

tained in the article, to wit, "wheat bran," which statement was false and misleading in that it would mislead and deceive the purchaser into the belief that the product was bran, whereas, in truth and in fact, it was a mixture of bran, ground screenings, and chaff.]

On February 10, 1914, O. L. Hunter, Chicago, Ill., doing business as O. L. Hunter & Co., claimant, having filed his answer consenting to a decree, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be released and restored to said claimant upon payments of all the costs of the proceedings, except storage and insurance, and execution of bond in the sum of \$1,000, in conformity with section 10 of the act.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

**3370. Adulteration and misbranding of cider. U. S. v. The Elk Bottling Co. Plea of guilty. Fine, \$20 and costs. (F. & D. No. 5480. I. S. No. 36274-e.)**

On March 14, 1914, the United States attorney for the eastern 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 against the Elk Bottling Co., a corporation, St. Louis, Mo., alleging shipment by said company in violation of the Food and Drugs Act, on or about July 15, 1912, from the State of Missouri into the State of Illinois, of a quantity of cider which was adulterated and misbranded. The product was labeled: "Sweet Cider Produced of Concentrated Pure Apple Juice, preserved with 1-1000 part of Benzoate of soda. The Elk Bottling Co. 1440 Blair Ave. St. Louis, Mo."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Solids (grams per 100 cc)-----	1.16
Nonsugar solids (grams per 100 cc)-----	0.56
Reducing sugar after inversion (grams per 100 cc)-----	0.61
Color (degrees, brewer's scale, $\frac{1}{2}$ inch)-----	30
Ash (grams per 100 cc)-----	0.56
Alkalinity soluble ash (cc N/10 acid per 100 cc)-----	1.6
Saccharin (grams per 100 cc)-----	0.011

The product is not a sweet cider, but is a very dilute apple-juice product, to which has been added artificial color and saccharin.

Adulteration of the product was alleged in the information for the reason that water, artificially sweetened with saccharin and artificially colored with caramel, had been mixed and packed with the article, so as to reduce, lower, or injuriously affect its quality or strength; and, further, in that other substances, namely, water, saccharin, and caramel, had been substituted wholly or in part for sweet cider; and, further, in that said article had been colored with caramel in a manner whereby its inferiority was concealed; and, further, in that said article contained saccharin, an added poisonous or deleterious ingredient, which might render said article injurious to health. Misbranding was alleged for the reason that the statements "Sweet Cider" and "Produced of Concentrated Pure Apple Juice," borne on the labels of the bottles in which said article was shipped and delivered for shipment, were false and misleading, because said statements misled and deceived the purchaser into the belief that said article was genuine apple cider, whereas it was not genuine apple cider, but was a mixture or compound, composed of a dilute solution of apple product and water, artificially sweetened with saccharin and artificially colored with car-

amel, and, further, in that said article was an imitation sweet cider prepared with a dilute solution of water and apple product, artificially sweetened with saccharin and artificially colored with caramel, and was offered for sale and sold under the distinctive name of sweet cider; and, further, for the reason that said article was labeled and branded so as to deceive and mislead the purchaser thereof into the belief that it was genuine sweet cider when not so.

On April 1, 1914, the defendant company entered a plea of guilty to the information, and the court imposed a fine of \$20, with costs of \$18.83.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

**3371. Alleged adulteration of tomato catsup. U. S. v. 15 Cases of Tomato Catsup. Tried to the court. Finding in favor of claimant. (F. & D. No. 5487. I. S. No. 3035-h. S. No. 2057.)**

On or about December 17, 1913, the United States attorney for the District of Oregon, 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 15 cases, each containing six 1-gallon bottles of tomato catsup, alleged to have been adulterated, remaining unsold in the original unbroken packages at Portland, Oreg., alleging that the product had been shipped on or about November 10, 1913, by the Pacific Vinegar & Pickle Works, San Francisco, Cal., and transported from the State of California into the State of Oregon, and charging adulteration in violation of the Food and Drugs Act. The shipping cases were branded: "½ Doz. Gallon Bottles California Home Brand Tomato Catsup Packed and guaranteed by Pacific Vinegar & Pickle Works, San Francisco, U. S. A. Main Plant Hayward Alameda Co., Cal., U. S. Serial No. 11418." (Top of Case) "Glass with Care This side up. Martin Marks Coffee Co., Portland, Oreg., Arrow Line S. S. Co." Two of the retail packages were labeled: "Contains One gallon The California Home Brand Pure Tomato Catsup (Contains 1/10 of 1% Benzoate of Soda) Packed and Guaranteed by Pacific Vinegar & Pickle Works, San Francisco, U. S. A. Main plant, Hayward, Alameda Co., Cal., U. S. Serial No. 11418."

Adulterations of the product was alleged in the libel for the reason that said catsup consisted in whole or in part of filthy, decomposed and [or] putrid vegetable substance.

On February 26, 1914, the cause having come on for trial without intervention of a jury, the jury having been waived by written consent of the parties, and the said Pacific Vinegar & Pickle Works, claimant, having appeared by its attorneys and having introduced oral evidence upon the trial of the cause, the libelant having introduced no evidence, and the cause having been fully argued and submitted to the court, the following findings of fact and conclusions of law were made by the court (Bean, J.):

FINDINGS OF FACT AND CONCLUSIONS OF LAW.

That the tomato catsup contained in the 15 cases of tomato catsup seized under and in accordance with the prayer of libel No. 6231, filed in the above entitled action, does not consist either in whole or in part of filthy, decomposed, or putrid vegetable substance and claimant is entitled to a judgment in its favor.

On the same date, it was adjudged and decreed that judgment be entered in favor of claimant and that the action be dismissed.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*