

their quality and strength and had been substituted in part for lemon flavor or vanilla flavor, as the case might be, which the articles purported to be. Adulteration was alleged for the further reason that the articles were inferior to lemon flavor or vanilla flavor, as the case might be, and were colored so as to simulate the appearance of lemon flavor or vanilla flavor, in a manner whereby their inferiority to said products was concealed.

Misbranding was alleged for the reason that the statements, to wit, "Lemon Flavor" and "1 Oz." and "Vanilla Flavor" and "1 Oz.," borne on the labels attached to the bottles containing the respective articles, regarding the articles and the ingredients and substances contained therein, were false and misleading in that they represented that the articles were lemon flavor or vanilla flavor, as the case might be, and that each of the said bottles contained 1 ounce of the respective articles, and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser into the belief that they consisted wholly of lemon flavor or vanilla flavor, as the case might be, and that each of the said bottles contained 1 ounce of the respective articles, whereas, in fact and in truth, they did not so consist but the said lemon flavor was a mixture composed in part of a hydroalcoholic solution of citral, artificially colored, the said vanilla flavor consisted in part of a dilute alcoholic solution of vanillin and coumarin, artificially colored, and each of the said bottles did not contain 1 ounce of the respective articles but did contain a less amount. Misbranding was alleged for the further reason that the articles were imitations of and were offered for sale under the distinctive names of other articles. Misbranding was alleged for the further reason that the articles were food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On June 11, 1923, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$200.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11776. Adulteration and misbranding of sauerkraut. U. S. v. 44 Cases of Sauerkraut. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17280. I. S. No. 9213-v. S. No. E-4304.)

On February 12, 1923, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 44 cases of sauerkraut, remaining in the original unbroken packages at Cleveland, Ohio, alleging that the article had been shipped by the W. H. Killian Co., from Baltimore, Md., on or about November 22, 1922, and transported from the State of Maryland into the State of Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Killian's Kuality * * * Sauer Kraut Contents 2 Lb. * * * Packed By W. H. Killian Co. Baltimore, U. S. A."

Adulteration of the article was alleged in the libel for the reason that excessive brine had been mixed and packed with and substituted wholly or in part for the article.

Misbranding was alleged for the reason that the statement, "Kuality * * * Sauer Kraut Contents 2 Lb.," together with a design showing a cabbage, were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article, and 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 April 12, 1923, no claimant having appeared for the property, judgment of the court was entered condemning the product and ordering that it be disposed of by destruction or sale, with the proviso that if a claimant should appear and pay the costs of the proceedings and file a bond in the sum of \$100, in conformity with section 10 of the act, the product be delivered to the said claimant, conditioned in part that it be reconditioned. Subsequently the Brite-Mawnin Co., Cleveland, Ohio, appeared as claimant for the property and took it down under bond.

HOWARD M. GORE, *Acting Secretary of Agriculture.*