

3610. Adulteration and misbranding of white buckwheat groats and German grits. U. S. v. Jacob Rosenberg et al. (J. Rosenberg & Son). Plea of guilty. Fine, \$100 and costs. (F. & D. No. 5678. I. S. Nos. 349-e, 350-e, 1686-e.)

At the September, 1914, session of the District Court of the United States for the Eastern District of Pennsylvania, the United States attorney within and for said district, acting upon a report by the Secretary of Agriculture, filed in said court an information against Jacob Rosenberg and Myer Rosenberg, copartners, trading under the firm name of J. Rosenberg & Son, Philadelphia, Pa., alleging the shipment by said defendants, in violation of the Food and Drugs Act:

(1) On or about November 14, 1912, from the State of Pennsylvania into the State of Illinois, of a quantity of No. 2 white buckwheat groats, which was adulterated and misbranded. The product was labeled: "#2 Rosenberg & Son Manufacturers of White Buckwheat Groats, Brown Groats, German Grits a Specialty, Buckwheat Flour and Buckwheat Feed, 814-816 So. American St., Philadelphia, Pa."

Analysis of a sample of this product by the Bureau of Chemistry of this department showed the presence of corn therein.

Adulteration of the product was alleged in the information, for the reason that a substance other than buckwheat groats, to wit, corn, had been mixed and packed with the article, so as to reduce and lower and injuriously affect its quality and strength, and for the further reason that a substance other than buckwheat groats, to wit, corn, had been substituted in part for buckwheat groats, which the article purported to be. Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article and was invoiced and sold as No. 2 white buckwheat groats, whereas said article was not No. 2 buckwheat groats, but was a mixture of buckwheat and corn.

(2) On or about November 14, 1912, from the State of Pennsylvania into the State of Illinois, of a quantity of No. 16 German grits which was adulterated and misbranded. This product was labeled: "#16 Rosenberg & Son Manufacturers of White Buckwheat Groats, Brown Groats, German Grits a Specialty, Buckwheat Flour and Buckwheat Feed, 814-816 So. American St., Philadelphia, Pa."

Analysis of a sample of this product by the said Bureau of Chemistry showed the presence of barley therein.

Adulteration of the product was alleged in the information for the reason that a substance other than German grits, to wit, barley, had been mixed and packed with the article, so as to reduce and lower and injuriously affect its quality and strength, and for the further reason that a substance other than German grits, to wit, barley, had been substituted in part for No. 16 German grits, which the article purported to be. Misbranding was alleged for the reason that the article was offered for sale under the distinctive name of another article and was invoiced and sold as No. 16 German grits, whereas said article was not No. 16 German grits, but was a mixture of buckwheat and barley.

(3) On or about January 6, 1913, from the State of Pennsylvania into the State of New York, of a quantity of German grits which was adulterated and misbranded. This product was labeled: (On shipping bag) "1-100 lbs. German Grits. Manufactured by J. Rosenberg & Son., Philadelphia, Pa. U. S. A." (On tag) "To Oppenheim Bros. Albany, N. Y. From J. Rosenberg & Son Millers of Buckwheat 814-16 So. American St. Philadelphia, Pa."

Analysis of a sample of the product by the said Bureau of Chemistry showed it to consist of coarsely ground buckwheat containing more than 20 per cent of corn.

Adulteration of the product was alleged in the information for the reason that a substance other than German grits, to wit, corn, had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength, and for the further reason that a substance other than German grits, to wit, corn, had been substituted in part for German grits which the article purported to be. Misbranding was alleged for the reason that the statement "German Grits," borne on the label of the package in which the article was shipped, was false and misleading in that said article of food was not a German grits, an article consisting exclusively of buckwheat, as represented by said statement, but was in fact a mixture of corn and buckwheat; further, for the reason that the article was offered for sale under the distinctive name of another article, to wit, German grits, an article consisting exclusively of buckwheat, whereas, in truth and in fact, it was not German grits, but was a mixture of buckwheat and corn; and for the further reason that the said article was labeled and branded "German Grits" so as to deceive and mislead the purchaser thereof into the belief that it consisted exclusively of buckwheat, whereas, in truth and in fact, it did not consist exclusively of buckwheat, but did consist of a mixture of buckwheat and corn.

On December 21, 1914, a plea of guilty was entered on behalf of the defendant firm, and the court imposed a fine of \$100 and costs.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *March 12, 1915.*