

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 223, FOOD AND DRUGS ACT.

MISBRANDING OF CONDENSED MILK.

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 of the judgment of the court in the case of the United States *v.* 200 Cases of Condensed Milk, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 200 cases of condensed milk, lately pending, and finally determined on June 23, 1909, in the District Court of the United States for the Eastern District of Louisiana by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On June 19, 1909, the United States attorney filed a libel in the District Court of the United States for the Eastern District of Louisiana praying seizure, condemnation, and forfeiture of the said condensed milk. To this libel Libby, McNeill & Libby, Ltd., Inc., appeared, set up its claim to the milk, filed its answer, and, together with the United States attorney, submitted the issue to the court upon an agreed statement of facts. The case having come on for final hearing, on June 23, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF LOUISIANA.

UNITED STATES
vs.
200 CASES OF CONDENSED MILK

Now comes the United States of America, by W. J. Waguespack, Asst. United States Attorney, for the Eastern District of Louisiana, and the claimants, Libby, McNeill & Libby, Ltd., Inc., through Saunders Dufour & Dufour, its Attorneys, claimants and owners of the condensed milk seized by the United States Marshal, pursuant to the libel filed in the above entitled and numbered cause, and upon pleadings filed in open Court.

It is ordered, adjudged and decreed that the condensed milk be, and the same are, condemned as misbranded, but upon the payment of the costs of these proceedings by the claimants, and the giving of a bond in the sum of \$1,000 by the said Libby, McNeill & Libby, Ltd, Inc, conditioned that the said condensed milk will not be disposed of by them contrary to the provisions of the Food & Drugs Act, approved June 30th, 1906, or the laws of any State, territory, district, or insular possession.

It is ordered: that the said condensed milk be delivered to the claimants herein.
June 23, 1909.

(Signed) RUFUS E FOSTER,
Judge.

The facts in the case were as follows:

On June 3, 1909, Libby, McNeill & Libby, Ltd., Inc., New Orleans, La., shipped from Morrison, Ill., to themselves at New Orleans, La., 200 cases each containing 12 cans of condensed milk. The cans contained in the shipping cases bore the following label: "Rubric Brand Condensed Milk, Emery Food Company, Chicago, U. S. A., packed at Morrison, Illinois, net weight 14 ounces. Guaranty serial No. 2829."

A sample was weighed in the Bureau of Chemistry of the United States Department of Agriculture and found to average a shortage of 20 per cent. of the weight declared on the label. The article was therefore misbranded within the meaning of section 8 of the act in that it purported to state on the label its contents in terms of weight, which statement was incorrect.

Accordingly, on June 19, 1909, the Secretary of Agriculture notified the United States Attorney for the Eastern District of Louisiana that the aforesaid 200 cases of condensed milk were then in the possession of Libby, McNeill & Libby, Ltd., Inc., New Orleans, La., having been shipped as above stated, and that they were misbranded within the meaning of the act. On June 19, 1909, the United States Attorney filed a libel in the District Court of the United States for the Eastern District of Louisiana praying seizure, condemnation, and forfeiture of the said condensed milk, with the result hereinbefore stated.

The said claimant, Libby, McNeill & Libby, Ltd., Inc., having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1908, the said 200 cases of condensed milk were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 23, 1910.*