

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1902.

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

ADULTERATION AND MISBRANDING OF CORDIAL.

On November 8, 1911, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, and on March 5, 1912, an amended libel, for the seizure and condemnation of 200 kegs, each containing 15 gallons of cordial, remaining unsold in the original unbroken packages and in possession of the Mueller-Keller Candy Co., a corporation, St. Joseph, Mo., alleging that the product had been shipped during the month of February, 1911, by the National Fruit Products Co., Memphis, Tenn., and transported from the State of Tennessee into the State of Missouri, and charging adulteration and misbranding in violation of the Food and Drugs Act. Part of the kegs were labeled: "Guarantee—The contents of this package, as originally filled, are guaranteed to be made from Apples, fortified with grape sugar, (no distilled spirits, wine, fermented juice of grapes or other small fruits or alcoholic liquors being added.) Flavored with Imitation Flavor, colored with Certified colors, and contains 1/10 of 1% Benzoate of Soda, sweetened with artificial sweetening matter, and conforming to the provisions of the Food and Drugs Act, as passed by Congress June 30, 1906. We also guarantee the contents of this package, as originally filled, to be exempt from Internal Revenue Tax. National Fruit Products Co., Memphis, Tenn. Apricot Flavor." The remainder of the kegs were labeled as above with the exception, the words "Cherry Flavor" or "Blackberry Flavor" appeared in the label instead of the words "Apricot Flavor."

Adulteration was alleged in the libel for the reason that the product had been colored in a manner whereby damage and inferiority were concealed in that a coal-tar dye had been added to the product

for the purpose of giving it the red color of cherry in those cases labeled "Cherry Flavor", and in that coal-tar dye had been added to the product for the purpose of giving it the color of genuine blackberry in those cases and kegs labeled "Blackberry Flavor." Misbranding was alleged for the reason that the labels and brands on the kegs were false and misleading in that the amount of benzoate of soda contained in the product was stated by the labels to be one-tenth of 1 per cent, when in truth and in fact there was contained in the product a much greater and larger amount of benzoate of soda than that stated upon the label. Misbranding was alleged for the further reason that the labels on the product were false and misleading in that the product was stated upon the label to be cherry flavor, blackberry flavor, or apricot flavor, when in truth and in fact the product was not a cherry flavor, blackberry flavor, or apricot flavor, but was an imitation flavor; and for the further reason that the labels or brands upon the kegs deceived and misled the purchaser thereof into the belief that he was purchasing a non-intoxicating, non-alcoholic beverage, whereas the product was an intoxicating and alcoholic beverage.

On June 27, 1912, the said National Fruit Products Co., claimant, having consented to a decree and admitted the averments contained in the libel, judgment of condemnation and forfeiture 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., *November 1, 1912.*

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