

3375. Adulteration and misbranding of malt tonic. U. S. v. Ebling Brewing Co. Plea of guilty. Fine, \$50. (F. & D. No. 5503. I. S. No. 1146-e.)

On March 25, 1914, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district two informations against the Ebling Brewing Co., a corporation, New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on September 6 and 7, 1912, from the State of New York into the State of Massachusetts, of quantities of so-called malt tonic which was adulterated and misbranded. The product was labeled: "Malt-Tonic Concentrated Malt Extract Pure Malt German Hops Put up in Sterile bottles and Pasteurized with the utmost care For Medicinal Use—Not a Beverage Superior in quality to Extracts of Malt usually found on the market. In this Malt will be found sterling merit in Weakness, Chronic Debility, Dyspepsia, Nervous Exhaustion and Malnutrition. It is especially adapted to nursing mothers, supplying strength to meet the unusual demand upon the system during the period of lactation, improving the quality and quantity of the milk in increasing the amount of Sugar and Phosphates thereby nourishing the infant and at the same time sustaining the mother. In sleeplessness it produces refreshing and natural rest. Directions—A wineglassful with each meal and on going to bed, or as may be directed by the physician. Children in proportion to age. This preparation contains from 3 to 4 per cent. alcohol naturally produced and guaranteed under the national pure food law enacted June 30, 1906 Serial No. 13149. Prepared for Haskell, Adams & Co., New England Distributors Boston, Mass. Dover, N. H."

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

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| Alcohol (per cent by volume)----- | 5.40 |
| Extract (per cent by weight)----- | 7.35 |
| Extract original wort (per cent by weight)----- | 15.99 |
| Degree fermentation----- | 54.10 |
| Volatile acid as acetic (grams per 100 cc)----- | 0.029 |
| Total acid as lactic (grams per 100 cc)----- | 0.243 |
| Maltose (per cent)----- | 2.21 |
| Dextrin (per cent)----- | 3.59 |
| Ash (per cent)----- | 0.202 |
| Protein (per cent)----- | 0.472 |
| Undetermined (per cent)----- | 0.88 |
| P ₂ O ₅ (per cent)----- | 0.074 |
| Polarization, undiluted (°V.)----- | +50 |
| Color (degrees in ¼-inch cell, Lovibond)----- | 32 |

Adulteration of the product was alleged in the information for the reason that it was sold under and by a name recognized in the United States Pharmacopœia, and differed from the standard of strength, quality, and purity as determined by the test laid down in said Pharmacopœia official at the time of investigation of the said article, in that said Pharmacopœia specifies that malt extract should be made exclusively from malt, whereas, in truth and in fact, the said article of drugs was not made exclusively from malt, but [in part] from a cereal or cereal product other than malt. Misbranding was alleged in the informations for the reason that the statements, "Malt Tonic. Concentrated Malt Extract. Pure Malt—German Hops," borne on the label, were false and misleading in that they conveyed the impression that the product aforesaid was prepared exclusively from malt and hops, whereas, in truth and

in fact, the same was not prepared exclusively from malt and hops, but was prepared in part from a cereal or cereal product other than malt.

On April 6, 1914, the defendant company withdrew its plea of not guilty previously entered and entered its plea of guilty to the informations, and the court imposed a fine of \$25 on each information, or a total fine of \$50.

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

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

3376. Adulteration of nutmegs. U. S. v. 94 Sacks of Nutmegs. Consent decree of condemnation and forfeiture. Product released on bond.
(F. & D. No. 5504. I. S. Nos. 7702-h, 7703-h. S. No. 2067.)

On December 29, 1913, the United States attorney for the Eastern District of Pennsylvania, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 94 sacks of nutmegs, 60 of which contained 130 pounds and 34 of which contained 120 pounds of nutmegs, remaining unsold in the original unbroken packages at Philadelphia, Pa., alleging that the product had been shipped on or about December 9, 1913, and transported from the State of New York into the State of Pennsylvania, and charging adulteration in violation of the Food and Drugs Act. The product was labeled: "Sing-A-G-A-I-New York from Strait Settlements."

Adulteration of the product was alleged in the libel for the reason that it consisted wholly or in part of a filthy and decomposed animal substance; adulteration was alleged for the further reason that the product consisted in whole or in part of a filthy and decomposed vegetable substance.

On February 20, 1914, Lewis German & Co., New York, N. Y., claimants, having admitted the adulteration of the product, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to said claimants upon payment of all the costs of the proceedings and the execution of bond in the sum of \$3,000, in conformity with section 10 of the act.

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

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

3377. Misbranding of macaroni. U. S. v. 18 Boxes of Macaroni, More or Less. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 5507. S. No. 2069.)

On December 26, 1913, the United States attorney for the District of Maryland, 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 18 boxes of macaroni, more or less, remaining unsold in the original unbroken packages at Baltimore, Md., alleging that the product had been transported from the State of Pennsylvania into the State of Maryland, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "White Star of Italy Gragnano Style Near NAPOLI Trade Mark Manufactured by Antonio Ciricola Artificial Coloring Guaranteed by the Pure Food Act June 30, 1906, Serial No. 52687."

Misbranding of the product was alleged in the libel because the use of the statement on label, "White Star of Italy," and the word "Gragnano," the name of a village in Italy where there is a large macaroni industry, and the word "Napoli," with modification in very inconspicuous type by intervening words "style near," was false and misleading in that foreign origin of the said macaroni was implied, when in fact said product was domestic. Misbranding of the product was alleged for the further reason that the incorrect use