

3524. Adulteration and misbranding of so-called Banner scuppernong wine. U. S. v. The Mihalovitch Co. Plea of guilty. Fine, \$100 and costs. (F. & D. No. 5433. I. S. No. 2328-e.)

On March 24, 1914, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Mihalovitch Co., a corporation, Cincinnati, Ohio, alleging the shipment by said company, in violation of the Food and Drugs Act, on or about September 17, 1912, from the State of Ohio into the State of Georgia, of a quantity of so-called scuppernong wine, which was adulterated and misbranded. The product was labeled: (On each bottle) "Trade Mark. Banner Scuppernong Type Wine First Pressing." (On cap of bottle) "Superior Quality" (On shipping package) "Banner Scuppernong Wine, 8506-9-19-12" (On tag attached to shipping package) "From The Mihalovitch Co., 118-120 West Pearl St., Cincinnati, Ohio."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that it was not a "Scuppernong Type Wine," or a "Scuppernong Type Wine First Pressing," but was very probably a catawba wine to which flavoring had been added.

Adulteration of the product was alleged in the information for the reason that a substance other than scuppernong wine or scuppernong type of wine, namely, a product made in whole or in part from other wine or wines or base wine, and sweetened, flavored, and mixed in imitation of scuppernong wine, had been substituted in whole or in part for scuppernong wine. Misbranding was alleged for the reason that the statements "Scuppernong Type Wine" and "First Pressing," borne on the labels of the package and bottles in which the article was shipped and delivered for shipment, were false and misleading because, as a matter of fact, the article was not first pressing scuppernong wine or scuppernong type wine, but was a product made in whole or in part from another wine or wines or base wines, and sweetened, flavored, and mixed in imitation of scuppernong wine, and, further, in that said article was labeled and branded so as to deceive and mislead the purchaser into the belief that it was first pressing scuppernong wine or first pressing scuppernong type wine, whereas, in truth and in fact, said article was not first pressing scuppernong wine or scuppernong type wine, but was a product made in whole or in part from another wine or wines or base wines, and sweetened, flavored, and mixed in imitation of scuppernong wine.

On October 23, 1914, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$100 and costs.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 13, 1915.*