

## United States Department of Agriculture.

### SERVICE AND REGULATORY ANNOUNCEMENTS.

BUREAU OF CHEMISTRY.

#### SUPPLEMENT.

N. J. 11101-11150.

[Approved by the Acting Secretary of Agriculture, Washington, D. C., February 27, 1923.]

#### NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT.

[Given pursuant to section 4 of the Food and Drugs Act.]

**11101. Adulteration and misbranding of chocolate. U. S. v. 445 Boxes of Chocolate. Default decree of condemnation, forfeiture, and destruction.** (F. & D. No. 15160. I. S. Nos. 15437-t, 15438-t, 15441-t, 15442-t, 15443-t. S. No. E-3651.)

On November 29, 1921, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 445 boxes of chocolate, remaining unsold in the original unbroken packages at Paterson, N. J., alleging that the article had been shipped by the J. & A. Baker Chocolate Co., Inc., New York, N. Y., between the dates of August 27 and September 6, 1921, and transported from the State of New York into the State of New Jersey, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled variously in part: "60 2 In 1 Bars 60 Vanilla Sweet Chocolate J. & A. Baker Chocolate Co., Inc. \* \* \* New York City;" "120 Cigars 120 Sweet Milk Chocolate;" "Sweet Chocolate Contains Fat Free Milk;" "Special Process Sweet Chocolate With Fat Free Milk;" "120 'Panels' 120 Sweet Vanilla Chocolate."

Adulteration of the article was alleged in the libel for the reason that an excessive quantity of cocoa shells had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted in part for chocolate which the article purported to be, and for the further reason that an excessive quantity of cocoa shells had been mixed with the article in a manner whereby its damage and inferiority were concealed.

Misbranding was alleged in substance for the reason that the respective statements, to wit, "Vanilla Sweet Chocolate," "Sweet Milk Chocolate," "Sweet Chocolate Contains Fat Free Milk A Delicious And Nutritious Confection Purity Guaranteed," "Sweet Chocolate," "Special Process Sweet Chocolate With Fat Free Milk," and "Sweet Vanilla Chocolate," borne on the boxes containing the article or on the retail pieces of chocolate, as the case might be, regarding the said article and the ingredients contained therein, were false and misleading in that the said statements represented that the article was chocolate, to wit, an article pure and free from adulteration, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said article was chocolate, to wit, an article pure and free from adulteration, whereas, in truth and in fact,

the said article was not chocolate, but was an adulterated article containing an excessive quantity of cocoa shells. Misbranding was alleged for the further reason that the article was a product containing an excessive quantity of cocoa shells, prepared in imitation of and offered for sale under the distinctive name of another article, to wit, chocolate.

On June 23, 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.

C. W. PUGSLEY, *Acting Secretary of Agriculture*

**11102. Misbranding of toast and tea rusk. U. S. v. 86 Cases of Famous American Toast and 90 Cases of Dutch Tea Rusk. Consent decrees of condemnation and forfeiture. Products released under bond. (F. & D. No. 15630. I. S. Nos. 3102-t, 3103-t. S. No. C-3323.)**

On November 23, 1921, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 90 cases of Dutch tea rusk and 96 cases of Famous American toast, remaining unsold at Cincinnati, Ohio, consigned by the Michigan Tea Rusk Co., Holland, Mich., between the dates of September 24 and October 21, 1921, alleging that the articles had been shipped from Holland, Mich., and transported from the State of Michigan into the State of Ohio, and charging misbranding in violation of the Food and Drugs Act, as amended. The articles were labeled in part, respectively: "Dutch Tea Rusk \* \* \* Contents Average 12 Rusks 7 Ounces \* \* \* Made by The Michigan Tea Rusk Co. Holland Mich.;" "Famous American Toast \* \* \* Net Weight 5 Ounces."

Examination of samples of the articles by the Bureau of Chemistry of this department showed that the packages contained less than the quantity declared on the labels.

Misbranding of the articles was alleged in the libels for the reason that they were contained in packages on which the quantity of the contents was not plainly and conspicuously marked.

On December 7, 1921, the Michigan Tea Rusk Co., Holland, Mich., claimant, having admitted the allegations of the libels and consented to the entry of decrees, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be released to the said claimant upon payment of the costs of the proceedings and the execution of bonds in the aggregate sum of \$1,000, in conformity with section 10 of the act, conditioned in part that the products be relabeled to the satisfaction of this department.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**11103. Adulteration and misbranding of apple juice. U. S. v. 288 Barrels of Alleged Apple Juice. Decree ordering release of product under bond to be relabeled. (F. & D. No. 15936. I. S. Nos. 4329-t, 4330-t. S. No. C-3402.)**

On January 23, 1922, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 288 barrels of alleged apple juice at Rogers, Ark., alleging that the article had been shipped by the National Fruit Canning Co., Seattle, Wash., in part on or about December 7 and in part on or about December 10, 1921, and transported from the State of Washington into the State of Arkansas, and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration of the article was alleged in substance in the libel for the reason that products other than apple juice, that is to say, water and salt, had been mixed with and added to the said apple juice and had been used wholly or in part in lieu thereof.

Misbranding was alleged in substance for the reason that the article was offered for sale under the distinctive name of another article.

On May 5, 1922, the Ozark Cider & Vinegar Co., Rogers, Ark., claimant, having admitted the allegations of the libel and having offered a good and sufficient bond in conformity with section 10 of the act, it was ordered by the court that the bond be approved and filed, that the product be delivered to the claimant on condition that it be relabeled under the supervision of this department, and that the said claimant pay the costs of the proceedings.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*