

5422. Adulteration of pies. U. S. v. Paradise Baking Corporation. Plea of not guilty. Trial commenced before a jury. Jury dismissed; plea of guilty. Fine, \$500. (F. D. C. No. 9649. Sample Nos. 33409-F, 33411-F, 33413-F, 33414-F.)

On June 24, 1943, the United States attorney for the Eastern District of New York filed an information against the Paradise Baking Corporation of Brooklyn, N. Y., alleging shipment on or about February 13, 1943, from the State of New York into the State of New Jersey of quantities of pies that were adulterated in that they consisted in whole or in part of filthy substances by reason of the presence therein of one or more of the following types of filth: Rodent excreta pellet fragments, rodent hair fragments, hair fragments resembling rodent or cat hair, insect fragments, insect excreta, larvae, mites, feather fragments, wood splinters, and nondescript dirt. It was alleged to be adulterated further in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

On October 25, 1943, the defendant having entered a plea of not guilty, the case came on for trial before the court and a jury. The trial continued through October 27 and a part of October 28, on which date counsel for the defense moved that the jury be dispensed with and that the case proceed with the court sitting as judge and jury. The motion was granted, but on November 1, 1943, the date set for resumption of the trial, a plea of guilty was entered and a fine of \$500 was imposed.

5423. Adulteration and misbranding of bread. U. S. v. The Jessee Baking Co. Plea of guilty. Fine, \$300. (F. D. C. No. 9685. Sample Nos. 16190-F, 16191-F, 16193-F to 16196-F, incl.)

Samples of this product were found to contain one or more of the following types of filth: Threads, rodent-type hairs, feathers barbules, and a beetle body part. Samples taken from certain shipments were also found to be short weight.

On August 14, 1943, the United States attorney for the District of Colorado filed an information against the Jessee Baking Co., a corporation trading at Sterling, Colo., alleging shipment on or about April 2, and 6, 1943, from the State of Colorado into the State of Nebraska of a quantity of bread which was adulterated, and a portion of which was misbranded. The article was labeled in part, : "Jessee's * * * Enriched," "Mrs. Jessee's Cottage Loaf," "Jessee's * * * Sandwich Loaf," "Jessee's * * * Whole Wheat," or "Mrs. Jessee's Honey Cracked Wheat."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

Portions were alleged to be misbranded in that the statements, "Weight 20 Ozs.," "Weight 24 Ozs.," "Weight 16 Oz.," and "Net Weight 16 Ounces," borne on the labels, were false and misleading since the loaves did not weigh the amounts so represented, but did weigh smaller amounts; and in that the product was in package form and its label failed to bear an accurate statement of the quantity of the contents in terms of weight, since the statements of weight borne on the labels were incorrect.

On September 22, 1943, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$300.

5424. Misbranding of cookies. U. S. v. 300 Packages of Cookies. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 10355. Sample No. 45005-F.)

This product was packed in a rectangular box with a cellophane window in the cover. There were 8 paper cups in the box, each containing 3 cookies. Two additional cups of cookies could be packed in the box. Examination showed that the product was short of the declared weight.

On August 5, 1943, the United States attorney for the District of Connecticut filed a libel against 300 packages of cookies at West Haven, Conn., alleging that the article had been shipped in interstate commerce on or about July 20, 1943, from Mt Vernon, N. Y., by the Fleetwood Baking Co., Inc.; and charging that it was misbranded. The article was labeled in part: "Superior Quality Cookies * * * Weight 10 Oz. When Packed."

The article was alleged to be misbranded in that the statement "Weight 10 Oz. When Packed" was false and misleading as applied to a product that was short weight in that its container was so filled as to be misleading, since 25 percent more cookies could be packed in the box, and in that it was in package form and