

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

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

22076-22175

[Approved by the Acting Secretary of Agriculture, Washington, D. C., August 31, 1934]

22076. Misbranding of canned peas. U. S. v. 148 Cartons of Canned Peas. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 27206. I. S. no. 29041.)

This case involved a shipment of canned peas which were substandard because of the presence of an excessive proportion of hard and mature peas, and which were not labeled to indicate that they were substandard.

On November 2, 1931, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 148 cartons of canned peas at New York, N.Y., alleging that the article had been shipped in interstate commerce, on or about August 21, 1931, by the Phillips Packing Co., Inc., from Cambridge, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Glydon Brand Early June Peas * * * Packed by Phillips Packing Co., Inc., Cambridge, Md." together with a cut of vine of green peas.

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since more than 10 percent of the peas were hard and mature, requiring a weight of 2 pounds or more to crush, and the package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On April 14, the Phillips Packing 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 claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned that the labels be removed and that it be relabeled in conformity with the published requirements of the Secretary of Agriculture, to state definitely that it was inferior to the standard of quality promulgated by the Secretary.

M. L. WILSON, *Acting Secretary of Agriculture.*

22077. Adulteration of tomato paste. U. S. v. 250 Cases of Tomato Paste. Tried to the court. Judgment for the Government. Decree of condemnation, forfeiture, and destruction entered. (F. & D. no. 27223. I. S. no. 24244. S. no. 5381.)

This case involved an interstate shipment of tomato paste which contained excessive mold.

On November 9, 1931, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 cases of tomato paste at New Orleans, La., alleging that the article had been shipped in interstate commerce, on or about August 11, 1931, by the Uddo-Taormina Corporation, from Los Angeles, Calif., and charging adulteration in violation

of the Food and Drugs Act. The article was labeled in part: (Can) "Salsa Di Pomodoro. * * * Packed by LaSierra Heights Canning Co., Los Angeles, California."

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed vegetable substance.

On February 17, 1932, Frank A. Taormina, vice-president of the Uddo-Taormina Corporation, entered an appearance and filed a claim for the property on behalf of said corporation. Subsequently the claimant filed a motion to dismiss, which motion was over-ruled on January 28, 1933, and on February 16, 1933, an answer was filed denying the adulteration charge. On March 15, 1933, a jury having waived, the case came on for trial and the court having heard the pleadings and the evidence and arguments of counsel, entered judgment condemning and forfeiting the property and ordering that it be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

22078. Adulteration of butter. U. S. v. Paul A. Schulze Co. Plea of nolo contendere. Fine, \$300 and costs. (F. & D. no. 27462. I. S. nos. 18531, 30366, 31013, 31014, 33945, 34107.)

This case was based on interstate shipments of butter which contained less than 80 percent by weight of milk fat.

On April 6, 1932, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Paul A. Schulze Co., a corporation, St. Louis, Mo., alleging shipment by said company between the dates of May 27, 1931, and June 17, 1931, from the State of Missouri, in part into the State of New York and in part into the District of Columbia, of quantities of butter which was adulterated. The article was labeled variously: "Sunshine Valley Butter * * * Packed Exclusively For Sunshine Valley Product Co., St. Louis, Mo.," "Jersey Belle Creamery Butter * * * Paul A. Schulze Co., St. Louis, Mo.," "Blue Ribbon Brand Creamery Butter * * * David W. Lewis & Co., New York City."

It was alleged in the information that the article was adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of March 4, 1923, which the article purported to be.

On April 28, 1934, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of \$300 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

22079. Adulteration and misbranding of oysters. U. S. v. Charles A. Loockerman. Plea of nolo contendere. Judgment of guilty; fine, \$100 and costs. (F. & D. no. 28130. I.S. nos. 39280 to 39283, incl., 39286 to 39289, incl., 41361, 41365, 41374, 45723, 47554.)

This case was based on interstate shipments of oysters which contained excessive water.

On May 2, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles A. Loockerman, Crisfield, Md., alleging shipment by said defendant, in violation of the Food and Drugs Act, between the dates of November 16, 1931, and December 22, 1931, from the State of Maryland, into the States of Missouri, Pennsylvania, Illinois, and Ohio, of quantities of oysters which were adulterated, and the greater number of shipments of which were also misbranded. One of the shipments was labeled, "Minimum 1-Gallon Volume", and was invoiced as "Standards." The remaining shipments were labeled in part: "Fansepakt * * * Oysters Packed Exclusively For Mid-Central Fish Co., Kansas City, Mo., Distributors"; or "Original Pac, * * * Oysters."

It was alleged in the information that the article was adulterated in that water had been mixed and packed with the article so as to lower and reduce and injuriously affect its quality and strength; in that water had been substituted in part for oysters which the article purported to be; and in that a valuable constituent of the article, oyster solids, had been in part abstracted.

Misbranding of all lots but one was alleged for the reason that the statement on the label, "Oysters", was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since