

condemnation of 10 drums and 72 cases of extra dry champagne, nonalcoholic, and 12 cases of sparkling Burgundy, nonalcoholic, remaining unsold in the original unbroken packages at Chicago, Ill., alleging that the articles had been shipped in part by H. G. Mumm & Co., New York, N. Y., July 28 and August 10, 1920, respectively, and in part from Columbus, Ohio, September 1, 1920, and transported from the States of New York and Ohio, respectively, into the State of Illinois, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended.

Adulteration of the articles was alleged in the libels for the reason that imitation products, artificially carbonated, had been mixed and packed with, and substituted wholly or in part for, nonalcoholic champagne and nonalcoholic sparkling Burgundy. Adulteration was alleged for the further reason that the articles were artificially colored in a manner whereby damage or inferiority was concealed.

Misbranding was alleged for the reason that the articles bore labels, respectively, in part as follows, "Unfermented H. G. Mumm & Company Extra Dry Champagne Non-Alcoholic. H. G. Mumm & Company, Distributors, Bordeaux, France, New York, Chicago," and "Non-Alcoholic H. G. Mumm & Company Sparkling Burgundy Style * * *," which labels were false and misleading and deceived and misled the purchaser in that the said articles were not extra dry champagne and sparkling Burgundy. Misbranding was alleged for the further reason that the articles were imitations of, and sold under the distinctive names of, other articles, to wit, extra dry champagne and sparkling Burgundy, respectively. Misbranding of a portion of the extra dry champagne was alleged for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 20, 1921, the Steele-Wedeles Co., Chicago, Ill., claimant, having admitted the allegations of the libel filed in the case of the 22 cases of extra dry champagne and 12 cases of sparkling Burgundy, and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the said portion of the products be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that the articles be labeled in harmony with the Federal Food and Drugs Act. On October 6, 1921, no claimant having appeared for the remainder of the extra dry champagne, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10013. Misbranding of peaches. U. S. * * * v. Charles E. Dean. Plea of guilty. Fine, \$5 and costs. (F. & D. No. 14313. I. S. No. 3054-t.)

On April 25, 1921, 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 Charles E. Dean, Marble Hill, Ind., charging shipment by said defendant, on or about August 24, 1920, in violation of the Food and Drugs Act, as amended, from the State of Indiana into the State of Ohio, of a quantity of peaches in unlabeled baskets, which were misbranded.

Misbranding of the article was charged in the indictment for the reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 31, 1921, the defendant entered a plea of guilty to the indictment, and the court imposed a fine of \$5 and costs.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10014. Misbranding of McMullin's tonic. U. S. * * * v. 6 Half-Pint Bottles of * * * McMullin's Tonic, et al. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 14842, 14852. I. S. Nos. 10789-t, 10792-t. S. Nos. W-918, W-919.)

On May 3 and 5, 1921, respectively, the United States attorney for the District of New Mexico, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 14 half-pint bottles, 16 pint bottles, and 4 quart bottles of McMullin's tonic, remaining unsold in the original packages at Tucumcari and

Raton, N. M., respectively, alleging that the article had been shipped by the Tilden McMullin Co., Sedalia, Mo., October 27, 1920, and March 10, 1921, respectively, and transported from the State of Missouri into the State of New Mexico, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Bottle) "* * * Tonic * * * Affords cure and relief [great relief] in cases of * * * Consumption, Asthma, Catarrh, and Bronchitis."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of a mixture of alcohol, glycerin, and water, with traces of phenol and iodid.

Misbranding of the article was alleged in the libels for the reason that the above-quoted statements upon the said bottles, regarding the curative and therapeutic effects of the said article, were false and fraudulent in that it contained no ingredient or combination of ingredients capable of producing the results and effects claimed.

On August 10, 1921, 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.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10015. Adulteration and misbranding of artificial raspberry soda. U. S. * * * v. Ellis Duke and Wolf Rosett (The Eagle Bottling Co.). Pleas of guilty. Fines, \$50. (F. & D. No. 14910. I. S. No. 24938-r.)

On June 28, 1921, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against Ellis Duke and Wolf Rosett, copartners, trading as the Eagle Bottling Co., Washington, D. C., alleging that on May 27, 1920, the said defendants did offer for sale and sell in the District of Columbia, in violation of the Food and Drugs Act, a quantity of artificial raspberry soda which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it contained saccharin and artificial flavor and that it was colored with a coal-tar dye.

Adulteration of the article was alleged in the information for the reason that substances, to wit, saccharin and synthetic esters, had been mixed and packed with the article so as to injuriously affect its quality and had been substituted wholly or in part for the article; for the further reason that substances, to wit, saccharin and synthetic esters, and a coal-tar dye which reacts like amaranth, had been added and mixed with the said article in a manner whereby its damage and inferiority were concealed; and for the further reason that a poisonous and deleterious ingredient, to wit, saccharin, had been added to the said article, thereby rendering it injurious to health.

Misbranding was alleged in substance for the reason that the statement, to wit, "Raspberry Artificial," borne in small lettering in an inconspicuous place on the bottle caps, and the statement, to wit, "Palmer Brand 8 Flu Oz., Washington, D. C. Property of S. C. Palmer Co., Inc.," blown in the bottles containing the article, concerning the article and the ingredients and substances contained therein, were false and misleading in that the said caps are removed before serving and after the purchaser has ordered raspberry soda, and in that the contents of the said bottles were not prepared and placed therein by the said S. C. Palmer Co., Inc., but the original contents had been removed and other contents substituted, and for the further reason that the statement, to wit, "Raspberry Artificial," was false and misleading when applied to an article which contained no juice, flavor, or essence obtained from raspberry fruit and which did contain a coloring matter, to wit, coal-tar dye, which reacts like amaranth, and which said coloring matter was not declared upon the label of the said bottles. Misbranding was alleged for the further reason that the article was labeled as aforesaid, and the word "Artificial" so placed on the said bottle caps as to be removable before sale and serving so as to deceive and mislead the purchaser into the belief that the said article was raspberry soda, whereas, in truth and in fact, it was a product composed in part of saccharin, synthetic esters, and a coal-tar dye, which reacts like amaranth, and was neither a true raspberry soda nor a permitted artificial raspberry soda, and for the further reason that the article was misbranded as to the name and address of the manufacturer in that the contents of the said bottles as originally put up had been wholly removed and other contents substituted and placed therein. Misbranding was alleged for