

**3180. Misbranding of bitters. U. S. v. 5 Cases of Ferro China Bitters and 5 Cases of Fernet Milano Bitters. Default decree of condemnation and forfeiture. Product ordered sold.** (F. & D. No. 5331. S. No. 1933.)

On September 22, 1913, the United States Attorney for the Middle District of Pennsylvania, 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 5 cases, each containing 12 bottles of Ferro China bitters, and 5 cases, each containing 12 bottles of Fernet Milano bitters, remaining unsold in the original unbroken packages and in possession of the Columbia Wine & Liquor Co., Wilkes-Barre, Pa., alleging that the product had been shipped on or about September 5, 1913, from the State of New York into the State of Pennsylvania, and charging misbranding in violation of the Food and Drugs Act. The Ferro China was labeled "Ferro-China-Bitters Liquore Tonic—Iron Bitters. This liquor is a compound of Iron-China and other herbs, benefiting those suffering from dyspepsia, lack of appetite, etc., and is recommended by medical celebrities. Net contents 28 ounces. Guaranteed by the General Importing Co., N. Y. Under Pure Food and Drugs Act, June 30, 1906. Serial N." "Anti Malarico." (Neck label) "Ferro China Bitters—Anti Malarico." In addition, the principal label also bore inscriptions in Italian concerning medicinal properties.

The Fernet Milano was labeled "Fernet Milano—Net Contents 29 Ounces Guaranteed by the General Importing Co., N. Y. Under Pure Food and Drugs Act, June 30, 1906, Serial N." In addition the principal label bore inscriptions in Italian to the effect that the article was a vermifuge, febrifuge, and remedy for seasickness.

Misbranding of the products was alleged in the libel for the reason that each bottle and retail package was labeled as set forth above, thereby indicating, declaring and publishing, and intending thereby to publish and declare, that the contents of each bottle was genuine Fernet Milano and Ferro China bitters of Italian manufacture, whereas, in truth and in fact, the contents of each bottle was not such genuine Italian bitters but consisted in whole or in part of domestic spirits and flavorings compounded in the city of New York, State of New York, in the United States of America, and further that the labels upon each bottle and retail package of the bitters hereinbefore mentioned, to wit, Ferro China bitters and Fernet Milano bitters, declared these products to have medicinal value and as such were indicated on said labels for the prevention, mitigation, or cure of certain ailments of man, whereas the percentage of alcohol present in the Ferro China bitters and Fernet Milano bitters aforesaid was not declared on the packages as required by said act of Congress; therefore, these products were misbranded in violation of the first general paragraph of section 8, "Food and Drugs," and paragraph 2 under "Food," and paragraph 2 under "Drugs," of the act of Congress aforesaid.

On November 6, 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.

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

WASHINGTON, D. C., May 26, 1914.

**3181. Adulteration of flour. U. S. v. 350 Sacks of Flour. Consent decree of condemnation and forfeiture. Product released on bond.** (F. & D. No. 5334. S. No. 1936.)

On September 22, 1913, the United States Attorney for the Southern District of New York, 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