

# United States Department of Agriculture,

## OFFICE OF THE SECRETARY.

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### NOTICE OF JUDGMENT NO. 1026.

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

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#### MISBRANDING OF GINGER ALE.

On or about April 26, 1911, the United States Attorney for the District of Columbia, acting upon the report of the Secretary of Agriculture, filed in the Supreme Court of said district, holding a district court, a libel praying condemnation and forfeiture of 85 barrels, more or less, of Beaufont Ginger Ale, in the possession of H. M. Wagner & Co. Each of the barrels containing said product was labeled and branded as follows: "The Beaufont Lithia Water Co.—12 Doz. Pints Beaufont Ginger Ale—Delicious Flavor—Perfect Quality—Richmond, Va.", and each of the bottles therein was labeled and branded as follows: "The Perfection of Purity and Excellence—Beaufont Medicinal Ginger Ale—Highest Quality—Refreshing Invigorating—The Beaufont Lithia Water Co., Richmond, Va., U. S. A."

Examination of samples of said product and of bottles containing the same, made by the Bureau of Chemistry of the United States Department of Agriculture, disclosed the presence of ginger and capsicum and showed that there was nothing used in the manufacture of the product which would entitle it to be termed "the perfection of purity and excellence", nor the "highest quality", nor "medicinal", as stated on the aforesaid labels; and that of two of the bottles examined containing said product one was 25.6 per cent short measure and the other 28.1 per cent short measure.

The libel as amended on May 15, 1911, alleged that the ginger ale, after transportation from Virginia into the District of Columbia, remained in the original unbroken packages and was misbranded in violation of the Food and Drugs Act of June 30, 1906, because the

aforesaid labels represented said product to be the perfection of purity and excellence and a ginger ale of the highest quality, and also a medicinal ginger ale and a ginger ale having medicinal properties and producing medicinal and therapeutic affects; whereas, in fact, the aforesaid product was not the perfection of purity and excellence, nor of the highest quality, nor was it a medicinal ginger ale, nor did it contain medicinal or therapeutic ingredients; and, further, because the labels on the barrels containing said product stated the bottles to be pint bottles; whereas, in fact, they were not pint bottles as aforesaid, and that said product was, therefore, liable to seizure for condemnation. Thereupon the Beaufont Lithia Water Co. entered its appearance as claimant of the aforesaid product and filed its answer to said amended libel, admitting the allegations thereof to be true and consenting to a decree of condemnation against the aforesaid product, and expressing, further, its willingness to pay the costs of said proceedings and praying that the aforesaid goods be released to it upon the giving of a proper and suitable bond in accordance with the requirements of the aforesaid act.

On May 15, 1911, the court found the product misbranded as alleged in the amended libel and that the United States was entitled to the decree of condemnation as prayed for in said amended libel. Accordingly, on the same day a decree was entered condemning and forfeiting said goods to the United States and ordering that the goods be released to the claimant upon the payment of the costs and the filing of a bond in the penal sum of \$650, to be approved by the court, conditioned that said product should not be disposed of contrary to the provisions of the aforesaid act of Congress.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *July 19, 1911.*