

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 934, FOOD AND DRUGS ACT.

MISBRANDING OF EVAPORATED APPLES.

On or about October 13 and November 14, 1910, the Wallerstein Produce Company, Richmond, Va., shipped from the State of Virginia into the State of Kentucky two consignments of dried apples; the former shipment consisted of 25 cases of dried apples, each of which cases contained 48 cartons labeled: "Dime Brand Choice Evaporated Apples—Good Value—Packed by Wallerstein Produce Company, Richmond, Va.," and the latter contained 35 cases of dried apples, each of which cases contained 48 cartons bearing labels identical with those above set forth, 50 boxes weighing 50 pounds each, labeled: "Sun Brand Choice Dried Apples. Packed by Wallerstein Produce Company, Richmond, Va. 50 lbs. Bulk," 450 bags of 50 pounds each, labeled: "Sliced Dried Apples—50 lbs.," and 50 bags of 100 pounds each labeled "Sliced Apples—100 lbs." Samples from these shipments were procured and examined by the Bureau of Chemistry, United States Department of Agriculture, and the product contained in each of the above described lots was found to be a common grade of sun-dried apples. As the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, and liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Kentucky.

On November 15, 1910, two libels were filed in the District Court of the United States for said district against the two shipments above described, praying seizure, condemnation, and forfeiture. Thereupon the Wallerstein Produce Company, of Richmond, Va., entered its appearance as claimant to the above consignments of the product and consented that decrees of condemnation and forfeiture be entered upon the above libels.

On February 18, 1911, the cause came on for hearing, and the court being fully informed in the premises issued its decrees, finding the products involved in the above shipments to be misbranded for the reason that they did not consist of "choice" evaporated apples, and condemning and forfeiting the same to the use of the United States, with the proviso, however, that the consignments in question should be released to the claimant upon the payment by it of all the costs of these proceedings and the delivery and execution of a satisfactory bond in the sum of \$1,000 conditioned that the word "choice" should be erased from said labels, and that none of the evaporated apples in question should be sold or disposed of contrary to law. The costs having been paid and bond furnished in accordance with the terms of the above decrees, the above described goods were released to the claimant.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *June 6, 1911.*

