

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2520.

(Given pursuant to section 4 of the Food and Drugs Act.)

**U. S. v. 10 Barrels Nutromalt. Decree of condemnation by default.
Goods ordered destroyed.**

MISBRANDING OF NUTROMALT.

On January 15, 1912, the United States Attorney for the Western District of Tennessee, 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 10 barrels of "Nutromalt," remaining unsold in the original unbroken packages and in the possession of Sam Bauman & Co., Memphis, Tenn., alleging that the product had been shipped on or about October 28, 1911, by the Henderson Brewing Co., Henderson, Ky., and transported from the State of Kentucky into the State of Tennessee, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Nutromalt, Non-Intoxicating. Less than $\frac{1}{2}$ of 1% Alcohol. (Label Guaranteed) Henderson Brewing Co., Henderson, Ky."

Misbranding of the product was alleged in the libel for the reason that the labels on the bottles contained in the barrels stated that the product contained only one-half of 1 per cent of alcohol, when, in truth and in fact, it contained 1 per cent or more than 1 per cent of alcohol; and further, the word "Nutromalt" implied that the product was made entirely from malt with no substitute, when, in truth and in fact, it was not made wholly from malt, and said label was therefore false and misleading to the purchaser, causing him to believe that the product was made wholly from malt, and further causing him to believe that it contained less than one-half of 1 per cent of alcohol.

On November 19, 1912, 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 destroyed by the United States marshal.

B. T. GALLOWAY,
Acting Secretary of Agriculture.

WASHINGTON, D. C., July 7, 1913.