

brewed double strength out of the choicest malt and hops, but, in truth and in fact, said product was brewed from malt, hops, and cereal products.

On December 16, 1913, the defendant company entered a plea of guilty to the second count of the indictment, charging adulteration of the product, and the court imposed a fine of \$100 and costs. The first count of the indictment, charging misbranding of the product, was *nolle prossed*.

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

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

3095. Misbranding of horse feed. U. S. v. 400 Sacks of Horse Feed. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 5211. S. No. 1799.)

On May 8, 1913, the United States attorney for the District of New Jersey, 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 400 sacks, each containing 100 pounds of horse feed, remaining unsold in the original unbroken packages, and in possession of the Central Railroad Co. of New Jersey, at Elizabethport, N. J., alleging that the product had been shipped on or about February 20, 1913, by the Virginia Carolina Feed Co., East St. Louis, Ill., and transported from the State of Illinois into the State of New Jersey, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "100 Lbs. Prize Alfalfa Molasses Horse Feed. Mixture corn, alfalfa meal, oats, Molasses, 1 per cent salt. Protein 11.50 per cent. Fat 3.51 per cent. Fibre 5.98 per cent. Carbo 53. per cent. Manufactured for the J. C. Smith and Wallace Co., Newark, New Jersey."

Misbranding of the product was alleged in the libel for the reason that it bore the statement on the label that it contained 11.5 per cent protein, which said label was false and misleading, as the product contained a much less quantity of protein than that indicated by the label. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser into the belief that it contained 11.5 per cent protein, when, in truth and in fact, it contained a much less quantity. Misbranding was alleged for the further reason that the labels thereon were calculated to deceive and mislead the purchaser thereof.

On May 26 and 31, 1913, the said Virginia Carolina Feed Co., having admitted the allegations of the libel and petitioned the court that the product be released to it under bond, 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. It was provided, however, that the product should be released to said claimant upon payment of the costs of the proceedings and the execution of bond in conformity with section 10 of the act.

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

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

3096. Misbranding and alleged adulteration of sirup. U. S. v. 5 Barrels and 10 One-half Barrels of Sirup. Decree of condemnation by consent. Product released on bond. (F. & D. No. 5212. S. No. 1801.)

On May 8, 1913, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the said district a libel for the seizure and condemnation of 5 barrels and 10 one-half barrels, each barrel containing 50 gallons or thereabouts, and each one-half barrel containing about 28 gallons or thereabouts, of sirup, remaining unsold in the original unbroken packages, and in possession of O'Donnell & Co. (Inc.), Sumter, S. C., alleging that the product had been shipped on February 27, 1913, by the D. R. Wilder Manufacturing Co., Atlanta, Ga., and transported from the State of Georgia into the State of South Carolina, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Wilder's Uniform Brand New Crop Syrup. The D. R. Wilder Mfg. Co., Atlanta, Ga."

Adulteration of the product was alleged in the libel for the reason that the product intending and pretending to be pure cane sirup had been mixed and packed with commercial glucose so as to reduce, lower, and injuriously affect the quality and strength of the said sirup; that is to say, the said product contained about 34 per cent of such commercial glucose and only about 66 per cent of pure cane sirup, and such commercial glucose had been substituted in part for pure cane sirup, which said barrels and half-barrels intended and pretended to contain. Misbranding was alleged for the reason that the product was branded and labeled under the distinctive name of "New Crop Syrup," intending and pretending to show that the ingredients, or substance, contained in each of said barrels and half barrels was new crop sirup, whereas, in truth and in fact, it was not so, but was a mixture of cane sirup and commercial glucose in proportion of 66 per cent of cane sirup and 34 per cent of commercial glucose, and the said statement that said product was new crop sirup was false and misleading.

On May 21, 1913, the said D. R. Wilder Manufacturing Co., having filed the answer to the facts pleaded in the libel, judgment of condemnation and forfeiture was entered, the court finding the product misbranded but not adulterated with any poisonous or deleterious substance. It was ordered by the court that the product should be delivered to said claimants upon payment of the costs of the proceedings and the execution of bond in sum of \$200 in conformity with section 10 of the act.

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

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

