

**4103. Misbranding of "Cusachs' Palatable Preparation of the Extract of Cod Liver Oil with Wild Cherry, Malt and Hypophosphites." U. S. v. The Henry S. Wampole Co. Plea of guilty. Fine, \$40. (F. & D. No. 5911. I. S. No. 6423-e.)**

On June 1, 1915, 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 an information against the Henry S. Wampole Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about December 31, 1912, from the State of Maryland into the State of Louisiana, of a quantity of "Cusachs' Palatable Preparation of the Extract of Cod Liver Oil with Wild Cherry, Malt and Hypophosphites" which was misbranded.

The product was labeled: (On carton) "Cusachs' Palatable Preparation of the Extract of Cod Liver Oil with Wild Cherry, Malt and Hypophosphites Alcohol 18 per cent. This preparation is prepared from the extract of Cod Liver Oil (obtained from the fresh livers, eliminating the nauseous oil and fat), Fluid Extract Wild Cherry Bark, Liquid Extract of Malt and Compound Syrup of Hypophosphites. It has an agreeable and pleasant taste and will not disturb the digestion. Prepared for Cusachs' Pharmacy Prescription Specialists Corner Canal and Baronne Streets, New Orleans, La. Price \$1.00 per bottle." (On sides of carton) "Palatable Preparation of the Extract of Cod Liver Oil with Wild Cherry, Malt and Hypophosphites." (On top flap) "Serial Number 2124-A." (On bottle) "Cusachs' Palatable Preparation of the Extract of Cod Liver Oil with Wild Cherry, Malt and Hypophosphites, Alcohol 18 per cent. This preparation is prepared from the Extract of Cod Liver Oil (obtained from the fresh livers, eliminating the nauseous oil and grease), Fluid Extract of Wild Cherry Bark, Liquid Extract of Malt and Compound Syrup of the Hypophosphites. It has an agreeable and pleasant taste, and will not disturb the digestion. Directions: For an adult, one tablespoonful half an hour before meals and before retiring. Children, one or two teaspoonfuls according to the age or nature of the disease. Shake Well Before Taken. Prepared for Cusachs' Pharmacy, Prescription Specialists Corner Canal and Baronne Streets, New Orleans, Louisiana." In the pamphlet or circular accompanying the article there appeared, among others, the following: "This Palatable Preparation of the Extract of Cod Liver Oil with Wild Cherry, Malt and Hypophosphites, containing the active medicinal properties of Cod Liver Oil, Fluid Extract of Wild Cherry Bark, Liquid Extract of Malt and Compound Syrup of Hypophosphites, is beyond comparison the most efficient remedy in the treatment of Pulmonary Diseases, Bronchitis, Obstinate Cough, Loss of Voice, Hoarseness, Tonsilitis, Nervous Debility, Insomnia, Nervous Dyspepsia, Palpitation of the Heart, Chlorosis, Anemia and diseases due to, or maintained by an exhausted condition of the nervous system." "It is a Reconstructive Tonic Stimulant and Nutritive and of great value in the treatment of all chronic diseases."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that the product appeared to be a hydroalcoholic solution of sugars, probably coming from malt extract, extracts of cod liver oil and wild cherry, and very small amounts of the citrates and hypophosphites of calcium, sodium, potassium, iron, manganese, quinine, and strychnine; it contained 12.0 per cent by volume of alcohol, 33.2 per cent of total solids, and 0.24 per cent of ash.

Misbranding of the product was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing on the circular aforesaid, to wit, "This \* \* \* Preparation \* \* \* is beyond comparison the most efficient remedy in the treatment

of Pulmonary Diseases, Bronchitis, Obstinate Cough, \* \* \* Tonsilitis, Nervous Debility, Insomnia, Nervous Dyspepsia, \* \* \* and diseases due to, or maintained by an exhausted condition of the nervous system," were false and fraudulent 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 as an efficient remedy for pulmonary diseases, tonsilitis, nervous debility, insomnia, nervous dyspepsia, and diseases due to, or maintained by, an exhausted condition of the nervous system; when, in truth and in fact, said article was not in whole or in part composed of, and did not contain, ingredients or medicinal agents effective as a remedy for pulmonary diseases, tonsilitis, nervous debility, insomnia, nervous dyspepsia, or diseases due to, or maintained by, an exhausted condition of the nervous system.

On June 1, 1915, the defendant company entered a plea of guilty to the information, and the court imposed a fine of \$40.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *December 4, 1915.*