

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]

30551-30600

[Approved by the Acting Secretary of Agriculture, Washington, D. C., July 11, 1939]

30551. Misbranding of sweet pickles. U. S. v. 40 Cases of Sweet Pickles. Default decree of condemnation and destruction. (F. & D. No. 39563. Sample No. 18856-C.)

This product was short of the declared weight, and its label failed to declare the presence of sodium benzoate.

On May 5, 1937, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cases of sweet pickles at Litchfield, Ill.; alleging that the article had been shipped in interstate commerce on or about March 23, 1937, from St. Louis, Mo., by Berger Foods Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tast-good Brand Sweet Pickles Contents 13 Ozs. Distributed By Empire Distributing Co. St. Louis, Mo."

The article was alleged to be misbranded in that its labeling tended to deceive or mislead the purchaser since it contained sodium benzoate which was not declared, and since it was short of the declared weight. It was alleged to be misbranded further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On May 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30552. Misbranding of canned tomatoes. U. S. v. 168 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 40954. Sample No. 42444-C.)

This product was substandard since it did not consist of 50 percent of whole or large pieces, and it was not labeled to indicate that it was substandard.

On November 30, 1937, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 168 cases of canned tomatoes at McKinney, Tex.; alleging that the article had been shipped in interstate commerce on or about September 25, 1937, by Putman Canning Co. from Avoca, Ark.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Putman Brand Hand Packed Tomatoes * * * Packed in Arkansas Ozarks."

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 fruit did not consist of whole or large pieces, less than 50 percent of the total contents of containers were retained after draining, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On March 14, 1938, W. T. Putman Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled in compliance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*