

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]

20176-20350

[Approved by the Acting Secretary of Agriculture, Washington, D.C., October 18, 1933]

20176. Adulteration of butter. U.S. v. 43 Cubes, et al., of Butter. Decrees of condemnation and forfeiture. Product released under bond. (F. & D. nos. 29073, 29074. Sample nos. 14501-A, 14504-A, 25102-A.)

These actions involved the interstate shipment of quantities of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On September 7 and September 20, 1932, the United States attorney for the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 63 cubes of butter, remaining in the original unbroken packages in part at Oakland, Calif., and in part at San Francisco, Calif., consigned by the Wilcox Produce, Inc., Portland, Oreg. It was alleged in the libels that the article had been shipped in interstate commerce from Portland, Oreg., the former lot on or about August 25, 1932, and the latter on or about September 10, 1932, and that it was adulterated in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libels for the reason 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 as provided by the act of March 4, 1923.

On September 17 and September 29, 1932, the Wilcox Produce, Inc., Portland, Oreg., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon the execution of bonds totaling \$1,150, conditioned that it be made to conform to the provisions of the Federal Food and Drugs Act, under the supervision of this Department. It was further ordered that claimant pay costs of the proceedings.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20177. Adulteration of canned asparagus; and misbranding of canned hominy, canned corn, canned pumpkin, canned asparagus, and canned green beans. U.S. v. 12 Cases of Canned Hominy, et al. Decrees of condemnation entered. Four cases of canned asparagus destroyed. Remaining product released under bond to be relabeled. (F. & D. nos. 28510, 28511, 28512, 28532, 28586, 28740, 28863. Sample nos. 2226-A, 2234-A, 2387-A, 2388-A, 2398-A, 2399-A, 2400-A.)

These actions involved various shipments of canned vegetables which were found to be short weight. One shipment, consisting of four cases of canned asparagus, was also found to be partially decomposed.

On July 26, July 27, August 4, August 5, August 19, and September 10, 1932, the United States attorney for the District of New Mexico, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 12 cases of canned hominy, 25 cases of canned corn, and 13 cases of canned asparagus at Las Vegas, N.Mex., 4 cases of canned asparagus and 11 cases of canned pumpkin at Albuquerque, N.Mex., 36 cases of canned hominy at Roswell, N.Mex., and 13 cases of canned green beans at Carlsbad, N.Mex. It was alleged in the libels that the articles had been shipped in interstate commerce in various consignments between November 25, 1931 and June 9, 1932, by the

Marshall Canning Co., from Marshalltown, Iowa, into the State of New Mexico that they remained unsold in the original packages, and that they were misbranded in violation of the Food and Drugs Act as amended and that four cases of asparagus were also adulterated. The articles were labeled as follows: (Cans) "Marshall Hominy Contents 1 Lb."; "Marshall Sugar Corn Contents 1 Lb."; "Le Grande Brand Pumpkin Contents 1 Lb."; "Marshall Cut Fancy Green Asparagus Contents 1 Lb."; "Uncle William Hominy Contents 1 Lb. Marshall Canning Co. * * * Marshalltown, Iowa"; and "Le Grande Brand Cut Stringless Green Beans Contents 6 Lb. 12 Oz. Marshall Canning Co. * * * Marshalltown, Iowa."

Adulteration of the four cases of asparagus at Albuquerque was alleged for the reason that the article consisted in part of a decomposed vegetable substance unfit for human consumption.

Misbranding of all articles was alleged for the reason that the statements, "Contents 1 Lb." or "Contents 6 Lb. 12 Oz.", borne on the labels, were false and misleading and deceived and misled the purchaser, since the cans were short weight. Misbranding was alleged for the further reason that the articles were in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the quantity stated on the labels was incorrect.

On September 10, 1932, no claimant having appeared for the said four cases of asparagus, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

The Marshall Canning Co., Marshalltown, Iowa, filed answers in the remaining cases, admitting the material allegations of the libels, and praying release of the products for the purpose of relabeling or salvaging them. On September 10, 1932 and January 23, 1933, judgments of condemnation were entered and it was ordered by the court that the said products be released to the claimant upon payment of costs and the execution of bonds totaling \$1,200, conditioned in part that they should not be sold or otherwise disposed of in violation of the Federal Food and Drugs Act and all other laws. It was further ordered that any relabeling or salvaging required to bring the articles into compliance with the law be done under the supervision of this Department.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

20178. Adulteration of canned sauerkraut; misbranding of canned hominy and canned red kidney beans. U.S. v. 69 Cases of Canned Hominy, et al. Decrees of condemnation entered. Canned sauerkraut destroyed. Remaining products released under bond to be relabeled. (F. & D. nos. 28571, 28860, 28861, 28864. Sample nos. 2164-A, 2171-A, 2172-A, 2413-A.)

These actions involved quantities of canned hominy and canned red kidney beans which were short weight, and a quantity of canned asparagus which was unsterile and decomposed.

On August 3, 1932, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 69 cases of canned hominy at Alpine, Tex. On September 14, 1932, the United States attorney for the District of Wyoming filed libels against 25 cases of canned red kidney beans at Casper, Wyo., and 39 cases of canned sauerkraut and 25 cases of canned hominy at Sheridan, Wyo. It was alleged in the libels that the articles had been shipped in interstate commerce by the Marshall Canning Co., from Marshalltown, Iowa; that 69 cases of canned hominy had been shipped to Alpine, Tex., on or about March 17, 1932; that the canned sauerkraut and 25 cases of canned hominy had been shipped to Sheridan, Wyo., on or about March 4, 1930, and March 4, 1932, respectively; and that the canned red kidney beans had been shipped to Casper, Wyo., on or about July 2, 1932. It was further alleged in the libels that the canned sauerkraut was adulterated in violation of the Food and Drugs Act, and that the remaining products were misbranded in violation of the said act as amended. The articles were labeled in part: "Uncle William Improved Red Kidney Beans Contents 1 Lb. Marshall Canning Co. * * * Marshalltown, Iowa"; "Uncle William Sauerkraut"; "Uncle William Brand Hominy Contents One Lb. 2 Oz."; "Uncle William Hominy Contents 1 Lb."

Adulteration of the canned sauerkraut was alleged in the libel for the reason that it was composed in whole or in part of a decomposed and putrid vegetable substance unfit for human consumption.