

of said court all moneys realized from said sales. All costs taxed in this cause shall be first paid from said sum of money and the residue, if any, shall be paid into the Treasury of the United States for the use and benefit of the said United States and to that end it is ordered that the clerk of this court issue a writ of *venditioni exponas* to the said marshal, returnable as required by the rules and practices of this court, and that the said marshal execute the same and make due return thereof with all convenient speed.

It is further ordered, adjudged, and decreed that the marshal before making such sale shall obliterate all marks, brands, and labels as to statements of weight of said cans of apples appearing thereon in violation of the provisions of the Food and Drugs Act of June 30, 1906.

All of which is finally ordered, adjudged, and decreed.

In accordance with the aforesaid decree the goods were, on January 12, 1909, sold at public auction for the sum of \$49.20, which sum, less the legal costs, was paid into the Treasury of the United States.

The facts in the case were as follows:

On or about September 14, 1908, an inspector of the Department of Agriculture found in the possession of Joseph A. Goddard & Company, of Muncie, Ind., 70 cases of canned apples labeled "2 doz. 3 lb. Moss Rose Brand Apples. Packed by the Elyria Canning Company, Elyria, Lorain County, Ohio." No statement of weight was made upon any of the individual cans. The goods had been packed and shipped to Joseph A. Goddard & Company by the Elyria Canning Company, Elyria, Ohio. A number of the cans were weighed by the inspector with the result that the average gross weight of each can was found to be from 2 pounds 3.75 ounces to 2 pounds 6.25 ounces.

The Secretary of Agriculture on September 14, 1908, reported the above facts to the United States attorney for the District of Indiana, who filed a libel for seizure under section 10 of the act, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,

Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *May 5, 1909.*

(N. J. 65.)

MISBRANDING OF BEER.
(AS TO QUANTITY OF ALCOHOL.)

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 that on the 17th day of

December, 1908, in the district court of the United States for the district of Kansas, in a prosecution by the United States against the Heim Brewing Company, a corporation of Kansas City, Mo., for violation of section 2 of the aforesaid act in introducing into Kansas from Missouri and in shipping and delivering for shipment from Missouri to Kansas a quantity of bottled beer, misbranded as to the amount of alcohol contained therein, the said Heim Brewing Company having entered a plea of guilty, judgment was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS,
FIRST DIVISION.

THURSDAY, *December 17, 1908.*

THE UNITED STATES OF AMERICA	}	No. 3927.
<i>vs.</i>		
THE HEIM BREWING COMPANY, A CORPORATION.		

Now comes as well the United States of America, by J. S. West, assistant district attorney, as said defendant The Heim Brewing Company, a corporation, by J. A. Finley, its traveling auditor, being duly authorized to appear and plead on behalf of said defendant. Thereupon said defendant, through its said authorized agent, being arraigned upon the information herein filed, enters its plea of guilty thereto.

Thereupon it is now by the court here considered, ordered, and adjudged that said defendant The Heim Brewing Company, a corporation, make its fine unto the United States of America in the sum of one hundred (\$100.00) dollars, and that it pay the costs of this prosecution.

The facts in the case were as follows:

On November 4, 1908, Dr. S. J. Crumbine, secretary of the State board of health of Kansas, acting under authorization of the Secretary of the United States Department of Agriculture in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, procured from the sheriff of Harvey County, Kans., in pursuance of an order of court therefor, seven barrels labeled "Kind, H. O. B.; #A949; Fargo; CROWNS: CROCKERY for Rim Conrad, Newton, Kans., H. O. B. L. S." (in pencil) "(1) (9), 9-26," and filled with bottles labeled and branded "Hop-On. HB. (# 11) Heim Brewery, Branch of the Kansas City Breweries Co. A mild beer, containing 1.82 per cent of alcohol. Guaranteed to comply with the Pure Food & Drugs Act of June 30, 1906, and Kansas Pure Food Law." This beer had been shipped by the Heim Brewing Company from Missouri to Newton, Kans., and was confiscated and ordered destroyed by the court in case of State of Kansas *v.* Conrad et al. A number of samples was subjected to analysis by a collaborating chemist of the Bureau of Chemistry of the Department of Agriculture, with the result that alcohol was found to be present in quantity varying from 4.41 per cent to 4.78 per cent.

The Heim Brewing Company having been afforded an opportunity to show any fault or error in the findings of the analyst, and having failed to do so, the facts were reported to the United States attorney for the district of Kansas, who filed an information against the said Heim Brewing Company, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,

Board of Food and Drug Inspection.

Approved :

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *May 5, 1909.*