

said inferiority of said peanut oil was concealed. Misbranding was alleged in the libels for the reason that the product was labeled variously as aforesaid, and that, in truth and in fact, peanut oil is known and recognized to be the oil of the peanut and consists only of the pure oil of the peanut, while the peanut oil contained in the cans aforesaid was not pure peanut oil, but was a grade of oil inferior to pure peanut, being a mixture of pure peanut oil together with nitrobenzine, and that this mixture was labeled as aforesaid so as to deceive and mislead the purchaser or purchasers thereof in that the labels on said cans represented and purported the contents thereof to be pure peanut oil, whereas, in truth and in fact, said peanut oil was not a pure peanut oil but contained an added ingredient deleterious and detrimental to health, to wit, nitrobenzine, and thereby the labels on said cans were false and misleading in this particular. Misbranding was alleged for the further reason that the cans containing the peanut oil were labeled variously as aforesaid and the peanut oil in said cans was not a pure peanut oil, but, in truth and in fact, the said cans purported to contain pure peanut oil and the statements on said cans were so arranged as to cause the purchaser or purchasers thereof to believe that the said cans contained pure peanut oil, and the peanut oil contained in said cans was not a pure peanut oil but was of a grade and quality of peanut oil inferior to pure peanut oil, being a mixture of peanut oil and nitrobenzine, and that this mixture labeled as aforesaid was sold under the distinctive name of another article than itself, to wit, peanut oil, and was labeled as aforesaid so as to deceive and mislead the purchaser in the respect that it purported to be a pure peanut oil, whereas, in truth and in fact, it was not a pure peanut oil, but contained an added ingredient deleterious and detrimental to health, to wit, nitrobenzine, and therefore was sold under the distinctive name of another article than itself, and misbranded within the intent and meaning of the act of Congress.

On March 6, 1914, no claimant having appeared for the property, and testimony having been introduced by the United States to sustain the allegations of the libels, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *August 14, 1914.*

3328. Misbranding of Paxton's brand sweet oil, Paxton's brand strawberry flavor, Paxton's brand raspberry flavor, Paxton's brand pineapple flavor, Polk's extract pineapple, Polk's extract raspberry, and Fassett's lemon flavor; and adulteration of Paxton's brand orange flavor, Paxton's brand lemon flavor, Stuart's brand lemon flavor, Andrews' brand lemon flavor, and Trojan seal lemon flavor. U. S. v. Polk & Calder Drug Company. Plea of guilty. Fine, \$50. (F. & D. No. 2034. I. S. Nos. 1051-c, 1052-c, 1053-c, 1054-c, 1055-c, 1057-c, 1062-c, 1063-c, 1066-c, 1072-c, 1073-c, 1075-c.)

On April 2, 1912, the United States attorney for the Northern District of New York, 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 Polk & Calder Drug Co., a corporation, Troy, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on or about July 8, 1910, from the State of New York into the State of Massachusetts:

(1) Of 7 different articles of food which were misbranded. These products were marked for purposes of identification and were labeled as follows:

I. S. 1051-c: "Paxton's Brand Sweet Oil (Guaranty Legend, Serial No. 313) Polk & Calder Drug Co., 169-175 River St., Troy, N. Y."

I. S. 1052-c: "Paxton's Brand Flavorings Strawberry Flavor from fruit. This preparation contains 25% Alcohol (Guaranty Legend, Serial No. 313) For Flavoring Ice Cream, Custard, Jelly, Cake, Pastry, etc., Prepared by Polk & Calder Drug Co. Manf'g. Pharmacists, Troy, N. Y."

I. S. 1053-c: "Paxton's Brand Flavorings Raspberry Flavor from Fruit. This preparation contains 25% Alcohol (Guaranty Legend, Serial No. 313) * * * Prepared by Polk & Calder Drug Co., Manf'g. Pharmacists, Troy, N. Y."

I. S. 1054-c. "Paxton's Brand Flavorings Pineapple Flavor from Fruit. This preparation contains 25% Alcohol (Guaranty Legend, Serial No. 313) * * * Prepared by Polk & Calder Drug Co., Manf'g. Pharmacists, Troy, N. Y."

I. S. 1072-c: (On carton) "Polk's Surpassing Extract Pineapple Made according to the standard recommended by the United States Pharmacopoeia (Guaranty Legend, Serial No. 313) P. & C. Co. True to name. Manufactured by Polk & Calder Co., Troy, N. Y." (On bottle) "Pure concentrated Extract Pineapple Prepared by John A. Robinson & Co., Inc. Wholesale Druggists, Troy, N. Y."

