

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 64-65, FOOD AND DRUGS ACT.

- 64. Misbranding of canned apples (Underweight).
- 65. Misbranding of beer (As to quantity of alcohol).

(N. J. 64.)

MISBRANDING OF CANNED APPLES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in case of the United States *v.* 70 cases of canned apples, a proceeding of libel for seizure and condemnation of the said goods, under section 10 of the aforesaid act, in the district court of the United States for the district of Indiana. The apples were misbranded in this. each can was labeled and branded "2 doz. 3 lb. Moss Rose Brand Apples. Packed by the Elyria Canning Company, Elyria, Lorain County, Ohio," whereas, in fact, the gross weight of the cans varied from 2 pounds 3.75 ounces to 2 pounds 6.25 ounces. No claimant having appeared, and the cause having come on to be heard on December 7, 1908, upon the decree pro confesso, theretofore entered, the court adjudged the goods misbranded and entered its final decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF
INDIANA.

UNITED STATES	}	No. 6872. Decree.
<i>vs.</i>		
SEVENTY CASES OF CANNED APPLES.		

This cause came on to be heard on the libel and decree pro confesso heretofore entered herein.

The court having considered the same, it is ordered, adjudged, and decreed that the said seventy cases of canned apples are hereby condemned as being misbranded as to the statements of weight on the labels attached to said cases under the provisions of the Food and Drugs Act of June 30, 1906.

It is further ordered, adjudged, and decreed that the said seventy cases of canned apples be sold at public sale, to the highest bidder, for cash by the United States marshal, at the south door of the Delaware county court house, in the city of Muncie, in said district, after due notice as provided by law and the rule and practice of this court, and that the marshal pay into the registry

of said court all moneys realized from said sales. All costs taxed in this cause shall be first paid from said sum of money and the residue, if any, shall be paid into the Treasury of the United States for the use and benefit of the said United States and to that end it is ordered that the clerk of this court issue a writ of *venditioni exponas* to the said marshal, returnable as required by the rules and practices of this court, and that the said marshal execute the same and make due return thereof with all convenient speed.

It is further ordered, adjudged, and decreed that the marshal before making such sale shall obliterate all marks, brands, and labels as to statements of weight of said cans of apples appearing thereon in violation of the provisions of the Food and Drugs Act of June 30, 1906.

All of which is finally ordered, adjudged, and decreed.

In accordance with the aforesaid decree the goods were, on January 12, 1909, sold at public auction for the sum of \$49.20, which sum, less the legal costs, was paid into the Treasury of the United States.

The facts in the case were as follows:

On or about September 14, 1908, an inspector of the Department of Agriculture found in the possession of Joseph A. Goddard & Company, of Muncie, Ind., 70 cases of canned apples labeled "2 doz. 3 lb. Moss Rose Brand Apples. Packed by the Elyria Canning Company, Elyria, Lorain County, Ohio." No statement of weight was made upon any of the individual cans. The goods had been packed and shipped to Joseph A. Goddard & Company by the Elyria Canning Company, Elyria, Ohio. A number of the cans were weighed by the inspector with the result that the average gross weight of each can was found to be from 2 pounds 3.75 ounces to 2 pounds 6.25 ounces.

The Secretary of Agriculture on September 14, 1908, reported the above facts to the United States attorney for the District of Indiana, who filed a libel for seizure under section 10 of the act, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,

Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *May 5, 1909.*

(N. J. 65.)

MISBRANDING OF BEER.
(AS TO QUANTITY OF ALCOHOL.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 17th day of