

2981. Misbranding of imitation vanilla flavor and adulteration and misbranding of lemon flavor. U. S. v. 649 Cases of Imitation Vanilla Flavor and 14 Cases and 1,944 Bottles of Lemon Flavor. Default decrees of condemnation and destruction. (F. L. C. Nos. 4598, 6701. Sample Nos. 22451-E, 52311-E, 52312-E.)

Examination showed that the imitation vanilla flavor contained ingredients not declared on the label, and the word "imitation" followed the name of the article but was in smaller type; and the lemon flavor was deficient in lemon oil.

On or about May 7, 1941, and January 19, 1942, the United States attorneys for the Western District of Washington and the Northern District of California filed libels against 649 cases each containing 8 bottles of imitation vanilla flavor and 14 cases each containing 8 bottles of lemon flavor at Bremerton, Wash., and 1,944 bottles of lemon flavor at Mare Island, Calif., alleging that the articles had been shipped in interstate commerce on or about December 2 and 22, 1940, by Purity Stores, Ltd., from New York, N. Y.; and charging that the imitation vanilla flavor was misbranded and that the lemon flavor was adulterated and misbranded.

The imitation vanilla flavor was alleged to be misbranded (1) in that it was an imitation of another food and its label failed to bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated; and (2) in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient.

The lemon flavor was alleged to be adulterated in that a substance, namely, a non-alcoholic lemon flavor containing less than 20 percent of oil of lemon, had been substituted for non-alcoholic lemon flavor containing 20 percent of oil of lemon. It was alleged to be misbranded in that the statements, "Formula: Oil of lemon (U. S. P. (by volume)) 20 Per Cent," and "This lemon flavor has four times the flavoring strength of ordinary commercial lemon extracts. One teaspoonful of this flavor is equal in strength to four teaspoonfuls of commercial extract and should be used accordingly," were false and misleading since it contained less than 20 percent of oil of lemon.

On September 29, 1941, and July 13, 1942, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

2982. Adulteration and misbranding of vanilla and lemon flavors. U. S. v. 125 Cases of Vanilla Flavor and 23 Cases of Lemon Flavor (and 8 other seizures of vanilla flavor). Decree ordering portion of product released under bond to be relabeled, and remainder ordered destroyed. (F. D. C. Nos. 4011, 4012, 4373, 4474, 4509, 4511, 4597, 4726, 4764. Sample Nos. 259-E, 20352-E, 35499-E, 35500-E, 37298-E, 37499-E, 39640-E, 39741-E, 43306-E, 43345-E, 52309-E, 52310-E.)

Between March 18 and May 16, 1941, the United States attorneys for the Western and the Eastern Districts of Missouri, Southern District of Florida, Southern District of Georgia, Eastern District of South Carolina, Eastern District of Louisiana, and the Western District of Washington filed libels against 125 cases each containing 8 bottles of vanilla flavor and 23 cases each containing 8 bottles of lemon flavor at Bremerton (Seattle), Wash., and the following additional quantities of vanilla flavor—40 cases and 40 cartons each containing 12 bottles at St. Louis, and 50 cases each containing 24 bottles and 19 cartons each containing 12 bottles at Kansas City, Mo.; 8 cases each containing 72 bottles at Miami, and 158 cartons each containing 24 bottles at Camp Blanding (Starke), Fla.; 68 bottles at Fort Screven, Ga.; 485 cartons each containing 24 bottles at the Quartermaster Depot, New Orleans, La.; and 14 cases each containing 12 bottles at Charleston, S. C., alleging that the articles had been shipped in interstate commerce within the period from on or about July 26, 1940, to on or about March 29, 1941, by the Plantation Extract Corporation from New York, N. Y. (3 lots of the vanilla flavor were shipped under the name of Sol Loeb Co., Columbus, Ga.); and charging that a portion of the vanilla flavor was misbranded, and that the remaining lots of vanilla and the lemon flavor were adulterated and misbranded. The articles were labeled in part: (23 cases of lemon flavor) "One Quart Flavor Lemon"; (125 cases of vanilla at Bremerton) "1 Quart Imitation Vanilla Flavor"; (18 cases of vanilla at Miami) "¾ Fl. Oz. * * * Pure Vanilla Extract"; (remaining lots of vanilla) "8 Fl. Oz. Pure Extract Vanilla."

