

4950. Misbranding of candy. U. S. v. 12 Cartons and 12 Cartons of Candy. Default decree of condemnation. Product ordered delivered to a charitable institution or destroyed. (F. D. C. No. 9587. Sample Nos. 13275-F, 13276-F.)

On March 19, 1943, the United States attorney for the District of Oregon filed a libel against 12 cartons, each containing 1 small cedar chest of candy, and 12 cartons, each containing 1 small vanity chest of candy, at Portland, Oreg., alleging that the articles had been shipped in interstate commerce on or about February 24, 1943, by the Sterling Tobacco Co. from Seattle, Wash. (This shipment consisted of 2 lots of candy, originally shipped by the Acme Sales Co. from Portland, Oreg. to Seattle, Wash., which was returned by the consignees.)

The article was alleged to be misbranded (1) in that the containers were so made, formed, and filled as to be misleading since they were not reasonably well filled with candy and this fact was not apparent when the boxes were examined by the purchaser; (2) in that it was in package form and failed to bear a label containing (a) the name and place of business of the manufacturer, packer, or distributor, and (b) an accurate statement of the quantity of the contents; (3) in that the label failed to bear the common or usual name of the food; and (4) in that it was fabricated from two or more ingredients and its labels failed to bear the common or usual name of each ingredient.

On May 15, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution or destroyed.

4951. Misbranding of candy. U. S. v. 29 Packages of Candy. Consent decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 9146. Sample No. 15912-F.)

On March 1, 1943, the United States attorney for the District of Colorado filed a libel against 29 packages of candy at Denver, Colo., which had been shipped by A. Newberg & Co., New York, N. Y., alleging that the article had been shipped in interstate commerce on or about November 20, 1943, from New York City, N. Y.

The article was alleged to be misbranded in that the principal container was so made, formed, and filled as to be misleading since the articles and candy boxes that it contained were so packed in the principal container and propped up therein as to make it appear to be packed full, whereas it was only partly filled; and in that the principal container contained loose candies, fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each of the ingredients.

On March 26, 1943, the shipper having signed an authorization for the taking of a final decree, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

CHOCOLATE PRODUCTS

4952. Adulteration and misbranding of chocolate sirup and cocoa substitutes. U. S. v. 50 Cases of Chocolate Syrup Substitute (and 2 additional seizure actions against chocolate sirup substitute and cocoa substitute). Default decrees of condemnation. One lot ordered distributed to a charitable institution; remaining lots ordered destroyed. (F. D. C. Nos. 9589, 10135, 10176. Sample Nos. 20401-F, 20685-F, 20687-F, 34539-F.)

Between March 19 and July 1, 1943, the United States attorneys for the District of Rhode Island, the District of Maine, and the Southern District of Florida filed libels against 50 cases, each containing 24 jars, of chocolate sirup substitute at Providence, R. I., 6 cases, each containing 24 jars, of chocolate sirup substitute and 10 cases, each containing 24 bags of cocoa substitute, at Gardiner, Maine, and 34 cases, each containing 24 jars, of chocolate sirup substitute at Miami, Fla., alleging that the articles had been shipped in interstate commerce within the period from on or about February 5 to 20, 1943, by J. B. Robinson from Cleveland, Ohio; and charging that they were adulterated and misbranded. They were labeled in part: (Jars) "Robinson's Sweet Chocolate Syrup Substitute," or (bags) "Robinson's Delicious Breakfast Cocoa Substitute Breakfast Drink."

The chocolate sirup substitute located at Gardiner, Maine, and Miami, Fla., was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance. The cocoa substitute located at Gardiner, Maine, was alleged to be adulterated in that inferiority had been concealed by the addition of cocoa residues, chiefly cocoa shells, and in that cocoa shells had been added thereto or mixed or packed therewith so as to reduce its quality or strength, or make it appear better or of greater value than it was.

The chocolate sirup substitute located at Gardiner, Maine, and Miami, Fla., was alleged to be misbranded in that the statement "Chocolate Syrup Substitute" and the word "Cocoa" in the ingredient list were false and misleading as applied to a mixture of cocoa residues, chiefly cocoa shells, roasted cereals, sugar, water, artificial

vanillin, and sodium benzoate. The cocoa substitute was alleged to be misbranded in that the statement "Breakfast Cocoa Substitute" was false and misleading since the product, when brewed in a manner similar to cocoa, did not have any "cocoa" characteristics and would not be regarded as a "breakfast cocoa substitute."

The cocoa substitute and the portions of the chocolate sirup substitute at Gardiner, Maine, and Miami, Fla., were alleged to be misbranded further in that they were fabricated from two or more ingredients and their labels failed to bear the common or usual name of each such ingredient since cocoa shells were not declared, and in that they contained artificial flavoring, vanillin, and failed to bear labeling stating that fact.

The chocolate sirup substitute located at Providence, R. I., was alleged to be misbranded in that the statements "Net Wt. 1 Lb." and "Net Wt. 1 Pt." appearing on the jars were false and misleading as applied to the article since it was short of the declared weight or volume, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

Between April 21 and August 23, 1943, no claimant having appeared, judgments of condemnation were entered. The product located at Providence, R. I., was ordered distributed to a charitable institution and the products located at Gardiner, Maine, and Miami, Fla., were ordered destroyed.

4953. Adulteration of cocoa beans. U. S. v. 225 Bags of Cocoa Beans. Consent decree of condemnation. Product ordered released under bond to be denatured and processed into soap stock. (F. D. C. No. 9416. Sample No. 18587-F.)

This product had become contaminated with chromic acid, after its receipt in interstate commerce, as a result of a leakage of chromic acid from a tank located on the floor above the room where it was stored.

On February 27, 1943, the United States attorney for the District of New Jersey filed a libel against 225 140-pound bags of cocoa beans at Elizabeth, N. J., alleging that the article had been shipped in interstate commerce on or about May 5, 1942, from New York, N. Y.; and charging that it was adulterated in that it contained an added deleterious substance, chromic acid, which might render it injurious to health.

On July 3, 1943, Samuel Cranston, having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration and manufactured into soap stock.

SUGAR

4954. Adulteration of sugar. U. S. v. 79 Bags of Sugar. Default decree of condemnation and destruction. (F. D. C. No. 8661. Sample No. 6065-F.)

This product was being stored, after shipment, under insanitary conditions; many of the bags had been cut by rodents, and rodent pellets and what appeared to be rodent urine stains were noted on a large number of the bags.

On October 30, 1942, the United States attorney for the Western District of Arkansas filed a libel against 79 100-pound bags of sugar at Nashville, Ark., in the possession of the Wooten Grocery Co., alleging that the article had been shipped in interstate commerce on or about July 30, 1942, from Reserve, La.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was labeled in part: "Godchaux's Pure Cane Sugar * * * Extra Fine Granulated."

On January 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

4955. Adulteration of cane sugar. U. S. v. 7½ Bags of Cane Sugar. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 8185. Sample No. 4616-F.)

This product had been stored under insanitary conditions after shipment and, when examined, it was contaminated with rodent excreta pellets and rodent hairs, there were rodent pellets on and around the bags, and numerous bags showed rodent urine stains.

On August 22, 1942, the United States attorney for the Eastern District of Tennessee filed a libel against 7½ bags, each full bag containing 100 pounds, of cane sugar at Chattanooga, Tenn., alleging that it had been shipped on or about April 7, from New Orleans, La., and that it was in the possession of the C. D. Kenny Co. at Chattanooga, Tenn.; and charging that it was adulterated in that it consisted in whole or in part of a filthy, putrid, and decomposed substance, and in that it had