

11619. Adulteration and misbranding of Grape-Smack. U. S. v. 44 Bottles, et al., of Grape-Smack. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 17510, 17511. I. S. Nos. 4210-v, 4217-v, 4218-v. S. Nos. C-3978, C-3979.)

On May 15, 1923, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 44 quart bottles, 8 dozen 12-fluid-ounce bottles, and 2 dozen gallon bottles of Grape-Smack, remaining unsold in the original unbroken packages, in part at Milwaukee and in part at Sheboygan, Wis., alleging that the article had been shipped by the Smack Co., Chicago, Ill., in part March 24 and in part April 2, 1923, and transported from the State of Illinois into the State of Wisconsin, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled variously, in part: "Net Contents One Quart * * * Grape-Smack Flavored Concentrate Artificial Color and Flavor Directions * * * Grape-Smack Syrup * * * Grape-Smack beverage * * * The Smack Company Sole Manufacturers Orleans St. At Erie, Chicago, Ill.:" "Net Contents 12 Fl. Oz. * * * Grape-Smack Syrup;" "One Gallon * * * Grape-Smack Syrup * * * Directions Grape-Smack-Ginger Ale * * * Sundae."

Adulteration of the article was alleged in the libels for the reason that an artificially colored and flavored imitation product had been mixed and packed with and substituted wholly or in part for the said article. Adulteration was alleged for the further reason that the article was colored in a manner whereby inferiority was concealed.

Misbranding was alleged in substance for the reason that the statements, "Grape-Smack Syrup," "Grape-Smack beverage," "Grape * * * Sundae," "Grape-Smack-Ginger Ale," as the case might be, borne on the labels of the bottles containing the article, were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article.

On June 30, 1923, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11620. Adulteration and misbranding of West Baden spring water. U. S. v. West Baden Springs Co., a Corporation. Plea of guilty. Fine, \$200 and costs. (F. & D. No. 15066. I. S. Nos. 4401-t, 4402-t, 4403-t.)

On April 8, 1922, the grand jurors of the United States, within and for the District of Indiana, acting upon a report by the Secretary of Agriculture, upon presentment by the United States attorney for said district, returned in the District Court of the United States for the district aforesaid an indictment against the West Baden Springs Co., a corporation, West Baden, Ind., charging shipment by said defendant, in violation of the Food and Drugs Act, as amended, in part on or about September 16 and in part on or about September 22, 1920, from the State of Indiana into the State of Ohio, of quantities of West Baden spring water which was adulterated and misbranded. A portion of the article was labeled in part: "West Baden Concentrated Spring Water * * * West Baden Springs Co. West Baden, Ind. U. S. A." The remainder of the said article was labeled in part: "West Baden Springs Natural Water No. 3 Spring Ask Your Druggist For * * * West Baden Sprudel Water * * * Bottled At The Springs Only By The West Baden Springs Company. West Baden, Indiana."

Examination of samples of the article by the Bureau of Chemistry of this department showed that it contained decomposed animal or vegetable matter. Analysis of a sample of the concentrated water by said bureau showed that it contained 44.652 grams of magnesium sulphate (MgSO₄), 75.644 grams of sodium sulphate (Na₂SO₄), 0.109 gram of calcium sulphate (CaSO₄), and 122.638 grams of total solids per liter, respectively.

Adulteration of the article was charged in the indictment for the reason that it consisted in whole or in part of a filthy and decomposed animal or vegetable substance.

Misbranding was alleged with respect to the concentrated water for the reason that the statements, to wit, "West Baden Concentrated Spring Water * * * Renders excellent service in all nutritional disturbances such as Gout, Rheumatism * * * Diabetes, Obesity," borne on the labels on the bottles