

product purporting to be apple cider vinegar was a mixture containing distilled vinegar and dilute acetic acid and a substance high in reducing sugar and added mineral matter and added glycerin, and the statements contained on said brands and labels aforesaid were calculated to deceive and mislead the purchaser thereof.

On September 26, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal after the destruction and obliteration of the brands and labels on the barrels and the substitution therefor of labeling to show the true character of the product.

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

WASHINGTON, D. C., *May 6, 1914.*

**3068. Adulteration and misbranding of wheat. U. S. v. 500 Sacks of Wheat. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 5137. S. No. 1757.)**

On April 11, 1913, the United States attorney for the Southern District of Florida, 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 500 sacks of wheat remaining unsold in the original unbroken packages and in possession of William G. Spence, trading as the Spence Brokerage Co., Tampa, Fla., alleging that the product had been shipped by J. M. Frisch & Co., Baltimore, Md., and transported from the State of Maryland into the State of Florida, and charging adulteration and misbranding, in violation of the Food and Drugs Act. The product was labeled: "100 pounds F. wheat."

Adulteration of the product was alleged in the libel for the reason that the sacks did not contain 100 pounds of wheat, but contained a mixture of wheat and rye substituted in part for wheat and which had been so mixed and packed with the wheat as to reduce and lower and injuriously affect its quality and strength. Misbranding was alleged for the reason that none of the sacks contained 100 pounds of wheat, that they purported to contain, but contained a mixture of wheat and rye which was offered for sale under the distinctive name of another article, to wit, wheat, and the labeling of said sacks was false and misleading.

On April 30, 1913, J. M. Frisch & Co., claimants, having filed their answer admitting the allegations of the libel and claiming that the misbranding and adulteration were unintentional and through ignorance, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal. It was provided, however, that the product should be delivered to the claimants upon payment of the costs of the proceedings and the execution of bond in the sum of \$1,000, in conformity with section 10 of the act, and upon relabeling the product, accurately and correctly describing the same, before May 15, 1913.

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

WASHINGTON, D. C., *May 6, 1914.*

**3069. Adulteration of cream. U. S. v. Lynchburg Creamery Co. Plea of guilty. Fine, \$50. (F. & D. No. 5138. I. S. No. 36241-e.)**

On August 28, 1913, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Lynchburg Creamery Co. (Inc.), a corporation, Lynchburg, Va., alleging shipment by said company, in violation of the Food and Drugs Act, on August 24, 1912, from the State of Virginia into the State of West Virginia, of a quantity of an article purporting to be cream which was adulterated. The product was labeled: "From Lynchburg Creamery Co., Inc., Lynchburg, Va. For Vienna Ice Cream Co., Bluefield, W. Va. Per cent 20."

Bacteriological examination of a sample of the product by the Bureau of Chemistry of this department showed the following results:

25,000,000 organisms per cc, plain agar, at 25° C.

38,000,000 organisms per cc, litmus lactose agar, at 25° C.

3,000,000 acid organisms per cc.

100,000 *B. coli* group per cc.

1,000,000 streptococci per cc.

Adulteration of the product was alleged in the information for the reason that it consisted in part of a filthy, decomposed, and putrid animal and vegetable substance.

On September 9, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$50.

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

WASHINGTON, D. C., *May 6, 1914.*

**3070. Misbranding of medicinal beer. U. S. v. Darley Park Brewery. Plea of guilty. Fine, \$10. (F. & D. No. 5142. I. S. No. 4136-e.)**

On July 18, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Darley Park Brewery, a body corporate, incorporated under the laws of the State of New Jersey, and doing business at Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on September 9, 1912, from the State of Maryland into the State of Virginia, of a quantity of medicinal beer which was misbranded. The product was labeled: "O-U-Hopp An Excellent Tonic, recommended for medicinal purposes—especially for nursing mothers, convalescents and victims of insomnia or nervousness. A glassful taken before or with meals aids digestion and before retiring produces restful sleep."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following result: Alcohol by volume, 4.58 per cent. Misbranding of the product was alleged in the information for the reason that it contained approximately 4.58 per cent of alcohol by volume, whereas the bottles failed to bear a statement on the label of the quantity and proportion of alcohol contained in said beer.

On October 9, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$10.

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

WASHINGTON, D. C., *April 14, 1914.*

**3071. Adulteration and misbranding of mill run. U. S. v. 1,200 Sacks of Mill Run. Decree of condemnation by consent. Product released on bond. (F. & D. No. 5152. S. No. 1761.)**

On April 18, 1913, 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 a libel for the seizure and condemnation of 1,200 sacks of mill run, which is a product commercially known as composed of middlings, shorts, and bran, being made from wheat as it goes to the rolls and being the residue after flour has been made therefrom, said product remaining unsold in the original unbroken packages and in the possession of the Joplin Hay Co., Joplin, Mo., alleging that the same had been shipped on January 17, February 27, and March 5, 1913, by the New Era Mills, a branch of the Kansas Flour Mills Co., doing business at Arkansas City, Kans., and transported in interstate commerce from the State of Kansas into the State of Missouri, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "98 Lbs. Polar Bear Mill Run. The Kansas Flour Mills Co. Analysis: Protein 14.00%; fat 3.50%. Arkansas City, Kans."