

upon glass bottles containing ordinary soft drinks sufficiently "labels" the contents thereof. The question, therefore, is whether or not, in addition to above, the legend, "Chero-Cola. 6 1-2 Fluid Oz. Pensacola, Fla. This Bottle Never Sold," blown in the side surface of the bottle when containing soda water beverages, with label cap thereon containing, for example, the words "Strawberry. Artificial Flavor and Color" falls within the prohibition of Sections 3 and 5 of the said Act of 1911.

My opinion is that in this case the said legend as blown in the bottle, title to which in this instance never passes from the owner, is not false or misleading, but serves only to identify the bottle or container, as it does not undertake to describe the real contents, and, so far as the pure food law is concerned, this legend would not prohibit the use of the same bottle as a container for other soft drinks, provided such soft drinks have a proper label cap, as it would not deceive the purchaser.

As to whether or not the use of the bottles having the blown-in legend described above by persons who may have no authority to do so is a violation of a trade mark law, is a question this office is not called upon to answer.

Respectfully submitted,

T. F. WEST,

Attorney General.

MARKETING COMMISSIONER — APPROPRIATION FOR SALARY AND TRAVELING EXPENSES.

Tallahassee, Fla., July 12, 1917.

*Hon. W. A. McRae, Commissioner of Agriculture,
Capitol.*

Dear Sir:

Yours of the 5th instant has been received.

I note your inquiry as follows:

"I am herewith handing you copy of Chapter 7315,

Laws of 1917, the same being an Act creating a State Marketing Bureau.

"I will thank you for your opinion regarding the appropriation as mentioned in Section 3 of this Act, and whether or not in your opinion the salary and traveling expenses of the Marketing Commissioner is inclusive or exclusive of the \$15,000.00 appropriation mentioned in said section. You will note that Section 2 provides that the Commissioner shall be paid as salary the sum of \$2,500.00, and traveling expenses not to exceed \$1,200.00."

The provision of this statute containing apt language to appropriate public funds is section 3, wherein the sum of \$15,000.00, or so much thereof as may be necessary, is expressly set apart for the purpose of meeting the expenses of the Marketing Commissioner.

In Section 2 of this act the salary of the Commissioner is fixed and an allowance for his traveling expenses is authorized, but there is in that section no express appropriation of public funds to pay such salary and traveling expenses as a separate and distinct matter from the expenses of the Marketing Commissioner provided for in Section 3.

In this situation it is advisable, at least for the present, I think, to assume that the salary and traveling expenses of the Commissioner are included in the \$15,000 appropriated by Section 3 of the act.

Respectfully submitted,

T. F. WEST,

Attorney General.