

3956. Adulteration and misbranding of fernet milano, and misbranding of vermouth mariano. U. S. v. Youngstown Macaroni Co. Plea of guilty. Fine, \$100 and costs. (F. & D. No. 5778. I. S. Nos. 8811-e, 8812-e.)

On January 5, 1915, the United States attorney for the Northern District of Ohio, 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 Youngstown Macaroni Co., a corporation, Youngstown, Ohio, alleging shipment by said company in violation of the Food and Drugs Act, on or about October 1, 1912, from the State of Ohio into the State of New York, of a quantity of fernet milano, which was adulterated and misbranded, and of a quantity of vermouth mariano, which was misbranded. The fernet milano was labeled: "Fernet Milano Superior Quality Fernet Milano Liquore Amaro Igienico Questo liquore prodotto dalla distillazione di erbe e radici aromatiche vien raccomandato per facilitare la digestione. * * * Fernet Milano Guaranteed under the Food and Drugs Act." (The words "Fernet Milano" appear in script across the label.)

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the same to contain 28.55 per cent by volume of absolute alcohol, the presence or proportion of which was not declared on the label, and that the article was of the same general character as genuine imported fernet milano, and bore the name of the product and other reading matter in the Italian language, whereas it did not correspond in composition to the genuine imported fernet milano.

Adulteration of the article was alleged in the information for the reason that an article other than fernet milano, manufactured in the State of Ohio, in the United States of America, and labeled "Fernet Milano," had been substituted wholly for genuine fernet milano, which the article purported to be. Misbranding of this product was alleged for the reason that it was an imitation of and offered for sale under the name of another article, to wit, fernet milano, a well known article of foreign origin, whereas, in truth and in fact, it was not a genuine fernet milano, but was an imitation thereof, and was further misbranded in that the label on the package thereof failed to bear a statement of the quantity or proportion of alcohol contained therein, whereas, in truth and in fact, it contained alcohol to the extent of 28.55 per cent by volume. Misbranding was alleged for the further reason that the statements, to wit, "Fernet Milano" and "Liquore Amaro Igienico," and other statements in the Italian language, together with a device similar to the Italian coat of arms, borne on the label thereof, purported and represented said article to be of foreign origin, to wit, an article produced in the kingdom of Italy, whereas, in truth and in fact, said article was not of foreign origin produced in the kingdom of Italy, but was of domestic manufacture, produced in the State of Ohio, United States of America. Misbranding was alleged for the further reason that the article was labeled and branded "Fernet Milano" and "Liquore Amaro Igienico" and other statements in the Italian language, together with a device similar to the Italian coat of arms, which said statements and pictorial device were calculated to deceive and mislead the purchaser into the belief that said article was of foreign origin, to wit, an article produced in the kingdom of Italy, whereas, in truth and in fact, said article was not of foreign origin, produced in the kingdom of Italy, but was of domestic manufacture, produced in the State of Ohio, United States of America.

The vermouth mariano was labeled: (On neck) "Vermouth Mariano" (Another label) "Extra" (Another label) "Lofaro & Rossi, Sole Distributors for United States, Utica, N. Y." (Main label) "Superfine Vermouth Mariano Brand" (With foreign label appearance and design). (Shipping case) "This case contains 12 bottles, Lofaro & Rossi, Utica, N. Y. Glass, Fragile. Keep this side up. Handle with care. Vermouth."

Analysis of a sample of this product by said Bureau of Chemistry showed the following results, expressed as grams per 100 cc, unless otherwise noted:

Alcohol (per cent by volume).....	12.02
Glycerol.....	0.19
Solids.....	20.77
Nonsugar solids.....	0.57
Reducing sugars, direct.....	19.91
Reducing sugars, invert.....	20.20
Ash.....	0.08
Alkalinity of soluble ash (cc N/10 HCl per 100 cc)	7.00
Tartaric acid.....	0.24

These results indicate that the article contains much less wine than the Italian product of the same name.

Misbranding of the product was alleged in the information for the reason that the statements, to wit, "Vermouth Mariano" and "Superfine Vermouth Mariano Brand," together with the pictorial designs and devices borne on the labels thereof, and, furthermore, the style of package made to resemble the containers as used by the Italian manufacturers of the genuine product, purported and represented said article to be a foreign product, to wit, a vermouth made in the kingdom of Italy, whereas, in truth and in fact, said article was not a foreign product, to wit, a vermouth made in the kingdom of Italy, but was a domestic product, to wit, an alleged vermouth made in the State of Ohio, United States of America. Misbranding was alleged for the further reason that the article was labeled and branded "Vermouth Mariano" and "Superfine Vermouth Mariano Brand," which said statements, together with certain pictorial designs and devices, borne on the labels thereof, and the style and appearance of the package as aforesaid, were calculated to deceive and mislead the purchaser into the belief that said article was a foreign product, to wit, a vermouth made in the kingdom of Italy, whereas, in truth and in fact, it was not a foreign product, to wit, a vermouth made in the kingdom of Italy, but was a domestic product, to wit, an alleged vermouth made in the State of Ohio, United States of America.

On March 5, 1915, the defendant company entered a plea of guilty to the information, and the court imposed a fine of \$100 and costs.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., July 1, 1915.