

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]

16101-16125

[Approved by the Secretary of Agriculture, Washington, D. C., June 28, 1929]

16101. Misbranding of cocoa. U. S. v. 4¾ Cartons of Cocoa. Default decree of forfeiture and destruction entered. (F. & D. No. 23052. I. S. No. 02330. S. No. 1131.)

On or about September 5, 1928, the United States attorney for the Southern District of Georgia, 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 4¾ cartons of cocoa, remaining in the original unbroken packages at Augusta, Ga., alleging that the article had been shipped by E. & A. Opler (Inc.), from New York, N. Y., on or about June 11, 1928, and transported from the State of New York into the State of Georgia, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Our Mother's Cocoa Net Weight ¼ lb. E. & A. Opler, Inc. Chicago and New York."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Weight ¼ Lb.," was false and misleading and deceived and misled the purchaser, and 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 made was not correct.

On November 13, 1928, no claimant having appeared for the property, judgment of forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16102. Adulteration and misbranding of jellies. U. S. v. 2 Cases of Apple Jelly, et al. Consent decree of condemnation and forfeiture. Products released under bond. (F. & D. No. 23169. I. S. Nos. 096, 097, 098, 0100, 05901, 05902, 05904, 05905. S. No. 1276.)

On October 29, 1928, the United States attorney for the Northern District of California, 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 6 cases and 25 pails of various jellies, remaining in the original packages at San Francisco, Calif., consigned by the Pacific Food Products Co., Seattle, Wash., alleging that the article had been shipped from Seattle, Wash., on or about October 9, 1928, and transported from the State of Washington into the State of California, and charging adulteration and misbranding in violation of the food and drugs act as amended. The said cases each contained a number of jars labeled in part: "Net Weight 8 Oz. Sunny Jim Brand Apple Jelly," "Net Contents 7¾ Oz. Sunny Jim Brand Strawberry Jelly Fruit Pectin Added," "7¾ Oz. Sunny Jim Brand Currant Jelly Fruit Pectin Added." The remainder of the said articles were contained

in pails labeled in part: "30 Lbs. Grape (or "Raspberry," "Strawberry," "Apple," or "Loganberry") Jelly."

It was alleged in the libel that the articles in jars, with the exception of the apple jelly, were adulterated in that pectin had been mixed and packed with and substituted in part for strawberry and currant jelly, and in that phosphoric acid and glucose had been mixed and packed with and substituted in part for the grape, raspberry, strawberry, apple, and loganberry jellies in pails. Adulteration was alleged with respect to the grape, raspberry, strawberry, and loganberry jellies (in pails) or for the further reason that they had been artificially colored in a manner so as to conceal inferiority.

Misbranding was alleged with respect to the apple, strawberry, and currant jellies in jars for the reason that the statements, "Net Weight 8 Oz." and "Net Weight 7 $\frac{3}{4}$ Oz.," borne on the jars, were false and misleading and deceived and misled the purchaser, since the jars contained less than so declared; and for the further reason that they were food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the packages, since the quantities stated were not correct. Misbranding was alleged for the further reason that the statements, "Strawberry Jelly," "Currant Jelly," with respect to the jellies in jars, and the statements, "Grape," "Raspberry Jelly," "Loganberry Jelly," and "Apple Jelly," with respect to the jellies in pails, were false and misleading and deceived and misled the purchaser. Misbranding was alleged with respect to all lots, except the apple jelly in jars, for the further reason that they were imitations of and offered for sale under the distinctive names of other articles.

On November 19, 1928, the Pacific Food Products Co., Seattle, Wash., having appeared as claimant for the property 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 products be released to the said claimant upon payment of costs and the deposit of a cash bond in the sum of \$100, conditioned in part that they be made to conform with the provisions of the Federal food and drugs act under the supervision of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16103. Adulteration and misbranding of Lee's Creo-Lyptus. U. S. v. 750 Dozen Bottles of Lee's Creo-Lyptus. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 23106. I. S. No. 0734. S. No. 1165.)

On September 25, 1928, the United States attorney for the District of Oregon 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 750 dozen bottles of Lee's Creo-Lyptus, remaining in the original unbroken packages at Portland, Oreg., alleging that the article had been shipped by the South End Warehouse Co., from San Francisco, Calif., on or about August 23, 1928, and transported from the State of California into the State of Oregon and charging adulteration and misbranding in violation of the food and drugs act as amended.

Analysis of a sample of the article by this department showed that it consisted essentially of ammonium chloride, chloroform, extracts of plant drugs traces of volatile oils, a possible trace of creosote, sugar, alcohol, and water.

It was alleged in the libel that the article was adulterated in that its strength, quality, and purity fell below the professed standard under which it was sold in that it had no antiseptic action on the lungs, was not an active germicide and was not antiseptic.

Misbranding was alleged for the reason that the following statements appearing on the labeling were false and misleading: (Bottle label) "Creo * * * An emulsified Creosote, Eucalyptus, and pine preparation * * *. Content of this package are guaranteed to comply with all Federal and State Pure Food Laws;" (poster) "Creo * * *. An Emulsified Creosote, Eucalyptus, and Pine Preparation;" (display card) "Creo." Misbranding was alleged for the further reason that the following statements appearing in the labeling were false and fraudulent: (Display card) "For Coughs, Colds, and Bronchial Congestion Quick Relief to persistent and Chronic Cases * * *. Spasmodic Croup and Whooping Cough * * *. Stops Coughs in 5 Minutes. Creosote—It is used in the treatment of tuberculosis, pneumonia, and bronchitis * * *. Creosote was originally introduced in the treatment of tuberculosis on account of its antiseptic action on the lungs. Its beneficial influence in this disease can be ascribed to its stimulating effect on the bronchial mucous membrane. For this