

it brings into some doubt the accuracy of the analysis testified to by the witnesses for the Government. * * * The other evidence which was offered by the defendant as to the manner of manufacture of these capsules, the care that is taken in the manufacture of the capsules to see that they went out just as represented and to see to it that there was no violation of any of the requirements of the law or of the regulations, that evidence convinces me that the defendant did not intentionally violate the law; on the contrary did everything that reasonably could be done apparently to comply with the requirements of the law. As the case stands, it seems to me I must find it has been proved beyond a reasonable doubt that the capsules which were in this shipment referred to in the second count of the information did contain a very slight excess of thyroid above the one-fourth grain which it was represented that they contained upon the label attached to and affixed to the bottle. The only argument that is advanced against that conclusion is that this method of analysis, the method of analysis which was used, is inaccurate, does not permit of an accurate result. Well, I don't know whether it permits of an accurate result or does not permit of an accurate result. * * * There is so little in this testimony to justify any punishment at all upon the defendant—nothing except a very technical violation of the law—that even if I were to consider this plea of *nolo contendere*, I don't think I would add anything to the punishment imposed.

"We are of the view that the lower court not only entertained but expressed a reasonable doubt of the guilt of the defendant, and we think the familiar rules applicable in criminal cases have not been satisfied in this case. The judgment appealed from is therefore reversed, and the cause remanded with directions to grant defendant a new trial."

M. L. WILSON, *Acting Secretary of Agriculture.*

24038. Misbranding of Beach's Gen-Sen Tonic. U. S. v. Frank E. Beach (Beach's Wonder Remedy Co.). Plea of guilty. Fine, \$100. (F. & D. no. 31453. Sample no. 39150-A.)

This case was based on an interstate shipment of Beach's Gen-Sen Tonic, the labeling of which contained unwarranted curative and therapeutic claims.

On May 25, 1934, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district aforesaid an information against Frank E. Beach, trading as Beach's Wonder Remedy Co., Columbia, S. C., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 6, 1933, from the State of South Carolina into the State of Georgia of a quantity of Beach's Gen-Sen Tonic which was misbranded.

Analysis showed that the article consisted of extracts of plant drugs including aloes and senna, magnesium sulphate, benzoic acid, glycerin, and water, flavored with oil of anise and methyl salicylate.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its curative and therapeutic effects, appearing on the bottle labels, cartons, and in a circular enclosed in the said cartons, falsely and fraudulently represented that it was effective as a tonic; effective to aid and benefit the blood, liver, kidneys and stomach; effective as a treatment for kidney and bladder trouble, rheumatism, impure blood, sluggish or torpid liver, loss of appetite, indigestion, female trouble or weakness, and worms in children; effective as a constructive tonic aid for enriching the blood, building the strength and improving the health in general; effective as a treatment, remedy, and cure for rheumatism, consumption, poison in the blood, and worms in children and adults; effective as a treatment, remedy, and cure for indigestion, irritation, pains in the belly, irritation or itching at the lower end of the bowels, alternation of diarrhoea and costiveness, great thirst and variable and often voracious appetite, fetid breath, pale, sallow and leaden complexion, occasional flushes, swelling of the upper lip, watery mouth, enlargement of the nostrils, livid circles around the eyes, dilation or contraction of the pupil, fixed unmeaning expression, enlargement of the belly, disturbed sleep, dry cough, headache, slow fever, spasmodic or convulsive affections, remittent fever, great drowsiness, morbid restlessness, pain in the bowels and pit of the stomach, gastric distress, affected head, stupor and delirium in children due to worms, temporary blindness, loss of memory, forgetfulness, falling vitality, lost manhood, fluttering action of the heart, palpitation of heart, shortness of breath, rolling or throbbing sensation in stomach, varying appetite, pain in small of back, bad stomach, irregular bowels,

sleepless nights, tired and worn out feeling and broken down in health due to tape worms; effective as a treatment, remedy, and cure for dyspepsia, indigestion, headache, loss of appetite, sour stomach, distress or sense of fullness after eating, nausea, acidity, heartburn, dizziness, bad taste in the mouth pain in the region of the heart, sleepless nights, loss of flesh, wan expression of the face, belching of wind and food after eating, formation of gas in bowels, bad breath due to a diseased stomach; effective as a treatment, remedy, and cure for biliousness, chills and fever, sallow complexion, constant headache, sinking sensation, dizziness, distressing heart flashes, fainting spells, sideache, annoying backache, pressure on top of head, imperfect circulation of blood, fluttering action of the heart, tenderness of abdomen, cold and swollen feet, persistent and obstinate constipation, pains in bones, aching legs, tired feeling due to diseased liver; effective as a treatment, remedy, and cure for ulcerated kidneys, inflamed kidneys, rheumatism, lumbago, highly colored urine, bloody, greasy froth in urine, urate deposits, retention of urine, bladder weakness or frequent catarrh of bladder, burning sensation when urinating, weak, lame or painful back, aching hips and all broken down feeling due to diseased kidneys; effective as a treatment, remedy, and cure for scrofula, ulcers, pimples, boils, eruptions, swelling, erysipelas, eczema, tetter, blotches, sore eyes, sore ears, St. Anthony's fire, salt rheum, scald head, sore legs, cankers, chronic rheumatism and gout due to diseased blood; effective as a germ destroyer and blood purifier; effective to help rheumatism, catarrh, liver disease, bladder disease, nervous diseases, dyspepsia, malaria, scrofula, la grippe, ovarian troubles, piles, either itching, bleeding or blind, and female troubles; effective to feed and vitalize the system and destroy the microbe enemy within; effective as a treatment for girls blossoming into maturity, to remove obstructions and to insure regularity in menstruation; effective as a treatment in all female complaints; effective as a treatment for change of life and to completely meet the needs in the many ailments which annoy and afflict women; effective as a treatment for any of the various complaints peculiar to women, to relieve every irregularity, inflammation, ulceration, and weakness, and to restore the system to a normal condition; and effective when used in connection with Beach's Wonder Oil as a treatment for eczema, rash, and tetter.

On December 1, 1934, the defendant entered a plea of guilty and the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

24039. Adulteration and misbranding of white pine and tar compound cough syrup. U. S. v. Charles W. Link (C. W. Link Drug Co.). Plea of guilty. Fine, \$75. Fine remitted. (F. & D. no. 31474. Sample no. 42936-A.)

This case involved a drug preparation, the labels of which bore unwarranted curative and therapeutic claims. Analysis showed that the article contained less chloroform than declared on the label.

On November 19, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles W. Link, trading as the C. W. Link Drug Co., New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about November 19, 1932, from the State of New York into the State of Pennsylvania, of a quantity of white pine and tar compound cough syrup which was adulterated and misbranded. The article was labeled in part: "Each fluid ounce contains 4 minims chloroform."

Analysis by this Department showed that the article contained 1.5 minims of chloroform per fluid ounce, and consisted essentially of extracts of plant drugs, small portions of pine tar and a gum, a trace of alkaloids, glycerin, alcohol (5 percent by volume), sugar, and water.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that each fluid ounce was represented to contain 4 minims of chloroform; whereas each fluid ounce contained less than 4 minims, namely, not more than 1.5 minims of chloroform.

Misbranding was alleged for the reason that the statement, "Each fluid ounce contains 4 minims chloroform", borne on the carton and bottle label, was false and misleading, since each fluid ounce of the article contained less than 4 minims of chloroform. Misbranding was alleged for the further reason that the article contained chloroform and the label failed to bear a statement of the quantity or proportion of chloroform contained therein. Misbranding was alleged for the further reason that certain statements, designs, and devices re-