

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 179, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF COTTONSEED FEED MEAL.

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 18th day of June, 1909, in the District Court of the United States for the Western District of North Carolina, judgment was rendered in the case of the United States *v.* 120 Sacks of Cottonseed Feed Meal, wherein a libel was filed under section 10 of the aforesaid act, alleging in substance that 120 sacks of a product designated as cottonseed feed meal and labeled: "Creamo Brand Feed Meal. Manufactured by the Tennessee Fibre Co., Memphis, Tenn. Guaranteed Analysis—Protein 22%, Fat 5%, Crude Fibre 28%," which had been shipped from Memphis, Tenn., to Asheville, N. C., and there found in original unbroken packages, were misbranded in that the label on said sacks represents the product to contain protein 22 per cent, fat 5 per cent, crude fibre 28 per cent, when in truth and in fact but 18.73 per cent of protein, 4.69 per cent fat, and 25.04 per cent crude fibre, and approximately 50 per cent cottonseed hulls were present in said product, and were adulterated in that the said contents were designated as cottonseed feed meal with intent to deceive and mislead the purchaser as to its quality.

The libel prayed process against all claimants to said feed meal, and seizure and condemnation of the same.

The Asheville Grocery Company appeared as respondent in the above proceedings, whereupon the court, after the parties had agreed to make statements of their evidence, found for the libelant and rendered the following decree:

IN THE DISTRICT COURT OF THE UNITED STATES, WESTERN DISTRICT OF NORTH CAROLINA. AT ASHEVILLE.

UNITED STATES OF AMERICA }
vs. }
120 SACKS OF COTTON SEED FEED MEAL. }

DECREE OF CONDEMNATION.

This cause coming on to be heard, and it appearing to the Court that upon the Libel filed herein, Warrant of Arrest was duly issued and served on the 7th day of June,

1909, and that by virtue of said Warrant, the Marshal has seized and now holds 116 sacks of Cotton Seed Feed Meal of the approximate value of \$200.00 the said 116 Sacks of Cotton Seed Feed Meal, having been seized from the premises and in the possession of the Asheville Grocery Co. a partnership formed and doing business in the city of Asheville, N. C., within the said District and that the said Cotton Seed Feed Meal is now in storage and in the custody of the said Marshal; and it appearing that the Asheville Grocery Co. the respondent herein the owners of the said 116 bags of Cotton Seed Feed Meal, so seized were duly warned to appear herein and that due and legal notice and proclamation was given to all persons having or claiming to have any right, title or interest therein or in or to said property, to appear and answer said libel, and that said Asheville Grocery Co. have so appeared; the libelant and respondent each making a statement to the Court of their evidence and agreeing in open court to submit the same to the Court and the court being now fully advised in the premises, finds for the libelant and finds that the said 116 sacks of Cotton Seed Feed Meal contains articles of food and that the said sacks are misbranded within the meaning of the Act of Congress of June 30, 1906, the same having been transported in interstate commerce from the City of Memphis, Tenn., consigned to the Asheville Grocery Co., at Asheville, N. C., being all of such consignment found in original unbroken packages, that is, the Court finds that the said articles of feed are misbranded in violation of the said Act of Congress in that said sacks and each of them contain Protein 18.73% Fat 4.69% Crude Fibre 25.04% and contain approximately 50% hulls, and that the said articles of feed were transported in interstate commerce and consigned and delivered to the claimant aforesaid, Wholesale dealers at Asheville, N. C.

The Court further finds that the articles of feed contained in said 116 Sacks of Cotton Seed Feed Meal is not adulterated, poisonous or deleterious, but that the violation of said Act of Congress is in the misbranding of the said sacks and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore it is Ordered, adjudged and decreed by the court that the said 116 sacks of Cotton Seed Feed Meal with the contents as aforesaid, be and they are hereby declared to be misbranded in violation of the Act of June 30th, 1906, as is charged in said libel, and it is further ordered that the said 116 Sacks of Cotton Seed Feed Meal, with the contents as aforesaid, be, and they hereby are condemned and forfeited as provided for in the said Act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein including all Court, Clerk's and Marshal's costs and costs of hauling, storage, watchmen and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Asheville Grocery Co. to the libelant of a good and sufficient bond in the penalty of \$250.00, conditioned that the said Sacks of Cotton Seed Feed Meal, with the contents as aforesaid shall not be sold, or otherwise disposed of, contrary to the provisions of the said Act of June 30, 1906, or to the laws of any state, territory, district, or insular possession, that the said Marshal shall redeliver the said 116 Sacks of Cotton Seed Feed Meal with such of their contents as they now contain or may contain at the time of such redelivery to the Asheville Grocery Co. in lieu of the retention and destruction thereof;

The Clerk of this court will attach the costs in accordance with this order and furnish a copy thereof to claimants.

This June 18, 1909.

WM. T. NEWMAN,
U. S. Judge presiding.

We consent to this decree:

THOS. J. RICKMAN, *Atty. for claimant.*
A. L. COBLE, *Asst. U. S. Atty.*

The facts preceding the filing of the above libel were as follows:

On or about June 4, 1909, an inspector of the United States Department of Agriculture found in the possession of the Asheville Grocery Company, in original unbroken packages, 120 sacks of the product labeled as above described, which had been sold, invoiced, and shipped as cottonseed feed meal to the said company by the Tennessee Fibre Company, of Memphis, Tenn. A sample taken from the above consignment was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain protein 18.73 per cent, fat 4.69 per cent, crude fibre 25.04 per cent, and hulls, approximately, 50 per cent. The misbranding and adulteration disclosed by this analysis was reported by the Secretary of Agriculture, on June 5, 1909, to the United States Attorney for the Western District of North Carolina, who filed the above libel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O