I. S. 1073-c: (On carton) "Polk's Surpassing Extract Raspberry Made according to the standard recommended by the United States Pharmacopoeia (Guaranty Legend, Serial No. 313) P. & C. Co. True to name. Manufactured by Polk & Calder Co., Troy, N. Y." (On bottle) "Polk's Extract of Raspberry From Fruit. This Extract contains 43% Alcohol (Guaranty Legend, Serial No. 313) Prepared by the Polk & Calder Co., Mfg. Pharmacists, Troy, N. Y."

I. S. 1075-c: "Fassett's Lemon Flavor—Concentrated. For Soda Water Syrup (Guaranty Legend, Serial No. 313) * * * Prepared by the Polk & Calder Co., Manufacturing Pharmacists, Troy, N. Y."

Analyses of samples of these products by the Bureau of Chemistry of this department showed the following results:

I. S. No. 1051-c:

Index refraction at 25° C.....	1.4715
Iodine number.....	110
Sesame oil: None.	
Cottonseed oil: Present.	

I. S. No. 1052-c:

Esters (as ethyl acetate) (per cent by volume).....	0.114
Ash (grams per 100 cc).....	0.063
Alkalinity of ash (cc N/10 acid per 100 cc).....	4.5
Alcohol (per cent).....	22.9
Methyl alcohol: None.	
Color: Archil or similar color.	
Volatile esters (per cent).....	0.029

I. S. No. 1053-c:

Esters (as ethyl acetate) (per cent by volume).....	0.177
Ash (grams per 100 cc).....	0.051
Alkalinity of ash (cc N/10 acid per 100 cc).....	4.0
Alcohol (per cent by volume).....	21.47
Methyl alcohol: None.	
Color: Archil or similar color.	
Volatile esters (per cent).....	0.028

I. S. No. 1054-c:

Esters (as ethyl acetate) (per cent by volume)-----	0.182
Ash (grams per 100 cc)-----	0.031
Alkalinity of ash (cc N/10 acid per 100 cc)-----	5.0
Alcohol (per cent by volume)-----	21.97
Methyl alcohol: None.	
Color: None.	
Volatile esters (per cent)-----	0.089

I. S. No. 1072-c:

Esters (as ethyl acetate) (per cent by volume)-----	0.309
Ash (grams per 100 cc)-----	0.026
Alkalinity of ash (cc N/10 acid per 100 cc)-----	3.5
Alcohol (per cent by volume)-----	42.66
Methyl alcohol: None.	
Color: Natural.	
Volatile esters (per cent)-----	0.051

I. S. No. 1073-c:

Esters (as ethyl acetate) (per cent by volume)-----	0.192
Ash (grams per 100 cc)-----	0.076
Alkalinity of ash (cc N/10 acid per 100 cc)-----	3.5
Alcohol (per cent by volume)-----	47.89
Methyl alcohol: None.	
Color: Archil or similar color.	
Volatile esters (per cent)-----	0.06

I. S. No. 1075-c:

Specific gravity-----	0.9014
Lemon oil by precipitation (per cent)-----	0.8
Polarization, 20° C. (°V.)-----	2.8
Lemon oil by polarization (per cent)-----	0.82
Alcohol (per cent)-----	54.75
Methyl alcohol: None.	
Refractive index of oil-----	1.4746
Citral (per cent)-----	0.11
Color: Naphthol Yellow S.	

Misbranding of the products was alleged in the information for the reason that the labels and thereby the representations and statements thereon contained were false and misleading and intended and calculated by the said defendant, the Polk & Calder Drug Co., unlawfully and knowingly to deceive and mislead the purchasers of said articles of food in the following particulars, to wit:

The said article of food identified herein as I. S. 1051-c, above mentioned, was misbranded in that, whereas the same was represented by the defendant herein to be sweet oil, the same was not then and there sweet oil, so-called, and contained no sesame oil,¹ but, on the contrary, contained a certain proportion of cottonseed oil.

The said article of food identified herein as I. S. 1052-c, above mentioned, was misbranded in that, whereas the said article of food was represented by the defendant by the label aforesaid to be a strawberry flavoring extract made from the fruit, in truth and in fact, the said article of food was not then and there a strawberry flavoring extract made from the fruit of the strawberry but [consisted of imitation extract which (?)] contained esters, ash, alcohol, methyl alcohol, artificial coloring, and volatile esters.

