

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]

30051-30200

[Approved by the Acting Secretary of Agriculture, Washington, D. C., April 10, 1939]

30051. Misbranding of canned peas. U. S. v. 848 Cases of Canned Peas. Product ordered released under bond to be relabeled. (F. & D. No. 44439. Sample No. 31827-D.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On November 30, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 848 cases of canned peas at Washington, Pa.; alleging that the article had been shipped in interstate commerce on or about August 9, 1938, by the Phillips Sales Co. from Newark, Del.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Phillips Delicious Early June Peas Packed by Phillips Packing Co., Inc., Cambridge, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On January 10, 1939, the Phillips Sales Co., claimant, having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond conditioned that it be correctly relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30052. Adulteration of apple butter. U. S. v. Hecker Products Corporation. Plea of guilty. Total fine, \$200. (F. & D. No. 42527. Sample Nos. 45035-C, 45059-C, 45060-C, 45061-C, 45063-C.)

Samples of this product were found to contain insects and insect fragments. On December 6, 1938, 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 an information against the Hecker Products Corporation, New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act in part on or about May 7, 1937, and in part on or about July 30, 1937, from the State of New York into the State of California, of quantities of apple butter that was adulterated. It was labeled in part: "H & H [or "Acme"] Brand Pure Apple Butter."

The article was alleged to be adulterated in that it consisted in whole and in part of a filthy vegetable substance.

On January 3, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$200.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30053. Adulteration and misbranding of butter. U. S. v. 8 Boxes and 12 Boxes of Butter. Decrees of condemnation. Product released under bond. (F. & D. Nos. 44611, 44685. Sample Nos. 42142-D, 42153-D.)

This product contained less than 80 percent of milk fat.

On December 22, 1938, and January 7, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation

of 20 boxes of butter at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce in part on or about December 11, 1938, and in part on or about December 31, 1938, by the Garfield Cooperative Creamery from Garfield, Minn.; and charging that the article was adulterated and that a portion was also misbranded in violation of the Food and Drugs Act.

Adulteration was alleged in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

A portion of the article was alleged to be misbranded in that it was labeled "Butter," which statement was false and misleading, since the product contained less than 80 percent of milk fat.

On December 30, 1938, and January 9, 1939, the Garfield Cooperative Creamery having appeared as claimant, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30054. Adulteration of cream. U. S. v. Two 10-Gallon Cans of Cream. Default decree of condemnation and destruction. (F. & D. No. 43393. Sample No. 31165-D.)

This product was filthy and decomposed.

On July 26, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two 10-gallon cans of cream at Colorado Springs, Colo.; alleging that the article had been shipped in interstate commerce on or about July 22, 1938, by O. S. Reed from Amarillo, Tex.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On July 26, 1938, the consignee having consented to destruction of the product, the court entered judgment of condemnation and destruction.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30055. Misbranding of olive oil. U. S. v. 1,797 Cans of Olive Oil. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 44309. Sample No. 34105-D.)

This product was short of the declared volume.

On November 7, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,797 cans of olive oil at Perry Point, Md.; alleging that the article had been shipped in interstate commerce on or about August 22, 1938, by West Tea & Coffee Co. from New York, N. Y.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Contents 1 Quart West's Monterey Brand Edible Olive Oil, E. R. West Packer, New York."

It was alleged to be misbranded in that the statement "Net Contents 1 Quart" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short volume. It was alleged to be misbranded further in that it 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 quantity stated was not correct.

On December 5, 1938, West Tea & Coffee Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled to conform to the requirements of the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30056. Adulteration of apples. U. S. v. 22 Crates of Apples. Consent decree of condemnation and destruction. (F. & D. No. 44543. Sample No. 45941-D.)

This product was contaminated with arsenic and lead.

On October 26, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 crates of apples at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about October 23, 1938, from Grand Rapids, Mich., by Max Amrol to himself at Chicago, Ill.; and charging adulteration in violation of the Food and Drugs Act.