

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1877.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF SO-CALLED PEACH CORDIAL AND CHERRY CORDIAL.

On April 23, 1912, the United States Attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of said District, holding a district court, a libel for the seizure and condemnation of one half barrel, more or less, of so-called peach cordial and one half barrel, more or less, of so-called cherry cordial remaining unsold in the original unbroken packages and in possession of John O'Donoghue, Washington, D. C., alleging that the product had been shipped from the State of New York into the District of Columbia, on or about April 8, 1912, and charging adulteration and misbranding in violation of the Food and Drugs Act. The products were labeled: "Peach Cordial—A. C. Maury U. S. Gauger 2nd Dist. N. Y." Stamp number "E 450405." "Wild Cherry" "Cherry cordial—A. C. Maury U. S. Gauger 2nd Dist. N. Y." Stamp number "E 450404."

Adulteration of these products was alleged in the libel for the reason that the same consisted of sugar solutions containing a small amount of alcohol, which solutions had been artificially colored and flavored with artificial peach flavor and artificial cherry flavor, respectively, which said solutions, so flavored and colored, had been substituted in whole or in part for peach cordial and cherry cordial, respectively. Adulteration was alleged for the further reason that the products had been mixed and colored by the addition of artificial coloring matter whereby damage and inferiority had been concealed and in order to imitate peach cordial and cherry cordial, respectively. Adulteration was alleged for the further reason that the products contained sodium benzoate, an added deleterious in-

gredient, the presence of which was not declared upon the label. Misbranding was alleged for the reason that the labels on the products signified and imported that they were peach and wild cherry cordials, respectively, when, in truth and in fact, they were not peach and wild cherry cordials nor entitled to be so called, but were imitations of the said cordials, being the solutions more fully described above. Misbranding was alleged for the further reason that the labels on the products did not state that the products contained sodium benzoate, an added deleterious ingredient.

On May 15, 1912, John O'Donoghue, claimant, having filed his plea and answer consenting to a decree, and having paid the costs of the proceedings, judgment of condemnation and forfeiture was entered and it was further ordered that, upon the execution and delivery of bond by said claimant in the sum of \$100, in conformity with section 10 of the Act, the product should be released and surrendered to the claimant.

The case was certified to the United States Attorney because of adulteration and misbranding in that, among other things, the presence of sodium benzoate in the product was not declared on the label. The United States Attorney, nevertheless, inadvertently alleged in the libel that the product was adulterated and misbranded in that it contained sodium benzoate, an added deleterious ingredient, whereas the contrary has been determined after full investigation by the Referee Board of Consulting Scientific Experts (See Food Inspection Decision No. 104).

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 29, 1912.*

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