¹ It is not the view of this department that sweet oil should contain sesame oil.

The said article of food identified herein as I. S. 1053-c, above mentioned, was misbranded in that, whereas the said article of food was represented by the defendant by the label aforesaid to be a raspberry flavoring extract made from the fruit, in truth and in fact, the said article of food was not then and there a raspberry flavoring extract made from the fruit of the raspberry but the same consisted of [imitation extract containing (?)] esters, ash, alcohol, methyl alcohol, artificial coloring matter, and volatile esters.

The said article of food identified herein as I. S. 1054-c, above mentioned, was misbranded in that, whereas the said article of food was represented by the defendant herein by the label aforesaid to be a pineapple flavoring extract made from the pineapple fruit, in truth and in fact, the said article of food was not then and there a pineapple flavoring extract made from the pineapple fruit but consisted of [imitation extract containing (?)] esters, ash, alcohol, methyl alcohol, artificial coloring matters, and volatile esters. [It will be noted from the analysis that this product contained no coloring matter.]

The said article of food identified as I. S. 1072-c, above mentioned, was misbranded in that, whereas the said article of food was represented by the defendant herein by means of the label aforesaid to be an extract of pineapple fruit, in truth and in fact, the same was not an extract of pineapple fruit but consisted of [imitation extract containing (?)] esters, ash, alcohol, methyl alcohol, artificial coloring matter, and volatile esters. [It will be noted from the analysis that the color of this product was natural.]

The said article of food identified herein as I. S. 1073-c, above mentioned, was misbranded in that, whereas the said article of food was represented by the defendant herein by means of the label aforesaid to be an extract of raspberry fruit, in truth and in fact, the same was not an extract of raspberry fruit but consisted of [imitation extract containing (?)] esters, ash, alcohol, methyl alcohol, artificial coloring matter, and volatile esters.

And the said article of food identified herein as I. S. 1075-c, above mentioned, was misbranded in that, whereas the said article of food was represented by the defendant herein to be a lemon flavoring extract [in truth and in fact, the same was not a lemon flavoring extract (?)] but consisted of [imitation extract containing (?)] alcohol, methyl alcohol, artificial coloring matter, and only a small trace of pure lemon oil.

[While it was alleged in the information that the foregoing extracts contained methyl alcohol, it will be noted from the analyses that none of them contained methyl alcohol.]

(2) Of 4 brands of flavors and 1 extract which were adulterated. These products were labeled and marked for purposes of identification as follows:

I. S. 1055-c: "Paxton's Brand Flavorings Orange Flavor (Guaranty Legend, Serial No. 313) * * * Formula: Oil Orange, Ethyl Alcohol, Water pure, and Curcuma for coloring, Prepared by the Polk & Calder Drug Co., Troy, N. Y."

I. S. 1057-c: (Light-colored sample) "Paxton's Brand Flavorings Lemon Flavor (Guaranty Legend, Serial No. 313) * * * Formula: Oil Lemon, Ethyl Alcohol, Water pure, and Curcuma for coloring. Prepared by the Polk & Calder Drug Co., Troy, N. Y." (Dark-colored sample) "Paxton's Brand Flavorings Lemon Flavor (Guaranty Legend, Serial No. 313) * * * Formula: Oil Lemon, Citral, Ethyl Alcohol, Water pure, and is artificially colored. Prepared by Polk & Calder Drug Co., Mfg. Pharmacists, Troy, N. Y."

I. S. 1062-c: "Stuart's Brand Lemon Flavor. Guaranteed by the Polk & Calder Co. under the Food and Drugs Act, June 30, 1906, Guaranty No. 313. A carefully prepared flavoring from pure oil of lemon with Curcuma for coloring. Manufactured by Polk & Calder Co., Mfg. Chemists, Troy, N. Y."

I. S. 1063-c: "Andrews' Brand Lemon Flavor Guaranteed under the Food and Drugs Act, June 30, 1906. No. 313. A carefully prepared flavoring from pure oil of lemon, with Curcuma for coloring. Manufactured by Polk & Calder Drug Co., Mfg. Chemists, Troy, N. Y."

I. S. 1066-c: "Trojan Seal Extracts. Lemon Flavor * * * Polk & Calder Drug Co., Importers and wholesale Druggists, 171-173-175 River St., Troy, N. Y."

