

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 834, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF ALLEGED TEMPERANCE DRINKS — LAEVISON'S "TEMPERINE," "DOCTOR FIZZ," AND "CREAM ALE."

On or about April 24, 1909, H. Friedman, doing business as A. M. Laevison & Co., shipped from the State of Kentucky into the State of Tennessee a quantity of three alleged temperance drinks, labeled, respectively: "Drink Laevison's Temperine Special Brew The great Temperance Drink Guaranteed under the Pure Food and Drugs Act non-intoxicating A. M. Laevison & Co., Paducah, Ky.;" and "The Great Temperance Beer Laevison's Original Doctor Fizz Special Brew Guaranteed by A. M. Laevison & Co., Paducah, Ky., under the Food and Drugs Act, June 30, 1906.;" "The Great Temperance Beer Laevison's Original Cream Ale Special Brew Guaranteed by A. M. Laevison & Co., Paducah, Ky., under the Food and Drugs Act, June 30, 1906." Analyses of samples of these products, made in the Bureau of Chemistry, United States Department of Agriculture, showed them each to contain approximately 4 per cent of alcohol, which is the same amount found in the average beer of commerce. As the findings of the analyst and report made indicated that the products were misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the said H. Friedman and the party from whom the samples were procured opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed in the District Court of the United States for the Western District of Kentucky

against the said H. Friedman, charging the above shipment and alleging the said products to be misbranded, in that the labels above set forth represented them to be nonintoxicating temperance drinks, when, in truth and in fact, said products were intoxicating, the first containing 4 per cent of alcohol by volume, the second 4.55 per cent of alcohol by volume, and the third 4 per cent of alcohol by volume, said labels being such as to mislead and deceive the purchaser into the belief that the products contained no alcohol; and alleging the last named of said products to be also adulterated, in that fermented beer had been substituted in part for Cream Ale in said article of food, and that a substance, to wit, a fermented beverage containing 4 per cent of alcohol by volume, had been mixed and packed with said article of food so as to injuriously affect its quality.

The cause coming on for trial, the defendant entered a plea of not guilty to the above information, and the issues were tried to a jury, resulting in a verdict of guilty, whereupon the court entered judgment upon said verdict and imposed a fine of \$50 and costs of prosecution.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. L. MOORE,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *April 6, 1911.*