

11514. Adulteration and misbranding of chocolate cigars. U. S. v. 49 Boxes of Chocolate Cigars. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 15923. I. S. No. 8127-t S. No. E-3734.)

On January 17, 1922, the United States attorney for the Middle District of Pennsylvania, 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 49 boxes of chocolate cigars, remaining in the original unbroken packages at Wilkes-Barre, Pa., alleging that the article had been shipped by the National Chocolate Co., from Hoboken, N. J., on or about December 1, 1921, and transported from the State of New Jersey into the State of Pennsylvania, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "1 Cent Each 120 Pieces Chocolate Cigars National Cocoa Chocolate Co."

Adulteration of the article was alleged in the libel for the reason that an excessive amount of cocoa shells and foreign fat had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly or in part for the said article, to wit, chocolate cigars.

Misbranding of the article was alleged for the reason that the statement, "Chocolate Cigars National Cocoa Chocolate Co.," was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, to wit, chocolate.

On August 16, 1922, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

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

11515. Misbranding of Montague's petroleum emulsion with hypophosphites. U. S. v. 25 Bottles of Montague's Petroleum Emulsion with Hypophosphites. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 16140. S. No. E-3853.)

On April 25, 1922, the United States attorney for the Southern District of West Virginia, 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 25 bottles of Montague's petroleum emulsion with hypophosphites, at Mullens, W. Va., alleging that the article had been shipped by the J. Kyle Montague Medicine Co., Inc., from Rocky Mount, Va., October 11, 1920, and transported from the State of Virginia into the State of West Virginia, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of an emulsion of petroleum oil, alcohol, water, gum, sodium and calcium hypophosphites, and a trace of an iron compound.

Misbranding of the article was alleged in substance in the libel for the reason that it was labeled in part as follows, to wit, (wrapper) "For Colds, Coughs, Bronchitis, Sore Lungs, Loss Of Weight, Loss Of Appetite, Loss Of Strength, Tuberculosis Of The Lungs * * * For Weak, Nervous And Overworked People. * * * Is Recommended For Loss Of Flesh And Appetite, And For General Run-Down System. * * * In Tuberculosis of the Lungs (consumption) Montague's Emulsion is one of the best remedies. It is far superior to cod liver oil * * * enables the patient to eat, digest and assimilate food. It causes an increase in flesh and strength," (bottle) "Many physicians recommend it in preference to Emulsion of Cod Liver Oil * * * specially recommended in the treatment of Coughs, Colds, Bronchitis and Weak Lungs, and run-down, nervous people will find it a great help in building up their nerve tissues and general health," which statements were false for the reason that the said labeling represented the article to be effective as a remedy for and as recommended in the treatment of colds, coughs, bronchitis, sore lungs and tuberculosis of the lungs, and weak lungs, and that it was especially recommended as a great help for building up nerve tissues and the general health of run-down, nervous people, and as recommended by many physicians in preference to emulsion of cod-liver oil, whereas the said article contained no ingredient or combination of ingredients capable of producing said therapeutic effects.