

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 721, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF WHEY PRODUCT.

(SOLD AS BUTTER.)

On or about August 23, 1910, Reynolds & Co., New York City, shipped from the State of New York into the State of Connecticut nine tubs of whey product sold and invoiced as butter. Examination of samples of this product made by the Bureau of Chemistry, United States Department of Agriculture, showed that it was not butter but whey product containing 17.28 per cent of water. As it appeared from the findings of the analyst and report made that the product was adulterated and 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 District of Connecticut.

In due course a libel was filed in the District Court of the United States for said district against the said nine tubs of whey product, charging the above shipment and alleging the product to be adulterated in that said whey product had been substituted wholly or in part for butter; in that said nine tubs of whey product had been shipped and delivered as butter, whereas one or more of the valuable constituents of butter had been wholly or in part abstracted therefrom; in that the product in question contained a higher percentage of water than is contained in butter and that said water had been substituted wholly or in part for butter; in that an examination of samples of said whey product showed 17.28 per cent of water, whereas, butter should contain not more than 16 per cent of water, and alleging the product to be misbranded in that it was shipped and transported, invoiced, sold, and delivered as butter, and had the appearance of butter, when in truth and in fact said product was not butter but a certain other product, to wit, a whey product; and praying seizure, condemnation, and forfeiture of the product.

On October 25, 1910, the cause come on for hearing and no person having appeared to interpose a claim to said property, or any part thereof, the court being fully informed in the premises, issued its decree condemning the above mentioned nine tubs of whey product and forfeiting the same to the use of the United States for the reasons

and causes set forth in the above information, with the proviso, however, that the said product should be delivered to said Reynolds & Co., New York City, formerly consignor and owner of said goods, upon the payment of all costs of these proceedings and the execution and delivery of a good and sufficient bond in the penal sum of \$125 by said company, conditioned that the said nine tubs of whey product should not be sold or otherwise disposed of contrary to law. The costs having been paid and bond furnished by said company, in accordance with the terms of the above decree, the product was forthwith delivered to them.

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

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *December 13, 1910.*