

4988. Misbranding of "Maguire's Extract of Benne Plant and Catechu Compound." U. S. * * * v. J. & C. Maguire Medicine Co., a corporation. Tried to the court and a jury. Verdict of guilty. Fine, \$200 and costs. (F. & D. No. 6109. I. S. No. 9322-e.)

On June 24, 1915, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against J. & C. Maguire Medicine Co., a corporation, St. Louis, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about March 13, 1913, from the State of Missouri into the State of Colorado, of a quantity of "Maguire's Extract of Benne Plant and Catechu Compounds," which was misbranded. The article was labeled, in part: "J. & C. Maguire's Extract of Benne Plant and Catechu Compound * * *."

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

Alcohol (per cent by volume)-----	39.50
Nonvolatile material at 100° C. (grams per 100 cc)-----	1.95
Morphine (grains per fluid ounce)-----	0.10
Camphor: Present.	
Catechu: Indicated.	
Peppermint: Indicated by odor.	

It was charged in substance in the information that the article was misbranded for the reason that the statements included in the circular or pamphlet accompanying the article falsely and fraudulently represented it as a reliable specific for diarrhea, dysentery, and cholera morbus, and as a preventive of Asiatic cholera, when, in truth and in fact, it was not. Misbranding was alleged for the further reason that the statement on the label, to wit, "* * * perfectly harmless * * *," was false and misleading in that it indicated to purchasers thereof that the article did not contain ingredients which would render the same harmful or injurious when administered or taken according to directions, when, in truth and in fact, it contained a poisonous and dangerous ingredient, to wit, 1/10 of a grain of morphine per fluid ounce, which might render the same harmful or injurious when administered or taken according to directions. Misbranding was alleged for the further reason that the statement on the label, to wit, "* * * Extract of Benne Plant and Catechu Compound * * *," was false and misleading in that it indicated to purchasers thereof that the article was composed of and contained benne plant and catechu, harmless medicinal agents, as its principal and most active ingredients, when, in truth and in fact, it was not composed of, and did not contain, benne plant and catechu as its principal and most active ingredients, but did contain as its principal and most active ingredient, to wit, morphine, a dangerous habit-forming drug.

On January 24, 1916, the defendant company having entered a plea of not guilty to the information, and the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, a verdict of guilty was returned by the jury on January 25, 1916. On February 28, 1916, the defendant company filed its motion for a new trial, which was sustained on May 4, 1916. On October 19, 1916, the case having come on for retrial before the court and a jury, after the submission of evidence and arguments by counsel, a verdict of guilty was again returned by the jury on October 21, 1916. On October 31, 1916, the court imposed a fine of \$200 and costs.

CARL VROOMAN, *Acting Secretary of Agriculture.*