

4387. Misbranding of "Birch Mountain Medicinal Tea." U. S. * * * v. Birch Mountain Tea Co., a corporation. Plea of nolo contendere. Fine, \$25. (F. & D. No. 6116. I. S. No. 4075-h.)

On June 22, 1915, the United States attorney for the Western 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 an information against the Birch Mountain Tea Co., a corporation, Buffalo, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about July 24, 1913, from the State of New York into the State of Wisconsin, of a quantity of "Birch Mountain Medicinal Tea," which was misbranded. The article was labeled: (On can) "Keep can closed when not using Birch Mountain Medicinal Tea Imported from Bohemia Unequaled for Consumption, Asthma, Bronchitis, Hay Fever, Catarrh, LaGrippe, Whooping Cough, and all Throat, Lung and Stomach troubles. A Purely Vegetable Compound. Caution: None genuine without our trade mark and signature of the President. A. C. Henderson Price \$1.00 Trade Mark S Birch Mountain Tea Company, Buffalo, N. Y. U. S. A. Guaranteed by the Birch Mountain Tea Company under the pure Food and Drugs Act, June 30, 1906 Serial No. 8991. Keep in dry place. Directions Put into a covered vessel a teaspoonful of Birch Mountain Tea, add half pint of hot water and let boil 2 to 5 minutes. Weak patients should start with 2 minutes and increase to 5, as they become accustomed to taking it. Remove from fire and steep 5 minutes. Drink with or without sweetening, or a few drops of lemon juice. One cup before breakfast, another just before retiring. Double the strength as the case progresses up to 2 teaspoonfuls, until a cure is effected. Don't use other medicine while taking the tea. Half the quantity for children. Take plenty of outdoor exercise. Use no tobacco or intoxicants. Get our Booklet for full particulars, testimonials and foreign directions. Keep can closed when not using. Exposition Internationale D'Alimentation Liege 1905 Exp. Int. Grand Palais Des Champs Elysees Conc. Inter. Highest Awards Gold Medals, Gold Crosses and Honorary Diplomas Awarded Birch Mountain Tea for its great curative qualities at all Expositions held throughout Europe since 1903, including Rome, Paris, Vienna, Florence, London and Liege. Advocati di San Pietro Papal Cross of the order of St. Peter Conferred by Pope Leo XIII upon the discoverer of Birch Mountain Tea in recognition of his great service to suffering humanity." (Directions in foreign languages.) (Designs of medals).

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted of Flores Chamomilæ, Flores Althæa, Flores Cyani, Flores Verbasci, Licorice Root, Tormentilla Root, Althæa Root, Herba Marjoram, Herba Marrubii, Herba Urtica, Herba Veronicæ, Herba Arnica, Herba Asperula, Herba Pulmonaria, Herba Plantaginæ, Herba Malvæ, and probably Herba Mentha piperita, Herba Polygalæ, and Herba Chelidonii.

Misbranding of the article was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing on the label aforesaid, to wit, "* * * Birch Mountain Medicinal Tea * * * Unequaled for Consumption, Asthma, Bronchitis, Hay Fever, Catarrh, La Grippe, Whooping Cough and all Throat, Lung and Stomach troubles * * * Directions Put into a covered vessel a teaspoonful of Birch Mountain Tea, add half pint of hot water and let boil 2 to 5 minutes. Weak patients should start with 2 minutes and increase to 5, as they become accustomed to taking it. Remove from fire and steep 5 minutes. Drink with or without sweetening, or a few drops of lemon juice. One cup before breakfast, another just before retiring. Double the strength as the case progresses up to 2 teaspoonfuls, until a cure is effected * * *," were false and fraudu-

lent in that the same were applied to said article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that it was, in whole or in part, composed of, or contained, ingredients or medicinal agents effective, among other things, as a cure for consumption, asthma, bronchitis, hay fever, catarrh, la grippe, whooping cough, and all throat, lung, and stomach troubles, when, in truth and in fact, said article was not, in whole or in part, so composed, and did not contain such ingredients or medicinal agents.

On September 14, 1915, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of \$25.

C. F. MARVIN, *Acting Secretary of Agriculture.*