

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 187, FOOD AND DRUGS ACT.

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### ADULTERATION AND MISBRANDING OF CIDER VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States v. 80 Barrels of Vinegar, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 80 barrels of vinegar, lately pending, and finally determined on October 29, 1909, in the District Court of the United States for the Northern District of Illinois by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On or about June 1, 1909, an inspector of the Department of Agriculture found in the possession of Libby, McNeill and Libby, of Chicago, Ill., 80 barrels of vinegar labeled and branded: "Pure Cider Fermented Apple Vinegar, 45 grain, Made by The Harbauer-Marleau Company, Toledo, Ohio. Guaranteed under the Food and Drugs Act June 30, 1906, No. 8904." The vinegar had been manufactured by the Harbauer-Marleau Company, Toledo, Ohio, and shipped to the said Chicago firm on or about April 21, 1909. A sample of the vinegar was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain dilute acetic acid and a foreign substance high in reducing sugars and artificially colored in a manner to conceal its inferiority.

Vinegar, cider vinegar, or apple vinegar, as recognized by reliable manufacturers and dealers, is the product made by the alcoholic and subsequent acetous fermentations of the juice of apples. From the aforesaid analysis it appeared that the vinegar was adulterated within the meaning of section 7 of the act in that dilute acetic acid, or distilled vinegar, and a foreign substance high in reducing sugars had been mixed and packed with it so as to reduce, lower, or injuriously affect its quality and strength, and in that coloring matter had been mixed with it thereby concealing its inferiority and giving the article the appearance of genuine apple cider vinegar; and was misbranded within the meaning of section 8 of the act in that it was labeled "Pure Cider Fermented Apple Vinegar," whereas it was not a pure cider fer-

mented apple vinegar, but a mixture of dilute acetic acid and other foreign substances colored in imitation of true apple cider vinegar.

Accordingly, on June 2, 1909, the Secretary of Agriculture notified the United States Attorney for the Northern District of Illinois that the aforesaid 80 barrels of vinegar were then in the possession of the above-named Libby, McNeill and Libby, Chicago, Ill., having been shipped as above stated, and that they were adulterated and misbranded within the meaning of the act. On June 3, 1909, the United States Attorney filed a libel in the District Court of the United States for the Northern District of Illinois, praying seizure, condemnation, and forfeiture of the said vinegar. To this libel the Harbauer-Marleau Company appeared, set up its claim to the vinegar, filed its answer, and, together with the United States Attorney, submitted the issue to the court upon an agreed statement of facts, wherein it was admitted by the said parties that the vinegar was adulterated and misbranded as alleged in the said libel. The case having come on for final hearing, on October 29, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

UNITED STATES OF AMERICA NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION.  
IN THE DISTRICT COURT THEREOF. JULY TERM, A. D. 1909.

UNITED STATES OF AMERICA }  
vs. }  
EIGHTY BARRELS OF VINEGAR. }

DECREE.

This cause coming on by motion of Edwin W. Sims, United States Attorney for the Northern District of Illinois, for entry of judgment, this court finds that it has jurisdiction in this case and of the respective parties thereto, and being fully advised in the premises further finds:

1. That on the third day of June in the year of our Lord nineteen hundred and nine, the United States of America, by Edwin W. Sims, its attorney, filed an information in the nature of libel in this court against Eighty Barrels of Vinegar, and that forthwith a monition was issued to the United States Marshal for the Northern District of Illinois, under which monition the said eighty barrels of vinegar were seized in their original packages while in the possession of Libby, McNeill and Libby, at their place of business within the Union Stock Yards at Chicago, in the division and district aforesaid, and by virtue of the said monition and seizure the said eighty barrels of vinegar are now in possession of the United States Marshal at Chicago, in the division and district aforesaid.

2. That the claimant, to wit, The Harbauer-Marleau Company of Toledo, Ohio, has admitted in its answer to the information and libel aforesaid that it is the owner of the goods so seized as aforesaid; that the said goods so seized were shipped from Toledo, in the state of Ohio, to Chicago, in the state of Illinois, on the sixteenth day of April in the year of our Lord nineteen hundred and nine, and that the said eighty barrels of vinegar composing the shipment aforesaid were in the possession of Libby, McNeill and Libby, at their place of business within the Union Stock Yards at Chicago, in the division and district aforesaid, at the time of the said seizure.

3. That the claimant and owner of the eighty barrels of vinegar seized in the manner and form aforesaid, have admitted in their answer to the information and libel

delivered to the Cochran Grocery Company aforesaid wholesale dealers. The Court further finds that on, to-wit, the 15th day of February, 1909, the said Cochran Grocery Company, a co-partnership, executed and delivered to the libelant a good and sufficient bond in the penalty of One Thousand Five Hundred Dollars (\$1,500.00) conditioned that the said cases of peaches and apricots with the contents as aforesaid should not be sold or otherwise disposed of contrary to the provisions of said Act of June 30, 1906 or to the laws of any state, territory, district or insular possession, and that said Cochran Grocery Company did on said 15th day of February, 1909, pay all costs of such libel proceedings taxed at —.

The Court further finds that the articles of food contained in said cases are not adulterated, poisonous or deleterious but that the violation of said Act of Congress is in the misbranding of said cases as to the quantity contained in each case and that the same were consigned only to the wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged and decreed by the Court that the said cases of peaches and apricots with the contents as aforesaid be, and they are hereby, declared to be misbranded in violation of the Act of June 30, 1906, as charged in said libel; and it is further ordered that the said cases of peaches and apricots with the contents as aforesaid, be and they are hereby, condemned and forfeited as provided for in the said Act of June 30, 1906. It is provided, however, that inasmuch as the said Cochran Grocery Company, a co-partnership, has executed to the libelant a good and sufficient bond in the penalty of One Thousand Five Hundred Dollars (\$1,500.00) conditioned that the said cases of peaches and apricots with the contents as aforesaid, should not be sold or otherwise disposed of contrary to the provision of said Act of June 30, 1906, or to the laws of any state, territory, district or insular possession, and it appearing to the Court that said Cochran Grocery Company has paid the costs in this case taxed at —.

It is therefore ordered, adjudged and decreed that the Marshal be, and he hereby is, directed to release the said cases of peaches and apricots with the contents thereof, and restore the same to the claimant, the Cochran Grocery Company.

The Cochran Grocery Company having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 329 cases of peaches and 142 cases of apricots were redelivered to it.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *February 7, 1910.*