

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 200, FOOD AND DRUGS ACT.

MISBRANDING OF 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.* 75 Packages of alleged Apple Cider Vinegar, etc., a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 75 packages of apple cider vinegar, lately pending and finally determined on October 26, 1909, in the District Court of the United States for the Middle District of Tennessee by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

A sample of vinegar labeled and branded "Red Star Brand Fermented Apple Cider Vinegar" had been analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist wholly or in part of dilute acetic acid, or distilled vinegar, and a foreign material high in reducing sugars, and artificially colored in imitation of cider vinegar, when an inspector of said Department found in the possession of the American Extract & Vinegar Company, Nashville, Tenn., 75 packages, consisting of 50 half-barrels and 25 barrels, of the aforesaid vinegar, each of the barrels and half-barrels labeled "Red Star Brand Fermented Apple Cider Vinegar—Leroux Cider & Vinegar Co., Toledo, O." The vinegar had been shipped on March 26, 1909, by the Leroux Cider & Vinegar Company from Toledo, Ohio, to the American Extract & Vinegar Company, Nashville, Tenn. From the aforesaid analysis it appeared that the vinegar was misbranded within the meaning of section 8 of the act in that it was labeled "Fermented Apple Cider Vinegar," which statement was false and misleading in that it tended to give the impression that the contents of said packages consisted of apple cider vinegar, whereas, as a matter of fact, they contained a dilute acetic acid, or distilled vinegar, together with a foreign substance high in reducing sugars, which was artificially colored in a manner to conceal its inferiority.

Accordingly, on July 16, 1909, the Secretary of Agriculture notified the United States Attorney for the Middle District of Tennessee that the aforesaid 75 packages of apple cider vinegar were then in the possession of the above-stated American Extract & Vinegar Company, Nashville, Tenn., having been shipped as above stated, and that they were misbranded within the meaning of the act. On July 17, 1909, the United States Attorney filed a libel in the District Court of the United States for the Middle District of Tennessee praying seizure, condemnation, and forfeiture of the said vinegar. The American Extract & Vinegar Company having disclaimed all right, title, or interest to any of the packages of vinegar seized and no answer having been filed to said libel, and the case having come on for final hearing, on October 26, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF
TENNESSEE.

UNITED STATES OF AMERICA, <i>Libelant</i> , <i>vs.</i> SEVENTY-FIVE (75) PACKAGES OF ALLEGED APPLE Cider Vinegar, etc., American Extract & Vinegar Co., a corporation, <i>Claimant</i> .	}	No. 1120.
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It appearing to the Court, upon the libel filed herein on the 17th day of July, 1909, that monition was duly served and by virtue of such process the U. S. Marshal seized and took into his possession sixty-six (66) packages of alleged apple cider vinegar (there being found nine (9) packages less than were alleged in the libel) described in said libel, there being sixteen (16) barrels and fifty (50) half-barrels of the aforesaid vinegar, each of which was labeled: "Red Star Brand Fermented Apple Cider Vinegar—Leroux Cider & Vinegar Co., Toledo, O."

And it further appearing that the American Extract & Vinegar Company, doing business at No. 134 Second Avenue, South, Nashville, Tennessee, in whose warehouse the aforesaid packages were found and seized, has disclaimed all right, title and interest in said packages seized as aforesaid, as evidenced by an agreement or stipulation this day filed with the Clerk of this Court.

And it further appearing to the Court that the Leroux Cider & Vinegar Co., of Toledo, Ohio, have by counsel, Sigmond Sanger, appeared in open Court, on this the 23rd day of October, 1909, and made claim to the packages of vinegar seized as aforesaid, and admitted that the allegations contained in the libel in this cause, as regards misbranding as charged in paragraph three of the libel, are true, and have consented that the decree of condemnation of said packages so seized may be entered:

It is, on motion of the United States Attorney, therefore, now adjudged, ordered and decreed that the aforesaid sixty-six (66) packages of vinegar, now in the possession of the United States Marshal of this Court, be, and the same are hereby declared to be forfeited and confiscated to the United States, for the reasons alleged in said libel, that said goods are misbranded, the labels on said packages being false and misleading, and in violation of the Act of Congress known as the Food and Drugs Act of June 30, 1906.

It further appearing to the Court that the aforesaid sixty-six (66) packages (barrels and half-barrels) of vinegar may be valuable as a food, and when properly branded,

may be sold without violation of law: It is further ordered, adjudged and decreed that, upon payment by the Leroux Cider & Vinegar Co., of Toledo, Ohio, who makes claim to the same in open Court, of all costs of this cause, including all expenses incurred by the U. S. Marshal in and about the seizure of the aforesaid vinegar, and the storage and watching of, and insurance, if any, and the execution and delivery by the said Leroux Cider & Vinegar Co., or some person for said company, of a good and solvent bond in the penalty of three hundred (\$300.00) dollars, to be filed with and approved by the Court, conditioned that said sixty-six (66) packages of vinegar aforesaid shall not be sold or otherwise disposed of contrary to the Food and Drugs Act of June 30, 1906, or contrary to the laws of any State, territory or insular possession of the United States, then the said U. S. Marshal of this Court is hereby directed to deliver the possession of the aforesaid sixty-six (66) packages of vinegar to the Leroux Cider & Vinegar Co., its attorney or agent, which vinegar may be disposed of or sold only when labeled or branded: "A Mixture; approximately 40% Apple Cider Vinegar," or in substance and effect so labeled or branded.

In the event the Leroux Cider & Vinegar Co. should fail to pay said costs, etc., or fail to give the bond required, as above provided within ten days from the date of the entry of this order, then the U. S. Marshal of this Court is directed, after first properly branding or labeling the packages, or barrels and half-barrels, containing the aforesaid vinegar, "A Mixture; approximately 40% Apple Cider Vinegar," to advertise said vinegar for sale in some newspaper published in Nashville, Tennessee, for the period of ten (10) days, and sell the same for cash to the highest bidder, the proceeds arising from said sale, less legal costs and charges, to be paid into the Treasury of the United States.

The said claimant, the Leroux Cider & Vinegar Company, of Toledo, Ohio, having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 66 packages of vinegar were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 15, 1910.*