

6502. Adulteration and misbranding of oil sweet birch and pennyroyal oil.

U. S. * * * v. James B. Johnson. (F. & D. No. 8665. I. S. No. 12704-M.)

U. S. * * * v. Millard G. Teaster. Tried to the court and a jury.

Verdicts of guilty. Each defendant fined \$180 and costs. (F. & D. No. 8783. I. S. No. 1154-p.)

On January 19, 1918, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against James B. Johnson, Hickory, N. C., alleging shipment by said defendant, in violation of the Food and Drugs Act on or about May 14, 1917, from the State of North Carolina into the State of Ohio, of a quantity of an article labeled in part, "Oil Sweet Birch," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that the product contained little, if any, pure oil of birch and was synthetic methyl salicylate containing a small amount of some other volatile oil.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, methyl salicylate, derived from a source other than sweet birch, had been mixed and packed therewith, so as to lower or reduce and injuriously affect its quality, and had been substituted in whole or in part for oil sweet birch, which the article purported to be.

Misbranding of the article was alleged for the reason that it was an imitation oil sweet birch, prepared in whole or in part from methyl salicylate, derived from a source other than sweet birch, and was offered for sale and sold under the descriptive name of another article, to wit, "Oil Sweet Birch."

On March 12, 1918, the United States attorney, acting upon a report from the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Millard G. Teaster, Elk Park, N. C., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about October 30, 1917, from the State of North Carolina into the State of New York, of a quantity of an article labeled in part, "Pennyroyal Oil," which was adulterated and misbranded.

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

Specific gravity at 25°/25° C.-----	0.8731
Optical rotation-----	+18° 21'
Residue on polymerization (per cent)-----	32
Refractive index of residue at 25° C.-----	1.4355
Distillation (745 mm. pressure)	
to 195° (per cent)-----	17
195°-205° (per cent)-----	22
205°-210° (per cent)-----	37

The other 24 per cent was practically completely volatile in steam. Seventy per cent insoluble in volumes of 70 per cent alcohol.

The residue after treatment with sulphuric acid had a strong smell of kerosene and the flavor of mineral oil.

Adulteration of the article was alleged in the information for the reason that it was sold as and for pennyroyal oil and its strength and purity fell below the professed standard and quality under which it was sold, in that the article contained approximately 32 per cent of mineral oil, which is not a normal ingredient of pennyroyal oil.

Misbranding of the article was alleged for the reason that the statement, "Pennyroyal Oil," borne on the label regarding the article and the ingredients and substances contained therein, was false and misleading, in that it represented to the purchaser that the article consisted entirely of pennyroyal oil, whereas, in truth and in fact, it did not, but consisted in part of another substance, to wit, approximately 32 per cent of mineral oil; and for the further reason that it was an imitation of, and was offered for sale under the name of, another article, to wit, pennyroyal oil.

Thereupon this case was consolidated with a proceeding instituted against these defendants and other defendants in connection with prosecutions for conspiracies to violate the Food and Drugs Act. Thereafter, the case having come on for trial before the court and a jury, and after submission of evidence and arguments by counsel, the case was given to the jury and a verdict of not guilty was returned by the jury as to each defendant for conspiracy, and a verdict of guilty was returned on April 30, 1918, as to said defendants James B. Johnson and Millard G. Teaster for violation of the Food and Drugs Act, and thereupon the court fined each of said defendants \$180 and costs.

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