

4808. Alleged adulteration and misbranding of extract of peppermint and orange extract. U. S. v. Thomson & Taylor Spice Co., a corporation. Tried to the court and a jury. Verdict of not guilty by direction of the court. (F. & D. No. 2621. I. S. Nos. 8349-c, 8350-c.)

On July 27, 1912, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information and on February 23, 1916, an amendment to the information against the Thomson & Taylor Spice Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on May 20, 1910, from the State of Illinois into the State of Missouri, of a quantity of orange extract, and on December 1, 1910, from the State of Illinois into the State of Missouri, of a quantity of extract of peppermint, each of which was alleged to be adulterated and misbranded.

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

	Peppermint extract.	Orange extract.
Specific gravity at 15.6° C./15.6° C.-----	0.9345	0.9506
Alcohol (per cent by volume)-----	48.28	40.64
Oil:		
(a) By polarization (per cent by volume) --	-----	0.1
(b) By precipitation (per cent by volume) --	1.4	None.
Total aldehydes calculated as citral (per cent)-----	-----	0.03
Citral (per cent) -----	-----	0.01

Adulteration of the orange extract was alleged in the amendment to the information for the reason that terpeneless extract of orange is a flavoring extract prepared by shaking not less than 5 per cent by volume of oil of orange with dilute alcohol, or by dissolving terpeneless oil of orange in dilute alcohol, and corresponds in flavoring strength to orange extract; whereas, a certain dilute terpeneless extract of orange containing less than one-half the flavoring strength of terpeneless orange extract had been substituted in part for genuine full-strength terpeneless extract of orange, which the said article of food purported to be; for the further reason that a certain dilute terpeneless extract of orange as aforesaid had been substituted wholly for genuine full-strength terpeneless extract of orange which the article of food aforesaid purported to be; and for the further reason that a certain dilute terpeneless extract of orange as aforesaid had been mixed and packed with the article of food aforesaid in such a manner as to reduce, lower, and injuriously affect its quality or strength.

Misbranding of this article was alleged for the reason that each of the bottles containing it bore a label containing a statement in words and figures as follows, to wit, "1 oz. Full measure Liberty Bell Terpeneless Orange Flavor 40% Alcohol Manufactured For Parker-Wilson Grocer Co. St. Joseph, Mo.," which said statement on the label was false and misleading in that it represented to the purchaser that the product was a genuine terpeneless orange extract conforming to the commercial standard for such article of food, to wit, a terpeneless orange extract containing not less than 5 per cent by volume of oil of orange, whereas, in truth and in fact, said article contained not to exceed 0.1 per cent by volume of oil of orange.

Adulteration of the extract of peppermint was alleged for the reason that oil of peppermint in the quantity of not less than 3 per cent by volume is an essential ingredient of the article of food known as extract of peppermint;

whereas a certain dilute extract of peppermint containing not more than 1.4 per cent by volume of oil of peppermint had been substituted in part for the aforesaid quantity of oil of peppermint in the aforesaid article of food; for the further reason that a certain dilute extract of peppermint as aforesaid had been substituted wholly for the aforesaid quantity of oil of peppermint in the article of food; and for the further reason that a certain dilute extract of peppermint as aforesaid had been mixed and packed with the article in such a manner as to reduce, lower, and injuriously affect its quality and strength.

Misbranding of this article was alleged for the reason that each of the bottles containing it bore a label containing a statement in words and figures as follows, to wit, "Liberty Bell Extract of Peppermint Packed for Parker Grocer Co., St. Joseph, Mo.," which said statement on the label was false and misleading, in that it represented to the purchaser that the product was a true extract of peppermint, conforming to the commercial standard for such article of food, to wit, an extract of peppermint containing not less than 3 per cent by volume of oil of peppermint; whereas, in truth and in fact, the article of food aforesaid contained not to exceed 1.4 per cent by volume of peppermint oil.

On December 3, 1915, the demurrer to the information was heard by the court and overruled. On February 25, 1916, the case having come on for trial before the court and a jury, at the conclusion of the opening statement of counsel for the Government, the court directed the jury to return a verdict of not guilty, for the reason that in the opinion of the court the facts offered to be proven by the Government did not constitute a violation of the Food and Drugs Act.

CARL VROOMAN,
Acting Secretary of Agriculture.