

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 166, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF CUSTARD.

In accordance with the provisions of Section 4 of the Food and Drugs Act, June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the Act, notice is given that on the 27th day of October, 1909, in the District Court of the United States for the District of Maryland, a judgment was entered in the case of the United States v. Louis Horpel, trading as Louis Horpel & Company, a prosecution upon an information in substance charging that said defendant did unlawfully ship and deliver for shipment from Baltimore, Maryland, to Winchester, Virginia, Two Hundred and Eighty packages of an article called "Instantaneous Custard Preparation," which was adulterated in that corn starch was mixed and packed with said article so as to reduce, lower and injuriously affect the quality and strength of said article, and that corn starch was substituted in part for the article; and which was misbranded in that each of said packages was labeled so as to deceive and mislead the purchaser with the words "Instantaneous Custard Preparation," which statement was false and misleading for the reason that it conveyed the impression that the basis of said product was eggs, whereas in truth and in fact, said product contained no eggs.

The defendant pleaded guilty to the above information and the court imposed a fine of \$10.

The facts which led to the filing of the information were as follows:

On or about May 25, 1909, an inspector of the United States Department of Agriculture purchased a sample of the article above described from Cooper Brothers at Winchester, Va., which sample was contained in a consignment of the product shipped to said dealers from Baltimore, Maryland, by the said defendant. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, where it was found that the product consisted mainly of corn starch,

and contained no egg. The said Louis Horpel, trading as Louis Horpel & Company, was duly notified that said product was adulterated and misbranded, as above set out, and was given an opportunity to be heard, and was heard in regard to said adulteration and misbranding. At said hearing the defendants made the claim that custard could be prepared without the use of the eggs, but this Department held, and was prepared to prove that custard cannot properly be prepared without the use of eggs.

It appearing that certain provisions of the Act had been violated the facts were, on September 24, 1909, reported to the Attorney-General by the Secretary of Agriculture, and the case referred to the United States Attorney for the District of Maryland, who filed an information against the said Louis Horpel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*