

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-