

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 858, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF "APRICOT BRANDY" AND "BLACKBERRY CORDIAL."

On or about January 21 and May 23, 1910, the Independent Distilling Company, a corporation, Kansas City, Mo., shipped from the State of Missouri into the State of Kansas two consignments of food products labeled respectively: "Independent Whiskey. A Family Safeguard. Cordial Blackberry Flavor. The Independent Distilling Company, Kansas City, U. S. A.;" and "Independent Whiskey. The Family Safeguard. Apricot Brandy Compound, Guaranteed under the National Pure Food Law. The Independent Distilling Company, Kansas City, U. S. A." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and the former of said products was found to be an imitation blackberry cordial, prepared in part from glucose, artificially colored with a coal-tar dye in imitation of genuine blackberry, and the latter product was found to contain a foreign coloring matter and sugar, and to consist of a cordial or liqueur, and not a brandy. As the findings of the analyst and report thereon indicated that the products were adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Independent Distilling Company and the party from whom the samples were procured opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence upon which to base a prosecution.

In due course a criminal information containing four counts was filed in the District Court of the United States for the Western District of Missouri, against the said Independent Distilling Company, charging the above shipment, and alleging in the first count that the

Apricot Brandy Compound so shipped was misbranded in that it was labeled as above set forth, when in truth and in fact the product was an imitation of Apricot Brandy, offered for sale under the distinctive name of another article, namely, Apricot Brandy, which was a different article than the one so shipped, the labels in question being such as to deceive and mislead the purchasers thereof; alleging in the second count that such product was adulterated in that it was artificially colored, and in that a cordial had been mixed and packed with it and because the product had been colored in a manner to conceal the inferiority thereof; alleging in the third count that the Blackberry Cordial so shipped was misbranded in that it was an imitation of blackberry cordial, offered for sale under the distinctive name of another article, namely, Blackberry Cordial, which was a different product from that embraced in the latter shipment, the label thereon being such as to deceive and mislead the purchasers thereof; and alleging in the fourth count that the last named product was adulterated in that it was an imitation of Blackberry Cordial, prepared in part from glucose, artificially colored with a coal-tar dye, in imitation of genuine Blackberry so as to conceal the inferiority of the product.

On February 9, 1911, the defendant entered a plea of guilty to the above information, and on the following day the court imposed a fine of \$200 and costs on each of said counts; in all \$800 and costs.

On April 21, 1911, the court modified its judgment, imposing a fine of \$100 and costs on each count, in all \$400 and costs.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *May 2, 1911.*