

United States Department of Agriculture

FOOD, DRUG, AND INSECTICIDE ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the food and drugs act]

16601-16625

[Approved by the Secretary of Agriculture, Washington, D. C., March 6, 1930]

16601. Misbranding of butter. U. S. v. 65 Cases of Print Butter. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 23889. I. S. Nos. 08965, 08966. S. No. 2047.)

On June 13, 1929, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 65 cases of print butter at Cincinnati, Ohio, consigned by G. Herman, Napoleon, Ind., in part June 7, 1929, and in part June 11, 1929, alleging that the article had been shipped in interstate commerce from Napoleon, Ind., into the State of Ohio, and charging misbranding in violation of the food and drugs act as amended. The individual prints were wrapped in parchment paper, labeled in part: "4 Oz. Net Weight."

It was alleged in substance in the libel that the article was misbranded in violation of section 8 of the act, paragraphs 2, 3, and 4, in that the wrappers enclosing the said butter bore and contained statements regarding the weight of the individual prints thereof which were false, since the said prints were found to be short weight.

On June 17, 1929, G. Herman, Napoleon, Ind., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of costs and the execution of a bond in the sum of \$1,000, conditioned in part that it be repacked to conform with the law.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16602. Misbranding of olive oil. U. S. v. 3 Cases of Olive Oil. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 22132. I. S. No. 21202-x. S. No. 182.)

On November 5, 1927, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 3 cases of olive oil, remaining in the original unbroken packages at Wilkes Barre, Pa., alleging that the article had been shipped by the Economi (Economu)-Ritsos Co. (Inc.), from New York, N. Y., on or about July 29, 1927, and transported from the State of New York into the State of Pennsylvania, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Can) Contents 7½ Lbs. Net. Pure Olive Oil * * * Family Brand Lucca Toscano, Italy. Packed and Imported by Economu Ritsos Company, New York, (wooden case) "This case contains 12-1 Gal. Tins."

It was alleged in substance in the libel that the article was misbranded in that the statement contained on the label of the wooden case, "This case contains 12-1 Gal. Tins," was false and misleading and deceived and misled the purchaser in that the product was short in volume. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement "Contents 7½ Lbs. Net" on the can label was by weight, whereas it should be by volume.

On June 14, 1929, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the statements of the quantity of the contents be obliterated from the can and case labels, and the product sold by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16603. Alleged misbranding of feed. U. S. v. Edward William Bailey, George Carter Bailey, and Lucius Dennison Taft (E. W. Bailey & Co.). Tried to a jury. Verdict of not guilty. (F. & D. No. 12293. I. S. No. 12740-r.)

On July 8, 1920, the United States attorney for the District of Vermont, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Edward William Bailey, George Carter Bailey, and Lucius Dennison Taft, copartners, trading as E. W. Bailey & Co., Montpelier, Vt., alleging shipment by said defendants, in violation of the food and drugs act, on or about March 15, 1919, from the State of Vermont into the State of Massachusetts, of a quantity of stock feed which was alleged to be misbranded. The article was labeled in part: "Pennant Brand Stock Feed Manufactured by E. W. Bailey & Co., Swanton, Vt. Guaranteed to Contain 10-12 per cent. Protein, 6½-8 per cent. Fat, 10 per cent. Maximum Fibre."

It was alleged in the information that the article was misbranded in that the following statements, to wit, "Guaranteed to Contain: 10-12 per cent. Protein, 6½-8 per cent. Fat, 10 per cent. Maximum Fibre," borne on the tags attached to the sacks containing the article, were false and misleading in that the said statements represented that the article contained not less than 10 per cent of protein, not less than 6½ per cent of fat, and not more than 10 per cent of fiber, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 10 per cent of protein, not less than 6½ per cent of fat, and not more than 10 per cent of fiber, whereas it contained less than 10 per cent of protein, less than 6½ per cent of fat, and more than 10 per cent of fiber.

On June 28, 1929, the case came on for trial before the court and a jury. After the submission of evidence and arguments by counsel the jury retired and, after due deliberation, returned a verdict of not guilty.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16604. Adulteration of frozen eggs. U. S. v. 605 Cans of Frozen Eggs. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 23785. I. S. No. 93072. S. No. 1993.)

On May 28, 1929, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 605 cans of frozen eggs at Pittsburgh, Pa., alleging that the article had been shipped by Armour & Co., from Duluth, Minn., on or about March 23, 1929, and transported from the State of Minnesota into the State of Pennsylvania, and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On June 21, 1929, Armour & Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of costs and the execution of a bond in the sum of \$10,000, conditioned in part that the good portion be separated from the bad portion and the latter destroyed or denatured.

ARTHUR M. HYDE, *Secretary of Agriculture.*