The vanilla flavor (with the exception of the lot at Bremerton) was alleged to be adulterated (1) in that an imitation vanilla extract containing resinous substances not found in genuine vanilla extract had been substituted wholly or in part for "Pure Extract Vanilla"; (2) in that inferiority had been concealed through the addition of foreign resins; and (3) in that foreign resins had been added thereto or mixed or packed therewith so as to make it appear better or of greater value than it was.

The vanilla flavor (with the exception of the lot at Bremerton) was alleged to be misbranded (1) in that the statement "Pure Extract Vanilla" was false and misleading as applied to an imitation vanilla extract containing resinous substances not found in genuine vanilla extract; (2) in that it was offered for sale under the name of another food; and (3) in that it was an imitation of another food and its label did not bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated. The lot at Miami was alleged to be misbranded further in that its container was so made, formed, or filled as to be misleading. The lot of vanilla flavor at Bremerton was alleged to be misbranded (1) in that it was an imitation of another food and its label failed to bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated; and (2) in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient.

The lemon flavor was alleged to be adulterated in that a substance, namely, a non-alcoholic lemon flavor containing less than 20 percent of oil of lemon, had been submitted for non-alcoholic lemon flavor containing 20 percent of oil of lemon. It was alleged to be misbranded in that the statements, "Formula: Oil of lemon (U. S. P. (by volume)) 20 Per Cent" and "This lemon flavor has four times the flavoring strength of ordinary commercial lemon extracts. One teaspoonful of this flavor is equal in strength to four teaspoonfuls of commercial extract and should be used accordingly," were false and misleading since it contained less than 20 percent of oil of lemon.

On October 25, 1941, the Plantation Extract Corporation having intervened and filed an answer denying the allegations of the libel against the 68 bottles of vanilla flavor at Fort Screven, Ga., the case was ordered transferred to the Eastern District of New York for consolidation with other cases for the purpose of trial. On November 26, 1941, Sol Loeb Co. having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering the case severed from the order of consolidation and further ordering that it be condemned but that it be released to the claimant under bond conditioned that it be relabeled under the supervision of the Food and Drug Administration. Between May 28 and December 8, 1941, no claimant having appeared for the remaining lots of vanilla nor for the lemon flavor, decrees were entered ordering that they be destroyed.

2983. Misbranding of spices. U. S. v. 24½ Gross Cans of Black Pepper, 33 Gross Cans of White Pepper, 8 Gross Cans of Nutmeg, 6 Gross Cans of Cloves, and 6½ Gross Cans of Curry Powder. Default decree of condemnation and destruction. (F. D. C. No. 5685. Sample Nos. 74309-E to 74311-E, incl., 74313-E, 74314-E.)

These products occupied approximately 75 percent of the capacity of the containers and all, except the nutmeg, were short weight.

On September 16, 1941, the United States attorney for the Southern District of New York filed a libel against the above-named products at New York, N. Y., alleging that the articles had been shipped on or about July 25, 1941, by Mutual Spice Co., Inc., from Bridgeport, Conn.; and charging that they were misbranded. The articles were labeled in part: "Continental Brand Ground Black Pepper [or "White Pepper," "Nutmeg," "Cloves," or "Curry Power"] Contents 1¼ Oz. Continental Oil Co. Distributors—Bronx, N. Y."

They were alleged to be misbranded in that their containers were so filled as to be misleading, since the spice did not occupy a reasonable amount of the available space. The black pepper, white pepper, cloves, and curry powder were alleged to be misbranded further in that the statement "Contents 1¼ Oz." was false and misleading as applied to articles that contained less than 1¼ ounces; and in that they were in package form and did not bear labels containing an accurate statement of the quantity of the contents.

On November 5, 1941, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

2984. Adulteration and misbranding of paprika and cayenne pepper. U. S. v. 12 Cans of Paprika and 5 Cartons of Cayenne Pepper (and 4 other seizure actions against paprika). Default decrees of condemnation and destruction. (F. D. C. Nos. 4921 to 4924, incl., 5199. Sample Nos. 69181-E, 69182-E, 69185-E to 69187-E, incl., 69658-E.)

These products contained added cornstarch and artificial color.

On June 17 and July 21, 1941, the United States attorney for the District of New Jersey filed libels against 97 5-pound cans and 26 1-pound cans of paprika,