL; MISBRANDING OF ARAB BALANCED HORSE FEED.

On March 14, March 17, March 14, and February 3, 1910, the United States Attorney for the District of Nebraska, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district separate informations against the M. C. Peters Mill Co., a corporation, Omaha, Nebr., alleging shipment by it, in violation of the Food and Drugs Act—

(1) On January 15, 1909, from the State of Nebraska into the State of Illinois of a quantity of stock feed which was alleged to have been misbranded. The product was labeled: "100 lbs. Pasture Dairy Meal Pure Ground Alfalfa and fine Syrup 13% Protein, 2% Fat, 18% Fiber, M. C. Peters Mill Company, Omaha, Neb."

Analysis of a sample of this product, made by the Bureau of Chemistry of this Department, showed the following results: Moisture, 14.43 per cent; ether extract, 1.31 per cent; protein, 10.89 per cent; crude fiber, 16.41 per cent. Misbranding was charged in the information for the reason that the product bore a label and statement regarding the ingredients and substances contained therein which was alleged to have been false and misleading, in that said product did not contain 13 per cent of protein, 2 per cent of fat, and 18 per cent crude fiber, but contained lesser amounts of these substances.

(2) On January 27, 1909, from the State of Nebraska into the State of Illinois of a quantity of stock feed which was alleged to have been adulterated and misbranded. The product was labeled: "100 lbs. Red Feather Poultry Food, Manufactured by M. C. Peters Mill Co., Alfalfa Queen Mills, Omaha, Nebr., Protein 12-15%, Fat 2-4%,

Crude Fiber 4-8%. 100 lbs. Scratch Food Red Feather Pure grains and alfalfa leaf, balanced for best results."

Analysis of a sample of this product, made by the Bureau of Chemistry of this Department, showed the following results: Kaffir corn, 23.4 per cent; corn, 40.8 per cent; wheat, 13.5 per cent; bindweed, 5.3 per cent; meat, 6.1 per cent; foxtails, 5.4 per cent; linseed, 1.9 per cent; pigweeds, 1.3 per cent; barley, 0.7 per cent; oats, 0.4 per cent; mustards, 0.4 per cent; legumes, 0.4 per cent; miscellaneous seeds and chaff, 0.4 per cent. Adulteration was charged in the information for the reason that the product was alleged to have mixed and packed with it a substance, to wit, weed seeds, which reduced, lowered, and injuriously affected its quality and strength. Misbranding was charged in the information for the reason that the product bore a label and statement regarding the ingredients and substances contained therein which was alleged to have been false and misleading, in that the product did not contain from 12 to 15 per cent protein, but contained less than 12 per cent of protein; and that it did not contain from 2 to 4 per cent fat, but contained less than 2 per cent fat; and it did not contain from 4 to 8 per cent of crude fiber, but contained less than 4 per cent crude fiber. Misbranding was charged for the further reason that the product bore a label and statement regarding the ingredients and substances contained therein which was alleged to have been false and misleading in that, in addition to pure grains and alfalfa leaf, as stated on said label, the product contained about 21 per cent of ingredients which were neither pure grain nor alfalfa leaf, over half of said ingredients being weed seeds.

(3) On January 28, 1909, from the State of Nebraska into the State of Georgia of a quantity of stock feed which was alleged to have been misbranded. The product was labeled: "100 lbs. June Pasture Dairy Meal Pure Ground Alfalfa and Fine Syrup; Protein 11-13%; Fat 1-2%; Crude Fiber 20-26%; M. C. Peters Mill Co., Omaha, Nebraska."

Analysis of a sample of this product by the Bureau of Chemistry of this Department showed the following results: Moisture, 17.09 per cent; ether extract, 1.15 per cent; protein, 8.45 per cent; crude fiber, 17.10 per cent. Misbranding was charged in the information for the reason that the product bore a label and statement regarding the ingredients or substances contained therein which was alleged to have been false and misleading, in that said product did not contain 11 to 13 per cent protein and 20 to 26 per cent crude fiber, but less amounts of these substances.

(4) On January 28, 1909, from the State of Nebraska into the State of Georgia of a quantity of stock feed which was misbranded.

The product was labeled: "Arab Balanced Horse Feed, Oats, Corn & Alfalfa flavored with syrup. Protein 10-12%; Fat 3-4%; Crude Fiber 6-12%. M. C. Peters Mill Co., Omaha, Nebr."

Analysis of a sample of this product by the Bureau of Chemistry of this Department showed the following results: Moisture, 19.05 per cent; ether extract, 2.73 per cent; protein, 8.33 per cent; crude fiber, 7.65 per cent. Misbranding was charged in the information for the reason that the product bore a label and statement regarding the ingredients and substances contained therein which was false and misleading, because said product contained 8.33 per cent protein and no more, 2.73 per cent ether extract and no more, and 7.73 per cent crude fiber and no more.

On March 25, 1912, these cases having come on for hearing, and having previously been consolidated by order of the court, by consent of the parties in open court, a jury was waived, and it was agreed that the cases so consolidated might be tried to the court, without the intervention of a jury, and thereupon the cases were called for trial. At the beginning of the trial the defendant in open court admitted that it was guilty as to the information charging misbranding of Arab Balanced Horse Feed, and denied guilt as to the informations in the other cases. After due consideration of the evidence and being fully advised in the premises, the court found that the defendant was guilty as to the information charging misbranding of Arab Balanced Horse Feed, and not guilty as to the informations in the other three cases, and each and every count thereof. Thereupon, upon motion of the United States Attorney, the court sentenced the defendant to pay a fine of \$75 and costs taxed at \$28.63.

The allegation in the information (2) that the product was stock food was erroneous. It should have been poultry food.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *July 13, 1912.*