

condemnation of 350 sacks of flour, remaining unsold in the original unbroken packages and in possession of the Baltimore & Ohio Railroad Co., New York, N. Y., alleging that the product had been shipped on or about July 5, 1913, by the Hardesty Milling Co., Canal Dover, Ohio, and transported from the State of Ohio into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The product bore no label, but some of the sacks or containers were stenciled "Sound, N. Y. Prod. Exch. 'Inspection July 1913.'"

Adulteration of the product was alleged in the libel for the reason that it consisted of a filthy and decomposed vegetable substance, to wit, worms and weevils, contrary to the provisions of section 7, subdivision 6, under "Food," of said Food and Drugs Act.

On November 5, 1913, a claim and stipulation for costs having been filed by Thomas R. Van Boskerck, New York, N. Y., and said claimant having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be redelivered to said claimant upon payment of all costs of the proceedings and the execution of bond in the sum of \$700, in conformity with section 10 of the act.

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

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

**3182. Adulteration and misbranding of beer. U. S. v. 75 Cases of Beer. Plea of guilty. Goods released on bond. (F. & D. No. 5336. S. No. 1938.)**

On September 26, 1913, the United States Attorney for the Southern District of Iowa, 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 75 cases, each containing 24 24-ounce bottles of beer, remaining unsold in the original unbroken packages and in possession of James B. Foley, Des Moines, Iowa, alleging that the product had been shipped on or about September 13, 1913, by the Jacob Schmidt Brewing Co., St. Paul, Minn., and transported from the State of Minnesota into the State of Iowa, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (On cases) "Schmidt, St. Paul, 2 dozen, 24 oz. bottles Schmidt Brg. Co. St. Paul, Minn." (On bottles) "Guaranteed by Jacob Schmidt Brg. Co. under the Food and Drugs Act, June 30, 1906, N. D. Serial No. 33, Also under the Pure Food Laws of all the States. \$1000 Reward. Schmidt, St. Paul, Natural Process Export Beer, the Brewery's Own Bottling Jacob Schmidt Brewing Co., St. Paul, Minn." (Neck label) "Brewed from the Choicest Malt and Hops, Warranted Strictly Pure A Perfect Family Tonic. Schmidt, St. Paul. Contents of bottle 24 oz." (On back of bottles) "Schmidt Brg. Co."

Adulteration of the product was alleged in the libel for the reason that it contained a large percentage of a product of distillation of some cereal, either rice or corn, which distillate reduced the amount of malt contained therein and rendered the product of an inferior quality. Misbranding was alleged for the reason that the cases and bottles did not contain the pure product of malt and hops, but, in truth and in fact, they did contain a product consisting in whole or in part of a distillation of a cereal product other than malt. Misbranding was alleged for the further reason that the branding of the cases and bottles as containing a pure product of malt and hops was such as to mislead and deceive the purchaser, and to enable the offering of the contents for sale as being a pure product of malt and hops, when, in truth and in fact, the same was not such as was offered for sale and was an unlawful misbranding within the meaning of the statute aforesaid.

On December 8, 1913, the said Jacob Schmidt Brewing Co., St. Paul, Minn., having filed its answer admitting the charge of misbranding but denying the

charge of adulteration, it was ordered by the court that the product should be released to said claimant company upon payment of the costs of the proceedings and the execution of bond in conformity with section 10 of the act.

When this case was reported for action, no claim was made by this department that the article contained "a product of distillation of some cereal" or a product "of a distillation of a cereal product," but it was claimed that the article contained some cereal or cereal product other than malt, which had been substituted in part for malt.

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

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

**3183. Adulteration and misbranding of corn chops. U. S. v. 300 Sacks of Corn Chops. Default decree of condemnation and forfeiture. Product ordered sold.** (F. & D. No. 5337. S. No. 1945.)

On September 27, 1913, 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 300 sacks, more or less, each containing 100 pounds of so-called corn chops, remaining unsold in the original unbroken packages and in possession of the N. Sauer Milling Co., Cherryvale, Kans., alleging that the product had been shipped on or about September 5, 1913, by the Henry Lichtig Grain Co., Kansas City, Mo., and transported from the State of Missouri into the State of Kansas, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was not branded.

Adulteration of the product was alleged in the information for the reason that each of the sacks contained 1 per cent of sand. Misbranding was alleged for the reason that no tags or labels of any kind or character were attached to any of said sacks, showing the true nature and composition of the corn chops, and that the absence of such tags or labels was misleading and false and calculated to induce the purchaser to believe that the so-called corn chops were pure and unadulterated.

On November 11, 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, and that all costs not recoverable by such sale be adjudged against the N. Sauer Milling Co., Cherryvale, Kans.

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

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

**3184. Misbranding of vinegar. U. S. v. 83 Barrels of Vinegar. Product released on bond.** (F. & D. No. 5338. S. No. 1926.)

On October 6, 1913, the United States Attorney for the District of Utah, 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 83 barrels of vinegar remaining unsold in the original unbroken packages and in possession of the Security Storage and Commission Co., Salt Lake City, Utah, alleging that the product had been shipped on or about July 18, 1913, by The Latimer Cider & Vinegar Co., Grand Junction, Colo., and transported in interstate commerce from the State of Colorado into the State of Utah, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "The Latimer Cider & Vinegar Co., L. 47 pure cider vinegar 4½ per cent vinegar fermented, Grand Junction, Colorado," and each of the barrels was also marked to indicate the quantity in gallons of vinegar present therein.