

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1114.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF EVAPORATED MILK.

On May 31, 1911, the United States Attorney for the Western District of Missouri, acting upon the report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 200 cases of evaporated milk in the possession of M. & O. Milk Co., a corporation. The product was labeled as follows: "Everybody's Full Cream Concentrated Milk. Good All Through. For Grandma, Mamma, Sister. For Grandad, Papa, Brother. Evaporated. Made at Waterloo, Illinois, By M. & O. Milk Company, St. Louis." "Good all through. Everybody's Evaporated Milk. (Picture of Cow.)" "This Milk may be used either unadulterated or slightly diluted with water for coffee, cocoa, on fruits, cereals, etc. Full directions for infant feeding will be cheerfully furnished upon application. Keep in cool place. Shake before opening." "Everybody's Full Cream Concentrated Milk, sterilized, is made from fresh whole cow's milk, produced under strict sanitary rules, is unadulterated, evaporated to a cream-like consistency. No cream is taken from the milk; nothing but the water is abstracted from the original milk; nothing added. It is pure and wholesome. Unsweetened. 20 oz. size. 4 doz. to case."

Examination of twelve cans of said product by the Bureau of Chemistry of this Department showed each can to be short weight, the shortage in each instance amounting to $4\frac{1}{2}$ or more ounces, or a total average shortage of 22.95 per cent. A second sample consisting of 96 cans examined showed accurate net weight of from $13\frac{3}{4}$ to $16\frac{1}{8}$ ounces, or an average net weight of $15\frac{7}{8}$ ounces, equivalent to a shortage of 22.81 per cent. The libel alleged that the milk after

transportation from Illinois into Missouri remained in the original unbroken packages, and was misbranded in violation of the Food and Drugs Act of June 30, 1906, because the labels on said milk represented each can to contain 20 ounces when in fact the said cans contained less than 20 ounces, as shown by the aforesaid examinations, and that the product was therefore liable to seizure for confiscation.

On May 31, 1911, the cause coming on to be heard, the M. & O. Milk Co., claimants, by its attorneys, entered its voluntary appearance and waived service of process, and the said libelant and said claimant by their said attorneys consented to an adjudication and decree by the court. Whereupon the court found the said product to be misbranded as alleged in the libel, and on the aforesaid date entered a decree condemning and forfeiting same to the United States, and directed the marshal to label said product correctly, and sell the same at public sale upon such terms and conditions as would not violate the aforesaid act, with the proviso, however, that said product should be delivered to the above mentioned claimants upon paying the cost of the proceedings and executing and delivering a good and sufficient bond in the sum of \$500, on condition that the said product would not be disposed of otherwise in violation of law.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 14, 1911.*