

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2449.

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

U. S. v. 15 Cases of Brandy. Decree of condemnation by consent. Product released on bond.

MISBRANDING OF BRANDY.

On January 8 and January 13, 1913, the United States Attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 15 cases, each containing 12 bottles of brandy, remaining unsold in the original packages, 10 cases of which were in possession of Barrett & Barrett, a corporation, St. Paul, Minn., and 5 cases of which were in possession of W. A. Bergen & Co., St. Paul, Minn., alleging that the 10 cases of the product had been shipped on November 26, 1912, and the 5 cases on December 16, 1912, by the Francis Cropper Co., Chicago, Ill., and transported from the State of Illinois into the State of Minnesota, and charging misbranding in violation of the Food and Drugs Act. The 10 cases of the product were labeled: "1 Doz. Fives.—A. Blanchard Fils & Cie Brand Brandy—70360—Soo Line—St. Paul—11—29. Barrett & Barrett, St. Paul, Minn." The bottles in the cases were labeled: "BSB—Blanchard Sons Brand Cognac Type Brandy—Compound—Guaranteed by The Francis Cropper Co., Chicago, under the Food and Drugs Act, June 30, 1906." The 5 cases were labeled: "1 Doz. Fives—A. Blanchard Fils & Cie Brand Brandy—8708—C. M. & St. P.—St. Paul—12—17—12. W. A. Bergen, St. Paul, Minn.," and the bottles in the 5 cases were labeled: "BSB—Blanchard Sons Brand Cognac Type Brandy—Compound—Guaranteed by The Francis Cropper Co., Chicago, under the Food and Drugs Act, June 30, 1906 —" On crescent shaped label on neck of all bottles was a pictorial device representing three bunches of grapes, and the bottle was partially encased in network of raffia.

Misbranding of the product was alleged in the libels for the reason that it was an imitation of and offered for sale under the distinctive name of another article, to wit, genuine cognac or brandy, and was further misbranded by reason of the fact that it was labeled and branded so as to deceive and mislead the purchaser by purporting to be genuine cognac or brandy, when, in truth and in fact, it consisted largely of neutral spirits derived from sources other than grapes, which neutral spirits had been artificially colored, flavored, and prepared so as to imitate genuine cognac or brandy, the impression created by the general physical appearance of the retail units and resulting from the wording of said labels and brands not being corrected by the words "Type" and "Compound" which appeared on the labels and brands inconspicuously as compared with the words "Cognac" and "Brandy," and the product was further misbranded in that by the words "A. Blanchard Fils and Cie" appearing on the labels and brands on the cases, combined with the general appearance of imported goods given to the retail units by the network of raffia partially covering the bottles, the said product purported to be a foreign product when such was not the case, and it was further misbranded in that the pictorial device representing three bunches of grapes and the statements "Cognac" and "Brandy" appearing on the labels were false and misleading in that by said pictorial device and statements the product was represented and purported to be genuine cognac or brandy which had been produced from grapes, when, in truth and in fact, it consisted largely of neutral spirits derived from sources other than grapes, which neutral spirits had been artificially colored, flavored, and prepared so as to imitate genuine cognac or brandy.

On January 31, 1913, the said Francis Cropper Co., claimant, having consented to the rendition of decrees, judgments of condemnation and forfeiture were entered, and it was further ordered that the product should be released and delivered to said claimant upon payment of all costs of the proceedings, amounting to \$32.04, and the execution of bond in the sum of \$100, in conformity with section 10 of the Act.

WILLIS L. MOORE,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *March 3, 1913.*