

4823. Alleged adulteration and misbranding of sprouts. U. S. v. Northwestern Malt & Grain Co., a corporation. Tried to the court and a jury. Verdict of acquittal by direction of court. (F. & D. No. 5582. I. S. Nos. 388-e, 389-e, 390-e, 8941-e, 8942-e, 8943-e, 8944-e.)

On June 14, 1915, the United States attorney for the Northern District of Illinois, 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 Northwestern Malt & Grain Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on or about March 12, 1913, March 11, 1913 (three separate shipments), March 17, 1913 (two shipments), and March 14, 1913, from the State of Illinois into the State of Indiana, of quantities of sprouts which were charged to have been adulterated and misbranded.

The article in each shipment was invoiced and sold as "sprouts."

Examination of samples of the product in each shipment, made by the Bureau of Chemistry of this department, showed the following results:

Sample 1:

Sprouts (per cent)-----	60.0
Barley and malt (per cent)-----	21.6
Weed seeds (per cent)-----	4.3
Chaff (per cent)-----	5.8
Chaff, barley, and fine malt (per cent)-----	4.5
Chaff and fine material (per cent)-----	3.6

99.8

The sample contains not more than 65 per cent of malt sprouts.

Sample 2:

Sprouts (per cent)-----	80.2
Barley and malt (per cent)-----	5.6
Weed seeds (per cent)-----	1.7
Chaff (per cent)-----	4.9
Chaff, barley, and fine malt (per cent)-----	3.0
Chaff and cracked barley (per cent)-----	4.3

99.7

The sample contains not more than 85 per cent of malt sprouts.

Sample 3:

Sprouts (per cent)-----	59.48
Barley and malt (per cent)-----	18.14
Weed seeds (per cent)-----	7.18
Chaff (per cent)-----	5.89
Chaff, etc. (per cent)-----	9.29

99.98

The sample contains not more than 65 per cent of malt sprouts.

Sample 4:

Malt sprouts (per cent)-----	74.9
Chaff and broken barley (per cent)-----	14.97
Barley and malt (per cent)-----	5.09
Chaff (per cent)-----	3.01
Weed seeds, including oats (per cent)-----	2.00

99.97

The sample contains not more than 80 per cent of malt sprouts.

Sample 5:

Malt sprouts (per cent)	68.8
Chaff and broken barley (per cent)	15.04
Barley and malt (per cent)	9.2
Chaff (per cent)	4.41
Weed seeds (including oats) (per cent)	2.54
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	99.99

The sample contains not more than 75 per cent of malt sprouts.

Adulteration of the article in each shipment was alleged in the information for the reason that substances other than sprouts or malt sprouts, namely, barley, malt, chaff, weed seeds, and divers other substances, had been substituted in part for sprouts or malt sprouts which the article purported to be, and for the further reason that substances other than sprouts or malt sprouts, namely, barley, malt, chaff and weed seeds, had been mixed and packed with the article, so as to reduce, lower, and injuriously affect its quality and strength.

Misbranding of the article in each shipment was alleged for the reason that it was offered for sale and sold under the distinctive name of another article, that is to say, said article was invoiced and sold as "sprouts" (meaning thereby malt sprouts), whereas, in truth and in fact, it was not composed entirely of sprouts or malt sprouts, but was a mixture composed of malt sprouts, barley, malt, chaff, weed seeds, and divers other substances, containing only approximately 65 per cent (or 85, 65, 80, or 75 per cent, as the case might be in the different shipments) of malt sprouts.

On February 23, 1916, the case having come on for trial before the court and a jury, after the submission of evidence and arguments by counsel, the jury returned a verdict of not guilty by direction of the court.

CARL VROOMAN,
Acting Secretary of Agriculture.