

4297. Misbranding of "Weller's Stone Root and Gin." U. S. * * * v. 6 Cases * * * of * * * "Weller's Stone Root and Gin." Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 6891. I. S. No. 16253-k. S. No. C-283.)

On August 6, 1915, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 6 cases, three of which contained one dozen quart bottles and three of which contained four dozen one-half pint bottles of "Weller's Stone Root and Gin," remaining unsold in the original unbroken packages at Cincinnati, Ohio, alleging that the product had been shipped and transported from the State of Kentucky into the State of Ohio, and charging misbranding in violation of the Food and Drugs Act, as amended. The product was labeled: "W. L. Weller & Sons, Distillers, Louisville, Ky." (On 1-quart bottles): "Weller's Stone Root and Gin (Trade Mark) Alcoholic Strength 37 5/10% Distilled from Selected Juniper Berries An Excellent Preparation for Kidney, Bladder and All Urinary Troubles, Also an Efficient Relief for Nervous Debility and Dyspepsia. As A Tonic It Has No Equal.—Weller's—W. L. Weller and Sons, Incorporated. Sole Proprietors. Established 1849 Louisville, Ky. Contents one quart." (On reverse side of bottles): "Sold in Glass Only Stone Root and Gin Contains Pure Gin, Extract of Stone Root, Oil of Sassafras, Syrup, Alcoholic Strength 37.5 W. L. Weller & Sons Incorporated Sole Proprietors Established 1849 Never Sold in Bulk" (On cap): "W. L. Weller & Sons Distillers Louisville, Ky." (Label on cartons enclosing bottles): Same as on bottles except that contents are not stated. (Label on shipping packages containing quarts) (On top): "Glass This Side Up With Care" (Stencil): "W. M. Young, Cincinnati, Ohio." (On all sides): "1 Doz Quarts Stone Root and Gin W. L. Weller & Sons Established 1849 Incorporated Sole Proprietors, Louisville, Ky." (Label on shipping packages containing ½ pints) (On top): "Glass This Side Up With Care." (Stencil): "W. M. Young, Cincinnati, Ohio." (On ends): "4 doz. ½ Pints Stone Root and Gin." (On sides): "W. L. Weller & Sons Established 1849 Incorporated Sole Proprietors Louisville, Ky." (Label on ½-pint bottles): Same as on quart bottles, as above quoted, except that the contents are stated: "Contents ½ Pint."

Misbranding of the article was alleged in the libel for the reason that the labels, marks, and brands aforesaid, on said packages, bore a certain statement, to wit, the name "Stone Root and Gin," regarding said drug and the ingredients and substances contained therein, which said statement was false and misleading, in that it represented said drug to contain and to be composed of stone root and gin, whereas, in truth and in fact, said drug contained no appreciable amount of stone root. Misbranding was alleged for the further reason that the labels, marks, and brands aforesaid, upon the packages of said drug product, to wit, the stickers upon the backs of the bottles thereof, bore certain statements, to wit, "Extract of Stone Root, Oil of Sassafras, Syrup," regarding said drug and the ingredients and substances contained therein, which said statements were false and misleading in that they represented said drug to contain, and in part to consist of, the extract of stone root, oil of sassafras, and sirup, whereas, in truth and in fact, said drug product contained no appreciable amount of said substances. Misbranding was alleged for the further reason that the following statements regarding the therapeutic or curative effects of said drug product, appearing on the labels aforesaid, to wit: "An Excellent Preparation For Kidney, Bladder and All Urinary Troubles, Also an Efficient Relief for Nervous Debility and Dyspepsia. As A Tonic It Has No Equal," were false and fraudulent in that said statements were applied to said drug knowingly and in reckless and wanton

disregard of their truth and [or] falsity, so as to represent falsely and fraudulently to the purchasers thereof, and to create in the minds of purchasers thereof the impression and belief, that said drug was in whole or in part composed of or that it contained ingredients or medicinal agents effective as a remedial preparation for kidney troubles, and as a remedial preparation for bladder troubles, and as a remedial preparation for all urinary troubles, and as an efficient relief and remedy for nervous debility, and as an efficient relief and remedy for dyspepsia, and as an unequalled tonic, when, in truth and in fact, said drug was not composed of and did not contain ingredients or medicinal agents effective as a remedial preparation for kidney troubles, nor as a remedial preparation for bladder troubles, nor as a remedial preparation for all urinary troubles, nor as an efficient relief and remedy for nervous debility, nor as an efficient relief and remedy for dyspepsia, nor as an unequalled tonic.

On August 17, 1915, W. L. Weller & Sons, a corporation, Louisville, Ky., claimants, having filed its answer admitting the facts set forth in the libel and consenting to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the packages and bottles containing the drug should be relabeled under the supervision of the United States food and drug inspector, and that the same should be released and restored to the said claimant company upon payment of all of the costs of the proceedings and the execution of bond in the sum of \$100, in conformity with section 10 of the act.

CARL VROOMAN, *Acting Secretary of Agriculture.*