

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 ($MgSO_4$), 75.644 grams of sodium sulphate (Na_2SO_4), 0.109 gram of calcium sulphate ($CaSO_4$), 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

containing the article, regarding the therapeutic or curative effects of the said article, falsely and fraudulently represented it to be effective as a treatment, remedy, and cure for all nutritional disturbances such as gout, rheumatism, diabetes, and obesity, whereas, in truth and in fact, it was not. Misbranding was alleged with respect to the said concentrated water for the further reason that the following statements borne on the said bottles, regarding the article and the ingredients and substances contained therein, to wit, "Parts per 1000. Magnesium sulphate, 31,900 Sodium sulphate, 51,900 * * * Calcium sulphate, 2,080 * * * Total solids, 88,818 From a sanitary standpoint, the water was excellent," were false and misleading in that the said statements represented that the article contained 31,900 parts, to wit, grams of magnesium sulphate, 51,900 parts, to wit, grams of sodium sulphate, 2,080 parts, to wit, grams of calcium sulphate, and 88,818 parts, to wit, grams of total solids per liter, respectively, and that it was sanitary and free from impurities, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained 31,900 parts, to wit, grams of magnesium sulphate, 51,900 parts, to wit, grams of sodium sulphate, 2,080 parts, to wit, grams of calcium sulphate, and 88,818 parts, to wit, grams of total solids per liter, respectively, and that it was sanitary and free from impurities, whereas, in truth and in fact, the said article did not contain the said ingredients and total solids in the quantities specified, but did contain 44.652 grams of magnesium sulphate, 75.644 grams of sodium sulphate, 0.109 grams of calcium sulphate, and 122.638 grams of total solids per liter, respectively, and the said article was impure and insanitary and contained, among other impurities, filthy animal fecal matter.

Misbranding was alleged with respect to the natural water for the reason that the designation, to wit, "Sprudel Water," borne on the bottles containing the article, regarding the article and the ingredients and substances contained therein, was false and misleading in that the said article was not sprudel water, and for the further reason that the said designation, to wit, "Sprudel Water," was applied to the article so as to deceive and mislead the purchaser into the belief that it was distinctive sprudel water, whereas, in truth and in fact, it was not sprudel water but was a contaminated native water. Misbranding was alleged for the further reason that the guaranty legend and serial number, to wit, "Guaranteed By The West Baden Springs Co. Under The Food And Drugs Act, June 30, 1906, Serial No. 9857," borne on the said bottles, was a misleading statement and device which implied that the United States Government guaranteed the article to be as labeled, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the United States Government indorsed and impliedly guaranteed the said article and its labeling, whereas, in truth and in fact, no such implied guaranty of the article existed or was authorized by the United States Government. Misbranding was alleged for the further reason that the article was a native American water prepared in imitation of and offered for sale and sold under the distinctive name of another article, to wit, sprudel water. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package. Misbranding was alleged with respect to the said natural water for the further reason that the statements, to wit, "Boas (In Deutsche Medicinische Wochenschrift) says: 'The Sodium Chloride Springs are suitable for patients with reduced or lacking production of hydrochloric acid and so much the more, the more surely the objective condition can be referred to a chronic catarrh.' In the West Baden Springs Water the per cent of Sodium Chloride varies from 26.8% in the weakest to 36.8% in the strongest," borne on the said bottle labels, regarding the therapeutic or curative effects of the said article, falsely and fraudulently represented the said article to be effective as a treatment, remedy, or cure for chronic catarrh, whereas, in truth and in fact, it was not.

On January 29, 1923, a plea of guilty to the indictment was entered on behalf of the defendant company, and the court imposed a fine of \$200 and costs.

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

11621. Misbranding of olive oil. U. S. v. 2 Cases of Olive Oil. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 15311. I. S. No. 15412-t. S. No. E-3535.)

On August 6, 1921, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the