

2815. Misbranding of damiana tonic Compound. U. S. v. S. Hirsch Distilling Co. Plea of guilty. Fine, \$100 and costs. (F. & D. Nos. 3171 and 3172. I. S. Nos. 6682-c and 13004-c.)

On July 19, 1912, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in two counts against the S. Hirsch Distilling Co., a corporation doing business under the trade name of Minuet Cordial Co., Kansas City, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 10, 1909, and December 9, 1910, from the State of Missouri into the State of California and the then Territory, now State, of New Mexico, respectively, of quantities of so-called damiana tonic compound which was misbranded. The product was labeled: "Damiana Tonic Compound Guaranteed under Food & Drugs Act June 30, 1906 Serial No. 5897."

Analysis of samples of the product by the Bureau of Chemistry of this Department showed the following results: Sample from first consignment, alcohol (per cent by volume), 35.05; sample from second consignment, alcohol (per cent by volume), 35; sugars (grams per 100 cc), 9.35; ash, trace; damiana, present. Misbranding of the products was alleged in the information for the reason that there was contained in the product first shipped, 35.05 per cent of alcohol by volume, and in the second consignment 35 per cent of alcohol by volume, whereas the labels and brands on the bottles and each of them did not state the amount of alcohol so contained therein.

On November 14, 1912, the defendant company entered a plea of guilty to the information and on June 27, 1913, the court imposed a fine of \$100 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 3, 1914.*

2816. Misbranding of cheese. U. S. v. 150 Cheeses. Product released on bond by order of the court. (F. & D. No. 3186. S. No. 1169.)

On November 8, 1911, the United States Attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 150 cheeses remaining unsold in the original unbroken packages and in possession of Ruffner Bros., Charleston, W. Va., alleging that the product had been shipped from the State of Ohio into the State of West Virginia and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Crosby & Meyers, Cincinnati, Ohio." There was also on each container of the product the consignor's name, markings of factory, lot number, and pencil figures, which, according to trade custom, were indicative of net weight corresponding to amount entered in invoice.

Misbranding of the product was alleged in the libel for the reason that the branding as aforesaid was misleading and false so as to deceive and mislead the purchaser, for the reason that none of the cheeses contained as many pounds of food or cheese as they purported to contain, as evidenced by the weight markings on the outside of said cheeses, as containing the number of pounds marked thereon.

On November 25, 1911, the said Ruffner Bros., a corporation, claimant, having declared its willingness to pay the costs of the proceeding and having executed a bond in the sum of \$500 in conformity with section 10 of the act, it was ordered by the court that the product be delivered to said claimant upon payment of the costs of the proceedings and that the suit be dismissed.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 3, 1914.*

2817. Adulteration of cherries. U. S. v. 20 Cases of Bottled Cherries. Product released on bond and payment of costs. (F. & D. No. 3187. S. No. 1166.)

On November 9, 1911, the United States Attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of five cases, each con-

taining one dozen bottles, and 15 cases, each containing four dozen bottles of cherries remaining unsold in the original unbroken packages and in possession of the Symns Grocery Co., Atchison, Kans., alleging that the product had been shipped on or about August 8, 1911, by the Long Syrup Refining Co., San Francisco, Cal., and transported from the State of California into the State of Kansas, and charging adulteration in violation of the Food and Drugs Act. The 5 cases were labeled: "1 dozen bottles Long's California Royal Anne Cherries in Maraschino flavor. Prepared by Long Syrup Refining Co., San Francisco, Calif., U. S. A." The bottles were labeled: "Long's California Royal Anne Cherries in Maraschino Flavor. Artificially colored. Prepared by Long Syrup Refining Co., San Francisco, Cal., U. S. A." (Neck label) "Long's Royal Anne Cherries in Maraschino Flavor. Artificially Colored." (On metal cap) "California Royal Anne Cherries, San Francisco, Calif., U. S. A." The 15 cases were labeled: "4 dozen bottles Long's California Royal Cherries in Maraschino Flavor. Prepared by Long Syrup Refining Co., San Francisco, Calif., U.S.A." (Main label) "Long's California Royal Anne Cherries in Maraschino Flavor, Artificially Colored. Prepared by Long Syrup Ref. Co., San Francisco, Cal., U.S.A." (Neck label) "Long's Royal Anne Cherries in Maraschino Flavor, Artificially Colored."

Adulteration of the product was alleged in the libel for the reason that the analysis thereof showed that the cherries contained in each of the bottles were in an artificial flavor derived largely or wholly from artificial esters and not in maraschino flavor as shown from the labels upon each of the bottles and cases, being in an imitation flavor having no resemblance to maraschino, in violation of section 7 of the Food and Drugs Act of June 30, 1906, paragraph 2 (34 Stat., 770).

On September 26, 1912, the Long Syrup Refining Co., claimant, having admitted the allegations in the libel and that the product was misbranded as set forth therein, it was ordered by the court that the product should be released to said claimant upon filing of bond in the sum of \$500 in conformity with section 10 of the act and the payment of all costs of the proceedings.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 3, 1914.*

2818. Misbranding of rice. U. S. v. 150 Bags of Rice. Product released on bond by order of court. (F. & D. No. 3236. S. No. 1190.)

On November 22, 1911, the United States Attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 150 bags, each containing 100 pounds of rice, remaining unsold in the original unbroken packages and in possession of Lewis, Hubbard & Co., a corporation, Charleston, W. Va., alleging that the product had been shipped from the State of New Orleans (?) (Louisiana), to the State of West Virginia, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Fancy head 100—rice—coated with glucose and talc—remove by washing before using."

Misbranding of the product was alleged in the libel for the reason that none of the bags or packages contained rice as the labels and markings on said bags or packages would indicate, but contained a product not fancy head rice, but consisting almost entirely of broken rice classed as about No. 2 screenings, and said branding and markings on said bags or packages were misleading and false so as to deceive and mislead the purchaser.

On December 9, 1911, the said Lewis, Hubbard & Co., claimant, having paid the costs of the proceedings and executed bond in the sum of \$1,000 in conformity with section 10 of the act, it was ordered by the court that the product be delivered to said claimant and that the proceeding be dismissed.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 3, 1914.*