FEED

5491. Adulteration and misbranding of dog food. U. S. v. 7 Cases of "Dr. Beere's Dessert For Dogs." Default decree of condemnation and destruction. (F. D. C. No. 10348. Sample No. 20646-F.)

This product contained mold, and the ingredient statement on the package appeared in small print on the two side panels. Its labeling suggested that it had some unique property in supplying a dog with energy, and gave an exaggerated and unwarranted impression of the nutritional value of the article.

On July 31, 1943, the United States attorney for the District of Massachusetts filed a libel against 7 cases, each containing 12 display cartons of 6 packages each, of dessert for dogs, at Worcester, Mass., alleging that the article had been shipped in interstate commerce on or about April 13, 1943, by J. R. Smith Sales Co., Inc., from Tenafly, N. J.; and charging that it was adulterated and misbranded. The article was labeled in part: (Packages) "Rx Dr. Beere's Prescribed Brand * * * Charge Dessert For Dogs Food Supplement * * * Manufactured for The Canine Vita Candy Co., Inc., 60 Hudson St., New York."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

It was alleged to be misbranded (1) in that the statement on the package "Charge contains dextrose, an easily digested energy food, well known in the treatment of animals" was misleading in that it suggested that dextrose has some unique property in supplying a dog with energy and that the rate with which it is digested is nutritionally significant, whereas dextrose is of no greater value as a source of energy than other carbohydrates for the normal dog; the rate or ease of digestibility is of no significance, and dextrose has no particular value as a treatment for animals; (2) in that the statements on the package "Charge is a health promoting food supplement * * * dogs who benefit from its continued use" were misleading since they gave an exaggerated and unwarranted impression of the nutritional value of the article; and (3) in that the statement of ingredients was not prominently placed on the label with such conspicuousness (as compared with other words, statements, and designs in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

On September 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5492. Misbranding of dried beet pulp. U. S. v. Paulding Sugar Co. Plea of nolo contendere. Fine, $100 and costs. (F. D. C. No. 9693. Sample No. 35116-F.)

This product was short weight.

On August 25, 1943, the United States attorney for the Northern District of Ohio filed an information against the Paulding Sugar Co., a corporation, at Paulding, Ohio, alleging shipment on or about January 14, 1943, from the State of Ohio into the State of Georgia of a quantity of dried beet pulp that was misbranded. The article was labeled in part: (Tag) "100 Lbs. Net Dried Beet Pulp."

It was alleged to be misbranded (1) in that the statement "100 Lbs. Net," was false and misleading, since the bags did not contain 100 pounds of dried beet pulp but contained a smaller amount; and (2) in that it was in package form and did not bear a label containing an accurate statement of the quantity of the contents.

On October 11, 1943, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of $100 and costs.

FISH AND SHELLFISH

5493. Adulteration of frozen porgies. U. S. v. 91 Boxes of Frozen Porgies. Default decree of condemnation and destruction. (F. D. C. No. 10347. Sample No. 35166-F.)

On August 2, 1943, the United States attorney for the Northern District of Georgia filed a libel against 91 boxes, each containing 100 pounds, of frozen porgies at Atlanta, Ga., alleging that the article had been shipped on or about April 26, 1943, by the Cold Spring Fish & Supply Co., Inc., from Cape May, N. J.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On August 25, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. The product was delivered to a U. S. penitentiary and disposed of as fertilizer.