

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2096.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF WINE.

On January 15, 1912, the United States Attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the said District, holding a district court, a libel for the seizure and condemnation of two cases, each containing 12 bottles, of so-called "Sparkling Burgundy," remaining unsold in the original unbroken packages and in possession of Eugene Schwab, 525 Eighth Street SE., Washington, D. C.; and two cases, each containing 24 bottles of so-called "Sparkling Burgundy," remaining unsold in the original unbroken packages and in possession of the Lang Supply Co., 407 Seventh Street NW., Washington, D. C., alleging that the product had been shipped from the State of California into the District of Columbia, and charging misbranding under the Food and Drugs Act. The two cases in possession of Eugene Schwab were labeled: "12 large bottles—Sparkling Burgundy—Schlesinger & Bender, Inc., Sole Proprietors, San Francisco, Cal.—Terra Rica Vineyards, Souvenir Vintages, Glen Ellen, Sonoma Co., California—E. Schwab, Washington, D. C.—S. & B., Washington, D. C." The two cases in possession of the Lang Supply Co. were labeled as above with the exception that the words "24 small bottles" appeared instead of "12 large bottles." The bottles in the cases were labeled: "Table d'hote—Terra Rica California—Est'd 1879—Type—Terra Rica Buffet Vintage, Glen Ellen, Sonoma Co., Cal. Type—Sparkling Burgundy—Schlesinger & Bender, Inc., Proprietors, San Francisco, Cal., U. S. A." and with a certain other label containing, among other things, the following: "Sparkling Burgundy—Terra Rica Buffet Vintages—Glen Ellen, Sonoma Co., Cal. Schlesinger & Bender, Inc., San Francisco, Cal."

Misbranding of the product was alleged in the libel for the reason that the product purported to be a liquid known as "Sparkling Burgundy" wine, the cases and bottles bearing labels as set forth above, which said labels bore certain statements regarding the product which

were false and misleading in that said statements imported that the product was a "Sparkling Burgundy" wine, whereas, in truth and in fact, it was not a sparkling wine and was not entitled by reason of its ingredients to be so called. The product was further misbranded in that it was offered for sale under the distinctive name of another article, to wit, under the name of "Sparkling Burgundy wine," when in truth and in fact it was not a sparkling wine nor entitled to be so called; and further, in that the product was labeled and branded so as to deceive and mislead the purchaser thereof. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser thereof for the reason that the labels thereon signified and imported that the product was a natural sparkling Burgundy wine, whereas in truth and in fact it was not a sparkling wine, and was not a natural sparkling wine nor entitled to be so called, but was an artificially carbonated wine containing added substances and ingredients and none of such added substances and ingredients were named or set forth upon the labels as being contained in the product. Misbranding was alleged for the further reason that the words "Sparkling Burgundy," appearing upon the labels, imported and signified that the product was a wine manufactured in a foreign country and thereby purported to be a foreign product, when in truth and in fact it was not a foreign product nor imported into the United States, but was in fact a wine manufactured in the United States of America.

On September 26, 1912, said Schlesinger & Bender, a corporation, claimant, having entered their appearance and filed exceptions to the libel, which were heard and overruled, and no answer having been filed to the libel, judgment of condemnation was entered, and it was further ordered that the product should be destroyed by the United States marshal.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *December 11, 1912.*