Analyses of samples of the products by said Bureau of Chemistry showed the following results:

I. S. No. 1055-c:

Specific gravity -----	0.9416
Orange oil by precipitation: None.	
Polarization, 20° C. (°V.)-----	0.0
Color: Coal tar dye.	
Alcohol (per cent)-----	46.95
Methyl alcohol: None.	
Citral: Trace.	

I. S. 1057-c:

Lemon oil by precipitation (per cent): None.	
Polarization, 20° C. (°V.)-----	0.0
Specific gravity-----	0.9713
Alcohol (per cent)-----	24.95
Methyl alcohol: None.	
Citral (per cent)-----	0.17
Color: Slightly colored with Naphthol Yellow S.	
Turmeric: None.	

I. S. 1062-c:

Specific gravity-----	0.9373
Lemon oil by precipitation: None.	
Polarization, 20° C. (°V.)-----	0.0
Alcohol (per cent)-----	48.7
Methyl alcohol: None.	
Citral: Trace.	
Color: Naphthol Yellow S.	

I. S. 1063-c:

Specific gravity-----	0.9370
Lemon oil by precipitation: None.	
Polarization, 20° C. (°V.)-----	0.0
Alcohol (per cent)-----	49.37
Methyl alcohol: None.	
Citral: Trace.	
Color: Naphthol Yellow S.	

I. S. 1066-c:

Specific gravity-----	0.9363
Lemon oil by precipitation: None.	
Polarization, 20° C. (°V.)-----	0.0
Alcohol (per cent)-----	48.95

I. S. 1066-c—Continued.

Methyl alcohol: None.

Citral: Trace.

Color: Naphthol Yellow S.

It was alleged in the information that these products were adulterated in the following particulars, that is to say, that, whereas the said article of food to which was attached the label hereinbefore mentioned and referred to as I. S. 1055-c was declared by the defendant, by means of the printed words contained upon said label, to be an orange flavoring made from the [juice or (?)] oil of the orange and curcuma for coloring, in truth and in fact, the said article of food contained no orange oil and, further, that said article of food contained no curcuma, but, in truth and in fact, contained coal tar dye for coloring matter instead of curcuma; and, further, that, whereas the said article of food to which was attached [the label hereinbefore mentioned (?)] and referred to as I. S. 1057-c was declared by the said defendant, by means of the printed words contained upon said label, to be a lemon flavoring made from lemon oil and containing curcuma for coloring matter, in truth and in fact, the said article of food contained no lemon oil and no curcuma for coloring matter but contained coal tar dye for coloring matter; and, further, that, whereas the said article of food to which was attached the label hereinbefore mentioned and described as I. S. 1062-c was declared by the said defendant, by means of the printed words contained upon said label, to be a flavoring made and prepared from the pure oil of lemon with curcuma for coloring matter, in truth and in fact, the said article of food contained no oil of lemon nor did it contain any curcuma, but did contain coal tar dye for coloring matter; and, further, that, whereas the said article of food to which was attached the label hereinbefore mentioned and described as I. S. 1063-c was declared by the said defendant, by means of the printed words contained upon said label, to be a lemon flavoring made and prepared from the pure oil of lemon with curcuma for coloring matter, in truth and in fact, said article of food contained no lemon oil nor was the said article of food made or prepared from the pure oil of lemon nor did it then and there contain any curcuma but did contain coal tar dye for coloring matter; and, further, that, whereas the said article of food to which was attached the label hereinbefore mentioned and described as I. S. 1066-c was declared by the said defendant, by means of the printed words contained upon said label, to be a lemon flavor, in truth and in fact, the same was not a lemon flavor, nor did it contain any oil of lemon, and all of said articles of food respectively were adulterated in that the certain substances as aforesaid were substituted wholly or in part for the said articles of food as above set forth and the same were colored in the manner as above set forth, whereby the said articles of food were damaged and their inferiority concealed from the purchasers thereof.

On May 2, 1912, the defendant company withdrew its plea of not guilty formerly entered and entered a plea of guilty to the information, and the court thereupon imposed a fine of \$50.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *August 14, 1914.*

3329. Misbranding of fruit puddine. U. S. v. 150 Cases of a Product Purporting to be Fruit Puddine. Tried to the court. Judgment for libellant. Decree of condemnation, forfeiture, and destruction. (F. & D. No. 2818. I. S. No. 104-d. S. No. 1010.)

On July 22, 1911, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District